

**Town of Seward, New York
Schoharie County**

**Land Use Code
June 1997**

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August 4, 1997
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Zoning Regulations

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ARTICLE I - ENACTMENT AND APPLICATION

Section 1 - Enactment

- A. The Town Board of the Town of Seward in the County of Schoharie, New York, does hereby ordain and enact the Town of Seward Zoning Regulations under and pursuant to Article 16 of Chapter 62 of the Town Law and in accord with the Municipal Home Rule Law of the State of New York.

Section 2 - Title

- A. These Regulations shall be known and may be cited as the "TOWN OF SEWARD ZONING REGULATIONS."

Section 3- Purpose

- A. The purpose of these Regulations is to promote the health, safety and general welfare of the community and thus to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of the land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to promote aesthetic values; and to encourage the most appropriate use of land throughout the Town.

Section 4 - Scope

- A. These Regulations shall apply to the construction, installation or alteration of any building, structure or appurtenant system, any change in use, and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Town of Seward.

Section 5 - Definitions

- A. Terms and words used herein are as defined in Appendix C of this Code that is hereby made a part of these Regulations.

ARTICLE II - ESTABLISHMENT OF DISTRICTS

Section 6 - Purpose

- A. In furtherance of those general purposes outline above, it is the objective of these Regulations to define various appropriate categories of residential, commercial, agricultural and open space districts in such manner as to recognize the existing character and quality of land uses and natural features throughout the Town, and in accord with the Town Land Use Plan.

Section 7 - Districts

A. For these purposes, the Town of Seward is divided into the following districts:

- R Residential District
- R-A Residential-Agricultural District
- O-S Open-Space District
- F-H Flood Hazard (Overlay) District

B. Provision is also made for the creation of a Planned Development District for any of the above Districts.

Section 8 - Standard and Special Uses

A. The Standard and Special Uses permitted in each of the above established districts, and a summary of the standards applicable thereto are set forth in Attachment I entitled "Zoning Schedule", which is hereby made a part of these Regulations.

Section 9 - Planned Development Districts

A. Purpose:

1. The purpose of this provision is to provide a means of developing those land areas within the Town considered appropriate for new residential, recreational, commercial or industrial use - or a satisfactory combination of these uses - in an economic and compatible manner, while encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of these Regulations. It is not the purpose of this Section to use this technique for the conventional development of a single parcel in an isolated manner unrelated to the Town Plan or in contravention to these Regulations.

2. In particular, this provision is designed to accommodate proposed planned unit development or clustering techniques not otherwise provided for and to provide for the consideration of such special types of uses as mobile home courts.

B. Procedure:

1. For the establishment of a Planned Development District:

a. Application for designation of Planned Development District shall be referred to the Planning Board within ten (10) days of the date of its receipt by the Town Board. The application shall furnish that data called for under Preliminary Plat/Plan in Appendix B of this Code that is hereby made a part of these Regulations.

b. The Planning Board and the Board's professional planning advisor shall review such application. The Board may require such changes in the Preliminary Plan as are found to be necessary to meet the requirements of this Section, to protect the established permitted uses in the vicinity and to promote the orderly growth and sound development of the Town. In evaluating the proposal and in reaching its decision regarding the preliminary plans, the Planning Board shall consider and make findings regarding those considerations set forth under paragraph 2-c. of this subsection.

c. The Planning Board shall report its findings and make its recommendation to the Town Board within forty-five (45) days. It may recommend approval, disapproval, or conditional approval subject to modifications regarding the proposed development.

d. The Town Board shall hold any public hearing after public notice as required for any amendment to these Regulations and shall consider the report and recommendations of the Planning Board, and all other comments, reviews and statements pertaining thereto. It may amend the Zoning Map to establish and define the type and boundaries of the Planned Development District, and in so doing may state specific conditions in addition to those provided by this Section, further restricting the nature or design of the development.

2. For the approval of development within an established Planned Development District:

a. Amendment of the Zoning Map shall not constitute authorization to develop in the district.

b. Such authorization, after a Planned Development District has been established shall require that the applicant submit to the Planning Board such further plans and specification, supporting documents and data as are required under final Plat/Plan in Appendix B of this Code.

c. The Planning Board, and the Board's professional planning advisor, shall set forth the particular ways in which the proposed development would or would not be in the public interest, including, but not limited to findings of fact and conclusions on the following:

- 1) The need for the proposed project.
- 2) In what respects the plan is or is not consistent with the stated purposes of a Planned Development District.
- 3) The extent to which the plan departs from zoning regulations formerly applicable to the property in questions, including but not

limited to bulk, density and permitted uses and its relationship to the Town Land Use Plan.

4) The existing character of the neighborhood and their relationship, beneficial or adverse, of the proposed development of this neighborhood.

5) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.

6) The provision for pedestrian circulation and open space in the planned development, the reliability of the proposal for maintenance and conservation of common open space and pedestrian circulation as related to the proposed density and type of development.

7) The recognition and satisfactory accommodation of important natural and physical limitations and opportunities of the site.

8) The traffic circulation features within the site including the amount of, location of, and access to automobile parking and service areas.

9) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards such as inadequate site distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.

10) The provision for storm, sanitary and solid waste disposal and other utilities on and adjacent to the site.

11) The proposed location, type and size of signs and landscape features.

12) The physical design of the plan and the manner in which said design does or does not make adequate provision for service demands including water, sewerage and fire protection.

d. No permit shall be issued until the Planning Board has made its recommendation based on the foregoing considerations and the Town Board has considered this recommendation and authorized issuance of a Permit by resolution. The Town Board may override the recommendation of the Planning Board in adopting its resolution to authorize or deny a Permit only by an affirmative vote of a majority of the Town Board.

e. All conditions imposed by the Town Board in its amendment and all subsequent conditions imposed by the Planning Board or Town Board in their review of the final plans, including the posting of any performance bond as provided for in Appendix B of this Code or any other conditions stipulated precedent of the issuance of any Permit, shall continue in force and effect as it applies to the approved project and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated district.

f. If construction of the development in accordance with the approved plans and specifications has not begun within one (1) year after the date of the resolution authorizing issuance of the Permit, all permits shall become null and void, and the approval shall be deemed revoked and vacated.

C. Special Applicability:

1. All proposed mobile home courts and recreational campsites shall be subject, and considered according to the Planned District process as set forth above.

2. In addition to the provisions and appropriate considerations detailed under the Planned District process, the following standards shall apply for:

a. Mobile Home Courts:

1) A mobile home court shall have a minimum parcel size of five (5) acres and provide for a minimum of ten (10) mobile home sites.

2) Individual mobile home sites or units within the court shall be a minimum of six thousand (6,000) square feet.

3) All internal roadways within a mobile home court shall have a paved or stone course, the minimum width of which shall be eighteen (18) feet for two-way traffic. In addition to the surface width, a five (5) foot shoulder shall be maintained on each side of every internal roadway.

4) No mobile home shall be located within twenty (20) feet of any internal roadway or within fifty (50) feet from the boundaries of any public roadway.

5) A minimum of one (1) off-street parking space shall be provided for each mobile home lot in the mobile home court outside the required road and shoulder area.

6) All water supply and sewage disposal systems will comply with those standards set forth, and be approved by the County or State Health Department before any Permit is authorized.

7) Adequate provision will be insured for accommodation of surface drainage and refuse disposal.

8) All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the local utility company. Whenever possible, electrical transmission and other utility lines shall be placed below ground.

9) Fuel tanks, where used, shall be placed at the rear of the mobile home and at a distance at least five (5) feet from any exit and must be equipped with a safety shut-off valve at the tank. Underground tanks or a centralized fuel supply system are to be encouraged wherever possible.

b. Recreational Campsites:

1) A recreational campsite shall include a minimum parcel size of five (5) acres and provisions for the accommodation of a minimum of ten (10) recreational living units.

2) Within the campsite a minimum area of three thousand (3,000) square feet shall be designated for each unit's location.

3) Roadway, sanitary and site improvement consideration will be as provided for above, under mobile home courts or as is otherwise appropriate as determined by the Planning and Town Boards in their review of any such proposal.

Section 10 - Zoning Map

A. The above established districts are delineated on a Zoning Map entitled "Zoning Map Town of Seward, NY" included herein as Attachment II, which map, with all amendments thereto, is hereby made a part of these Regulations.

ARTICLE III APPLICATION OF REGULATIONS

Section 11 - Interpretation of Zoning Map

A. The following rules shall apply to determine the boundaries of districts shown on the Zoning Map:

1. Whenever district boundaries follow streets or highways, the center line of such streets and highways shall be considered the district

boundaries. Whenever district boundaries on the Zoning Map follow natural features such features shall be considered to be the district boundaries.

2. Whenever district boundaries are so indicated that they apparently follow individual lot lines or field, tree and fence lines as interpreted from aerial photographs, such lines of demarcation shall be considered the district boundaries.

3. Where a district boundary line does not follow such a line, its position shall be shown on the Zoning Map by a dimension expressing its distance in feet from road center line or other boundary line as indicated; or by use of the scale appearing on the Zoning Map.

4. Where a district boundary line divides a lot in single ownership on the effective date of these Regulations, the standards for the less restricted portion of such lot shall extend not more than one hundred (100) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

5. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Board of Appeals, upon application, shall render a determination with respect thereto.

Section 12 - Interpretation of Regulations

A. Regulations governing minimum lot area and lot width; required front, side and rear yards; and maximum building coverage and building height are specified in Attachment I, subject to such additional standards as may be set forth in these Regulations.

B. Except as otherwise provided in these Regulations:

1. No building shall be erected, constructed, reconstructed or altered, and no land or building or part thereof shall be used for any purpose or in any manner except as permitted for the district in which such building or land is located as set forth under the list of permitted Standard and Special Uses in Attachment I of these Regulations.

2. No existing lot of recorded on the effective date of these Regulations shall be reduced, subdivided or otherwise reduced in size or changed in configuration so as to make it nonconforming under the Regulations.

3. No building shall be erected, reconstructed or altered, nor shall any open space surrounding any building be encroached upon or reduced in

anyway, except in accordance with the yard, lot area and building location regulations of these Regulations for the district in which such building is, or is proposed to be located; or where such open space or land is located.

4. No yard or other open space surrounding any building located in conformance with these Regulations shall be considered as providing the requisite yard or open-space area for another building. Likewise no yard or open space on one lot shall be considered as providing a yard or required open space for a separate principal or accessory building on any other lot.

5. The regulations listed for each district are hereby adopted and prescribed for such district, subject to the provisions of other applicable Sections of these Regulations, and unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

Section 13 - Additional Lot and Building Location Regulations

- A. No more than one principal structure on any lot, other than as may be approved under the Planned Development District provisions, shall be permitted unless lot area and yard requirements are met for each, including required lot width on a public roadway.
- B. On a corner lot in any district where a front yard is required, a yard shall be provided on each roadway equal in depth to the required front yard on each such road. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a Permit.
- C. Where a single lot under individual ownership extends from one roadway to a parallel or nearly parallel roadway, the principal structure shall be erected to face the roadway on which those adjoining structures face.
- D. On a corner lot in any district where a front yard is required, no fence, wall hedge or other structure or planting more than three (3) feet in height shall be erected, placed or maintained which obstructs visibility from the roadway or interferes with the safe movement of vehicular traffic.
- E. When a vacant lot in any district is situated between two improved lots, the front yard of the vacant lot shall have a minimum depth equal to the average depth of the front yard of the two adjoining improved lots, but not less than twenty five (25) feet from the road right of way or fifty (50) feet from road center line, which ever is greater.
- F. The space in any required yard shall be open and free from any building except for accessory buildings in a side or rear yard and except for the ordinary projections of window sills, eaves and other architectural features, provided,

however, that such features shall not project more than two (2) feet into any required yard.

- G. No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except that the height limitations shall not apply to barns, silos, church spires, chimneys, water tanks, flag poles, transmission towers and cables, radio and television antennae or towers and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended.

Section 14 - Accessory Buildings and Uses

- A. On any lot accessory building(s) or use(s) in connection with the principal structure and use may be constructed and located subject to the following:

1. All accessory buildings or uses shall require a Permit to be issued prior to their initiation as elsewhere required in these Regulations.

2. No more than two (2) accessory buildings or uses in addition to a private garage in conjunction with a residence, including such things as a home workshop, tool shed, wood shed, portable storage unit, personal use livestock buildings and like buildings and uses shall be permitted on any residential lot. The total area encompassed by such accessory building(s) and use(s) shall not exceed that maximum percent of total lot coverage as identified according to the respective zoning district in Attachment I - Zoning Schedule. No such limitation shall apply to farm or commercial uses, except that permitted accessory buildings and uses may be determined by the Board of Appeals in accord with their review of any proposed Special Use and by the Planning Board in their review of any proposed Planned Development District.

3. Accessory buildings to a residential use which are not attached to a principal building may be erected in accordance with the following requirements:

a. Rear or side yard - at least ten (10) feet from side or rear property line.

b. Side yard, street side of corner lot - same as for principal building.

c. No closer to a principal or other accessory building than ten (10) feet.

4. An accessory building attached to a principal residential building or an accessory building to other than a residential use, whether attached to the principal structure or not, shall comply in all respects with the requirements of these Regulations applicable to the principal building.

5. An accessory building or enclosure to house livestock for personal use, pets or personal consumption must meet the following conditions:

a. Minimum of five (5) acres in all Zones.

b. Buildings to house personal use livestock must be a minimum of 100' from front highway right-of-way and 100' from sides and rear property lines, not less than 200' from any neighboring dwelling and 100' from any existing dwelling.

c. Pasture ground must be a minimum of 100' from any water well.

d. All buildings used to house personal use livestock are considered an accessory building. They are subject to a building permit. A certificate of compliance must be issued on completion of the project, thus establishing the use of the structure.

e. If the above guidelines are met, the Code Enforcement Officer can issue a permit in the "RA" or "OS" Zones.

f. In the "R" Zone, even if the above requirements are met, a "Special Use" permit is required and issued by the Planning Board prior to the issuance of any building permit by the Code Enforcement Officer. The Planning Board holds the right to limit and restrict the number of livestock allowed. **Public Hearing is required for a "Special Use" permit.

6. Maximum height of any accessory building shall be one and one-half (1-1/2) stories or eighteen (18) feet, whichever is less; except that it shall not exceed the height of the principal building. This height limitation does not apply to farm structures.

7. A private, outdoor swimming pool shall be permitted as an accessory use to a dwelling unit only in accordance with the following regulations:

a. Such pool shall be accessory to a principal residential use and shall be erected only on the same lot as the principal structure.

b. Such pool may be erected or constructed only in the side or rear yard of the lot, shall conform with the minimum side and rear yard requirements of the principal building for the district in which

it is located and shall not be less than five (5) feet distant from any principal or accessory structure.

c. Outdoor swimming pools shall be provided with an enclosure which shall comply with the following:

1. The fence shall be at least four (4) feet in height and have a maximum vertical clearance to grade of two (2) inches.
2. Where a picket type fence is provided, horizontal openings between pickets shall not exceed three and one half (3 1/2) inches.
3. Where a chain link fence is provided, the opening between links shall not exceed two and three-eighths (2 3/8) inches.
4. Enclosure shall be constructed so as not to provide footholds. Pickets and chain link twists shall extend above the upper horizontal bar.
5. Gates provided in the enclosure, shall be self-closing and self latching with the latch handle located within the enclosure and at least forty (40) inches above grade.
6. Structural requirements shall conform with Section 720.1 (F) of the New York State Uniform Fire Prevention Building Code.

d. A wall of a dwelling is permitted to serve as part of the enclosure under the following conditions:

1. Windows in the wall shall have a latching device at least forty (40) inches above the floor.
2. A swinging door in the wall, shall be self-closing and self-latching.
3. A sliding door in the wall shall have a self-latching device.

e. Above ground pools with at least forty six (46) inches between pool decking or pool top and adjoining grade are exempt from the fencing rule, provided that their access ladder or steps are retractable and latching or can be blocked in an approved manner when not intended for use.

f. A deck abutting a pool must meet fencing requirements as set forth.

g. Such pool shall not adversely affect the character of any residential neighborhood and all lighting or other appurtenances shall be so arranged as not to interfere with neighboring uses.

In addition, a swimming pool to be constructed or installed as an accessory use to a motel, tourist or like accommodation or as part of any commercial or club facility shall be permitted after application to, and authorization of Permit therefore by, the Enforcement Officer. Such swimming pool shall be so located as not to cause a hazard or nuisance and shall be designed and located in accord with acceptable engineering standards and any applicable County of State requirements.

8. A building, mobile home, trailer or other structure, accessory to a construction project for office, storage or related construction use or temporary living quarters for one year while constructing a permanent home may be permitted upon issuance of a Permit by the Enforcement Officer, such installation to be temporary and continued only for the duration of the construction project to which it is accessory.

Such Permit will be issued only in conjunction with the construction of an approved use for which a Permit has also been issued and a Certificate of Compliance applied for. Such permit will be issued only in conjunction with the construction of an approved use, for which a permit has also been issued and a Certificate of Compliance applied for. Upon expiration of the permit and or extension or completion of the project or notice from the Enforcement Officer; the permit shall expire and the rights and privileges there under shall cease. Failure to remove such installation in a prompt manner shall be considered a violation of these Regulations.

Section 15 - Nonconforming Situations

A. A permitted building or use may be constructed or located on any lot of record in any district even if said lot is less than the minimum area required for said use in the district in which it is located, providing the following conditions exist or are met:

1. The owner of said lot owns no adjoining vacant land which would create a conforming lot if combined with the lot which is deficient in area; and

2. Any structure erected or use located on a nonconforming lot shall have front, side and rear yards conforming to the minimums required for the district in which said lot is located, except as may be otherwise approved

by the Board of Appeals as elsewhere provided for and according to the variance procedures under these Regulations.

B. The lawful use of any land or principal or appurtenant structure or use requiring a Permit under these Regulations and exists on the effective date of these Regulations may be continued although such use or structure does not conform with the provisions of these Regulations and any such use or structure may be reconstructed, altered or changed in use subject to the following:

1. A nonconforming building or use shall not be added to or enlarged in anyway that will extend the nonconforming features unless such nonconforming building or use is made to conform to the regulations of the district in which it is located.

2. An nonconforming use may be changed to another nonconforming use only upon a determination by the Board of Appeals, as elsewhere provided for and according to the variance procedures under these Regulations, that such change represents an improvement to the existing use and its relationship to adjoining areas.

3. A nonconforming structure or use, once removed, shall not be reintroduced or replaced other than by a conforming structure or use.

4. Whenever a nonconforming use has been discontinued for a period of one (1) year, any future use shall be in conformity to the provisions of these Regulations.

5. A nonconforming structure or use which has been damaged by fire or other natural causes may or restored, reconstructed or used as before, provided the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within one (1) year of such occurrence or the use of the building or land as a legal nonconforming use thereafter shall be terminated.

6. Any building or use which has been conclusively initiated or for which a Permit has been lawfully granted, and on which construction has been started and diligently pursued before the effective date of these Regulations or its amendment may be completed.

7. Nothing in the foregoing shall be interpreted to preclude the substitution of a replacement mobile home for an existing mobile home of record nonconforming as to use on the effective date of these Regulations, provided that all of the applicable provisions of these Regulations are complied with; and further provided that such replacement is accomplished within one (1) year from the date of removal of the existing mobile home of record.

8. Debris from fire or collapsed buildings should be cleaned up or removed within one year.

ARTICLE IV - SUPPLEMENTARY REGULATIONS

Section 16 - Special Use Permits

- A. Process - On application the Planning Board may authorize the Enforcement Officer to grant a Permit for any use for which approval of the Planning Board is required by these Regulations according to the following:

1. The Planning Board shall transmit a copy of each application to the Zoning Board of Appeals at least fifteen (15) days prior to the date of public hearing thereon for their interpretation as may be necessary. The Zoning Board of Appeals shall submit its recommendation to the Planning Board on or before the date of the public hearing. Failure of the Zoning Board of Appeals to submit a report shall be considered to signify their approval of the application.

2. The Planning Board shall pursuant to law, hold a public hearing on any applications for a Special Use prior to acting thereon. Such hearing shall be held within sixty-two (62) days from the day a full application is received and the Board shall render its decision within sixty-two (62) days following the date of public hearing. The sixty-two (62) day decision period may be extended by mutual consent of the applicant and the Planning Board.

Notice of the Public Hearing shall be placed in the official newspaper at least ten (10) days prior to the date of the public hearing. Notice of the public hearing shall also be given to all property owners located within five hundred feet (500') of the boundaries of the proposed Special Use. The notice shall be in writing and sent via certified mail with a return receipt. The return receipt shall be given to the Planning Board Clerk as evidence of delivery. The expense of such notice shall be paid by the applicant.

3. Notice of the Board's decision will be given in writing to the applicant and filed with the Town Clerk within fifteen (15) days of rendering its decision.

- B. Required Submissions - The nature and content of an application for a Special Use shall be as follows:

1. Where the proposed use involves only the interior conversion or renovation of an existing structure or the addition or alteration of an accessory building, the Board shall require as a minimum, the following items of information:

a. Application with name and address of property owner and applicant, existing zoning district and description of type and extent of proposed use.

b. Sketch Plan as set forth in Appendix 'B', drawn to scale in ink on minimum sheet size of eight and one half by eleven (8 1/2 X 11) inches showing lot size, placement of principal and accessory buildings and relationship to adjoining parcels and buildings thereon, location or required parking and any alterations to the site.

2. Where the proposed use involves a new or additional principal structure or exterior structural renovation of such principal building, or any significant change in the use or configuration of the site, the Board may require as a minimum, those pertinent items of information, and in the form, set forth under Preliminary Plat/.Plan in Appendix 'B' of this Code.

3. In any instance where the size, location, nature or complexity of the proposed use is such that more detailed plans or specifications are necessary for a complete understanding of the application, the applicant shall be notified that all or portions of the information set forth under Final Plat/Plan in Appendix 'B' will be required as well as any further information that the Board may specify.

4. Notice of the Board's decision will be given in writing to the applicant and filed with the Town Clerk within fifteen (15) days of rendering its decision.

C. Applicable Considerations - In their consideration of an application of a Special Use, the Board shall determine that:

1. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situate and will not be detrimental to the orderly development of adjacent districts and uses.

2. The Location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood. In applying this standard, the Board shall consider, among other things, pedestrian movement, relation to main traffic thoroughfares and to street and road intersections the general character and intensity of development of the neighborhood and its relationship to the overall intensity guidelines for the particular zoning district as set forth in the Town Land Use Plan.

3. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

D. Standards appropriate to individual Special Uses to be considered under the provisions of these Regulations include, but are not limited to, the following:

1. Home Occupation - A home occupation may be approved only if it complies with the following:

a. It shall not display or create outside the building any evidence of the home occupation, except one sign as is permitted under these Regulations.

b. Such use is clearly incidental and secondary to the use of the premises for residential purposes and further provided that such use shall not occupy or utilize in excess of twenty-five (25) percent of the gross floor area of the dwelling unit and its accessory buildings.

c. Off-street parking shall be provided for all clients, customers, or patients in the side or rear yard. Such off-street parking shall be located at least ten (10) feet from any side or rear property line, shall be paved, screened or fenced as directed by the Board, and shall be so lighted that there will be no direct light into adjacent properties or streets.

2. Rural Service, Shop, Use - Such use shall be permitted only when such use is incidental and secondary to a parcel which is primarily used for one or two family dwelling use or farm structure/use as elsewhere specified in these Regulations, and that any building constructed or existing building converted for such use shall be deemed an accessory building and shall conform with all minimum yard, building location and height requirements elsewhere specified in these Regulations, and shall not exceed six hundred (600) square feet in gross floor area. And such use shall be permitted only where the Board determines that such use is in harmony with the rural residential or agricultural use of neighboring lands.

3. Roadside Stand - A permanent structure, stand or location for the sale of seasonal farm produce may be established upon authorization of a Permit by the Board determines that:

a. Such use will not interfere with the normal flow of traffic or present a hazard by way of its proximity to the highway and in this regard that adequate pull-off and parking area is provided.

b. Such use will not present a nuisance or be objectionable to neighboring uses in terms of traffic, noise or unsightliness.

c. In addition, an annual Operating Permit shall be required for all roadside stands, such Permit to be effective to that date specified in the application of the calendar year of its issuance. Application for such Operating Permit will be made to the Town Clerk sixty (60) days prior to initiation of the proposed use. Upon recommendation of the Enforcement Officer and Planning Board, the Town Board shall issue or deny such Permit in accord with the requirements set forth herein and any established fee schedule.

4. Public/Semi-Public Structure, Use - Such uses shall include various municipal and quasi-public, non-residential uses such as school, church or library. These uses shall be subject to the following regulations:

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

b. Any required off-street parking, service area and other requirements of the use shall be satisfactory to the Board.

5. Public Utility or Service Structure, Use - Utility structures or installations such as substations, transformers, transmission towers, switches and auxiliary apparatus serving a distribution area as well as water and sewage pumping stations, public works garage, sanitary landfill and like facilities.

a. Such facility or installations shall not be located on a residential street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through such streets.

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

c. Any required off-street parking, service area and other requirements of the use shall be satisfactory to the Board.

d. Adequate fences, barriers and other safety devices shall be provided, and the facility shall be screen planted in accordance with the needs of the instant situation as determined by the Board.

6. Eating, Drinking Establishment - In addition to meeting the minimum yard and lot coverage requirements, such businesses shall be subject to the following regulations:

- a. Such use shall have frontage on the public roadway and shall not be closer than two hundred (200) feet to any existing residential use.
- b. Ingress and egress shall be so designed as to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to the explicit approval of the Planning Board.
- c. Such uses shall be adequately fenced and screened from any adjacent residential property and lighting shall be directed away from adjacent property and the highway.

7. Gasoline Station, Service Garage - In addition to meeting the minimum yard and lot coverage requirements, such establishment shall be subject to the following regulations:

- a. Such establishment shall not be closer than two hundred (200) feet from any existing residential use.
- b. The minimum distance between pump islands and between the building and any pump islands shall be twenty (20) feet.
- c. No waste water, oil or other materials shall drain onto, pollute or create hazardous or unsightly conditions because of surface drainage.
- d. The number of driveways shall be subject to the approval of the Planning Board.
- e. Any auto wash in addition to meeting the off-street parking requirements shall provide four (4) stacking spaces per bay on the lot to prevent the waiting of automobiles in the public street.
- f. No exterior storage of dismantled or disabled motor vehicles, parts or salvage material shall be permitted.

8. Commercial Excavation, Mineral Extraction - Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of topsoil, earth, sand, gravel, clay or other natural mineral deposits is subject to the following conditions:

- a. Such excavation or extraction shall not endanger the stability of adjacent land or structures, not constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic or other condition. The Board of Appeals shall specify any

reasonable requirements to safeguard the public health, safety and welfare in authorizing such Permit.

b. The slope of such topsoil, sand, gravel, clay or other earth material shall not exceed the normal angle of repose of such material.

c. The top and the base of such slope shall not be nearer than one hundred (100) feet to any property line nor nearer than one hundred (100) feet to the right-of-way line of any street or highway.

d. Any accompanying structure or processing facility shall be so located as not to interfere with the visual qualities or open-space character of the land or any adjoining uses.

e. Adequate fencing and appropriate screen-planting shall be as stipulated by the Board.

f. A plan for restoration and rehabilitation of a commercial earth excavation area or borrow pit shall accompany the application for a Permit to assure conformance with the public health, safety and welfare. The Planning Board, upon approval of such plan, may require a performance bond to assure rehabilitation of commercial excavation sites in conformity with the plan.

g. Must have a current valid mining permit from New York State Department of Environmental Conservation.

9. Junk Yard - No junk yard shall be established hereafter in any area of the Town unless a Permit shall have been authorized by the Planning Board for such use. Before a Permit for a junkyard is authorized, the Planning Board shall find that such use will not constitute a detriment to the public health, safety, welfare, convenience, and property values by reason of dust, smoke, fumes, noise, traffic, odors, vermin or other condition. The Planning Board may specify any reasonable requirements to safeguard the public health, welfare, safety, convenience and property values in authorizing such Permit, including the following:

a. Said use shall not be located within five hundred (500) feet of any highway, stream or property line; or five hundred (500) feet from any existing church, school, public building or place of public assembly.

b. Any new junk yard shall be completely surrounded with a fence which substantially screens said area and shall have a suitable gate which shall be closed and locked except during the normal

working hours of said use. Such fence shall not be erected nearer than fifty (50) feet from any highway or property line. All junk and dumping materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence, except during transportation of same in the reasonable course of the business. No dumping or burning or same shall be accomplished within the Town.

c. Where the topography, landforms, natural growth of trees or other considerations accomplish the purpose of this provisions in whole or in part, the fencing requirements hereunder may be reduced by the Planning Board, provided, however, that such natural barrier conforms with said purposes.

Section 17 - Off - Street Parking and Loading

- A. Off-street parking space shall be required for all principal buildings constructed or substantially altered after the effective date hereof. Each off-street space shall consist of at least one hundred and eighty (180) square feet with a minimum width of nine (9) feet. In addition, space necessary for aisles, maneuvering and drives shall be provided and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. When possible, off-street parking should be located at the rear of buildings.
- B. Parking requirements shall be provided on the basis of one (1) space per each dwelling unit and one (1) space for each two hundred (200) square feet of retail, office, sales or display area in any business or commercial use unless otherwise stipulated. For uses not specified or not of the nature or type generally described here, the Planning Board shall recommend to the Town Board parking requirements in specific cases consistent with the guidelines provided herein. The required provisions for parking may be provided by the Town or in combination with adjacent uses in a manner deemed appropriate by the Town Board after application, consideration and recommendation by the Planning Board.
- C. The required parking space in residential districts shall be for resident parking only and shall not be located in any required front yard. This shall not prohibit arranging for, by lease or other arrangement, required parking space for one automobile of a non-resident for that premises.
- D. Any unlicensed, unregistered or inoperative motor vehicle shall not be parked or stored out-of-doors, other than in a fully-enclosed structure, in any district for a period of more than thirty (30) days. One fifteen (15) day extension may be granted per vehicle when necessary with consent of the Planning Board.
- E. No recreational vehicle or living unit, boat or other utility or service vehicle or equipment shall be stored in any required front yard or within ten (10) feet of any lot line.

- F. Off-street parking for gasoline stations and service garages shall be limited to employee and customer cars which are licensed and in running condition and shall not be used for repair or sale of new or used cars or parts therefrom.
- G. For any building having more than one use, parking space shall be required for each use. For the purposes of computing parking requirements, floor areas shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas.
- H. Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of one thousand five hundred (1,500) feet and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. Any required off-street loading berth shall have a clear area not less than twelve (12) feet in width by twenty-five (25) feet in length.
- I. An off-street loading space may occupy a part of any required side or rear yard, except no such berth shall be located closer than one hundred (100) feet to any lot in any residential district unless wholly within a completely enclosed area or within a building.

Section 18 - Signs

- A. General Regulations - The following regulations shall apply to all signs:
 - 1. No new or additional sign shall be created by erecting, installing, painting, upon; or be otherwise established without a Permit therefor.
 - 2. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
 - 3. Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street or highway, nor project beyond the authorized property lines, except where no other provision is possible in which case the Board of Appeals, in accordance with the variance procedures elsewhere provided for in these Regulation, shall make a determination relative thereto.
 - 4. All temporary signs erected for a special event or property sale, rental or repair shall be removed by the property owner or his agent when the circumstance leading to their erection no longer apply.
 - 5. No sign shall physically or visually impair vehicular or pedestrian traffic by design, illumination, color or replacement. All signs shall have sufficient clearance as to provide clear and unobstructed visibility for vehicles entering and leaving the highway or adjacent residential use. In addition, no flashing or intermittently lighted sign shall be permitted.

6. Any business or advertising sign hereafter erected shall not project into a public street right-of-way and shall not be closer than ten (10) feet to any lot line.

B. In all districts, the following signs are permitted:

1. One nameplate, identification or professional sign not to exceed four (4) feet of sign area, showing the name and address of the resident or other permitted activity associated with the premises.

2. One non-illuminated sale or rental sign not to exceed eight (8) square feet of sign area during and pertaining to the sale, lease or rental of the land or building. Such sign shall be of a temporary nature.

3. One artisan's sign not to exceed eight (8) square feet of sign area during and pertaining to construction, repairs or alteration on the property. Such signs shall be removed promptly upon completion of the work.

4. One institutional or religious identification sign not to exceed sixteen (16) feet in area.

5. A sign advertising the sale or development of a tract of land may be erected upon the tract by the developer, building contractor or owner. The size of the sign shall not exceed sixteen (16) square feet and not more than two (2) signs shall be placed upon the tract along any highway frontage. Such sign must be at least fifty (50) feet from the road or highway right-of-way line.

6. One principal and one accessory business sign for any existing or permitted commercial use provided that the gross surface area of the principal business sign shall not exceed two (2) square feet pre lineal foot of building frontage, but in no case shall exceed twenty-four (24) square feet, and the accessory business sign shall not exceed fifty (50) percent of the area of the principal sign.

Section 19 - Site Improvements and Screening

A. Site improvements, including landscaping and screen-planting may be required according to the following:

1. Any use required by these Regulations to be screened shall provide a fence, screen, or landscaping sufficient to obscure such uses from view from abutting properties and the public right of way as is considered appropriate.

2. Plans and site design for the installation of such fencing or screening as are required shall be reviewed and approved by the Board of Appeals in the instance of a Conditional Use and the Planning Board in the instance of a Planned Development District prior to authorization of a Permit.

3. Any fencing or screening installed in accordance with this Section shall be maintained in good order to achieve the objectives of the same. Failure to maintain required fencing and screening shall be considered a violation of these Regulations.

Section 20 - Mobile Homes

- A. All mobile homes located or installed after the effective date of these Regulations or its amendment shall comply with the State Code for Construction and Installation and Standards, Rules and Regulations for Mobile Homes, effective January 15, 1974, and as it may be amended.
- B. A Permit shall be required for any and each addition or alteration to the mobile home and such Permit shall include a provision for removing the structural addition, unless a Certificate of Compliance is granted therefore, at such time as the mobile home may be removed or relocated.
- C. An approved metal, wood or other suitable skirting or framing, properly ventilated and attached shall enclose that area from the bottom of the floor line of the mobile home to the ground.

ARTICLE V - CLUSTER HOUSING

SECTION I. POLICY AND AUTHORITY

It is the policy of the Town of Seward to permit variation of lot size and housing types as part of subdivision platting in suitable areas in order to: ensure flexibility of design; enable land to be developed in such a manner as to promote its most appropriate use; preserve the natural and scenic qualities of open space; and to harmonize new development with traditional open, rural, wooded, agricultural and hamlet landscapes of the Town; and, as a secondary objective, to facilitate the economical provision of streets and utilities. To that end, the Town Board of Seward hereby adopts the provisions of (Section 278 of the Town Law of the Consolidated Laws of New York), and hereby grants to the Planning Board of the Town of Seward the full authority set forth in that section to modify applicable provisions of the Zoning Law as they apply to a specific plat in a manner consistent herewith. The regulations contained in this Article shall constitute the rules and regulations required by Section 278 of the Town Law, setting forth criteria pursuant to which an open space subdivision may be allowed. Preservation of this open space may be accomplished through Transfer or Sale of Development Rights.

SECTION II. PURPOSES

This provision encourages flexibility in the design and development of land in order to promote the most appropriate use of land; to facilitate creativity in site design and buildings; and to preserve as permanent open space, agricultural land, important natural features, wildlife habitat, water resources, ecological systems, and scenic areas for the benefit of present and future residents. An open space subdivision plan may involve

grouping development on one or more portions of a parcel to permanently preserve other portions of it ("Cluster Development"), modifying road location and design and frontage requirements in return for permanent open space preservation measures ("conservation density subdivision"), or a combination of these approaches.

An open space subdivision shall exhibit several of the following specific purposes:

- A. Better protection of natural and scenic resources identified in the Zoning Law, or Comprehensive Plan, if such exists, than would be provided by a conventional subdivision plan;
- B. Compatibility with surrounding land use;
- C. Provision of adequate buffers for adjoining properties;
- D. Contribution to Town-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the Town of Seward, providing linkage between existing open space areas;
- E. Preservation of land suitable for agriculture, particularly where the open space subdivision borders active agricultural land or land suitable for agriculture;
- F. Encouragement of creative solutions to building siting and infrastructure design.

SECTION III. TYPES OF OPEN SPACE SUBDIVISIONS

- A. Cluster subdivisions. A cluster subdivision accomplishes the purposes in Section II, above, by reducing the lot size and bulk requirements contained in the Zoning Law, and by clustering homes in those areas where they will have the least impact on important resources. These resources are then permanently preserved through the use of conservation easements or other means of preserving open spaces such as fee simple dedications to the Town of Seward.

SECTION IV. PROCEDURES

- A. The procedure for submission, information to be provided, review and acceptance of an open space subdivision are similar to a standard subdivision. Each of three submission steps shall include appropriate information as required in the Zoning Ordinance in addition to specific information as may be required herein. For purposes of timing, all required notices, submissions, hearing, and decision-making time frames in the Zoning Ordinance shall apply to this Article. All applications shall be submitted to the Planning Board for review, referral to the appropriate agencies, and recommendation(s) prior to each decision step.

1. Application

Two sketch plans shall be submitted, one for traditional type development, and one for cluster development. The Board may use its authority to permit an open space subdivision, if in the judgment of the Board, the use of its authority will achieve the purposes in Section II, above and benefit the Town of Seward. A cluster sketch plan involves review under the provisions of this section. Land and environmental information may be requested at this step to assist in making such reports and determinations. Refer to Town Law Section 276 and Section 277 for the review procedure for traditional subdivision.

2. Presentation of a Cluster Plan

A. When application is made for treatment of a subdivision as per the provisions of this local law, it shall be necessary for the applicant to establish that the proposed subdivision meets or complies with the following criteria:

1. Total Land area included in the proposed subdivision or contiguously held by the owner, which ever is greater, is ten acres or more;
2. Total number of lots is four or more.

B. The Planning Board may consider in its deliberations when a "cluster preference" is considered, factor or features of the property which shall be guidelines in its determination as to whether "cluster preference," shall be granted. Among those factors to be considered are the following guidelines.

1. Freshwater wetlands as mapped pursuant to Federal and/or NYSDEC designated wetlands;
2. Watercourses as classified pursuant to NYSDEC Stream Classification System or as delineated under the Town's Stream Resource Management Guidelines;
3. Flood Hazard area as mapped on FEMA's Flood Insurance Rate Map;
4. Critical environmental areas as designated by NYSDEC or within the Town of Seward Master Plan;
5. Slopes in excess of fifteen percent;
6. Other areas of environmental or scenic significance as may be identified by the Planning Board or the Town of Seward Comprehensive Plan or Zoning Law.

SECTION V. GENERAL REQUIREMENTS

A. Property within any residential zoning district(s) is eligible to be considered under this Article.

- B. An open space subdivision shall be independent and separated from an adjoining open space development unless it can be shown that integration of two or more such developments can be achieved. Integration means interconnection of utilities, roads and open space/recreation as well as siting and design compatibility.
- C. When such a development is proposed adjacent to any existing residence or residential area, a suitable buffer area of at least one hundred (100) feet in depth, shall be left between the closest lot line of any lot in an existing residential area or a conventionally platted residential map that has been filed with the Schoharie County Clerk, and the closest lot line in the cluster development.
- D. The area dedicated for open space purposes, including playgrounds and parks, shall be in an amount, location, quality and shape as is desirable for accessibility and open space preservation, as determined by the Planning Board.
- E. All land not contained in the lots or the road right-of-way, if provided, shall be contiguous and of such size and shape as to be useable for recreation and/or open space.
- F. All open space subdivisions may be served by a central water system and a central sewer system.
- G. All roads will be built to minimum Town of Seward road specifications.

SECTION IV. CLUSTER SUBDIVISION REQUIREMENTS

A. Required Plans

An application for cluster subdivision shall include all plans and materials required for a conventional subdivision under the Subdivision Regulations. In addition, a sketch plan of a conventional subdivision of the property conforming to the applicable minimum lots size, density requirements, and all other normally applicable requirements for this district shall be submitted.

B. Allowable Density

The Planning Board shall review the conventional subdivision plan and shall determine the number of building lots or dwelling units that could be practically created pursuant to said plan, considering the requirements of these regulations and the zoning law, the requirements of the New York State Department of Health and New York State Department of Environmental Conservation and the limitations of soils, topography, wetlands, and other environmental features. The Planning Board shall establish the maximum number of units permitted in the subdivision provided the number of units or lots does not exceed the product of the subdivisions' buildable land acreage and the dwelling units per acre as established by the Town Zoning Law. The overall ratio of

residential units to buildable land shall not exceed that which is normally required under the Town of Seward Zoning Laws.

C. Permitted Uses

Dwelling units in a cluster development may be provided in (one-family, multiple family) dwelling structures.

D. Lot sizes and dimensions

1. Lot sizes may not be reduced by more than seventy five percent of the lot size(s) of the underlying zoning districts.
2. Setbacks and lot dimension lines shall be determined by Planning Board at the time of application and no later than time of final approval. If the Planning Board fails to specify, setbacks and dimensions specified for that particular zoning district shall apply. Setbacks and dimensions lines cannot be reduced by more than fifty percent.
3. Under no circumstances will variances be considered or approved in contravention to the setback and dimension requirements specified by the Planning Board.

E. Open Spaces

All lands identified as having special resource value and/or not included in a cluster subdivision as a building lot shall be pursuant to Section VII, below.

SECTION VII. PERMANENT OPEN SPACE

Open space set aside in a cluster subdivision or a conservation density subdivision shall be permanently preserved as required by this Section. This may be done by Transfer or Sale of Development Rights.

A. Open Space Uses

Open space shall be preserved and maintained for one or more of the following uses, which shall be noted on the plat for each open space subdivision.

1. Open space shall be preserved principally for agriculture, recreation and conservation of water, plant or wildlife. Land preserved for agriculture does not necessarily have to be in active production.
2. On all other parcels, open space uses shall be appropriate to the site, including, but not limited to, passive and active recreation (including trail use), forestry and agriculture. When the principal purpose of preserving the open space, or a part thereof, is the protection/buffering of natural resources such as

freshwater wetlands, aquifers, steep slopes, mature forests, wildlife habitats, or stream corridors, open space uses shall be limited to those which are no more intensive than passive recreation for that approximate portion of open space which warrants protection/buffering.

B. Notations on Plat

Open space created by the use of this Article must be clearly labeled on the final plat as to its use, ownership, management, method of preservation, and the rights, if any of the owners of the subdivision to such land and the general public. The plat shall clearly show the open space land is permanently preserved for open space purposes and shall not be platted for building lots, and shall indicate the livre and page of any conservation easement or deed restriction required to be filed to implement such reservations.

C. Preservation in Perpetuity

A perpetual conservation easement and/or other rights to property including fee simple interest which have the minimum effect of restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, watershed protection, wildlife habitat, or other open space use, and prohibiting residential industrial or commercial use of such opens space land, pursuant to Section 247 of the General Municipal and/or Section 49-0301 through 49-0331 of the Environmental Conservation Laws, shall be granted to the Town or to a qualified not-for-profit conservation organization as may be acceptable to the Planning Board. Such conservation easement or other rights shall be reviewed and approved by the Planning Board attorney and be required as a condition of plat approval hereunder. Said conservation easement shall not be amendable to permit commercial, industrial residential development, and shall be recorded in the Schoharie County Clerk's Office prior to filing an approved open space subdivision final plat.

D. Ownership of Open Space Land

1. Open space land may be owned in common by a Homeowners Association (H/A), dedicated to the Town, County or State Governments, transferred to a non-profit organization acceptable to the Town Board, held in private ownership or held in such other form of ownership as the Town Board finds adequate to fulfill the purposes of this Article. The appropriate form of ownership shall be based upon the purpose for the open space reservation as stated pursuant to Subsection A, above.

2. If the land is owned in common by a H/A, such H/A shall be established in accordance with the following and prior to the conveyance of the first lot in the subdivision:

a. The H/A must comply with all applicable provisions of the General Business Law;

- b. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the H/A for taxes, insurance and maintenance of common open space and other common facilities;
- c. The open space restrictions must be in perpetuity;
- d. The H/A must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- e. Property owners must pay their pro rata share of the costs in "d" above, and the assessment levied by the H/A must be able to become a lien on the property;
- f. The H/A must be able to adjust the assessment to meet changed needs;
- g. The applicant shall make a conditional offer of dedication to the Town, binding upon the H/A, for all open space to be conveyed to the H/A. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the property owner's association to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the H/A to fulfill its maintenance obligations hereunder or to pay its real property taxes; and
- h. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the H/A and the dwelling units they each own;
- i. The municipal attorney shall find that the H/A documents presented satisfy conditions "a" through "h" above, and such other conditions as the Planning Board and Town Board shall deem necessary.

E. Maintenance Standards

- 1. Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood. Such maintenance standards may include the obligation to mow open fields to maintain their scenic character.
- 2. If the Town Board finds that the open space set aside is being maintained in such manner as to constitute a public nuisance, it may, upon thirty (30) days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the owner,

or in the case of a H/A, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.

SECTION VIII Open Space Administration

Legislative Intent.

A. The Town of Seward Board does find it necessary to provide a method of administration for open space required as a condition of subdivision, cluster or planned unit development approval whereby such open space is maintained and administered in a fashion consistent with its purpose: for the preservation in its natural state so as to provide relief from a developed look and to buffer developments from roads, buildings and other required infrastructures within a development, and for the general enhancement of the Town of Seward.

B. The purposed of this section is to establish a procedure whereby the residents of such subdivision, cluster or planned unit development will contribute to the cost of the taxes, maintenance and upkeep of the green area within the development.

SECTION IX Park Districts

If the Town of Seward Board or the Planning Board shall require open space as a precondition of subdivision, cluster or planned unit development approval, the developer shall, prior to final approval of such development, petition the Town Board pursuant to the applicable provision of the Town Law, to form a park district, the boundaries of which shall be coterminous with the area of the entire subdivision, cluster or planned unit development to be approved.

SECTION X Offer of dedication; restrictive covenants.

A. Prior to final approval of any subdivision, cluster or planned unit development which is the subject of an open space requirement, the developer shall irrevocably offer to the Town of Seward good and marketable fee title to the open space. Such offer shall be in a form acceptable the Town of Seward attorney and the Town of Seward Board and shall be in a form sufficient for recording.

B. Such offer shall contain a covenant that the developer, his heirs, successors or assigns shall forever refrain from developing, constructing upon or physically altering such open space which shall be maintained forever in its natural state. The Town of Seward shall be deemed the beneficiary of such covenant along with the residents of the subdivision, cluster or planned unit development affected.

SECTION XI Conveyance of open space.

A. Nothing herein shall be deemed to prevent conveyance of such open space by the developer, but all such conveyances, including those to a homeowner's association, shall be subject to the offer of dedication and restrictive covenants required hereby.

B. The developer or his successor shall convey the open space to the homeowner's association required to be established by this local law, but not until seventy-five percent (75%) of the dwelling units proposed to be built in said subdivision, cluster or planned unit development are occupied or a period of five (5) years has elapsed from the time the first such dwelling unit was occupied, whichever event shall first occur. Any such conveyance to the homeowner's association shall be at no cost to the association.

SECTION XII. Homeowner's Association.

A. Prior to final approval of any subdivision, cluster or planned unit development which is the subject of an open space requirement, the developer shall form a homeowner's association. Such corporation need not be designed exclusively to administer open space, but its certificate of incorporation and /or bylaws shall contain at least the following provisions:

1. All owners, unit owners, lessees or tenants of any dwelling units in such subdivision, cluster or planned unit development shall automatically become members of the homeowner's association upon becoming vested with their legal interest in such units, notwithstanding that such interest may be in common or jointly held with others.
2. The developer or his successor shall be a member until the open space is conveyed to the homeowner's association as required by this local law.
3. The homeowner's association shall have the primary duty of controlling and maintaining the open space and any emergency right of way.
4. In voting for directors, each member shall have one (1) vote except that until the developer conveys the open space as required by this Local Law, he shall have one and one-half (1-1/2) votes for every member's votes in such election.
5. The Board of Directors shall consist of five (5) directors, the terms of which shall be three (3) years.
6. The terms of the first-elected directors shall be staggered so that one (1) such director shall have a term of one (1) year; two (2) for a term of two (2) year; and two (2) for a term of three years. All subsequent elections for directors shall be for a term of three (3) years.
7. The books and records of the homeowner's association shall be subject to visitation without prior notice by the Seward Town Board or anyone designated by the Seward Town Board for that purpose.

8. The directors shall render to every member and if requested, to the Town Board, an annual accounting of receipts and expenditures, prepared in accordance with generally acceptable accounting principles.

9. The first election for directors shall take place not earlier than nine (9) months after the first dwelling unit in the affected subdivision, cluster or planned unit development is occupied. Until such election, the developer shall upon formation of the corporation, nominate (3) directors who shall act as a Board of Directors.

10. The primary, but not sole, function of the homeowner's association will be the administration, maintenance and control of the open space and any emergency right of way located thereon.

B. The Town of Seward Attorney shall review and be satisfied with the terms of all proposed certificates of incorporation and bylaws for such homeowner's association prior to final approval of the affected subdivision, cluster or planned unit development. Such review shall be for the purpose of seeing that the certificate of incorporation and the bylaws conform with the provisions of this Local Law.

C. Upon sale or lease of any dwelling unit, the developer shall inform the owner, unit owner, tenant or lessee of the existence of such homeowner's association and shall provide him, without cost, a copy of the certificate of incorporation, bylaws and the names and addresses of the directors and officers of such association.

SECTION XIII Improvements

No structure or building shall be constructed, stream or water body altered or other major physical or topographic alteration undertaken within the green belt areas.

SECTION XIV Default in performance.

If in the opinion of the Town of Seward Board, the homeowner's association defaults under its contract with the Town of Seward and does not control, maintain or administer the open space, the Town of Seward shall adopt one (1) or all of the following procedures:

A. Accept the offer of dedication and go into actual control and possession of the open space.

B. Correct any specific defect or perform any specific task necessary for proper maintenance and control of said open space and charge the cost thereof to the park district as a district tax for the next ensuing year.

SECTION XV Restrictions on use of open space; penalties for offenses.

A. It shall be unlawful for any person who is not a resident of the park district in which such open space is located to use such open space in any manner.

B. It shall be unlawful for any person whether a resident or non-resident to destroy foliage, to improperly cut trees and to construct or locate any structure including a deck, tool shed, etc., in the open space.

C. Any violation of this restriction shall be deemed to be a trespass in the third degree and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) or imprisonment for a term not to exceed fifteen (15) days or both, for each such violation.

ARTICLE VI - ADMINISTRATION AND ENFORCEMENT

Section 21 - Land Use Permit

A1. Land Use Permit Required - No building or structure shall be erected or relocated and no new or expanded use introduced or added to until a Land Use Permit therefore has been issued by the Enforcement Officer.

A2. Building Permit - All structures -- commercial, residential and agricultural, must have a New York State Uniform Fire Prevention Building Code permit.

1. The only exemptions are non-structural or non-mechanical system repairs to non-residential buildings.

B. Application - There shall be submitted with all applications for a Land Use Permit two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of any existing and proposed building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of these Regulations. An application for a Certificate of Compliance shall be made coincidental with any application for a Land Use Permit, such application to be valid for the duration of the Permit.

C. Notification of Determination - The Enforcement Officer shall issue or refuse to issue the applied for Land Use Permit, or advise the applicant of any required additional information or referral required within ten (10) days of receipt of the application. Notice of refusal to issue any Permit shall be given to the applicant in writing and shall state the reasons for said refusal. Approval of the application shall be indicated by issuance of the Land Use Permit, subject to the payment of such fee as may have been established by the Town Board.

D. Duration of Validity - A Land Use Permit issued under these Regulations shall be valid for a period of one (1) year from the date of issuance and shall thereafter be deemed null and void; except when application is made to the Board of Appeals

for an extension of validity and the Board authorizes such extension as it may determine appropriate.

- E. Invalid Permit - No Permit authorized or granted by any official of the Town in contradiction to the provisions of these Regulations shall vest any rights or interest to the Permit holder irrespective of any action taken or obligation incurred in reliance on such Permit, nor shall the Town be liable for same, under any such invalidity issued Permit.

Section 22 - Certificate of Compliance

- A. Certificate Required - No existing land or building shall be changed in use and no building hereafter erected, altered or extended, shall be used or changed in use until a Certificate of Compliance shall have been issued by the Enforcement Officer.
- B. Application - Application for a Certificate of Compliance shall be made coincidental with any application for a Land Use Permit. Such application shall be valid for the duration of the validity of the Land Use Permit.
- C. Notification of Determination - The Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a Certificate of Compliance is required before issuing such Certificate. Such inspection shall be made within ten (10) days from the date of notification of project completion. A Certificate of Compliance shall be issued only if the proposed use of the building or land conforms to the provisions of these Regulations and to the plot plan, purpose and description for which the Land Use Permit was issued. Issuance of the Certificate or written notification or refusal to issue the same and the reasons therefore are to be accomplished within fifteen (15) days from the date of notification of project completion.

Section 23 - Amendments

- A. The Town Board may on its own motion, on petition or on recommendation of the Planning Board or Board of Appeals, after public notice and hearing, amend, supplement, repeal or change the regulations and district boundaries established by these Regulations pursuant to law.
- B. All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within fifteen (15) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

- C. Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law.
- D. After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend these Zoning Regulations, except in the instance of a Protest Petition.
- E. If a Protest Petition against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by legitimate parties of interest as provided for under Section 265 of the Town Law such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of the members of the Town Board.

Section 24 - Public Hearings

- A. A public hearing shall be required prior to action on any amendment, formal interpretation, conditional use, or variance considered under these Regulations.
- B. The Town Board shall hold any public hearing in consideration of an amendment to these Regulations, in accordance with the provisions of law.
- C. The Board of Appeals shall hold any public hearing in consideration of a request for an interpretation, conditional use or variance.
- D. Public notice of any required public hearing will be advertised in a newspaper of general circulation in the Town at least ten (10) days prior to the date of such hearing and shall specify the date, time, place and purpose of such hearing.
- E. The hearing shall be conducted in accord with the guidelines established by the presiding officer. Any person or party of interest may appear in person or by agent or attorney and shall be given an opportunity to be heard as it is relevant to the proceeding.

Section 25 - Required Referrals

- A. Whenever any amendment, special use, or variance would change the district classification of or a regulation applying to real property within a distance of five hundred (500) feet from any boundary line of a neighboring municipality or within five hundred (500) feet of any County or State property or right of way, or within five hundred (500) feet of any farm operation located in a Certified Agricultural District, said proposed conditional use, variance or amendment shall be referred to the Schoharie County Planning Commission, which Commission shall have thirty (30) days in which to report its recommendations to the Board from which it was referred. Failure of the County Planning Commission to report within thirty (30) days may be construed to be approval by the Commission. Notification of action taken in any matter previously referred to the County Planning Commission will be given within thirty (30) days of such action.

Section 26 - Enforcement; Violation; Appeal

- A. Enforcement - These Regulations shall be enforce by a person designated by the Town Board and herein called the "Enforcement Officer", who shall in no case grant any Permit or Certificate of Compliance for any building or use where the proposed erection, alteration, relocation, placement or use thereof would be in violation of any provision of these Regulations. The Enforcement Officer shall make such inspections as are necessary to carry out his duties.
- B. Citizen Complaint - Any resident, property owner of other person of legitimate interest may file with the Enforcement Officer a complaint against any alleged violation of these Regulations. It shall be the duty of the Enforcement Officer to investigate such alleged violation and to report thereon to the Town Board in timely manner, which report shall be filed and be part of the public record of the Town.
- C. Notification and Correction - Any building or use found to be in violation of these Regulations shall be so recorded by the Enforcement Officer and official notice to this effect shall be given to the owner and/or tenant, user or occupant thereof. The owner, tenant, user or occupant shall correct such noted violation within sixty (60) days from the date of notification. If any such violation is not corrected within this sixty (60) day period, the Town may institute proceedings to compel compliance.
- D. Violations; Penalties - Shall be as follows:
1. Any person, whether as owner, or lessee, agent or employee, who shall violate any of the provisions of these Regulations, or who fails to comply with any order or regulation made thereunder; or who erects, alters, moves, or uses any building or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of these Regulations, shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding two hundred fifty (\$250) dollars or imprisonment not exceeding thirty (30) days, or both.
 2. Each week's (7 days) continued violation shall constitute a separate additional offense.
 3. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of these Regulations, the proper local authorities of the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.

- E. Appeal - All appeals for relief from the application of these Regulations in matters of interpretation or request for variance shall be directed to the Board of Appeals which Board function as prescribed in Appendix 'A' of this Code which is hereby by made a part of these Regulations. Where the Board finds that practical difficulty or unnecessary hardship may result from strict compliance with these Regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of these Regulations or the Town Plan. In granting such variances, the Board of Appeals shall require such conditions as will, in its judgment secure substantially the objectives of the standards or requirements so varied.
- F. Court Review - Any person or persons, jointly or severally aggrieved by any decision of the Planning Board, Board of Appeals, Town Board or any officer or department of the Town concerning these Regulations may have the decision reviewed in the manner provided by Article Seventy - Eight of the Civil Practice Law and Rules, provided the proceeding is commenced within thirty (30) days after the receipt of written notice of the decision. Costs shall not be allowed against the Town unless it appears to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Section 27 - Interpretation and Effectuation

- A. Interpretation - In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of these Regulations are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard shall govern.
- B. Separability - The invalidity of any provision of these Regulations shall not invalidate any other provision thereof.
- C. Fees - A schedule of fees for permits and procedures under these Regulations shall be as established by the Town Board.
- D. Effective Date; Repealer - The "TOWN OF SEWARD ZONING REGULATIONS" shall take effect at the time and in the manner provided by law and any existing ordinances, statutes, resolutions, regulations, or laws in conflict with its provisions shall be deemed repealed upon the effective date of these Regulations.

APPENDIX 'A' - BOARD OF APPEALS

A Board of Appeals consisting of five (5) members shall be appointed by the Town Board to carry out the duties prescribed for such Board under this Land Use Code in accord with the provisions of law.

I - Powers and Duties

A. The Board of Appeals shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under this Code and all its determinations shall be made in accord therewith. The Board of Appeals shall have all the powers and duties prescribed by law and by the Regulations which comprise this Code, which are more particularly specified as follows:

1. Interpretation - Upon application or appeal from a decision by the Enforcement Officer, to decide any question involving the interpretation of any provision of the Regulations embodied in this Code including determination of the exact location of any zoning district boundary if there is uncertainty with respect thereto.

2. Special Uses - To authorize a Permit for Special Uses for any of the uses for which the Zoning Regulations required such authorization from the Board of Appeals subject to the requirements prescribed by those Regulations. No Permit shall be authorized by the Board of Appeals unless it finds that the use for which such Permit is sought will not, in the circumstances of the particular case, with any supplemental requirements that the Board of Appeals considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.

3. Variances - To vary or adapt the strict application of any of the requirements of the Regulations embodied in this Code where strict application would result in practical difficulty or unnecessary hardship as further differentiated between below:

a. Area Variance - Applicable only where a proposed use is a permitted standard, conditional or accessory use under the Zoning Regulations, but does not strictly comply with all district regulations or other supplemental provisions of those or other applicable Regulations and the application for appeal establishes the following:

* The request is of reasonable size or dimension;

* The request is consistent with the character of the neighborhood;

- * The request is not caused by simple inconvenience which can be obviated by another method; and

- * the interest of justice will be served by allowing the variance.

b. Use Variance - Applicable only where the appeal for relief firmly established the following:

- * The land in question cannot yield a reasonable return if used only for the purposes allowed in that zoning district;

- * the plight of the owner is due to unique circumstance and not to the general conditions of the neighborhood; and

- * the use to be authorized will not alter the essential character of the neighborhood.

- * the hardship is not self-created.

No variance in the strict application of this Code shall be granted, except where the Board determines that the granting of the Variance will be in harmony with the general purpose and intent of the Regulations so varied, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare and that the Variance granted is the minimum adjustment that will accomplish the intended purposes.

II - Procedure

A. The Board of Appeals shall act in strict accordance with the procedures specified by law and by this Code in accord with the following:

1. Application - All appeals and applications made to the Board of Appeals shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Regulations involved and shall set forth exactly the Interpretation that is claimed or the details of the Variance that is applied for and the grounds on which it is claimed that the Variance should be granted, as the case may be.

2. Notification and Public Hearing - The Board of Appeals shall fix a reasonable time for the public hearing required for every appeal or application and shall file public notice thereof by publication in the official paper of a notice of such public hearing at least seven (7) days prior to the date thereof; and shall, at least ten (10) days before such public hearing, notify the applicant of the date of the hearing. It is the

applicant's responsibility to notify all persons, estates, or companies that are within five hundred feet (500') of ALL boundary lines. This notification must be on copies of the form provided and mailed certified, ten (10) days before the public hearing is scheduled. All of the receipts must be presented at the time of the public hearing before the Board can take any action. Cost of these mailings must be paid by the applicant.

A) If applicant is unable to be present at the public hearing, representation by another party must be confirmed in writing and notarized.

3. Referrals - At least fifteen (15) days before the date of the public hearing required by law on an application or appeal for an Interpretation, Conditional Use or Variance, the Board of Appeals shall transmit to the Planning Board a copy of said application or appeal, together with notice of the aforesaid public hearing and shall require that the Planning Board submit to the Board of Appeals its advisory opinion on said application or appeal; and the Planning Board shall submit a report of such advisory opinion on or before the date of said public hearing. In addition, any Interpretation, Conditional Use, or Variance involving lands within five hundred (500) feet of an adjoining municipality, state or county property or right of way shall be referred to the Schoharie County Planning Commission and acted upon in accord with the requirements of Section 239 - M of the General Municipal Law.

4. Decision and Notification - within sixty (60) days from the date of the public hearing, the Board shall render a determination with respect to the subject consideration, and the applicant or his authorized agent will be so notified in writing. Every decision of the Board of Appeals shall be by resolution of a majority of the full membership of such Board, each of which shall contain a full record of the findings of the Board on file in the office of the Town Clerk together with all documents pertaining thereto. The Board of Appeals shall notify the Town Board and Planning Board of each Interpretation rendered and each variance authorized under the provisions of this Code.

APPENDIX 'B' - REQUIRED SUBMISSIONS

Plans and plats to be submitted in accord with the procedures as outlined in these Regulations shall be as required in Article 9, Section 334 of the Real Property Law where applicable. Required plats, plans and data to be submitted as required in accord with the procedures of the respective Regulations as outlined in this Code shall include the applicable information described below. Upon application and review by the Board responsible for consideration of the matter at hand the requirements for the submission of information may be modified to reflect the sophistication and complexity of the matter at hand.

I - Sketch Plan - At the discretion of the Planning Board.

A. Site Plan - To Scale

1. Location map showing location of proposed development or project in the Town, boundaries of the tract, contiguous properties and any zoning districts and easements.
2. Existing features including existing land use, land and water areas, and other important elements of the site.
3. General layout, including lot and street arrangement, where appropriate.

B. Development Data

1. Total acreage of tract or parcel.
2. Proposed timetable or stages for sale or development.
3. Type of project, i.e., sale of lots, buildings, etc.
4. Existing and proposed utilities and service facilities.
5. Proposed number of lots and typical lot size.

C. Legal Data

1. Names and addresses of owner, developer or subdivider and professional advisors.

II - Preliminary Plat/Plan

- A. Site Plan - Minimum scale of 1" to 100'; Preferred scale of 1" to 40 ' to include:

1. Title, scale, north arrow and date.
2. Tract boundaries and owners of record of adjoining properties.
3. Topographic data based on USGS or equivalent and other site characteristics including soils, drainage and tree cover.
4. Existing land use on and immediately adjacent to the parcel.
5. Lot layout, including adequate means to identify each lot and each block, minimum setback or building line.
6. Street layout, including right of way and improved surface widths, street names and typical cross sections of proposed roadways.
7. Location and description of utilities on and adjacent to the tract and proposed connection thereto, or alternative means of water supply, sewage disposal, electric, telephone and other service facilities.
8. Location, dimension and purpose of any easement.
9. Existing drainageways and provision for collecting and discharging surface drainage and run-off.
10. Location, dimension and description of land or facilities to be dedicated or reserved for public use.

B. Development Data

1. As required for Sketch Plan, as it may have been amended.
2. Feasibility data on sewer, water and storm water drainage, including documentation from on-site investigation.
3. Lineal feet of streets, acres in park or recreation areas.

C. Legal Data

1. Application.
2. As required for Sketch Plan.
3. Required fee, if any.

III -Final Plat/Plan

A. Site Plan - Scale to be same as for Preliminary Plat/Plan.

1. As required for Preliminary Plat/Plan.
2. Tract boundary lines, right-of-way lines, easements and individual lot lines with accurate dimensions, bearings, radii, arcs, and central angles of all curves and location and description of all monuments.
3. Reference to adjoining platted land or names of owners of record of unplatted lands.
4. Topographic data showing contours at a minimum of two (2) foot intervals related to USGS or other permanent bench mark where natural contours are to be changed; otherwise at five (5) foot intervals.
5. All trees to be removed or within fifty (50) feet of any area where the natural contour is to be altered which are of eight (8) inch caliper or more as measured three (3) feet above ground level.
6. Typical cross-sections of streets, including pavement, shoulders, ditches, and walks and cross sections of drainage easements as necessary.
7. Profiles of street center lines showing vertical curve data, slope of tangents and elevations of street intersections and other critical points.
8. Profiles of storm and sanitary sewers, if any, showing diameter of pipe, and distance between manholes and catch basins.

B. Development Data

1. As required for Preliminary Plat/Plan.
2. Detailed drawings and specifications for water supply, storm water disposal, sanitary sewage disposal and any other required facilities, services or installations.

C. Legal Data

1. As required for Preliminary Plat/Plan.
2. Certification of title showing that applicant is the land owner.
3. Certification by surveyor or engineer of survey and plat accuracy.

4. Protective covenants in form for recording, including covenants governing the maintenance of undeeded public space or reservations.
5. Offers of cession dedicating streets, easements, open space and other facilities.
6. Approval by the State or County Health Department as applicable, of sewer and water facility drawings and proposals.
7. Approval by the Department of Environmental Conservation, where applicable.
8. Copies of agreements showing the manner in which areas reserved by the subdivider or developer are to be maintained.
9. Certificate by a licensed professional engineer, licensed land surveyor and/or landscape architect as is appropriate , noting that required facilities have been designed to meet the minimum standards of this Code or as otherwise required by law.
10. Any other data as may re required by the Planning Board or Town Board for the enforcement of this Code including the posting of a Performance Bond to cover the full cost of improvements to be offered for dedication to, or to otherwise become the responsibility of the Town.
11. Approved Building and Fire Code Permit.
12. Required fee, if any.

IV - As Built Drawings

- A. As-built drawings will be filed upon completion of any required underground improvements. No certified check or performance bond shall be released until the drawings and documents listed below have been filed with and approved by the Town Board.
 1. Facilities and improvements as located and constructed in accord with the Final Plat/Plan, certified to be a licensed land surveyor, professional engineer, architect and/or landscape architect, as is appropriate.
 2. All offers of cession, deeds, abstracts and easements for any street, sewer, water or other facilities as approved and certified to by the Town Attorney.

APPENDIX 'C' - DEFINITIONS

I - For the purpose of this Code certain words used herein shall be interpreted or defined as follows:

Word used in the present tense include the future tense.

The singular includes the plural.

The word "person" includes a corporation as well as an individual.

The word "lot" includes the word "plot" or "parcel".

The word "shall" is always mandatory.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended; arranged, or designed to be used or occupied".

II - Definitions shall include the following:

ACCESSORY USE: A use customarily incidental and subordinate to the principal use or building.

APPURTENANT STRUCTURE/USE: A structure, installation or equipment designed and located ancillary to and in support of the principal building or use.

BASEMENT: A story partly underground but having at least one-half of its height above the average level of the adjoining ground and is more than five feet or if used for business or dwelling purposes.

BUILDABLE LAND: That portion of a lot exclusive of all Federal and All New York State designated freshwater wetlands, New York State classified streams, flood hazard areas as mapped on FEMA's Flood Insurance Rate Maps, and slopes of fifteen percent or greater.

BUILDING: Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. When a building is divided into entirely separate parts extending from the ground up, each part so divided is deemed a separate building.

BUILDING ACCESSORY: A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

BUILDING AREA: The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, steps and terraces.

BUILDING COVERAGE: That portion of the plot or lot area covered by building area.

BUILDING, DETACHED: A building surrounded by open space on all sides on the same lot.

BUILDING, HEIGHT OF: The vertical distance measured from the average level of the proposed finished grade across the front of the building to the highest point of the roofs; and to the mean height between eaves and ridge for gable roofs.

BUILDING LINE: A line parallel with the front, side and rear lot lines, respectively, beyond which a structure may not extend as determined by this Code.

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

CELLAR: A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

CLUSTER DEVELOPMENT: A grouping of single family detached, semi-detached or attached residences on lot sizes less than required by the Town of Seward Zoning Law as authorized by the Town of Seward Board pursuant to the (Town Law Section 281).

COMMERCIAL EXCAVATION/MINERAL EXTRACTION: Property or part thereof used for the purposes of extracting stone, sand, gravel, or topsoil as a commercial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which a Permit has been issued.

COMMERCIAL RECREATION/TOURIST ATTRACTION: Any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to amusement park, replicas of real or fictional places, things or people, miniature golf, drive-in theater, natural geological formations, health spa, and mineral baths.

CONSERVATION EASEMENT: A perpetual restriction on the use of land created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law of Section 247 of the General Municipal Law for the purposes of conservation of open space, agricultural land, and natural, cultural and scenic resources. This may be done by Transfer or Sale of Development Rights.

CONDOMINIUM: A legal arrangement involving a combination of two kinds of ownership of real property:

- a. Fee simple ownership of the individual dwelling unit, and

b. Undivided ownership together with other purchasers of the common elements of the structure, land and appurtenances, the management of which is controlled by a property owners or like association.

DEVELOPER: The owner or owners of real property comprising the entire area of a subdivision, cluster or planned unit development which is the subject of an open space requirement.

DEVELOPMENT RIGHTS, PURCHASE OF: shall mean the process by which development rights are sold from one lot, parcel, or area of land to a buyer.

DEVELOPMENT RIGHTS, TRANSFER OF: shall mean the process by which development rights are transferred from one lot, parcel, or area of land in any sending district to another lot, parcel or area of land in one or more receiving districts.

DWELLING, GROUP: A building or portion thereof designed primarily for residential purposes for year-round occupancy by more than two persons not constituting a family, with or without common dining facilities, constituting one or more complete dwelling units.

DWELLING, MULTIPLE-FAMILY: A building or portion thereof designed for year-round occupancy, containing separate dwelling units for three or more families living independently of each other, other than a rooming house, hotel, fraternity, commune or other group quarters.

DWELLING, ONE-FAMILY: A detached dwelling unit providing complete housekeeping facilities designed for year-round occupancy by one family only, other than a mobile home, recreational living unit or any temporary structure.

DWELLING, SEASONAL: A detached one-family dwelling unit providing complete housekeeping facilities for one family designed for seasonal or non-year-round occupancy other than a mobile home, recreational living unit or any temporary structure.

DWELLING, TWO-FAMILY: A detached dwelling unit designed for year-round occupancy by two families living independently of each other, other than a mobile home, recreational vehicle or rooming house.

DWELLING UNIT: A building or portion thereof providing complete housekeeping facilities for one family, including living, sleeping, cooking and sanitary facilities.

EASEMENT: Authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his property.

EMERGENCY ACCESS: A secondary road to be used only by police, fire and ambulance vehicles in an emergency situation where the road giving access to the development has been blocked thus impeding vehicular traffic.

ENFORCEMENT OFFICER: The duly designated official responsible for enforcing this Code as prescribed herein and as directed by the Town Board. The duties of such Enforcement Officer may be assigned to the Highway Superintendent, Town Engineer or others as directed by the Town Board.

EXEMPT BUILDING/USE: A minor ancillary structure or use such as a children's play or tree house, play equipment, outdoor barbecue, a dog house and like facilities common to and generally not affecting the principal use of the premises in any significant manner. Such building or use shall not require a Permit under this Code and shall not be counted against the allowable number of, or area to be occupied by, accessory buildings or uses.

FAMILY: One or more persons occupying the premises related by blood, marriage or adoption, living as a single housekeeping unit, as distinguished from a group occupying a rooming house, fraternity, hotel, commune or other such group quarter.

FARM STRUCTURE/USE: Structures and/or buildings designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products, essential to the operation of 'lands actively devoted to agriculture or horticultural use/production'. "Lands actively devoted to agricultural or horticultural use/production" means lands not less than seven (7) acres in area used in a single bona fide agricultural or horticultural operation in the preceding two (2) years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or lands of less than seven acres in area used in a single bona fide agricultural or horticultural operation in the preceding two (2) years for the production for sale of crops, livestock or livestock products with an annual gross sales of fifty thousand dollars or more. Gross sales requirement may be waived for construction of structure. Proof of gross sales must be met within two years of completion of structure. Proof of gross sales must be submitted to building inspector/code enforcement officer with thirty days of seven hundred thirty days of issue of permit. If gross sales requirement is not met and/or structure is not used for purposes, owner is required to submit full payment for permit based on fee schedule. **Not to be construed with "Personal Use Livestock Housing".**

STRUCTURES located on lands actively devoted to agricultural or horticultural use/production that are not essential to the operation of the aforementioned lands are as follows:

1. the processing of agricultural and/or horticultural commodities;
2. the retail merchandising of such commodities;

3. the storage of commodities and/or livestock for personal consumption or use by the applicant or;
4. the residence of the applicant or his/her immediate family or;
5. structures constructed on lands rented in support of a bona fide agricultural or horticultural operation as defined in the first paragraph of this definition, unless structure or structures are leased to; and there exists a notarized lease agreement between owner of structure and tenant, of ten years length for exclusive use by tenant in support of rented lands.:

FINAL PLAT/PLAN: The final map or drawing and supplementary information as required in appendix 'B' of this Code, including that plan of subdivision which, if approved, will be submitted to the County Clerk for filing.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland areas of water.

FLOOD HAZARD AREA: A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded during a 100-year flood as depicted by the Flood Insurance Rate Map (FIRM) produced by Federal Emergency Management Agency (FEMA)

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

FLOOD PLAIN MANAGEMENT: The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and land use and control measures.

FLOOD PROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOOD PROTECTION ELEVATION: The Base Flood Elevation (BFE).

FLOOD WAY: The channel of a river or other watercourse and the adjacent land area required to carry and discharge a flood a given magnitude.

FLOOD AREA: The sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

FOREST PRACTICES: The production, management and harvest of forest and woodland products including related research and educational activities. Such term shall include the construction and maintenance of directly related structures for the storage of materials and equipment and access trails and roadways.

GARAGE, SERVICE: A building or part thereof operated for gain and used for the storage, hiring, selling, greasing, washing, servicing, or repair of motor-driven vehicles.

GASOLINE STATION: Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term gasoline station shall be deemed to include filling station and service station.

HABITABLE SPACE: The space within a dwelling unit occupied for living, sleeping, bathing, eating and cooking purposes and exclusive of a cellar, attic or such other portions of the dwelling unit not generally occupied by the residents of the dwelling unit.

HIGHWAY COMMERCIAL: A retail commercial activity or service designed primarily to accommodate, and dependent upon, the motoring public. As used in this Code, the term includes gasoline station, service garage, motel or tourist accommodation, and eating and drinking establishments.

HIGHWAY SUPERINTENDENT: The duly-elected or appointed official responsible for overseeing construction and maintenance of the Town highway system.

HOME OCCUPATION: An occupation or a profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; is carried on by a member of the family residing in the dwelling unit and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which produces no offensive noise, vibration, smoke, dust, odors, heat, glare or traffic congestion, either directly or indirectly.

HOMEOWNER'S ASSOCIATION: A not-for-profit or membership corporation from under the authority of the New York State Not for Profit Corporation Law, as the same may be amended, for the purposes, among other things, of maintaining and administering open space.

HOTEL/MOTEL/TOURIST ACCOMMODATION: a building or group of buildings where overnight transient guests are lodged for hire, and designed primarily to accommodate the motoring public. Such uses may include accompanying eating, drinking and related sales uses so long as a minimum of fifteen (15) operating rentable units are provided and further, that any such ancillary service uses are

directly related and secondary to the principal function of overnight sleeping accommodations.

JUNK YARD: A lot, land or structure or part thereof, used for the collecting, storage, or sale of waste paper, rags, scrap metals, used or salvaged building or other discarded materials, or for the collecting, dismantling, storage and salvaging of machinery or vehicles. It shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unlicensed, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts or materials therefrom or not. Such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together equal in bulk two (2) or more such vehicles.

LANDFILL, SANITARY: The depositing of refuse in a natural or manmade depression or trench, or dumping it at ground level, compacting to the smallest practical volume, and covering with earth or other material in a systematic and sanitary manner.

LOT: A parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open space and principal frontage on a public roadway as is required by this Code.

LOT, AREA: The total area included within side and rear lot lines and the street or highway right-of-way.

LOT LINE: Any line dividing one lot from another or from an established right-of-way.

LOT LINE, FRONT: The lot line adjoining and separating the lot from any street or highway right-of-way line.

LOT, UNIMPROVED: A lot on which no building or structure has been constructed or located and on which no excavation, improved driveway or the installation of water supply or sewage disposal systems has been initiated with the intent to serve a building or structure allowed for in the zoning district.

LOT WIDTH: The distance between side lot lines measured parallel to the front lot line at the distance from the front lot line equal to the front yard specified for the zoning district.

MAJOR LAND FORM, ALTERATION OF: The manipulation or movement, whether by dumping, filling or extracting, of an amount of earthen material to a differential of two (2) feet from the natural contour of the land form over an area in excess of 2,500 square feet or 100 linear feet.

MOBILE HOME: A factory-finished movable dwelling unit, having a minimum floor area of 500 square feet, designed and built on frame and wheels to be towed on its own chassis and designed for and providing housekeeping facilities for year-round or seasonal occupancy after being transported to the building site. It does not include a recreational living unit. A mobile home shall have the Construction and Installation of Mobile Homes and Standards, Rules and Regulations for Mobile Homes, effective January 15, 1974, and as it may be amended; (as set forth in Volume 9 Executive (B) of the “Official Compilation of Codes, Rules and Regulations of the State of New York”) and further, any such unit shall bear the required seal noting such compliance.

MOBILE HOME COURT: A parcel of land which has been planned and improved for the placement of ten (10) or more mobile homes for dwelling purposes. The term shall include mobile home park or other area planned and improved for ten (10) or more mobile homes.

MOTOR/RECREATIONAL VEHICLE:

1. built on a single chassis
2. four hundred (400) square feet or less, when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a passenger vehicle or truck; and
4. not designed for use as a permanent dwelling but for recreation and camping.

NEIGHBORHOOD BUSINESS: A store or business that serves the needs of the adjacent neighborhood and includes the following types of stores or businesses: variety stores, clothing stores, food stores, drug stores, banks, restaurants, delicatessens, barber shops, beauty salons, hardware stores, sporting goods stores, dry cleaner agencies for the receipt and delivery only of dry-cleaned articles, a self service laundry, a laundry receiving depot or rural repair shop. These small commercial establishments are intended to primarily serve the residents of the near by area.

NONCONFORMING LOT: Any lot in single ownership, which does not conform with the minimum area and/or dimensions required in the district in which it is situated and where the owner of said lot does not own any adjoining unimproved property, the subdivision of which could create one (1) or more conforming lots.

NONCONFORMING SITUATION: Use of a building or of land that does not comply with the applicable regulations set forth in this Code and where such building or use existed legally on the effective date of the respective Regulations embodied in this Code.

OFFICIAL MAP: Means the map established by the Town of Seward, if any, pursuant to Town Law showing the streets, highways and parks therefore laid out, adopted and established by law and any amendment thereto adopted by the Town or

additions thereto resulting from the approval of subdivision plats by the Board and the subsequent filing of such approved plats. Streets not accepted by the Town as public streets may be shown thereon, but shall be marked as private streets.

OPEN SPACE: Any land required to be left undeveloped in its natural state for residential purpose as a precondition of approval of a proposed subdivision, cluster or a planned unit development. An area of land not developed with residential, industrial or commercial structures and used for recreation, agriculture, or forestry or left in its natural state.

OPEN SPACE RECREATION USE: A recreation use particularly oriented to and utilizing the natural landscape and outdoor character of an area, including hiking equestrian, and recreational vehicle trail, park picnic or beach area and similar undeveloped, outdoor non-intensive uses.

PERFORMANCE BOND: A bond to cover the full cost of any required improvements, the amount of which shall be established upon recommendation of the Town Engineer and as agreed upon by the Town Board, and which shall be further certified to as to form, sufficiency, manner of execution and surety by the Town Attorney.

PERSON: Any person, firm, corporation, association or legal representative acting individually or jointly, including any transportation corporation.

PERSONAL USE LIVESTOCK: 1) Livestock used for pleasure or pets only. Includes but is not limited to horses, cattle, sheep, goats, swine and poultry, 2) Livestock is only for the homeowners personal consumption and not for selling or like businesses. Includes but is not limited to cattle, sheep, goats, swine and poultry.

PERSONAL USE LIVESTOCK HOUSING: An accessory building to house personal use livestock, not to be construed with structures and/or buildings as defined in FARM STRUCTURES/USE.

PORTABLE STORAGE UNIT: Any structure or prefabricated unit intended for storage, not permanently affixed to the ground, moveable from point to point at any time.

PRELIMINARY PLAT/PLAN: The preliminary drawing or drawings and supplemental information as required in Appendix 'B' of this Code, including that plan of subdivision submitted to the Planning Board for its approval.

PLANNED UNIT DEVELOPMENT: A grouping of residential dwelling units, combined with and serviced by compatible commercial service establishments constructed as a unified project in accordance with an overall development plan approved by the Seward Town Board.

PLANNING BOARD: The Planning Board of the Town of Seward.

RATABLY: by apportionment, by proportion, by share.

RECREATIONAL CAMPSITE: A parcel of land designed to accommodate ten (10) or more recreational living units or other accommodations for seasonal or other more or less temporary or transitory living arrangements, including buildings and facilities thereon.

RECREATIONAL LIVING UNIT: A mobile recreational housekeeping unit including travel trailer, pick-up camper, converted bus, tent.

RURAL SERVICE, SHOP: Accessory building constructed or existing accessory building converted to be used for repair and/or service of motor vehicles, farm equipment, lawn equipment, small engine repair, an incidental and subordinate use to the primary one or two family dwelling use or farm structure/use of a parcel.

SIGN, ERECTION: To build, construct, attach, hang, place, suspend, affix or paint a sign.

SIGN, FLASHING: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Code, any revolving, illuminated sign shall be considered a “flashing sign”.

SIGN, NONCONFORMING: A sign which was installed prior to the effective date of this respective Regulations embodied in this Code, but which is in conflict with the provisions thereof.

SKETCH PLAN: An informal plan or plat indicating salient existing features of a tract or parcel and its surroundings, and the general layout of a proposed project as required in Appendix ‘B’.

SPECIAL USE: A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number area, location or relation to the neighborhood may be permitted if specific provision for such special use is made in the Zoning Regulations, after application to and authorization by the Board of Appeals of a Permit therefore.

STANDARD USE: A use permitted in one or more of the respective zoning districts, upon application for and issuance of a Permit by the Enforcement Officer in accord with the standard applicable thereto.

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

STREET: Means a public or private way for vehicular traffic, including the following:

- * Major streets are those principal through traffic arteries.
- * Collector streets are those that interconnect, and carry traffic between, minor residential and major streets.
- * Minor streets are those which are used primarily for access to abutting residential properties. A ‘cul-de-sac’ is a minor street with only one outlet and having a turning loop at the closed end.
- * Frontage or access roads are generally parallel with and adjacent to a major street or highway designed to provide access to abutting properties and protection from through traffic.

STRUCTURE: Anything constructed or erected, the use of which required location on the ground, or attachment to something having location on the ground.

SUBDIVIDER: Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION: The division of any parcel of land into two or more lots, blocks, or sites, with or without streets or highways, for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and includes resubdivision.

SWIMMING POOL: A private, outdoor pool designed and built for swimming purposes as an accessory use on the same parcel as the principal use, for use primarily by the occupants or tenants of said property. Such pool shall include any permanent under- or above-ground pool and any portable pool more than three (3) feet in height and fifteen (15) feet in length or diameter.

TILE FIELD: An approved leaching or drainage field which is connected to and part of a septic tank or other approved disposal process and which is located and constructed in accord with the requirements of this Code.

TOURIST HOME: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

TOWN OF SEWARD BOARD: The duly elected Board of the Town of Seward.

TOWN ENGINEER: A licensed professional engineer or other individual duly designated by the Town Board to carry out his duties.

TOWN PLAN: Means a comprehensive plan prepared for any by the Town setting forth the objectives and policies with regard to the general physical development of the Town, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

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

USGS: United States Geological Survey.

VARIANCE: An authorized departure by the Board of Appeals from the terms of this Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Regulations embodied in this Code would result in practical difficulty or unnecessary hardship as these requirements have been differentiated between and according to the criteria for each established in the respective Regulations and in case law.

WATER SUPPLY SYSTEM: An approved source and connecting supply system for the provision of water for any use required to have such system. Such system may include water derived from approved spring or well sources as part of an approved public, community or individual system as provided for in this Code.

YARD, FRONT: An open unoccupied space on the same lot with the building between the front line of the building and the front lot line or road center line, as is appropriate, and extending the full width of the lot.

YARD, REAR: An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

YARD, SIDE: An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard.

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LAND SUBDIVISION REGULATIONS

Town of Seward, New York

ARTICLE I

Declaration of Policy

By the authority of the resolution of the Town Board of the Town Board of the Town of Seward, adopted on June 3, 1970, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Seward is authorized and empowered to approve Plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the clerk of the county and to approve preliminary plats, within the Town of Seward. It is declared to be the policy of the Planning Board to consider land Subdivision Plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists and shall be properly related to the proposals shown on the Master Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. In order that land subdivisions may be made in accordance with this policy, these regulations which shall be known as, and which may be cited as, the "Town of Seward Land Subdivision Regulations" have been adopted by the Planning Board on September 26, 1974, and approved by the Town Board on December 4, 1974.

ARTICLE II

Definitions

For the purpose of these regulations, certain words and terms used herein are defined as follows:

CLERK OF THE BOARD: means that person who shall be designated to perform the duties of the clerk of the Planning Board for all purposes of these regulations

BOARD OR PLANNING BOARD: means the Planning Board of the Town.

EASEMENT: means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER OR LICENSED PROFESSIONAL ENGINEER: means a person licensed as a professional engineer by the State of New York.

MASTER OR COMPREHENSIVE PLAN: means a comprehensive plan, prepared by the Planning Board pursuant to Section 272-a of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the Town and could be any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

OFFICIAL MAP: means the map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways, and parks and drainage, both existing and proposed.

PRELIMINARY PLAT: means a drawing or drawings clearly marked "Preliminary Plat" showing the layout of a proposed subdivision, as specified in Article V, Section 3 of these Regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning board of the layout of the proposed subdivision.

SKETCH PLAN: means a sketch of a proposed subdivision showing the information specified in Article V, Section 1 of these Regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these Regulations.

STREET: means and includes streets, roads, avenues, lanes, or other traffic ways, between right-of-way lines.

STREET, COLLECTOR: means a street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

STREET, DEAD-END/CUL-DE-SAC: means a street or a portion of a street with only one vehicular traffic outlet.

STREET, MAJOR: means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

STREET, MINOR: means a street intended to serve primarily as an access to abutting properties.

STREET, PAVEMENT: means the wearing or exposed surface of the roadway used by vehicular traffic.

STREET, WIDTH: means the width of right-of-way, measured at right angles to the center line of the street.

SUBDIVIDER: means any person, firm, corporation, partnership or association, who shall lay out for the purpose of sale, lease or development any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION: means the division of any parcel of land into two or more lots, blocks, sites, with or without streets or highways, for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and includes resubdivision.

SUBDIVISION PLAT OR FINAL PLAT: means a drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these Regulations to be presented to the Planning Board for approval, and which if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Register.

SURVEYOR: means a person licensed as a land surveyor by the State of New York.

TOWN ENGINEER: means the duly designated engineer of the Town or if there is no such official, a licensed professional engineer employed by the Town Board.

ARTICLE III

Procedure in Filing Subdivision Application

Whenever any subdivider of land is proposed to be made, and before any contract for the sale or lease of, or any offer to sell or lease any lots, blocks or sites, in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

Section 1. Sketch Plan

A. Submission of Sketch Plan

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board at least ten days prior to the regular meeting of the Board two copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of Article V, Section I, for the purposes of classification and preliminary discussion.

B. Discussion of Requirements and Classification

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.

C. Study of Sketch Plan

The Planning Board shall determine whether the Sketch Plan meets the purpose of these regulations and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

Section 2. Preliminary Plat for a Subdivision

A. Application and Fee

Prior to the filing of an application for the approval of a Subdivision Plat, the subdivider shall file an application for the approval of a Preliminary Plat of the proposed subdivision. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall be in the form described in Article V, Section 3, hereof. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of Sections 276 and 277 of the Town Law, and Article

V, Section 3 of these regulations, except where a waiver may be specifically authorized by the Planning Board.

The application for approval of the preliminary plat shall be accompanied by a fee set by the Town Board for each lot in the proposed subdivision.

B. Number of Copies

Five copies of the Preliminary Plat shall be presented to the Clerk of the Planning Board at the time of submission of the Preliminary Plat.

C. Subdivider to Attend Planning Board Meeting

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

D. Study of Preliminary Plat

The Planning Board shall study the practicability of the Preliminary Plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Master Plan, the Official Map, and Zoning Regulations, if such exist.

E. When Officially Submitted

The time of submission of the Preliminary Plat shall be considered to be the date on which the application for approval of the preliminary plat, complete and accompanied by the required fee and all data required by Article V, Section 3 of these regulations, has been filed with the Clerk of the Planning Board.

F. Approval of the Preliminary Plat

Within forty-five (45) days after the receipt of such preliminary plat by the Clerk of the Planning Board the Planning Board Shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing. Notice of the public hearing shall also be given to all property owners located within five hundred feet (500') of the boundaries of the proposed subdivision. The notice shall be in writing and sent via certified mail with a return receipt. The return receipt shall be given to the Planning Board Clerk as evidence of delivery. The expense of such notice shall be paid by the applicant. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. Within forty-five (45) days after the date of such hearing, the Planning Board shall approve with or without modifications

or disapprove such preliminary plat, and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board.

The time in which the Planning Board must take action on such plat, may be extended by mutual consent of the subdivider and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing modifications if any, as it deems necessary for submission of the plat in final form. Within five (5) days of the approval of such preliminary plat it shall be certified by the Clerk of the Planning Board as granted preliminary approval and a copy filed in his office, a certified copy mailed to the owner, and a copy forwarded to the Town Board. Failure of the Planning Board to act within such forty-five (45) day period shall constitute approval of the preliminary plat.

When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to (1) the modifications to the Preliminary Plat, (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals, and general welfare, (3) the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Subdivision Plat. Approval of a Preliminary Plat shall not constitute approval of the Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to approval of the Subdivision Plat, 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.

Section 3. Plat For a Subdivision

A. Application for Approval and Fee

The subdivider shall, within six months after the approval of the Preliminary Plat, file with the Planning Board an application for approval of the Subdivision Plat in final form, using the approved application blank available from the Clerk of the Planning Board. All applications for Plat approval for Subdivisions shall be accompanied by a fee of \$25.00. If the final plat is not submitted within six months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the final plat and required re-submission of the preliminary plat.

B. Number of Copies

A subdivider intending to submit a proposed Subdivision Plat for the approval of the Planning Board shall provide the Clerk of the Board with a copy of the Application and three copies (one copy in ink on linen or an acceptable equal) of the Plat, the original and one true copy of all offers of cession, covenants, and agreements and two prints of all construction drawings.

C. When Officially Submitted

The time of submission of the Subdivision Plat shall be considered to be the date on which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article V, Section 4 of these regulations, has been filed with the Clerk of the Planning Board.

D. Endorsement of State and County Agencies

Water and sewer facility proposals contained in the Subdivision Plat shall be properly endorsed and approved by the Schoharie County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, County and State agencies. Endorsement and approval by the Schoharie County Department of Health shall be secured by the subdivider before official submission of Subdivision Plat.

E. Public Hearing

Within forty-five (45) days of the submission of a plat in final form for approval a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing, provided however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under Section 3 of this article, and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

F. Action on Proposed Subdivision Plat

The Planning Board shall by resolution conditionally approve, conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within forty-five (45) days of its receipt by the Clerk of the Planning Board if no hearing is held, or in the event a hearing is held, within forty-five (45) days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed thereof shall be deemed approval of the plat.

Upon resolution of conditional approval of such final plat the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) days of such resolution the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements the plat shall be signed by said duly authorized officer of the Planning Board.

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 plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of ninety (90) days each.

G. Required Referrals

- A. If the proposed subdivision is located within five hundred (500) feet of:
1. the boundary of any town or village;
 2. the boundary of any existing or proposed county or state park or recreation area;
 3. the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
 4. the existing or proposed boundary of any stream or drainage channel owned by the county or for which the county has established channel lines;
 5. the existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
 6. the boundary of a farm operation located in an agricultural district as defined by article twenty-five AA of the agricultural and markets law;

then the proposed subdivision shall be referred to the Schoharie County Planning Commission for its review, pursuant to General Municipal Law Article 12-B, Section 239. The County Planning Commission shall have thirty (30) days to after receipt of a complete referral to report its recommendations to the Planning Board. If the County Planning Commission fails to report within such period, the Planning Board may take its final action on the referred subdivision plat without such report. However, any County Planning Commission report received after thirty days, but more than two days prior to final action by the Planning Board shall be subject to the provisions for an extraordinary vote.

B. If the County Planning Commission recommends modification or disapproval of the subdivision, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

Section 4. Required Improvements

A. Improvements and Performance Bond

Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either sub-paragraph (1) OR sub-paragraph (2) below:

(1) In an amount set by the Planning Board the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements OR the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law as the same exists or may hereafter be amended and shall be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety. A period of one 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.

(2) The subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements not so completed the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.

(3) A map shall be submitted to the satisfaction of the Planning Board, indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Article III, Section 5A(2), then said map shall be submitted prior to final approval of the Subdivision Plat. However, if the subdivider elects to provide a bond or certified check for all required improvements (as specified in Article III, Section 5A(1), such bond shall not be released until such a map is submitted in a form satisfactory to the Planning Board.

B. Modification of Design of Improvements

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by a majority of the Planning Board, authorize modifications 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 Board. The Town Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

C. Review of Improvements

At least five (5) days prior to commencing construction of required improvements the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may cause review to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements and utilities required by the Planning Board.

D. Utilities

As to utilities required by the Planning Board, the Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time, in accordance with the approved Construction Detail Sheets.

E. Proper Installation of Improvements

If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Building Inspector, and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company, take all necessary steps to preserve the Town's rights under the bond. No Plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

Section 5. Filing of Approved Subdivision Plat

A. Final Approval and Filing

Upon completion of the requirements in Sections 4 and 5 above and notation to that effect upon the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and may be filed by the applicant in the Office of the County Clerk. Any Subdivision Plat not so filed or recorded within thirty (30) days of the date upon which such Plat is approved or considered approved by reasons of the failure of the Planning Board to act, shall become null and void.

B. Plat Void if Revised After Approval

No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the

Planning Board and such Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

Section 6. Public Streets, Recreation Areas

A. Public Acceptance of Streets

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on such Subdivision Plat.

B. Ownership and Maintenance of Recreation Areas

When a park, playground, or other recreation area shall have been shown on a Plat, the approval of said Plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the Plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

ARTICLE IV

General Requirements and Design Standards

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article VI herein.

Section 1. General

A. Character of Land

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

B. Conformity to Official Map and Master Plan

Subdivisions shall conform to the Official Map of the Town shall be in harmony with the Master Plan, if such exists.

C. Specifications for Required Improvements

All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from the Town Engineer.

Section 2. Street Layout

A. Width, Location and Construction

Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties, and shall be coordinated so as to compose a convenient system.

B. Arrangement

The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other consideration make such continuance undesirable or impracticable, the above conditions may be modified.

C. Minor Streets

Minor streets shall be so laid out that their use by through traffic will be discouraged.

D. Special Treatment Along Major Arterial Streets

When a subdivision abuts or contains an existing or proposed major arterial street, the Board May require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

E. Provision for Future Resubdivision

Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these regulations.

F. Dead-End Streets

The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a 20 foot wide easement to provide for construction of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more should have at least two street connections with existing public streets, or streets shown on the official Map, if such exists, or streets on an approved Subdivision Plat for which a bond has been filed.

G. Block Size

Blocks generally should not be less than 400 feet nor more than 1200 feet in length. In general, no block width should be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a 4-foot wide paved foot path be included.

H. Intersections with Collector or Major Arterial Roads

Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.

I. Street Jogs

Street jogs with center line offsets of less than 125 feet shall be avoided.

J. Angle of Intersection

In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.

K. Relation to Topography

The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

L. Other Required Streets

Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street

approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts.) Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

M. Reservation of Land

Where the subdivision borders an existing street, and the Official Map or Master Plan, as they may be adopted, indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the Plat “Reserved for Street Realignment (or widening) Purposes.” (Set-back) lines for construction may required by the Planning Board to provide for future street realignment or widening purposes.

Section 3. Street Design

Should conform with Town of Seward Street and Highway Ordinance.

Section 4. Street Names

A. Type of Name

All street names shown on a Preliminary Plat or Subdivision Plan shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.

B. Names to be Substantially Different

Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90 degrees without a change in street name.

Section 5. Lots

A. Lots to be Buildable

“Bacon Strips” are lots that are narrow, perhaps road frontage width, and depth several times the width, and will not be permitted without the developer/subdivider giving the Planning Board due justification for such lots. Such justification has to include accessibility, sanitation, aesthetic value, and any other information deemed necessary by the Planning Board for being a “bacon strip”.

B. Side Lines

All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

C. Corner Lots

In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.

D. Driveway Access

Driveway access and grades shall conform to specifications of the Town driveway ordinance, if one exists. Driveway grades between the street and the setback line should not exceed 10 per cent.

E. Access from Private Streets

Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations

F. Monuments and Lot Corner Markers

Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation, shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the Subdivision Plat.

Section 6. Drainage Improvements

A. Removal of Spring and Surface Water

The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

B. Drainage Structure to Accommodate Potential Development Upstream

A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of facility based on anticipated run-off from a “ten-year” storm under

conditions of total potential development permitted by the Zoning Ordinance in the watershed.

C. Responsibility from Drainage Downstreams

The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Engineer. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a five year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

D. Land Subject to Flooding

Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

Section 7. Parks, Open Spaces, School Sites and Natural Features

A. Recreation Areas Shown on Town Plan

Where a proposed park, playground or open space shown on the Town Plan is located in whole or in part in a subdivision, the Board shall require that such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication. Ownership shall be clearly indicated on all reservations for parks and playgrounds.

B. Parks and Playgrounds Not Shown on Town Plan

The Planning Board shall require that the Plat show sites of a character, extent, and location suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the Plat.

The Board shall require that not less than 3 acres of recreation space be provided per 100 dwelling units shown on the plat. However, in no case shall the amount be more than 10 per cent of the total area of the subdivision. Such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication.

C. Information to be Submitted

In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit to the board, prior to final approval, five prints drawn at a scale of not less than thirty (30) feet to the inch, showing such area and the following features thereof:

- a. The boundaries of the said area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
- b. Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
- c. Existing, and, if applicable, proposed changes in grade and contours of the said area immediately adjacent.

D. Waiver of Plat Designation of Area for Parks and Playgrounds

In cases where the Planning Board finds that due to the size, topography, or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or, if in the opinion of the Board it is not desirable, the Board may waive the requirement that the Plat show land for such purposes. The Board shall then require as a condition to approval of the Plat a payment to the Town of five hundred dollars (\$500.00) per gross acre of land which otherwise would have been acceptable as a recreation site. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Article IV, Section 7B.

Such amount shall be paid to the Town Board at the time of final Plat approval, and no Plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund to be used for the acquisition of land that (a) is suitable for permanent park, playground or other recreational purposes, and (b) is so located that it will serve primarily the general neighborhood in which the land covered by the Plat lies, and (c) shall be used only for park, playground or other recreational land acquisition or improvement. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the Plat is situated, providing the Planning Board finds there is a need for such improvements.

E. Reserve Strips Prohibited

Reserve strips of land, which might be used to control access from the proposed subdivision to any neighboring property, or to any land within the subdivision itself shall be prohibited.

F. Preservation of Natural Features

The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, water courses and falls, beaches, historic spots, vistas and similar irreplaceable assets.

No tree with a diameter of 8 inches or more as measured 3 feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the final Subdivision Plat. Removal of additional trees shall be subject to approval of the Planning Board. In no case, however, shall a tree with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk be removed without prior approval by the Planning Board.

ARTICLE V

Documents to be Submitted

The requirements of the following sections may be modified upon request in accordance with the provisions of Article VI.

Section 1 - Sketch Plan - At the discretion of the Planning Board

- A. The sketch plan information initially submitted to the Planning Board shall consist of a copy of the official town map (available at the office of the Town Clerk) showing the location of the entire tract which is proposed to be subdivided and a rough sketch of the entire tract at a scale of two hundred (200) or four hundred (400) feet to the inch showing the following information:
1. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
 2. Within the portion to be subdivided and within two hundred (200) feet thereof all existing structures, wooded areas, streams and other significant physical features.
 3. The name of the owner and of all adjoining property owners.
 4. The kind of development proposed (such as residential, commercial, etc.).
 5. All the utilities available, and all streets which are either proposed, mapped or built.
 6. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewage, and water supply (see Section 2-A3) within the subdivided area.

7. All existing restrictions on the use of land including easements, covenants, or zoning lines.

Section 2. Subdivision Preliminary Plat and Accompanying Data

The following documents shall be submitted for approval:

- A. Five copies of the preliminary plat prepared at a scale of not more than one hundred (100) but preferable not less than fifty (50) feet to the inch, showing:
 1. Proposed subdivision name, name of Town and County in which it is located, date, true north point, scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
 2. The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
 3. Zoning District, including exact boundary lines of district, if more than one district, and any proposed changes in the zoning district lines and/or the zoning ordinance text applicable to the area to be subdivided.
 4. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
 5. Location of existing property lines, easements, buildings, water courses, marshes, rock outcrops, wooded areas and other significant existing features for the proposed subdivision and adjacent property.
 6. Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
 7. Contours with intervals of 5 feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than 2 feet.
 - ? 8. The width and location of any streets or public ways or places shown on the Official Map or the Mater Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
 9. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines.

10. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.

11. Plans and cross-sections showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.

12. Preliminary designs of any bridges or culverts which may be required.

13. The proposed lot lines with approximate dimensions and area of each lot.

14. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements and shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the official map.

15. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to be a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer, and shall be referenced and shown on the Plat.

- B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract shall be considered in the light of the entire holdings.
- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

Section 3. Subdivision Plat and Accompanying Data

The following documents shall be submitted for Plat approval:

- A. The Plat to be filed with the County Clerk shall be printed upon linen or an acceptable equal or be clearly drawn in India ink upon tracing cloth. The size of the sheets shall be no larger than 22 inches by 44 inches, including a margin for binding of two inches, outside of the border, along

the remaining sides. The Plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the north point at the top of the map.

When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

The Plat shall show:

1. Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and subdivider, name, license number and seal by a licensed land surveyor.
2. Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
3. Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.
4. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The Plat shall show the boundaries of the property, location, graphic scale and true north point.
5. The Plat shall also by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
6. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
7. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
8. Permanent reference monuments shall be shown, and shall be constructed in accordance with specification of the Town Engineer. When referenced to the State system of plan coordinates, they shall also conform

to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the Plat.

9. All lot corner markers shall be permanently located satisfactorily to the Town Engineer, at least three-quarter (3/4) inches (if metal) in diameter and at least 24 inches in length, and located in the ground to existing grade.

10. Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer.

ARTICLE VI

Waivers

Section 1

Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Mater Plan, or the Zoning Ordinance, if such exists.

Section 2

In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

ARTICLE VII

Separability

Section 1.

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

SUBDIVISION ENFORCEMENT LOCAL LAW

Local Law No. 1 of the Year 1992

A Local Law to provide penalties for offenses against the Subdivision Regulations. Be it enacted by the Town Board of the Town of Seward as Follows:

Section 1. Purpose

Pursuant to Section 268 of the Town Law, the Town Board of the Town of Seward hereby provides for the enforcement of the Subdivision Regulations of the Town of Seward, New York originally adopted by the Planning Board in January of 1975 and approved by the Town Board in January 1975, and as amended from time to time by enacting the following provisions.

Section 2. Penalty Provisions

"A. Any person, firm or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resist the enforcement of any of the provisions of these regulations shall, upon conviction, be deemed guilty of a violation, punishable by a fine of no less than \$50.00 and no more than \$250.00 or by imprisonment for six months or by both fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations."

"B. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of these Regulations."

Section 3. Severability

If any clause, sentence, paragraph, section of part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate any other clause, sentence, paragraph, section or part of this local law.

Section 4. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

Regulations For Mobile Homes & Mobile Home Parks & Travel Trailers & Trailer Camps

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REGULATIONS FOR
MOBILE HOMES AND MOBILE HOME PARKS
AND
TRAVEL TRAILERS AND TRAILER CAMPS

Foreword

This proposed mobile home and trailer regulations contains standards and procedures for the regulation of mobile homes, mobile home parks, travel trailers and motor home camps. It is intended to protect and promote the interests of the Town and its people now and in the future.

Section 1.1 TITLE

This regulation shall be known as the Trailer and Mobile Home Regulations of the Town of Seward.

Section 2.1 PURPOSE

The purpose of this regulation is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of Seward, and of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of mobile homes, mobile home parks, travel trailers and trailer camps.

Section 3.1 DEFINITIONS

For the purposes of this regulation, the following words, terms and phrases shall have the meaning ascribed to them in this section.

MOBILE HOME: A mobile home means a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on a site, is 320 or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Double-wides and modulars are permitted throughout the Town.

MOBILE HOME PARK: A mobile home park is any parcel of land which is planned and improved for the placement of two (2) or more mobile homes which are used as dwellings.

MOBILE HOME STAND: A mobile home stand is a surface located on a mobile home lot which is to be used for the placement and capable of supporting a mobile home according to Sections 1223.3 and 1223.4 of the New York State Fire and Building Code.

TRAVEL TRAILER: A travel trailer is any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes; and which may or may not include one or all of the accommodations and facilities included in a mobile home.

TRAILER CAMP: A trailer camp is any parcel of land which is planned and improved for the placement of two (2) or more travel trailers which are used as temporary living quarters.

Section 4.1 MOBILE HOMES LOCATED OUTSIDE OF MOBILE HOME PARKS

4.2 Regulation of Mobile Homes.

4.21 No single wide mobile homes are allowed outside mobile home parks.

- 4.22 No mobile home shall be parked or allowed to remain upon any street, highway or other public place, except that emergency stopping or parking, when caused by mechanical failure, shall be permitted upon the shoulder of any street or highway for a period of not more than twenty-four (24) hours, subject however to any prohibition of limitation imposed by other regulations or laws.
- 4.23 No mobile home shall hereafter be parked or otherwise placed within the Town of Seward and outside a licensed mobile home park, except as follows:
- 4.3 Mobile Home Licenses.
- 4.31 The owner of land must file an application for a permit with the Zoning Officer.
- 4.32 Each application for a mobile home license shall be in writing and signed by the applicant. This application must state and be accompanied by the following:
- a. The name and address of the applicant
 - b. The location and description of the land.
 - c. A plan drawn to scale of not smaller than one inch equals twenty feet (1"=20'). This plan must show the boundaries of the land, the location of the mobile homes on the land, the location and plan for the proposed water supply and sewage disposal systems, and the location of adjacent properties and structures.
 - d. A certified or photostatic copy of the deed to the land which indicates that the applicant is the owner of such land.
 - e. A fee of twenty-five (25) dollars.
- 4.33 The Zoning Officer upon receipt of the application shall review the application's compliance with the provisions of this regulation and the requirements of the Schoharie County Department of Health. The Zoning Officer shall then transmit the application, along with his findings, to the Town Planning Board.
- 4.34 The Town Planning Board shall review the applications and the findings of the Zoning Officer, and by resolution indicate its approval or disapproval.
- 4.35 The Zoning Officer shall notify the applicant of the decision of the Planning Board and issue a permit to the applicant if the application was approved.
- 4.36 If the application was disapproved, the applicant shall have the right to appear before the Board of Appeals for a hearing.

4.4 Mobile Home Requirements

- 4.41 No mobile home shall be placed in an R district.
- 4.42 No mobile home built before 1984 or manufactured older than ten (10) years from the date of installation shall be permitted.
- 4.43 Every mobile home shall have a manufacturer's label which certifies that, to the best of his knowledge and belief, the home is in compliance with all applicable Federal construction and safety standards.
- 4.44 Every Mobile home shall bear a data plate, affixed in the manufacturing facility, bearing not less than the following information.
- a. The statement: "This mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture."
 - b. Reference to the structural zone and wind zone for which the home is designed.
- 4.45 Any mobile home shall be connected to an adequate supply of pure water for drinking and domestic purposes, and a sewage disposal system. Both systems shall satisfy the requirements of the Schoharie County Department of Health.
- 4.46 No mobile home shall be parked or placed nearer than:
- a. The distance of set back from any right-of-way line of a public highway or shall comply with the zoning requirements for the district which it is located in.
 - b. The distance for side property lines shall comply with the zoning requirements for the district which it is located in.
- 4.47 A mobile home foundation shall conform with the new York State Fire and Building Code after 1984.
- 4.48 Each mobile home parked or placed outside a duly licensed mobile home park shall be located on a parcel of land according to the zoning requirements for the zone in which the mobile home is placed.
- 4.49 Not more than one (1) mobile home shall be placed or parked on any parcel of land which is located outside a licensed mobile home park.

4.5 Existing Mobile Homes.

- 4.51 A mobile home, which is lawfully in existence prior to the enactment of this regulation but not located in a mobile home park, may be continued to be used as living quarters by its occupants.
- 4.52 If the owner of the land desires to substitute a mobile home of superior construction or improve the facilities for the existing mobile home, such owner shall comply to the provisions of Section 4.3 of this regulation with respect to application procedure and requirements and meet the requirements of Sections 4.42, 4.43, 4.44, 4.45, 4.46, and 4.47 of this ordinance.

Section 5.1 LICENSES REQUIRED FOR MOBILE HOME PARKS AND TRAILER CAMPS

Any person, partnership, association or corporation, being the owner or occupant of any land within the Town of Seward shall not use or allow the use of such land for a mobile home park or trailer camp unless a license has been obtained as herein provided.

5.2 Issuance of License

- 5.21 The Zoning Officer of the Town of Seward shall issue a permit to be effective from the day of issuance to and including December 31st of that same year.
- 5.22 This permit will not be issued until the Zoning Officer has received:
- a. A written request from the applicant.
 - b. The required fee as provided in Section 5.5.
 - c. Approval of the application by the Schoharie County Department of Health or the New York State Department of Health District Office.
 - d. Approval by the Town Building Inspector.

5.23 This permit shall not be transferable or assignable.

5.3 Supplemental License.

- 5.31 Any person, holding a permit for a mobile home park or trailer camp and desiring to add additional lots to such park or camp, shall file an application for a supplemental permit.
- 5.32 The application for such supplemental permit must be accompanied by two complete sets of plans and specifications as required by Section 6.1 of this regulation. The application for a supplemental permit shall be filed and handled according to the procedure established in this section of the regulation.
- 5.33 When approved and upon the receipt of the required fee, the Zoning Officer shall issue a supplemental permit which will be effective from the date of issuance to and including December 31st of the same year.

5.4 License Renewal.

- 5.41 An application for the renewal of any mobile home park or trailer camp permit, which was issued in accordance with the provisions of this ordinance, must be filed with the Zoning Officer on or before December 1st preceding the expiration of the permit.
- 5.42 Upon the approval, the Zoning Officer shall issue a renewal permit to be effective upon the expiration of the previous permit and continue in force for a period of one year.
- 5.43 At the time the renewal permit is issued, the applicant shall pay the required fee.
- 5.44 Such renewal permit shall not be transferable or assignable.

5.5 License Fees.

- 5.51 The applicant shall pay the Town Clerk annual fee equal to the sum of thirty (\$30.00) dollars plus one (\$1.00) dollar per lot.
- 5.52 The fee for a supplemental permit shall be computed and determined in the same manner.

Section 6.1 APPLICATION PROCEDURE

- Each application for a mobile home park or trailer camp shall be in writing and signed by the applicant.
- 6.2 The application and related information shall be filed with the Zoning officer in triplicate.
- 6.3 The Zoning Officer shall keep one copy of the application, one copy to the Town Building Inspector, one copy of the application to the Town Planning Board for review and report prior to final action by the Planning Board.
- 6.4 The Building Inspector shall check the application for compliance with the minimum requirements as established by the rules and regulations of the New York State Department of Health, the Schoharie County Department of Health, the Town of Seward and the Sanitary Code of the State of New York. The Building Inspector shall, after such investigation, transmit the certified application to the Planning Board, together with his written findings as whether the application satisfies or does not meet the minimum health and sanitary standards within thirty (30) days after the date of filing.
- 6.5 Upon receipt of the application, the Planning Board shall review the general arrangement of the mobile home park or trailer camp. This shall include review of: location and width of streets; the location, size and arrangement of lots; the location

of other structure within the park or camp; the location of entrances and exits; and the location, type and extent of landscaping and screening materials. The Planning Board shall transmit the application back to the Zoning Officer together with its written findings within forty five (45) days of receipt of the application. Failure to act within the forty five (45) days of receipt of the application shall be deemed approval.

- 6.6 The Building Inspector and the Planning Board, by resolution indicate its approval or disapproval of the application, within sixty (60) days of the date of filing the application with the Zoning Officer. The application shall be returned to the zoning Officer and the applicants notified in writing by the Zoning Officer of the decision rendered within five (5) days of the date of such decision.
- 6.7 If the application is disapproved, the applicant shall have the right to appear before the Zoning Officer and the Board of Appeals for a hearing.

Section 7.1 APPLICATION DATA.

Each application shall be accompanied by three complete sets of plans which are prepared by a licensed surveyor or engineer. The plans shall be drawn to a scale of twenty (20) feet to one (1) inch, shall include the date, northpoint, and scale; and shall furnish the following information.

7.2 Legal Data.

- a. The name and address of the applicant; or the name and address of each partner if the applicant is a partnership. or the name and address of each officer and director if the applicant is an association or corporation.
- b. The location and description of the land that is proposed to be used as a mobile home park or camp.
- c. The number of lots to be provided in such park or camp.

7.3 Physical Features.

- a. Contours at twenty (20) foot intervals.
- b. Location of water courses, marshes, and are subject to flooding.
- c. Wooded areas.

7.4 Existing Development.

- a. A location map which shows all land adjacent to the proposed park or camp, and all structures on the land which abuts the proposed park or camp.

- b. The location, names and widths of all adjacent streets.
- c. The location of all water lines and utilities within and adjacent to the proposed site.

7.5 Proposed Development

- a. The location and widths of all entrances, exits, streets and walkways.
- b. The location, size, and arrangement of each lot within the park.
- c. The method and plan for electric lighting.
- d. The location and plan of all proposed structures and improvements.
- e. Any proposed grading and plans for landscaping.
- f. Any proposed storm water drainage.
- g. Any proposed utilities.
- h. Existing zoning.

Section 8.1 REQUIREMENTS FOR MOBILE HOME PARKS

8.2 Site.

- 8.21 The park shall be located in areas where grades and soil conditions are suitable for use as Mobile Home Park.
- 8.22 The park shall be located on a well drained site which is properly graded to insure rapid drainage and be free at all times from stagnant pools of water.
- 8.23 The park shall be at least two acres in size; two hundred (200) feet frontage on a public road.
- 8.24 No park shall be located in an R District.

8.3 Mobile Home Lot.

- 8.31 Each mobile home park shall be marked off into mobile home lots.
- 8.32 The total number of mobile home lots in a mobile home park shall not exceed four (4) per acre

8.4 Mobile Home

- 8.41 No mobile home shall be parked or otherwise located nearer than a distance of:
- a. At least forty (40) feet from an adjacent mobile home in any direction
 - b. At least twenty (20) feet from an adjacent property line.
 - c. At least one hundred twenty-five (125) feet from the right-of-way line of any public street or highway.
 - d. At least fifteen (15) feet from the nearest edge of any roadway location within the park.

8.42 Only one mobile home shall be permitted to occupy any one mobile home lot.

8.43 Each mobile home shall have a solid enclosure around the bottom conforming with the general design of the mobile home.

8.5 Mobile Home Stand

8.51 Each mobile home lot shall have a mobile home stand which will have to comply with have to comply with the New York State Fire and Building Code in Sections 1223.3 and 1223.4

8.6 Accessibility

8.61 Each mobile home park shall be easily accessible from an existing public highway or street.

8.62 Where a mobile home park has more than sixteen (16) mobile homes, two (2) points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed four (4).

- a. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park, and to minimize friction with the free movement of traffic on a public highway or street.
- b. All entrances and exits shall be at right angle to the existing public highway or street.
- c. All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
- d. All entrances and exits shall be a minimum of twenty (20) feet in width to facilitate the turning movements of vehicles with mobile homes attached.

8.63 Each park shall have an improved drive of at least twenty (20) feet wide. The drive shall have a minimum of six (6) inches of approved material specified in the Town of Seward Private Road Specifications.

8.64 An improved driveway shall be provided for each mobile home lot. This driveway shall have a minimum width of nine (9) feet.

8.7 Parking

8.71 One off street parking space shall be provided on each mobile home lot. Such space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet.

8.72 Additional off street parking spaces shall be provided at strategic and convenient locations for guests and delivery and service vehicles.

a. There shall be one such parking space for each two (2) mobile home lots within the park.

b. Such parking space shall be provided in bays which shall provide for adequate maneuvering space.

8.8 Utilities and Service Facilities

8.81 The following utilities and service facilities shall be provided in each mobile home park which shall be in accordance with the regulations and requirements of the Schoharie County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.

a. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all mobile home lots and buildings within the park to meet the requirements.

b. Each mobile home lot shall be provided with a sewer, which shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.

c. The disposal of all garbage and rubbish shall be in accordance with all county regulations.

8.82 Other service buildings shall be provided as deemed necessary for the normal operation of the park, however, such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.

8.83 Each mobile home lot shall be provided with weatherproof electric service connections and outlets which are of a type approved by the New York State Building and Fire Code.

8.9 Open Space

8.91 Each mobile home park shall provide common open space for recreation purposed by the occupants of such park. Such space shall have a total area equal to at least ten (10) percent of the gross land area of the park.

8.10 Landscaping

8.101 Lawn and ground cover shall be provided on those areas not used for the placement of mobile homes and other buildings, walkways, roads and parking areas. These areas should be properly maintained.

8.102 Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the mobile homes and other facilities.

Section 9.1 **REQUIREMENTS FOR TRAVEL TRAILERS; MOBILE HOME CAMP GROUNDS**

9.11 No travel trailer or motor home camp ground shall be located in an R district.

9.12 The provisions found in Section 8.2 shall apply.

9.13 Each camp ground shall be marked off into lots.

9.14 The total number of lots in such camp ground shall not exceed twelve (12) per acre.

9.15 Each lot shall have a total area of not less than 2,500 square feet

9.2 Accessibility

The provisions found in Section 8.6 shall apply.

9.3 Utilities and Service Facilities

9.31 The following utilities and service facilities shall be provided in each trailer camp which shall be in accordance with the regulations and requirements of the Schoharie County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.

- a. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and trailer lots within the camp to meet the requirements of such camp.
- b. Toilet and other necessary sanitary facilities for males and females shall be provided in permanent structures. Such facilities shall be housed in either separate buildings or in the same building; in the latter case such facilities shall be separated by sound-proof walls. The male and female facilities shall be marked with appropriate signs and have separate entrances for each.
- c. Lavatory and shower facilities shall be supplied with both hot and cold running water.
- d. The buildings housing such toilet and sanitary facilities shall be well lighted at all times of the day or night; shall be well-ventilated with screened openings; shall be constructed of moisture proof material; and shall be clean and sanitary at all times. The floors of such buildings shall be of a water impervious material.
- e. Such buildings shall not be located nearer than twenty (20) feet nor further than three hundred (300) feet from any travel trailer.

9.4 Landscaping

The provision found in Section 8.1 shall apply

SECTION 10.1 TRAVEL TRAILERS: MOTOR HOMES LOCATED OUTSIDE OF TRAILER CAMPS

10.2 Regulation of Travel Trailers: Motor Homes

10.21 The provision found in Section 4.21 shall apply

10.22 No travel trailer; motor home shall hereafter be parked or otherwise placed within the Town of Seward unless such travel trailer; motor home is parked or placed in a duly licensed camp ground, except a property owner may provide camping trailer space on his own property for his own use or for a guest.

SECTION 11.1 ENFORCEMENT

The Building Inspector or Zoning Officer of the Town of Seward shall enforce all of the provisions of these regulations.

SECTION 12.1 REVOCATION OF LICENSE

12.2 Revocation of Mobile Home Park and Trailer Camp Licenses

- 12.21 If the Town Building Inspector or Zoning Officer finds and reports to the Planning Board that a mobile home park or a trailer camp, for which a permit has been issued, is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provision of these regulations, the Planning Board may, by resolution authorize the Building Inspector or Zoning Officer a written order which will require the holder of the permit to correct the condition specified in such order within ten (10) days after the service of such order.
- 12.22 If the holder of such license shall refuse or fail to correct the condition or condition specified in such order within ten (10) days after the personal service of such order, the Building Inspector or Zoning Officer may revoke such license and the holder of the license shall there upon terminate the operation of such mobile home park or trailer camp.
- 12.23 However, if the owner or operator of such mobile home park or trailer camp shall thereafter correct such conditions and bring the mobile home park or trailer camp into compliance with these regulations, such owner may then apply for this issuance of a new license for such park or camp, and if the application is approved and a license is granted, the applicant shall pay the fee required by these regulations without any credit for the fee paid for the license which was revoked.

SECTION 13.1 PENALTIES

- 13.11 Any person, firm or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resist the enforcement of any of the provisions of these regulations shall, upon conviction, be deemed guilty of a violation; punishable by a fine of no less than \$50 and no more than \$250 or by imprisonment for six (6) months or by both fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations.

SECTION 14.1 EXCEPTIONS

- 14.2 None of the provisions of these regulations shall be applicable to the following:
- 14.21 The business of mobile home or travel trailer sales, except that where units are used as living quarters, they shall conform with the provisions of these regulations.
- 14.22 The storage or garaging of mobile homes or travel trailers not being used for living or sleeping purposes within a building or structure or to the storage of one unoccupied as the principal residence by the owner of such mobile home or travel trailer, provided, however, that such unoccupied mobile home or travel trailer shall not be parked or located between the street line and the front building line of such premises.

14.23 A mobile home or travel trailer located on the site of a construction project, survey project or other similar work project and which is used solely as a field office or work or tool house in connection with such project provided that such mobile home or travel trailer is removed from such site within thirty (30) days after the completion of such project.

SECTION 15.1 VALIDITY

If any section, paragraph, subdivision or provision of this regulation shall be found invalid, such invalidity shall apply to the section, paragraph, subdivision or provision adjudged invalid, and the remainder of the regulation shall remain valid and effective.

SECTION 16.1 EFFECTIVE DATE

This regulation shall take effect ten (10) days after posting and publication thereof, and immediately as against any person who is personally served with a certified copy thereof in accordance with the Department of State.