

ZONING ORDINANCE

TOWN OF BALDWIN

CHEMUNG COUNTY, NEW YORK

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ZONING ORDINANCE

TOWN OF BALDWIN

ARTICLE 1 - INTRODUCTORY PROVISION

Section 1.0

Title, Authority and Purposes. This ordinance shall be known as the Town of Baldwin Zoning Ordinance. It has been enacted by the Town Board of the Town of Baldwin pursuant to Article 16 of the Town Law of the State of New York which empowers the Town Board to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open space, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and to establish penalties for the violation of such regulations.

Section 274-a of the Town Law authorizes the Planning Board to review, approve, approve with modification or disapprove site plans prepared to specifications set forth in this zoning ordinance.

The intent of this ordinance is to encourage appropriate and orderly physical development; promote in all possible ways public health, safety, convenience and general welfare; classify, designate and regulate the location and use of buildings, structures and land for agricultural, residential, commercial, industrial or other uses in appropriate places. Objectives of this ordinance are to provide assurance of opportunities for effective utilization of land; provide adequate community and public utility facilities; provide workable relationships of land uses to the transportation system and lessen congestion on the roads; conserve and stabilize the value of property; provide adequate open space for light and air; provide desired levels of population density; secure safety from fire, flood and other dangers.

These regulations have been made with reasonable consideration, among other things, as to the physical character of land and its peculiar suitability for particular uses, and with a view to conserving and stabilizing the value of land and buildings and encouraging the most appropriate use of land throughout the town. This ordinance has been developed in accordance with a comprehensive plan for the Town of Baldwin.

ARTICLE 2 - INTERPRETATION

Section 2.0

Interpretation, Separability and Conflict.

- A. The following rules of construction of language shall apply to the text of this ordinance.
- 1) Words used in the present tense include the future tense.
 - 2) Words used in the singular include the plural and words used in the plural include the singular.
 - 3) The word "lot" includes the word "plot" or "parcel".
 - 4) The word "person" includes an individual, firm, or corporation.
 - 5) The word "shall" is always mandatory; the word "may" is always permissive.
 - 6) The words "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".
 - 7) A "building" or "structure" includes any part thereof.
 - 8) The phrases, "to erect", "to construct", and "to build" a building, each has the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.
- B. If any section, paragraph, subdivision, or provision of this ordinance shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision adjudged invalid, and the rest of this ordinance shall remain valid and effective.
- C. This ordinance shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect.
- D. Whenever the requirements of this ordinance are at variance with the requirements of other lawfully-adopted laws, rules, regulations or ordinances, that with the most restrictive provisions or those imposing the higher standards shall govern.
- E. Where reference is made to a State or Local Statute, or Ordinance or Law, it is also made to any later amendments, superseding laws and/or recodifications made thereto.

Definitions. The following words or phrases as used in this ordinance are defined as follows:

ACCESSORY STRUCTURE - A structure or a portion of a principal structure on the same lot used for purposes customarily incidental or subordinate to the principal structure.

ACCESSORY USE - A use which is incidental and subordinate to the use of a principal structure on a lot.

AGRICULTURAL USE, CUSTOMARY - The raising of agricultural products including livestock, poultry, dairy products, farm crops, fruit and vegetables, and nursery stock, whether for gain or otherwise. The term includes livery or boarding stables but does not include the manufacturing or processing of agricultural products as a principal use.

ANIMAL KENNEL - Any place at which there are kept three or more animals more than six months of age for commercial purposes and not related to customary agricultural use.

AREAS, COMMON - Space reserved for use by any and all residents of a multiple family dwelling such as halls, stairways and landings in apartment houses.

BASE FLOOD - The flood having a one percent chance of being equalled or exceeded in any given year.

BASEMENT - That space of a building that is partly below grade which has more than one/half its height measured from floor to ceiling above the average finished grade of the ground adjoining the building.

BUILDING - Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals or chattel.

BUILDING AREA - The area taken on a horizontal plane at the main grade level of the building exclusive of storage space, open porches, terraces, and steps, and in respect to dwellings, also exclusive of attached or built-in garages.

CAMP - Any parcel of land on which may be located one or more cabins, camping vehicles, tents or other accommodations of a design or character suitable for seasonal or other temporary living purposes including summer colony, resort and day camp but not including a mobile home park, boarding house or motel.

CELLAR - That portion of a building that is partly or entirely below grade level which has more than one-half its height, measured from floor to ceiling, below the average finished grade of the ground adjoining the building.

CONTIGUOUS PARCEL - A tract of land under the control of the applicant or his agent that is not divided by any natural or man-made barriers such as existing roads, highways, railroad tracks, rivers and not totally bisected by any water bodies.

COVERAGE - That area or percentage of lot area covered by buildings or structures, including accessory buildings and structures but not including detached solar collectors used by solar energy systems.

DWELLING UNIT - One room or rooms connected together consisting of a separate independent housekeeping establishment for owner occupancy, rental, lease or sale, that is physically separated from any other rooms or dwelling units which may be in the same structure, and contains independent cooking, sanitary and sleeping facilities for one family. This shall include sectional, modular and mobile home units provided they meet the standards of this ordinance and the building code. It shall not include motel, hotel or lodging establishments.

DWELLING - SINGLE FAMILY DETACHED - A building consisting of one dwelling unit.

DWELLING - TWO FAMILY DETACHED - A building consisting of two dwelling units.

DWELLING - MULTI-FAMILY - A building consisting of three or more dwelling units.

DUMP - Land used primarily for the disposal by abandonment, burial, burning or any other means and for any other purpose, of garbage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

EASEMENT - A vested or acquired right to use land other than as a tenant for a specific purpose, such right being held by someone other than the owner who holds title to the land.

EFFECTIVELY SCREENED - Barriers of sufficient height and opacity to reduce the transmission of sound and light to adjacent properties so as not to create a nuisance.

EFFICIENCY APARTMENT - A dwelling unit without a separate distinct room for sleeping which is part of a multi-family structure.

ENCROACHMENT LINES - Are lateral limits along floodway to be kept clear of obstruction to flood flows. If hydraulic efficiency of the floodway is maintained by protecting it against unnecessary development, it will be adequate to convey the regulatory flood without resulting in an increase in flood elevation in other areas, which would cause damage to existing or future development.

FAMILY - Consists of a) one person, or two or more persons related by blood, marriage or adoption or b) not more than five persons not necessarily related by blood, marriage or adoption, who live together in a single dwelling unit and maintain a common household.

FARM - A unit of land having more than five acres of which five acres are used for cultivation, pasture or other customary agricultural purposes.

FENCE - Any constructed fence, brick or stone wall, and hedge or other continuous natural growth located outside of the area bounded by the front building foundation line and the side and rear setback requirements.

FINISHED GRADE - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade shall be the average elevation of all finished grade elevations around the periphery of the building.

FLOOD - A temporary rise in stream flow or stage that results in water overtopping its bank and inundating areas adjacent to the channel.

FLOODPROOFING - A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard protection district.

GRADE LEVEL - The level where the finished grade of the ground intersects the foundation wall at the main entrance.

GROSS FLOOR AREA - The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of the walls separating the buildings. In particular, the "floor area" of a building or buildings shall include:

- a - Basement space.
- b - Elevator shafts and stairwells at each floor.
- c - Floor space for mechanical equipment, with structural headroom of six feet or more.
- d - Penthouses.
- e - Attic space (whether or not a floor has actually been laid) providing structural headroom of six feet or more.
- f - Interior balconies.
- g - Enclosed porches.
- h - Accessory uses, not including space for accessory off-street parking.

However, the "floor area" of a building shall not include:

- a - Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- b - Elevator and stair bulkheads, accessory water tanks, and cooling towers.
- c - Floor space used for mechanical equipment, with structural headroom of less than six feet.
- d - Attic space, whether or not a floor has actually been laid providing structural headroom of less than six feet.
- e - Uncovered steps; exterior fire escapes.
- f - Terraces, breezeways, open porches, and outside balconies and open spaces.
- g - Accessory off-street parking spaces.
- h - Accessory off-street loading berths.

HEIGHT OF BUILDING - The vertical distance measured from the elevation of the grade level to the highest point of the roof.

HOME OCCUPATION - An accessory use which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof; and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by one or more occupants of such dwelling unit and in which not more than one person not residing in such dwelling unit may be employed.

INDUSTRIAL USES, CUSTOMARY - Any use with a primary purpose of manufacturing or processing a product.

JUNK YARD - An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or the

dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. The deposit on a lot of two or more wrecked or broken down vehicles or the major parts thereof for three months or more shall be deemed to make the lot a "junk yard".

LOT - A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same. A lot shall abut and be accessible from a public or private street.

LOT AREA - The area within the property lines excluding any portion thereof within the boundaries of a street or highway.

LOT WIDTH - The width of a lot measured along the rear line of the required front yard.

MOBILE HOME, HOUSE TRAILER - A dwelling unit that is manufactured as a relocatable living unit, designed to be transported on a permanent chassis and fully equipped to be installed on a site when connected to utilities.

MOBILE HOME PARK - A contiguous parcel of land divided into lots or sites for rent or lease on which mobile homes will be placed for nontransient use.

MULTIPLE FAMILY DWELLING, MULTIPLE FAMILY RESIDENCE, MULTIPLE FAMILY UNIT - See dwelling, Multi-family.

NEIGHBORHOOD COMMERCIAL USES - A use whose primary purpose is the retail sale of goods or services and which is scaled to provide essential services to small residential neighborhoods.

NON-CONFORMING BULK - Any building or other structure which does not conform to one or more of the bulk regulations of this ordinance, either at the effective date of the ordinance or as a result of subsequent amendments.

NON-CONFORMING USE - Any use of land which does not conform to the use regulations of this ordinance, either at the effective date of the ordinance or as a result of subsequent amendments.

OBSTRUCTION - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit,

culvert, building, wire, fence, rock gravels, refuse, fill structure or matter in, along, across or projecting into any channel, watercourse, or encroachment area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

OPEN SPACE - Area not occupied by any building structure or parking area.

OPEN SPACE, COMMON - Area unoccupied by any building structure or parking area which is available to general public.

PERSON - Any person, firm, partnership, association or corporation, but this definition does not include any governmental unit.

PUBLIC BUILDINGS AND GROUNDS - Description of any one or more of the following uses, including grounds necessary for their use and accessory buildings:

- a - Churches, places of worship, parish houses and convents.
- b - Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- c - Nursery school, elementary school, high school, college or university having a curriculum approved by the Board of Regents of the State of New York.
- d - Public libraries and museums.
- e - Municipal buildings.
- f - Hospitals for the treatment of human beings, convalescent or nursing homes, all duly licensed by the State of New York.
- g - Non-profit membership corporations established for cultural, social, or recreational purposes.

REGULATORY FLOOD PROTECTION ELEVATION - The elevation at which uses regulated by this ordinance are required to be elevated or floodproofed.

REGULATORY FLOODPLAIN - Land area designated by the Federal Emergency Management Agency (FEMA) as being subject to flooding during a base flood and which is delineated on the most recently filed FEMA Flood Hazard Boundary and Flood Insurance Rate maps for the Town as are now in effect or as may hereafter be filed by FEMA with the Town.

RESERVOIR SPACE - Any temporary storage space for a vehicle waiting for service or admission, that is in addition to drives, aisles or other required parking spaces.

RIGHT OF WAY (ROW) - Property under ownership or easement used for vehicular circulation, usually forming a joint boundary between a lot and the road surface.

ROAD COLLECTOR - All town roads other than major roads and interior subdivision roads.

A Rod is 16 Ft 9"
✓ ~~SETBACK~~ - The distance from the ^{center} ~~right-of-way~~ line of a public road ^{or} ~~and~~ the road surface of a private road to the principal building on a lot. Pg 10 3.0

SIGN - Any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement.

STORY - That portion of a building included between the surface of the floor and the ceiling next above it, having a height of at least seven feet six inches.

STRUCTURE - A walled or roofed building or anything constructed, erected, or placed, above or below ground other than walk, driveway and plant life, which requires temporary or permanent location on or the support of the soil, or which is attached to any structure.

SUITABLE VEGETATION - Vegetation in sufficient quantity and of sufficient maturity so as to prevent erosion, maintain the general character of the area, and provide effective screening when such purpose is warranted.

SUITABILITY LANDSCAPED - Landscaped with vegetation of a type sufficient to effectively screen differing uses, enhance the quality of the environment, limit erosion, and protect the general welfare.

TOWN HOUSE - A multi-family dwelling unit consisting of a series of non-communicating units having a common party wall between each adjacent unit.

USABLE LIVING SPACE - The area of the floors of a dwelling unit excluding unenclosed, unheated porches.

USE - The purpose for which any structure or part thereof and the premises of any part thereof is occupied or intended to be occupied, or if unoccupied, the purpose for which they may be occupied.

WRECK - A motor vehicle in such condition that it cannot be repaired or which has remained unrepaired for thirty days after the damage occurred or which by reason of age and prior use is unsuitable for use on the highway. An unlicensed motor vehicle is one for which the registration for the current year has not been issued (and affixed thereto). This ordinance, however, shall not be construed to prevent the storage of unlicensed vehicles in private garages upon the premises of the owners.

YARD - The open space required between a structure and the nearest road right-of-way or lot line. Any required yard shall be entirely open, may have vegetative cover, and unoccupied by buildings.

ZONING DISTRICT - Area defined for the purpose of regulating permitted and conditional land uses.

ARTICLE 3 - ESTABLISHMENT OF DISTRICTS

Section 3.0

Application of District Regulation. Except as hereinafter provided:

- A. All building, structures, and land shall hereafter be used and/or occupied in conformity with the applicable regulations of this ordinance.
- B. No lots shall be reduced in size if, as a result thereof, its area or any of its dimensions or open spaces shall be smaller than required by this ordinance.
- C. Any required yard shall be entirely open, may have vegetative cover, and shall be unoccupied by buildings other than:
 - 1. Entrance porch or steps not over seven feet deep in a front yard.
 - 2. Detached accessory buildings occupying not over twenty-five percent of a required rear yard and setback as required by this ordinance.
- D. No part of any yard or open space required for any building shall be included as part of the yard or open space required for another building.

Section 3.1

Zoning Districts. The districts established by this zoning ordinance, and subject to future amendments, shall be as follows:

FD-A	Flood Hazard District A
FD-AA	Flood Hazard District AA
R-A	Residential-Agricultural District

Section 3.2

District Locations. The boundaries for each district listed as part of this ordinance are the boundaries indicated for the district by the map entitled "The Official Zoning Map of the Town of Baldwin" dated with the effective date of this ordinance, which is hereby adopted by reference and declared to be part of this ordinance, and hereinafter known as the "Zoning Map".

Section 3.3

Zoning Map. There shall exist only one "Zoning Map" which shall be kept in the office of the Town Clerk and it shall bear the seal of the Town of Baldwin, a certification that it is "The Zoning Map of the Town of Baldwin" and its date of adoption. Said Zoning Map shall be on material suitable for reproduction by a dry diazo copier or equivalent process. Copies of this Map which may from time to time be published and distributed would be accurate only as of the date of their printing and shall bear words to that effect. Changes made in district boundaries or other matters portrayed on the Zoning Map under the provisions of this ordinance, shall be permanently affixed to the Zoning Map promptly after the amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. Amendment to this ordinance which involve districts portrayed on the Zoning Map shall not become effective until ten days after publication when such changes shall be made on said map and attested by the Town Clerk. Should the Zoning Map become damaged, destroyed, lost or difficult to interpret because of the changes and additions, the Town Board may by resolution adopt a new Zoning Map to supersede the former map. The new Zoning Map shall bear a statement which explains that it supersedes the prior map and gives the dates of adoption of both the prior map and the new Zoning Map. If possible, the prior map and the records of its adoption and amendments shall be preserved.

Section 3.4

Activities Prohibited In All Districts.

- A. No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise

causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.

- B. The practice of soil stripping shall be limited to incidental filling of areas within the town to bring them up to grade, except insofar as is necessary and incidental to sand and gravel operations or lawful excavations for cellars and other structures.
- C. No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectional features if determined to be detrimental to the public health, safety or general welfare unless conducted under proper and adequate safeguards.
- D. Storage of material, indoors in a manner that facilitates the breeding of vermin or endangers health in any way.

Section 3.5

Fire, Safety and Sanitation Regulations.

- A. No building except a silo or church shall be constructed either over three stories or thirty-five feet in height unless built of noncombustible materials.
- B. If the use of any lot or building involves the disposal of sewage or wastewater, an adequate sanitary disposal system for the same shall be installed in accordance with regulations of the Chemung County Health Department. Said system shall be at all times maintained on such lot. (The minimum lot area otherwise required may be increased where necessary to the extent required to safely provide such disposal system and detailed plans for such system must be submitted to and approved by the Chemung County Department of Environmental Health before a building permit shall be issued.)
- C. A building which has been damaged to the extent that renders it uninhabitable, unsafe or unusable for its intended purpose, must be reconstructed or razed in a fashion which leaves the site clean and safe within three months.

- D. All buildings shall be in conformance with applicable building construction and fire prevention codes.

ARTICLE 4 - USE DISTRICTS

Section 4.0

Flood Hazard District A (FD-A).

4.0.1 Intent. This flood hazard district has the most severe flooding potential. In order to protect persons, improvements and property from this special flood hazard all development and habitable structures are expressly prohibited. Other uses that have low flood damage potential and which do not obstruct or increase flood flows are allowed.

4.0.2 Permitted Uses. The following uses are permitted in the Flood Hazard District A provided that these uses do not result in any development, substantial improvement to any structure, fill or storage of materials and equipment and are not otherwise prohibited by this ordinance:

- a. Agricultural uses such as pasture, grazing, general farming and forestry.
- b. Private and public recreational areas such as swimming areas, open space, wildlife or natural preserves, hunting and fishing areas, hiking and horseback trails, and parking and loading areas.

4.0.3 No uses shall diminish or constrict the capacity of the channel or floodway of any watercourse, or any tributary to the main stream, or any other watercourse, drainage ditch or any other drainage facility or system to discharge the waters from the base flood.

Section 4.1

Flood Hazard District AA (FD-AA).

4.1.1 Intent. This district includes the fringe area of the 100 year flood. As such it is subject to the periodic movement and inundation of flood waters. The intent of this flood hazard district is to provide for the protection of public health, safety and welfare by placing special conditions on any development and improvements to structures within the district.

4.1.2 Permitted Uses. Any permitted and conditional uses allowed in the residential-agriculture district may be allowed in this district subject to site plan approval by the Planning Board.

4.1.3 Special Provisions Applying to the Flood Hazard District AA. Any use considered in the Flood Hazard District AA shall conform to the following standards which are regarded as minimum requirements:

- a. New construction or substantial improvement of any residential structures, including the placement of mobile homes, shall have the lowest floor, including basement, elevated to, or above, the base flood elevation at that point.
- b. New construction or substantial improvement of any commercial, industrial or other nonresidential structures shall either have the lowest floor, including the basement, elevated to, or above, the base flood elevation, or together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. The design of floodproofed structures may include the following measures or techniques as appropriate:
 - 1. Anchorage to resist flotation and lateral movement.
 - 2. Reinforcement of walls to resist water pressures.
 - 3. Installment of watertight doors, bulkheads, and shutters.
 - 4. Use of paints, membranes or mortars to reduce seepage of water through walls.
 - 5. Addition of mass or weight to resist flotation.
 - 6. Installation of pumps to lower water levels in structures.
 - 7. Pumping facilities to relieve hydrostatic water pressure on external walls and basement floors.
 - 8. Elimination of gravity flow drains.
 - 9. Construction to resist rupture or collapse caused by water pressure or floating debris.

- c. Mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specifically:
 - 1. Over-the-top ties shall be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations, except that a mobile home less than 50 feet in length requires only one additional tie per side.
 - 2. Frame ties shall be provided at each corner of the mobile home with five additional ties per side at intermediate points, except that a mobile home less than 50 feet long need have only four additional ties per side.
 - 3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - 4. Any additions to the mobile home shall be similarly anchored.
- d. Expansion, substantial repair, reconstruction or improvements to existing mobile home parks and new mobile homes not placed in a mobile home park shall comply as follows:
 - 1. Stands and lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at, or above, the base floor elevation.
 - 2. Adequate surface drainage and access for a hauler shall be provided.
 - 3. When elevated on piers or pilings, lots shall be large enough to permit steps; pier foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for piers more than six feet above the ground level.
- e. All new construction or substantial improvements of buildings and other structures, including new or replaced utility and sanitary facilities, shall include the following measures as appropriate:
 - 1. Anchored to prevent flotation, collapse, or lateral movement of the structure.
 - 2. Constructed with materials and utility equipment resistant to flood damage.
 - 3. Constructed by methods and practices that minimize flood damage.

4. Public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 5. Adequate drainage provided to reduce exposure to flood damage.
 6. New and replacement water supply systems designed to minimize or eliminate the infiltration of flood waters into the system.
 7. New and replacement sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 8. On-site waste disposal systems located to avoid impairment to them or contamination from them during flooding.
- f. Where elevation of the first floor or basement floor above the base flood elevation is required, fill deposited shall extend at least 15 feet beyond the limits of any structure or building erected thereon, and such fill shall be protected against erosion by riprap, vegetation, bulkheading, or other forms of cover.

Section 4.2

Residential-Agriculture District (R-A).

4.2.1

Intent. The Town of Baldwin is characterized by many areas with slope and soil conditions that are not favorable for development. The primary intent of the residential-agriculture district is to promote and encourage the development of rural low density residential uses that are compatible with these natural conditions, as well as to preserve farming and those areas in the Town suitable for agricultural uses. It is not the intent of this district to preclude industrial and commercial development. However, these uses shall be placed in such a manner so as not to be detrimental to the rural residential character of the Town and they shall be designed to suit the natural site conditions.

4.2.2

Permitted Uses. The following uses and their accessory uses are permitted outright:

- a. Single family dwelling.
- b. Two family dwelling.
- c. Public schools, parks and recreation.
- d. General farming, including but not limited to growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, hay, grass,

- and similar food and fiber crops.
- e. Pasture and grazing.
- f. Dairies, poultry, and animal husbandry.
- g. Sale of agricultural products grown, raised or produced on the premises.

4.2.3 Conditional Uses. The following uses and their accessory uses may be permitted when authorized in accordance with Article 9. Development guidelines as specified in Article 11 shall be applicable where appropriate.

- a. Single lot mobile home.
- b. Camps, camping facilities.
- c. Planned unit development and planned residential development.
- d. Residential uses on slopes greater than 15%.
- e. Churches and similar religious institutions.
- f. Riding instruction and academies.
- g. Community centers owned and operated by government agency or non-profit organization.
- h. Public and private colleges.
- i. Multi-family dwellings.
- j. Junkyards.
- k. Dumps.
- l. Neighborhood commercial uses.
- m. Industrial uses.
- n. Home occupations.
- o. Utility substations

4.2.4 The Zoning Board of Appeals may consider uses other than those listed as Conditional Uses in Section 4.2.3.

ARTICLE 5 - AREA AND BULK REGULATION - DENSITY CONTROL

Section 5.0 Purposes. In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this article.

Section 5.1 Density Control Schedule (Area and Bulk Schedule). The attached schedule of density control regulation is hereby adopted and declared to be a part of this Zoning Ordinance and is hereinafter referred to as the "Density Control Schedule".

TOWN OF BALDWIN
DENSITY CONTROL SCHEDULE
(Area and Bulk Schedule)

<u>Uses</u>	<u>Min. Lot Dwell. Size Unit</u>	<u>Width of Lot</u>	<u>Lot Depth</u>	<u>Min. Yard Dimensions</u>		
				<u>Front</u>	<u>Side</u>	<u>Rear</u>
Residential	30 acres*	250' 150'		40'	40'	40'
Commercial	--	250' 250'		40'	--**	--**
Industrial	30 acres	500'	500'	50'	50'***	50'***

	<u>Max. Lot Coverage</u>	<u>Max. Height</u>	<u>Min. Bldg. Size</u>
Residential	--	--	750 sq. ft.
Commercial	30%	35'	
Industrial	35%	35'	

- * Minimum lot size may be reduced to 20,000 square feet if serviced by public water and sewer. Such lots must meet the requirements of the Town subdivision regulations.
- ** Except when abutting residences or another street, then a minimum side yard of 40' shall be required.
- *** These yard areas shall be exclusive of and in addition to any required buffer areas.

ARTICLE 6 - PLANNED RESIDENTIAL DISTRICT

Section 6.0 Intent. It is the intent of this Article to provide flexible land use and design regulations through the use of performance criteria so that small-to-large neighborhoods or portions thereof may be developed that incorporate a variety of residential densities and building types. This district may contain both individual building sites and common property which is planned and developed as a unit. The planned residential district designation shall be a rezoning, subject to site plan approval and shall be applicable

to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article.

Section 6.1

Permitted Uses. All residential uses and their accessory or associated uses subject to site plan approval.

Section 6.2

Standards Governing Planned Residential District. Any development proposal to be considered as a planned residential district allowing density area reductions shall conform to the following standards, which are regarded as minimum requirements, in addition to applicable standards in other sections of this ordinance.

- A. The minimum area required for a proposal to qualify for PRD designation shall be a contiguous parcel of ten acres in size. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article, the Planning Board may consider projects with less acreage.
- B. When such development is proposed adjacent to any existing residence or residential area, a buffer area of at least 250 feet in depth shall be left between the closest lot line in an existing residential development area or a conventionally platted residential map that has been filed with the Chemung County Clerk, and the closest structure in the residential cluster development. The 250 foot buffer area may be developed in a conventionally platted manner (non-clustered) consistent with the residential zoning district upon which such land is situated.
- C. The Planning Board shall determine in each case the appropriate dwelling unit density and placement of such units on the parcel. The gross density shall in no instance exceed the maximum permitted, assuming the following minimum lot sizes:
 - Single family - 7,200 square feet
 - Town Houses - 5,400 square feet
 - Multi-family - 5,400 square feet
- D. The development shall have dedicated for open space purposes all of those land areas used in the calculations of the permitted number of dwelling units.

- E. Single-family detached house developments shall meet the following standards:

Yard requirements: front yard - Min. 40 feet
rear yard - Min. 25 feet
side yard - Min. 15 feet

- F. Townhouse developments shall meet the following standards:

1. There shall be no more than eight townhouse units in any contiguous group.
2. Yard requirements: front yard - min. 40 feet
rear yard - min. 25 feet
side yard - min. 15 feet at sides of building
3. Maximum building height shall be three stories or thirty-five feet whichever is the lesser.
4. Maximum site coverage by all buildings and structures shall be 30% of the lot area, such percentage to be calculated on the basis of the total project area.

- G. Multi-family developments shall meet the following standards:

1. Yard requirements:
 - No building shall be nearer than fifty feet to the right-of-way line of any dedicated road peripheral to the site.
 - No building shall be nearer than thirty feet from the right-of-way line of any interior project road. In the case of non-dedicated streets and roads, this setback shall be measured from the limits of the paved area.
 - No living unit building shall be nearer than thirty feet from any interior lot line.
 - No accessory building, including unattached garages, shall be nearer than ten feet of any lot line in the required rear or side yard and shall not be located in any required front yard.
2. The maximum building height shall be three stories or thirty-five feet whichever is the lesser.
3. Maximum site coverage by all buildings and structures shall be 30% of the lot area, such percentage to be calculated on the basis of total project area.
4. No building shall contain more than twelve dwelling units.

10 Feet from
limits

5. Minimum unit size of apartments:

- Efficiency apartment: 550 sq. ft.
- One bedroom apartment: 700 sq. ft.
- Two bedroom apartment: 850 sq. ft.
- Three bedroom apartment: 1,000 sq. ft.

An additional 120 sq. ft. for each bedroom shall be added for larger apartment sizes.

Section 6.3

Special Provisions Applying to the Planned Residential District.

- A. In order to carry out the purpose of this district, a development shall achieve the following objectives:
 - 1. A maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes and community facilities available to existing and potential town residents at all economic levels.
 - 2. More useable open space and recreation areas.
 - 3. The preservation of trees and outstanding natural features.
 - 4. A creative use of land and related physical development.
 - 5. An efficient use of land resulting in efficient utilization of utilities and streets and thereby lower housing costs.
 - 6. A development pattern in harmony with the objectives of the comprehensive plan for the town.
- B. The tract of land for a project may be owned or controlled either by a single person, or corporation or a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- C. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.
- D. For the purposes of regulating the development and use of property after initial construction and occupancy, any changes shall be subject to a site plan approval by the Planning Board. Properties lying in the PRD are unique and shall be so considered by the Planning Board when evaluating these requests; and maintenance

of the intent and function of the planned unit shall be of primary importance.

Section 6.4

Procedures For Establishing a PRD.

- A. Any applicant wishing approval for a Planned Residential District shall submit his request to the Town Board and the Planning Board in the form of a Concept Site Plan as defined in Section 10.2.
- B. Upon approval or approval with modifications of the Concept Plan by the Town Board and the Planning Board, the applicant shall submit an application for preliminary site plan approval to the Planning Board in conformance with the procedures and requirements set forth in Article 10.
- C. The Planning Board may, based on its review of the preliminary site plan, recommend to the Town Board that the proposal be approved, approved with modifications, or disapproved. Such recommendation shall include a detailed explanation of the reasons for its finding. The Town Board shall not act contrary to the Planning Board's recommendation, except on a vote of 4 members in favor of such proposal and shall state all reasons for such decision.
- D. Upon approval of a final site plan, the Planning Board shall forward to the Town Board its recommendation to modify the zoning ordinance and establish the PRD. The Planning Board's report shall include a statement of all conditions and covenants upon which the approval is contingent.
- E. Within 45 days of the receipt of the Planning Board's recommendation, the Town Board shall, in accordance with Section 12.2, advertise and hold a public hearing on the rezoning proposal. Within 15 days after such hearing the Town Board shall approve or disapprove the rezoning. The Town Board may attach such conditions on the approval as it deems necessary.
- F. If the Planned Residential District proposal involves the subdivision of land into parcels for sale to individual owners, the Site Plan Review required for the PRD shall suffice for Planning Board review under the Town's subdivision regulations. In such cases, the developer shall prepare a subdivision plat suitable for filing with the Chemung County Clerk in addition to the required site plan drawings. Final site approval shall constitute final plat approval

under the Town subdivision regulations and the plat shall be signed by the Planning Board Chairman, or his designate and filed with the County Clerk in the manner prescribed by said regulations.

ARTICLE 7 - PLANNED UNIT DEVELOPMENT

- Section 7.0 Intent. It is the intent of the Planned Unit Development (PUD), to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the Town that incorporate density increases, a mixture of building types and land uses. It is characterized by a unified site design that may contain both individual building sites and common property. The PUD designation shall be considered a rezoning subject to site plan approval and shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article.
- Section 7.1 Permitted Uses. The following uses and their accessory or associated uses shall be permitted subject to site plan approval:
- A. All residential types. In developing a balanced community, the use of a variety of housing types shall be deemed most in keeping with this district.
 - B. Commercial, service and other non-residential uses. These are to be scaled primarily to serve the residents of the PUD.
- Section 7.2 Dimensional Requirements.
- A. The minimum area required to qualify for a Planned Unit Development shall be twenty contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holding will meet the objectives of this article, the Planning Board may consider projects with less acreage.
- Section 7.3 Special Provisions Applying to the Planned Unit Development (PUD).
- Special provisions applying to the PUD shall be the same as those stated in Section 6.3.
- Section 7.4 Procedures for Establishing a PUD.
- The procedures for establishing a PUD shall be the same as those

stated in Section 6.4.

ARTICLE 8 - AVERAGE DENSITY DEVELOPMENT

Section 8.0

Intent. The intent of this Article is to permit variation in lot size and housing type in suitable areas in order to encourage flexibility of design, to enable land to be developed in such a manner as to promote its most appropriate use, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open space, in accordance with Section 281 of the New York State Town Law. This purpose is achieved by permitting a reduction in lot sizes required for the zoning district within which such development occurs while maintaining the imposed density limitations through the provision of open space.

Section 8.1

Authorization to Grant or Deny Average Density Development. Section 281 of the Town Law empowers the Planning Board to permit variations in the dimensional requirements of this law under their subdivision review powers. The Planning Board shall comply with all procedures and standards set forth in this Article and the Town subdivision regulations when implementing such power.

Section 8.2

Standards Governing Average Density Development. Any average density development considered shall conform to the following standards which are to be regarded as minimum requirements:

- A. This procedure shall apply only to residential-agriculture zoned land which shall be a contiguous parcel a minimum of ten acres in size. In addition, it shall be determined that such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or improvements in close proximity, and that the proposed development is in conformity with the objectives of the Town Comprehensive Plan, and that the gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements.
- B. When such development is proposed adjacent to any existing residence or residential area, a buffer area of at least 250 feet in depth shall be left between the closest lot line of any lot in an existing residential development area or a conventionally platted residential map that has been filed with the Chemung County Clerk, and the closest structure in the residential cluster

development. The 250 feet buffer area may be developed in a conventionally platted manner (non-clustered) consistent with the residential zoning district upon which such land is situated.

- C. The development shall have dedicated, as a minimum for open space purposes the same percentage of the entire tract as that by which the lot has on the average been reduced. The area dedicated for open space purposes, including playgrounds and parks, shall be in a location and shape approved by the Planning Board and in addition the Planning Board, as a condition of approval, may establish such conditions on the ownership, use and maintenance of such open space lands as it deems necessary to assure the preservation of such lands for their intended purpose.
- D. The size of lots in an average density development may vary from the normal requirements of the district, but no dimensional or area requirement of the district shall be reduced below the following standards:
 - 1. Single-family detached houses: single-family detached houses may be grouped in clusters with maximum lot size reduction for each.
Residence as follows:
Minimum Lot Size - 30,000 sq. ft.*
Yard Requirements:
Front - 40 feet
Rear - 20 feet
Side - 15 feet
 - 2. Town House Developments shall meet the following criteria:
 - a. The gross population density and building density of any area shall remain unchanged and shall conform to the minimum average density and maximum coverage requirements of this zoning ordinance.
 - b. All standards and provisions as set forth in Section 6.2.G.
 - 3. Multi-family developments shall meet all standards and provisions as set forth in Section 6.2.H.*

* Minimum lot size may be reduced to 20,000 square feet if serviced by public water and sewer. Such lots must meet the requirements of the Town subdivision regulations.

- E. For each square foot of land gained within the development through the reduction of lot size below that required by minimum average density requirements as set forth in the law, equal amounts of land shall be preserved and maintained as open space.
- F. All the 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 or agriculture.

Such land shall either be deeded to the Town or be held in corporate ownership by the owners of lots within the development, and the developer shall incorporate into the deeds of all property within the development, if appropriate, a clause giving to the owners an interest in such open land which shall be used for recreation, cultural or agricultural purposes only. No structure save those incidental to the recreational, cultural or agricultural use shall be permitted thereon.

The open space lands shall be subject to taxation, unless deeded to the Town. In the case of such tracts of 5 or more acres, the developer may petition to the Town to take over the land to be used in perpetuity as open space.

- G. Subdivision plats shall be prepared by a licensed architect, engineer and/or professional planner.
- H. Construction must start within one year of the date of approval and must be completed within a reasonable time; it must be consistent with the spirit and intent of the Zoning Ordinance.
- I. In the event that the organization established to own and maintain common property, or any successor organization shall fail to maintain the common property, in reasonable order and condition in accordance with the plan, the Town of Baldwin may assume responsibility for such maintenance and assess the cost equally against the properties within the development.

Section 8.3

Review of Average Density Development Plans. The Planning Board shall review modifications in dimensional requirements of this ordinance according to the provisions of Section 281 of the Town Law. The approval procedure shall be generally the same as that specified in the subdivision regulations for the review and approval of a proposed subdivision of land. The applicant shall submit at successive stages a sketch plan, preliminary layout and subdivision plat in accordance with the requirements of the subdivision regulations. In addition, the applicant, at each stage, shall provide the following information:

- A. Proposed number of dwelling units and computation of overall residential density per gross acre.
- B. A tabulation of the total number of acres in the proposed project;

the percentage designated for each use area.

- C. Proposed location and acreage for parks, playgrounds, natural watercourses and other open spaces.

Section 8.4

Public Hearing on Average Density Development. An average density development shall not be approved as a subdivision plat by the Planning Board until after a public hearing has been held on the proposal in the manner specified in the Subdivision Regulations of the Town of Baldwin and by Section 281 of the Town Law.

ARTICLE 9 - CONDITIONAL USES

Section 9.0

Intent. The intent of conditional use approval is to allow the proper integration into the community of uses which may be suitable only on certain conditions. Because of their special characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties.

Section 9.1

Authorization to Grant or Deny Conditional Uses. The conditional uses listed in this ordinance may be permitted upon authorization by the Planning Board in accordance with the standards and procedures set forth in this Ordinance. Conditional uses may also be enlarged, or otherwise altered by such authorization. In permitting a conditional use or the modification of a conditional use, the Planning Board may impose in addition to those standards and requirements expressly specified by the ordinance, any additional conditions which the Planning Board considers necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These conditions may include limiting the height of the buildings, controlling the location and number of vehicle access points, increasing the street width, increasing the number of off-street parking and loading spaces required, limiting the number, size and location of signs, and requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, any change in use or in lot area or alteration of structure shall conform to this ordinance.

Section 9.2

Application for Conditional Use. A property owner or his agent may initiate a request for a conditional use by filing an application with the Town Clerk. Such application shall be accompanied by a site plan in

accordance with Article 10 and shall follow the procedures set forth in that Article. A filing fee as set by Town Board resolution shall be required, no part of which is refundable.

9.2.1

Procedures. The procedures for review and action on a conditional use application shall be the same as those spelled out for site plan approval in Article 10.

- a. Concept Plan Conference
- b. Preliminary Site Plan Application
- c. Public Hearing
- d. Action
- e. Final Site Plan Application
- f. Action

Section 9.3

Standards Governing Conditional Uses. A conditional use shall comply with the standards set forth in Article 10 and Article 11, except as these standards have been modified in authorizing the conditional use or as otherwise modified when the Planning Board gives consideration to the following:

- A. The submission of a site plan in accordance with Article 10 is required before any consideration can be given for a conditional use.
- B. In order to grant any conditional use the Planning Board shall find that the request is in harmony with the general purpose and intent of this ordinance, taking into account the location and size of use, the nature and intensity of the proposed use and the size of the site with respect to its accessibility and the traffic bearing capacity of the surrounding thoroughfares.
- C. In order to grant any conditional use, the Planning Board shall find that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.
- D. In the case where a conditional use has been permitted, no building permit shall be issued until 15 days after the granting of the conditional use by the Planning Board, and then only in accordance with the terms and conditions of said permit. An appeal from the

action of the Planning Board shall automatically stay the issuance of the building or other permit until such appeal has been completed. In the event the Court acts to grant said conditional use, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

- E. A conditional use permit shall become void one year after approval or after such time as may be specified as a condition of approval if no construction or use activity has begun. The conditional use permit shall be void if the original use shall cease for more than one year for any reason.
- F. The Planning Board, on its own motion, may revoke any approval of a conditional use for noncompliance with conditions set forth in the granting of said use after first holding a public hearing and giving notice of such hearing as provided in Article 10. The foregoing shall not be the exclusive remedy. It shall be unlawful for any person to violate any condition imposed by an approved conditional use.

ARTICLE 10 - SITE PLAN APPROVAL

Section 10.0

Intent. The intent of site plan approval is to determine compliance with the objectives of this ordinance and with regard to conditional uses that may be permitted in the Town of Baldwin. The objective is to evaluate various land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the adverse effects concerning health, safety, and overall welfare of the residents of the community. The Planning Board may, at its discretion, waive the concept and final application procedures.

Section 10.1

Authorization. The power to approve, approve with condition, or deny site plans as required by this ordinance is vested in the Planning Board. Section 274-A of the Town Law provides the legislative means for the Town Board to authorize the Planning Board to review site plans. Prior to issuing a building permit for the construction of any conditional use, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval. All site plans shall be prepared by a licensed architect or engineer, unless specifically waived by the Planning Board. Such waiver shall depend upon the complexity of the natural features at the site and of the proposed structures or uses.

Section 10.2

Concept Plan. Concept Plan submittal is optional. The purpose of this step is to afford the person applying for a conditional use an opportunity to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development.

10.2.1

Requirements. A concept plan shall be prepared and submitted in triplicate to the Planning Board. Before preparing a concept lay-out, the developer may discuss with the Planning Board or the Town Planning Consultant the general requirements as to design of streets, reservations of land, drainage, sewerage, water supply, fire protection, and other improvements as well as procedural matters. Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or the County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning Board shall provide written comments on the current plan of a proposed development in relation to the applicable requirements of this Article and Article 9, to existing or potential development of the adjacent area, the Town Comprehensive Plan, and in the course of its review may consult with other interested public agencies.

The concept plan shall include in as much detail as possible the following information:

- a. An area map showing:
 1. That portion of the applicant's property under consideration for development and any contiguous parcels owned by the applicant.
 2. Existing natural features such as waterbodies, watercourses, wetlands, wooded area, individual large trees, flood hazard areas.
 3. Zoning districts, certified agricultural districts, school districts.
 4. Special improvement districts (water, sewer, light, fire, drainage and the like).
 5. Easements.
 6. All properties, their ownership and uses, subdivisions, streets, zoning districts, easements, and adjacent buildings within five hundred feet of the applicant's property.
- b. A map of site topography (USGS topo map).
- c. A soils overlay, if general site grades exceed 15% or portions of the

site have susceptibility to erosion, flooding or ponding.

Section 10.3

Preliminary Site Plan Application. Application for preliminary site plan approval shall be made in writing to the Building Inspector fifteen (15) days prior to a scheduled Planning Board meeting to be submitted to the Planning Board for its review and approval. For the purposes of this ordinance, the submission date shall be taken as the date of the first regular Planning Board meeting following the submission to the Building Inspector. The application shall be submitted in triplicate and shall be accompanied by the information listed below. The Planning Board may at its discretion waive any preliminary requirements which are clearly not relevant to the site and proposed use.

WATER WELL STATE 19 FT FROM ROAD RIGHT OF WAY
Section 10.4

Preliminary Site Plan Requirements.

- A. An area map showing the applicant's entire holding, that portion of the applicant's property under construction and any contiguous parcels owned by the applicant, as well as all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred feet of applicant's property.
- B. A preliminary site plan shall include the following information:
 1. Title of drawing, including name and address of applicant.
 2. North point, scale and date.
 3. Boundaries of the project plotted to scale of not more than one hundred feet to one inch.
 4. Existing natural features such as watercourses, waterbodies, wetlands, wooded areas and individual large trees. Features to be retained should be noted.
 5. Existing and proposed contours at intervals of not more than two foot contour intervals.
 6. Location of proposed land uses and their areas in acres and location, proposed use and height of all the buildings.
 7. Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
 8. Description of sewage disposal and water systems and location of such facilities.
 9. Location and proposed development of buffer areas and other landscaping.
 10. Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and a calculation of

- the residential density in dwelling units per gross acre for each area.
11. Location of all parking and truck-loading areas, with access and egress drives thereto.
 12. Location, design and size of all signs and lighting facilities.
 13. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds or other permanent open space.
 14. Building orientation and site design for energy efficiency.
 15. Location and design of all energy distribution facilities, including electrical, gas and solar energy.
 16. Grading and erosion.
-Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc.
 17. Location and design for stormwater management facilities.
 18. Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.
 19. The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.
- C. The Planning Board may require such additional information that appears necessary for a complete assessment of the project.
- D. The Planning Board's review of the preliminary site plan shall include, but is not limited to the following considerations:
1. Adequacy and arrangement of vehicular traffic access and circulation.
 2. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 3. Location, arrangement, size and design of buildings, lighting and signs.
 4. Relationship of the various uses to one another and their scale.
 5. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands.
 6. Adequacy of storm water and sanitary waste disposal.
 7. Adequacy of structures, roadways and landscaping in areas

- susceptible to flooding and ponding and/or erosion.
8. Compatibility of developments with natural features of the site and with surrounding land uses.
 9. Adequacy of floodproofing and prevention measures consistent with flood hazard prevention district regulations.
 10. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.
 11. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
 12. Adequacy of pedestrian access, circulation, convenience and safety.

In their review of a preliminary site plan, the Planning Board may consult with the Town Building Inspector, fire commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including but not limited to, the Soil Conservation Service, the State Departments of Transportation and Environmental Conservation.

Section 10.5

Public Hearings. Upon the Planning Board's determination that the preliminary site plan is complete and satisfactory, a public hearing shall be scheduled. Said public hearing shall be scheduled within forty-five days of the submission of the application to the Planning Board. The hearing shall be advertised at least five days prior to its scheduled date in a newspaper of general circulation in the Town.

Section 10.6

Notification of Decision on Preliminary Site Plan. The Planning Board shall act upon a preliminary site plan within forty-five days of the public hearing at which a preliminary site plan is considered. If no decision is made within said period of time, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant and shall state whether the preliminary site plan is approved, conditionally approved or disapproved. A copy of the appropriate Planning Board minutes shall be a sufficient statement.

The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan. Conformance with said modifications shall be considered a condition of approval. Upon disapproval of a preliminary site plan, the Planning

Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission after revision or redesign.

Section 10.7

Final Site Plan Application. After receiving approval, with or without conditions, from the Planning Board on a preliminary site plan and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final site plan and submit it in triplicate to the Planning Board for its review and approval. However, if more than six months have elapsed between the time of the Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revisions prior to accepting the proposed final site plan for review. The final site plan shall conform to the approved preliminary site plan, and shall incorporate any revisions or other features that may have been recommended by the Planning Board at the preliminary review. All compliances shall be clearly indicated by the applicant.

Section 10.8

Notification of Decision on Final Site Plan. Within forty-five days of the submission of the final site plan, the Planning Board shall render a decision. The Planning Board shall notify the applicant in writing of its decision and state reasons for a disapproval. A copy of the appropriate Planning Board minutes may suffice for this notice. If no decision is made within forty-five days, the final site plan shall be considered approved.

- A. Upon approval, the Planning Board shall endorse the approval on a copy of the final site plan and shall forward it to the Building Inspector who may then issue any required building permit following the 15 day appeal period if the project conforms to all other applicable requirements.
- B. Upon disapproval, the Planning Board shall so inform the Building Inspector and he shall deny a building permit.
- C. Specifications for improvements shown on the site plan shall be those set forth in this ordinance and in other ordinances, rules and regulations, or in construction specifications of the Town of Baldwin.

Section 10.9

Appeal. The applicant or any interested person may appeal a decision of the Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty days after filing of a

decision on a conditional use application.

ARTICLE 11 - DEVELOPMENT GUIDELINES

- Section 11.0 The Planning Board, in reviewing a site plan shall be guided by the considerations and standards of the Development Guidelines Manual of the Southern Tier Central Regional Planning and Development Board. In its review, the Planning Board shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. In addition, the Planning Board shall be guided by the following standards.
- Section 11.1 General. The Planning Board, in reviewing a site plan, shall be guided by the considerations and standards presented in this Article. In its review, the Planning Board shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety and welfare.
- Section 11.2 Lots and Blocks.
- 11.2.1 Lot Size and Arrangement. The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build. In general, side lot lines shall be at right angles or right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.
- 11.2.2 Access. Insofar as possible, lots shall not derive access from a major road. Access to lots adjacent to a major road shall, in general, be from marginal access streets or other streets within the development. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other storm water drainage facilities in the development.
- Section 11.3 Highway Design and Improvements. Design of all roads, highways and their improvements must meet the Town specifications as set by the Town Highway Superintendent. The Planning Board shall refer all appropriate site plans to the Highway superintendent for his approval.
- Section 11.4 Driveway Standards. No person, firm or corporation shall construct or locate any driveway entrance or exit into a highway of the Town of

Baldwin without having first met the provisions of this Section. The "Standard Entrance and Exit Crossing Requirements" shall be as follows:

- A. The applicant shall furnish all materials and bear all costs of construction within the town road right-of-way; pay the cost of all work done and materials furnished as required to meet the conditions set by the Town Highway Superintendent.
- B. No alteration or addition shall be made to any driveway without first securing permission from the Town Highway Superintendent.
- C. No more than two driveways to a single commercial establishment entering on one highway shall be permitted.
- D. The maximum width for a single combined entrance or exit shall be not more than 50 feet for commercial use and not more than 40 feet for residential use.
- E. The driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. In addition, as specified by the Town Highway Superintendent, a catch basin at a point near the intersection of the driveway and town highway may be required. This will prevent surface water and debris from being discharged onto the highway.

Section 11.5

Off-Road Parking and Loading Requirements. No building or other permit shall be issued until plans and evidence are presented and approved loading requirements are to be fulfilled and that property is and will be available for exclusive use as off-road parking and loading space. The subsequent use of the property for which approval is given shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance.

11.5.1

Off-Road Loading. Every hospital, institution, hotel, commercial or industrial building hereafter erected or established having a gross floor area 10,000 square feet or more shall provide and maintain at least one off-road loading space. One additional off-road loading space shall be required for each additional 20,000 square feet of gross floor area. Each loading space shall be not less than ten feet in width, thirty-five feet in length, and fourteen feet in height.

11.5.2

Off-Road Parking. Off-road parking spaces shall be provided and maintained as set forth in this section for all uses. Such off-road parking spaces shall be provided at the time:

- a. A new building is hereafter erected or enlarged.
- b. A building existing on the effective date of this Ordinance is enlarged to the extent that the cost of construction exceeds fifty

percent of the market value of the building as shown on the Town of Baldwin's assessor's records or to the extent that the building's capacity is increased by more than 50 percent in terms of the units used in the "Requirements" column of Section 11.4.3.

- c. The use is changed to another use with greater parking requirements, provided that if the enlargement of a building existing at the time thereof, is less than 50 percent, parking space shall be provided in proportion to the increase only. The provision and maintenance of off-road parking space is a continuing obligation of the property owner.

11.5.3

Off-Road Parking Spaces shall be provided as follows:

<u>USE</u>	<u>REQUIREMENT</u>
a. <u>Residential</u>	Two spaces per dwelling unit.
b. <u>Commercial Residential</u>	One space per guest room plus one space per two employees.
c. <u>Places of Public Assembly</u>	One space per four seats or eight feet of bench length. or One space per 100 sq. feet of floor space plus one space per two employees.
d. <u>Commercial</u> Retail (except super- markets and stores selling bulky merchandise)	One space per 100 sq. ft. of floor area.
e. <u>Retail</u> (supermarkets and grocery stores)	One space per 75 sq. ft. of floor area.
f. <u>Retail</u> (where the operator can show that bulky merchandise occupies the major portion of the building.)	One space per 500 sq. ft. of floor area.

- g. Service One space per 200 sq. ft. of floor area.
(banks, offices, medical,
eating or drinking estab-
lishments)
- h. Wholesale One space per employee plus one space
per 700 sq. ft. of patron service area.
- i. Industrial One space per employee on the
maximum shift.
- j. Other uses not specifically listed above shall furnish parking as
required by the Planning Board. The Planning Board shall use
the above list as a guide for determining requirements for said
other uses.

11.5.4 Calculation of Required Spaces. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately. If a portion of floor area, not less than 100 contiguous square feet in a retail store will be used exclusively for storage of merchandise which is not being displayed for sale, such space may be deducted in computing parking requirements, but the owner shall not thereafter use the space for any other purpose without furnishing additional off-road parking as required by this Ordinance.

11.5.5 Joint Use of Facilities. The off-road parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

11.5.6 Location of Parking Facilities. Off-road parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or on another parcel not farther than 250 feet from the building or use they are intended to serve, measured in a straight line from the building. The burden of proving the existence of such off-premise parking arrangements rests upon the person who has the responsibility of providing parking.

11.5.7 Use of Parking Facilities. Required parking space shall be available for

the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

11.5.8 Parking, Front Yard. Unless otherwise provided, required parking and loading spaces shall not be located in any required front yard, except in the case of a single or two-family dwelling, but such space may be located within a required side or rear yard.

11.5.9 Development and Maintenance Standards for Off-Road Parking Areas. Every parcel of land hereafter used as a public or private parking area shall be developed as follows:

- a. An off-road parking area for more than five vehicles shall be effectively screened by a sight-obscuring fence, hedge or planting, on each side which adjoins property situated in a residential area or the premises or any school or like institution.
- b. Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property.
- c. Except for single-family and duplex dwelling, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering with a road or right-of-way.
- d. In a multiple residence development, parking shall be so distributed as to service the individual units. There shall be no more than two hundred feet between car and door. Parking lots should be kept small and in other ways broken up into smaller units through provision of islands and plantings. Parking spaces shall not run continuous more than ten adjacent spaces.

Section 11.6 Accessory Buildings and Uses.

11.6.1 Accessory buildings and uses: Accessory buildings not attached to principal buildings shall be located no closer to the principal building than 12 feet or a distance equal to the height of each accessory building, whichever is greater.

11.6.2 In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot

as the principal structure, may not be constructed in front yard of such lot and shall be distant not less than 20 feet from any lot line nor less than 10 feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.

11.6.3

Where 25% or more of the lots in a block are occupied by buildings, the average yard dimensions average of lot coverage of such buildings and the average side and rear yard set-back shall determine the yard set-back and coverage requirements for any new accessory building or use, within the block. Or, where no standard block exists the word "block" as used above shall be interpreted to mean those residences within 250 feet of either side of the lot in question, on the same side of the street. The average set-back shall not be based on fewer than two existing residences.

Section 11.7

Home Occupation.

A home occupation may be permitted in any zoning district subject to site plan approval by the Planning Board provided such use is not specifically prohibited in the district. Such use shall conform to the following standards which shall be minimum requirements:

- A. No more than 25% of the total floor area of a dwelling unit or 500 sq. ft. whichever is the lesser may be used for such use.
- B. The use shall be carried on wholly within the enclosed walls of the dwelling unit or accessory building.
- C. There shall be no external evidence of such use except for one sign not exceeding eight sq. feet in area. Stock, merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit or accessory building.
- D. No external structural alterations which are not customary to a residential building shall be allowed.
- E. No more than one profession or occupation, and office shall be allowed per dwelling unit.
- F. Any form of business whose primary function is the retail sale of goods or articles produced elsewhere than on the premises, such as a small grocery store, shall not be deemed a home occupation.
- G. A distributorship whose primary function is the processing of orders

for merchandise and which does not involve a high volume of retail sales or stock and merchandise on the premises may be deemed a home occupation, provided such use meets the intent and all standards of this Section.

- H. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- I. Such uses shall also be subject to any other conditions the Planning Board deems necessary to meet the intent of these requirements.

Section 11.8

Signs.

No sign or other outdoor devices for the purpose of advertising of any kind may be erected or established in the Town except in conformance with the standards in this Section.

11.8.1

General Provisions.

- a. All signs shall comply with applicable regulations of the Building Code.
- b. No permanent or temporary sign shall be erected or placed at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position, shape, or color of the sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or which makes use of the words, "Stop", "Look", "Drive-in", "Left", or any other words, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse traffic.
- c. No sign shall be placed or erected above the maximum elevation of the main roofline of a building.
- d. Any permitted free-standing sign shall not be more than twenty-four feet in height above the average surface of the ground of the parcel location of the sign.
- e. All signs shall be set back a minimum of fifteen feet from any lot line.
- f. Size of sign shall refer to the overall area occupied by the total sign

and includes the face area of each surface and any spaces between the parts thereof.

- g. The provisions of this Section shall not apply to safety signs, road signs, historical markers or highway directional signs erected by municipal or public agencies.
- h. Illumination of signs shall not be intermittent or of varying intensity and may not produce glare beyond the limits of the property lines.
- i. Signs with moving parts are not permitted except public service signs (such as time and temperature) approved by the Building Inspector.
- j. Signs attached to a building shall not extend higher than the roof line of the building to which they are attached.
- k. No sign shall by its light, brilliance, type, design, or character create a public or private nuisance. The use of par-spot and rotating beacon lights is prohibited and those existing shall be removed within one year of the effective date of this Ordinance.
- l. Other non-conforming signs shall be removed within two years of the effective date of this Ordinance.
- m. All signs shall be located on the same site as the use they identify or advertise.
- n. Signs shall be illuminated only at such times as said uses are open for business.
- o. All signs shall be limited to a maximum of three colors.

11.8.2

Signs Permitted in any Area.

The following signs shall be permitted in any area in which the use identified or advertised is permitted.

- a. Property identification signs - maximum one and one-half sq. ft. in area bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- b. Professional or business nameplate - Two non-illuminated signs not

exceeding eight sq. ft. in area for each home occupation or for each office or suite of offices contained within a building and having a direct entrance from the outside.

- c. Real Estate signs - One non-illuminated sign not exceeding twelve sq. ft. in area.
- d. Temporary signs for subdivision, development or construction sites - one sign a maximum of thirty-two sq. ft. for each site that is less than five acres in size. Two such signs are permitted on larger site in single ownership fronting on two or more roads. Such sign may be installed after approval of the Planning Board of final site plan or a valid building permit has been issued but must be removed within three years after installation.
- e. An illuminated bulletin board not exceeding 24 sq. ft. in area for each church, neighborhood community center, educational institution or professional center.
- f. Parking signs - Signs not to exceed one sq. foot, directing and guiding traffic and parking on private property but bearing no advertising matter.
- g. A temporary non-illuminated sign advertising such things as political and sporting events, shows and elections. Said sign not to exceed 5 sq. ft. in area for each candidate, ballot measure or event and not more than one sign for each candidate, ballot measure or event shall be placed on any single parcel of land. All such signs shall be removed within ten days following the election in which the sign pertains.
- h. Traffic or other municipal signs, legal notices and such temporary or non-advertising signs for government purposes.

11.8.3

Signs for Commercial Use. No sign of any character shall be permitted for a commercial use except the following:

- a. Any sign permitted in Section 11.8.2.
- b. One sign placed flat against the building not exceeding one and one-half sq. ft. of sign area for each linear foot of building frontage occupied by such building fronting on a street. One such sign shall be permitted for each street on which the business fronts. Such sign may be illuminated.

- c. On those sides of a building not facing the street, signs placed flat against the building shall be limited in size to less than 15 sq. ft. Such sign may be illuminated.
- d. One free standing sign identifying a group of businesses combined as a shopping center in addition to permitted sign areas for individual businesses. Such sign shall not exceed 100 sq. ft. of area and may be illuminated.
- e. The following additional sign requirements shall apply to all gasoline service stations:
 - Signs may be located above pump island canopies but such signs shall not exceed a height of 4 feet above the top of the canopy.
 - One free standing sign may be permitted but said sign shall not exceed 32 sq. ft. in area and may be illuminated.
 - Directional signs, no more than one sq. ft. in area, indicating restrooms or public telephones shall be permitted with said sign attached only to the building or to an authorized sign or sign support.
 - The aggregate total area of all signs shall not exceed 150 sq. ft. in area.

11.8.4 Signs for Industrial Use. No signs of any character shall be permitted for an industrial use except the following:

- a. Any sign permitted in Section 11.8.2.
- b. One sign, not exceeding 32 sq. ft. in area, limited to the identification of the company or enterprise on the property where the sign is located, or to the advertisement of the products handled or produced or services rendered by the enterprise. The sign shall not be located within one-hundred feet of any residential boundary unless screened from view from the residential structures. Such sign may be illuminated.
- c. Signs, in addition to those included in 11.8.4 above, not exceed a cumulative total of one hundred sq. ft. in area which identify the area or are directional signs without advertising.
- d. In the case of industrial areas which are planned and developed as a park, one free standing sign containing only the name of the park shall be permitted and limited to 150 sq. ft. in area. Two such signs are permitted on larger sites fronting on two or more streets. Such signs may be illuminated.

Section 11.9

Fences, Walls, Hedges and Screen Planting. Fences, walls, hedges and screen planting are permitted as follows:

- A. Where the driveway meets the road right-of-way, the hedge shall not exceed three feet in height from right-of-way to road line; there shall be no visual obstruction.
- B. On a corner lot, no fence, wall, hedge or screen planting over three feet in height shall be constructed within one hundred feet of the intersection of the two streets.
- C. Fences, walls, hedges or screen plantings may be required, in multi-family, commercial or industrial districts, by the Planning Board, such is necessary to protect the residential quality of adjacent property.
- D. In no event shall a fence or wall exceed eight feet in height unless otherwise specifically authorized or required in this Ordinance.

Section 11.10

Establishment and Measurement of Clear Vision Areas. Vision clearance area shall be provided with the following distances establishing the size of the vision clearance area:

- A. In any use, the minimum distance shall be 100 feet from the edge of pavement at intersections.
- b. The vision clearance area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding 3 feet in height measured from the top of the street pavement, except that street trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of 8 feet above the grade.

Section 11.11

Open Space, Parks and Playgrounds. In the case of an average density development, planned residential or planned unit developments, where open spaces are required, the Planning Board shall approve the mechanism the applicant proposes to provide for maintenance and preservation of such lands for the intended purpose. In those cases where a site plan identifies lands for parks, recreation or common open space, that is not to be deeded to the Town, the Planning Board may request that an organization be established or arrangements be made to assure proper maintenance of these lands for their intended purpose. Recreation areas shall have physical characteristics and locations which render them readily

usable for appropriate recreation purposes, and their locations shall be selected with a view to minimizing hazards from vehicular traffic for children walking between such facilities and their homes in the neighborhood. No such area may be smaller than 2 acres, and in general,

recreation areas shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is subdivided. The site plan shall include a detailed development plan for each neighborhood park or playground. As a minimum, the development plan shall provide for an approximately level area at least 175 sq. ft for children's field games. The development plan shall show how the entire area is to be graded, drained and landscaped to make it a useful and attractive feature of the neighborhood.

Section 11.12

Utilities.

11.12.1

Water Supply and Sewage Disposal. Water supply and sewage disposal systems must comply with the regulations of and be approved by the Chemung County Health Department prior to final review by the Planning Board. *STATE 15 FT. FROM ROAD RIGHT OF WAY*

✓ 11.12.2

Utility Installation. Installations of utilities by utility companies (telephone, electric, etc.) shall be governed by, and comply with, such New York State Laws and Public Service Commission rules, regulations and filed tariffs as are then in existence. Approvals shall be submitted to the Planning Board prior to its final review.

Section 11.13

Special Provision Applying to Industrial Uses.

- A. Whenever an industrial use is to be located adjacent to any non-industrial use, a fully landscaped buffer 100 feet in width must be provided along the full length of the adjacency. This buffer area shall be planted and perpetually maintained with trees and shrubs at least 6 feet in height and shall have such grading industrial activity from the adjacent use. The treatment of the buffer area shall not appear to be unnatural or rigid such as "bunker like" straight ridges or walls.
- B. At no time shall any use result in or cause dissemination of dust, smog, observable gas, fumes, odors, radiation or other atmospheric pollution, objectionable noise, glare or vibrations or hazard to any adjacent buildings or to any plant growth or any land adjacent to the site.
- C. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the character of the area in which they are located.

Section 11.14

Camp, Camping Facilities. The term "camp, camping facilities" shall refer to any parcel of land on which may be located one or more cabins,

camping vehicles, tents or other accommodations of a design or character suitable for seasonal or other temporary living purposes including summer colony, resort and day camp but not including a mobile home park, boarding house or motel.

Design of such transient facilities shall be such as to insure that the objective of health, safety and public welfare are achieved. The Planning Board may require such special features as deemed necessary to achieve this end.

No permanent occupancy except for the owner/manager of such facility is permitted.

Section 11.15

Junkyard. The Town of Baldwin classifies junkyards as an industrial use and shall be governed by the criteria outlined in this Ordinance for industrial uses. In addition, the following shall apply to any junkyard:

- A. All existing junk areas as defined in this document shall be in conformance with the provisions of this ordinance within twelve months of adoption as prescribed by law.
- B. Any town officer of the Town of Baldwin may inspect the premises at any time to carry out the general object of this ordinance to authorize a lawful business carried on with respect for the health, safety, and welfare of others and their property. Objectionable views and odors shall be eliminated insofar as possible.
- C. Before use, a new junkyard shall be completely surrounded with fence at least eight feet in height or with conifer or evergreen trees properly spaced, of at least the same height, which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of same in the reasonable course of business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junkyard shall be accomplished within the enclosure.

Where the topography, natural growth of timber or other considerations accomplish the purposes of this amendment in whole or in part the fencing requirements hereunder may be reduced by

the Town Board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this amendment.

- D. For the purposes of this local ordinance the location of junkyards already established shall be considered approved by the Town Board if such established junkyard is legally located and is not in violation of any local ordinance, rule or regulation, or any other law or statutes applicable to the regulation of automobile junkyards, and the owner thereof deemed suitable for the issuance of a license. If such owner has a current license issued by the Town Clerk under any existing ordinance before the effective date of this local ordinance, the same shall remain in full force and effect until the expiration date thereof after which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this local ordinance.
- E. Notwithstanding any of the foregoing provisions of this zoning ordinance, no junkyard, hereafter established, shall be licensed to operate any yard or part thereof which shall be within five hundred feet of a church, school, hospital, public building or place of public assembly, nor in violation of any applicable local ordinances affecting same which may heretofore or hereafter be adopted, including Local Law 1 of 1970.
- F. Any person, firm, corporation, or other violating the provisions of this local law shall be subject to all the penalties as provided by this zoning ordinance of the Town of Baldwin, as amended; alternatively the provisions of Local Law One of 1970 may be applied.
- G. No restrictions or requirements of this ordinance shall apply to those property owners or individuals owning or having on their premises two or fewer motor vehicles, to include but not to be limited to, cars, trucks, tractors, and parts thereof, who are actively involved in the motor vehicle or automotive hobby, to include but not to be limited to the restoration, preservation, and enjoyment of motor vehicles and where the owner's average net income does not consist of more than 10% acquired through the pursuit of the property owners' or individuals' motor vehicle hobby or sale of excess parts, restored or unrestored, or motor vehicles, restored or unrestored.

The motor vehicle or automotive hobby shall be defined as: the active restoration of motor vehicles or parts; or the showing

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at public shows of the motor vehicles at least once annually and the active participation in a recognized motor vehicle club; or the licensing or registering for the road and driving of a restored motor vehicle for pleasure during appropriate times of the year. It shall also include the use of any said vehicle in (a) sanctioned car race(s) at least once annually during appropriate times of the year. To the extent possible, any such above vehicles or parts thereof, when not in use or being restored, and if not in a fully enclosed building, shall at least be covered by untorn canvas or similar covers designed for such use. Any unregistered and/or unlicensed vehicle, or parts thereof, stored outside for three or more months shall be presumed not to be exempt under this paragraph without the above or other satisfactory evidence from the property owner or individuals rebutting same.

Section 11.16

Filling Guidelines. The storing or disposal of refuse, waste material or other substances is prohibited in all districts within the Town, except for the purpose of filling in to establish grade which is considered a conditional use in District R-A and shall meet the requirements of Article 10 of the Ordinance. All required State and County permits shall be obtained prior to application to the Planning Board for approval of such use. The approval shall require that the fill be clean, noncombustible matter, containing no garbage, refuse, offal or deleterious matter of any nature and that the material be immediately leveled off and covered with at least six inches of clean nondeleterious topsoil followed by either immediate placement of a hard surface or immediate reseeding with pasture or fast-growing surface vegetation until growth of same is established. The planning Board may impose other reasonable provisions and they shall ensure that the operation shall be hazard and nuisance free, and may require the posting of a letter of credit as a condition. Any approval so granted shall expire one year following the date of approval, and may be renewed under the same procedures as the original. A suitable fee may be charged according to a schedule established by the Board, and any approval is valid only insofar as the conditions under which it may be issued are maintained.

Section 11.17

Individual Lot Mobile Homes. Single lot mobile homes shall be allowed subject to the approval of a conditional use. The following criteria shall be considered by the Planning Board when reviewing an application for placement of a mobile home.

- A. Minimum lot size is ³3 acres and setbacks shall conform to provisions of this ordinance for single family homes in Article 5.
- B. Water and sewage facilities shall be identical to those required for

a conventional single family home.

- C. Off-road parking, driveway standards, and those standards not specifically listed for individual lot mobile homes shall be in conformance with applicable developmental guidelines.
- D. A mobile home located in the Town of Baldwin shall be placed upon suitably constructed footers or a foundation. All mobile homes shall be skirted utilizing approved manufactured materials. The home shall be rendered incapable of further wheeled transportation as a complete unit at the time of installation.

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- E. Mobile homes relocated from one site to another within Town boundaries shall be deemed a conditional use and subject to the provisions of this ordinance.

11.17.1 Mobile Home Standards. All mobile homes installed in the Town of Baldwin shall meet the following minimum requirements.

- a. Each mobile home to be placed in the Town shall have the seal or insignia of approval as specified by the appropriate New York State Building Construction Code.
"Mobile Home Construction and Installation Standards"
"Factory Manufactured Home" (Standards, Rules, and Regulations.)
- b. Minimum habitable square footage of the main structure (without addition) shall be 720 sq. feet or not less than 12 feet wide and 60 feet long.
- c. No mobile home manufactured prior to 1975 shall be permitted to locate in the Town.

Section 11.18 Mobile Home Parks. Mobile home parks may be permitted in residential-agriculture zoning district subject to site plan approval by the Planning Board and shall be in accordance with this Section of the Zoning Ordinance.

11.18.1 Standards Governing Mobile Home Parks. Any mobile home park shall conform to the following standards which are to be regarded as minimum requirements:

- a. Sites for mobile home parks shall be a contiguous parcel with a minimum of ten acres.
- b. Conformance with health regulations - all sanitary and health regulations, state and local, shall be met.
- c. Each boundary of the park must be at least two-hundred feet from any permanent residential building located outside the park, unless separated therefrom by a natural or artificial barrier, or unless a majority of the property owners residing in the area within said 200 feet, consent in writing to the establishment of the park.
- d. Site dimensions - boundaries of mobile home spaces shall be well-defined and permanently marked. Mobile home spaces shall meet

the following requirements:

1 - The density of development shall not exceed 6 units per developed area.

2 - The private area associated with each lot shall be a minimum of 5,000 sq. feet with a minimum lot width of 50 feet.

3 - In no case shall a mobile home occupy more than 20% of the site area.

4 - All mobile homes larger than 14' X 70" shall have lots designed and laid out accordingly.

- e. Any park proposed to be developed in sections or phases shall complete all public improvements in a section or phase prior to said section or phase being occupied.
- f. Parking - one and one half car parking spaces shall be provided for each mobile home site. At least one parking space shall be located in the side yard of each site, and the remaining spaces shall be located in off-street parking areas. Each parking space shall have dimensions of at least 9 feet by 20 feet.
- g. Yard provisions - mobile homes shall be parked in spaces so that a minimum of fifteen feet front yard (from pavement edge) and a ten feet rear yard setback is observed. No mobile home or any structure attached thereto shall be located less than ten feet from the site boundary line nor within thirty feet of the park perimeter.
- h. Entrances and Streets - streets shall be provided on the site where necessary to furnish principal trafficways for convenient access to the mobile home sites and other important facilities on the property. Streets shall be privately owned with right-of-way widths of not less than 30 feet. All streets within the mobile home park shall be hard surfaced, not less than 24 feet in width, and shall be adequately lighted for safety of pedestrians and vehicular traffic. Individual mobile home sites shall only exit onto interior park streets.
- i. Service buildings - each park shall provide community service buildings to house laundry facilities and other sanitary facilities, as required by the Planning Board.
- j. Private service building - one accessory building, factory built, not to exceed 144 sq. feet in dimension may be located on each lot. This building must be of a material that will be approved by the Building Inspector and placed on a permanent foundation.

- k. Drainage facilities - the mobile home park shall be provided with a storm water system of sufficient capacity to accommodate the runoff from a 10 yr. storm frequency.
- l. Landscaping - mobile home parks shall be landscaped to provide an attractive setting for mobile homes and other improvements, to provide adequate privacy, to minimize reflected glare, and to afford summer shade. Such landscaping shall include the planting and maintenance of at least the following:
 - 1 - Every attempt shall be made to retain any existing trees four inches or larger in caliper.
 - 2 - Trees and shrubs at suitable intervals along park streets, within recreation areas, and around park borders.
 - 3 - Special planting to screen objectional views such as laundry drying yards, garbage and trash collection stations, nonresidential uses, and any unsightly objects or conditions on adjacent properties.
 - 4 - Lawns on all areas which are not paved or used as sites for mobile homes or buildings.
- m. Skirts - each mobile homeowner shall be required to enclose the bottom portion of the mobile home with either a metal, wood, or vinyl skirt, properly ventilated within 15 days after arrival in the park.
- n. Recreation facilities - recreation areas and facilities, such as playgrounds, swimming pools, and community buildings shall be provided to meet the anticipated needs of the park residents. Not less than 10% of the gross site area shall be devoted to recreation facilities, generally provided in a location or locations convenient to all.
- o. Utilities - all electrical and telephone conduit will be installed underground and maintained in accordance with applicable codes and regulations governing such systems.
- p. Lighting - the minimum requirements for such shall be a street light at the end of street, at any street intersection and near recreation areas.
- q. Water supply - an adequate supply of water must be available to all occupants of mobile homes in the park and the quality must be satisfactory to the New York State Health Department.

- r. Sewage disposal - an adequate and safe sewerage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such systems shall be designed, constructed and maintained in accordance with local and state health laws.
- s. Refuse disposal - the storage, collection and disposal of refuse in the mobile home park shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, accident of fire hazards or air pollution.

All refuse shall be stored in fly tight, watertight, rodent-proof containers, which shall be located not more than 150 feet from any mobile home lot. Containers shall be provided in sufficient number and capacity to properly store refuse.

Section 11.19

Steep Slope Guidelines. The Town of Baldwin is characterized by numerous steep slope (15% or greater) areas. Special design treatment for streets, building sites or other development may be required to preserve the natural terrain, trees, rock formation, scenic views, etc. All development on steep slopes shall be subject to the following guidelines:

- a. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).
- b. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect on unfavorable visual appearance.
- c. Design principles shall include, but not be limited to, the following:
 - 1 - Landscaping of areas around structures making them compatible with the natural terrain.
 - 2 - Shaping, grouping and placement of man-made structures to complement the natural landscape.
 - 3 - Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and

multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer shall first determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them.

- 4 - Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
- 5 - Encourage the development of off-street parking bays.
- 6 - Encourage the use of turning circles at mid-block points to avoid the use of private driveways for turning and parking movement.
- 7 - Encourage split-level building sites.
- 8 - Use one-way streets when consistent with traffic safety, circulation needs, and natural topography. This guideline allows for smaller road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.
- 9 - Land within the hill area that is in excess of 30% slope shall not be developed as individual residential lots, without an approved engineer's or architect's statement that such development is safe, environmentally sound, and free from drainage, erosion or other related problems.
- 10 - Outstanding natural features such as the highest crest of the hill, range, natural rock outcroppings, particularly desirable vegetation, etc., should be retained.

Section 11.20

Drainage Systems and Erosion Control.

11.20.1

Drainage Systems. Adequate and comprehensive drainage systems shall be provided to convey the storm water runoff originating with and outside the development in accordance with the natural direction of runoff for the total upland watershed affecting the areas. Such drainage systems shall be designed to effectively control the rate of surface runoff generated within the proposed development. Such drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of the development. In general, the preservation of natural watercourses is preferable to the construction of drainage channels. Interior drainage systems shall be based upon a design flow capable of handling a ten year storm. The design of natural watercourse channels and structures shall depend upon the drainage area, but in general watersheds with less than one square mile of area shall be designed for a 50 year storm frequency and those areas one square mile and over shall

be designed for a 100 year frequency. All structures shall have a minimum setback of 50 feet from the stream bank.

Utilizing the drainage guidelines outlined above, the Planning Board may require the developer to submit the following:

- a. Plan, profiles, and typical and special cross-sections of proposed storm water drainage facilities.
- b. Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.
- c. The grading plan shall be developed to suitable contour interval with grading details to indicate proposed street grades and elevations and building site grades and elevations.
- d. If the development is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the drainage report.
- e. Design criteria as specified in town design standards shall be applicable to this Section.

11.20.2

Erosion Control. In order to insure that the land will be developed with a minimum amount of soil erosion, the Planning Board shall require the developer to follow certain erosion control practices. Both the Planning Board and the developer shall consult with the Soil Conservation Service, as required, and the Soil Conservation service shall determine whether or not the required procedures are being put into practice. Such procedures may include:

- a. Exposing the smallest practical area of land at any one time during the development.
- b. Provision of temporary vegetation and/or mulching to protect critical areas.
- c. Provision of adequate drainage facilities to accommodate effectively the increased runoff caused by soil and surface conditions during and after development. The developer's engineer shall show, as part of their submitted plans the interceptor swales and sedimentation basins along the lower edges of all developments. Topographic data and design grades for the swales shall be shown on the plans.
- d. Fitting of the development plan to the topography and soils so as to minimize the erosion potential.
- e. Retention and protection of natural vegetation whenever possible.
- f. Installation of permanent final vegetation and structures as soon as

- practicable.
- g. Provisions of adequate protective measures when slopes in excess of 15% are graded, and minimizing such steep grading.
- h. Installation of temporary sedimentation basins as required by the Soil Conservation Service.

Section 11.21

Solar Energy Systems and Solar Access. All new development and extensions or additions to existing structures should be designed so that the maximum number of buildings can receive sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. New buildings and vegetation should be sited with respect to each other and the topography of the site so that unobstructed sunlight reaches the southern exposure of the greatest possible number of buildings between the hours of 8:00 a.m. and 4:00 p.m. The following design standards should be applied:

- A. All yard regulations may be varied, upon approval of the Planning Board, to meet the intent of this Section, provided that such development will not be injurious to adjacent property.
- B. For purposes of solar access, and if site conditions allow, streets, lots and building setbacks should be designed so that the buildings are oriented with their long axis running from east to west for single family development and north to south for townhouse and multi-family development.
- C. A description of any mechanisms, such as deed restrictions, covenants, etc., that are to be applied shall be provided.
- D. In order to maximize solar access, the highest densities should be placed on the south-facing slopes with lower densities sited on the north-facing slopes.
- E. Streets should be oriented on an east-west axis to the greatest possible extent given site conditions.
- F. Buildings should be sited as close to the north lot line or lines as possible to increase yard space to the south for better owner control of shading.

Section 11.22

Noise Control. No use or person shall make, continue or cause or permit to be made or continued any unnecessary noise. Unnecessary noise shall mean any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace

or safety of a person, or which causes injury to animal life or damages property or business. The following criteria shall be considered in determining whether unnecessary noise exists:

1. Intensity of the noise.
2. Whether the nature of the noise is usual or unusual.
3. Whether the origin of the noise is associated with nature or man-made activity.
4. Intensity of background noise, if any.
5. Nature of the neighborhood within which the noise emanates.
6. Time of day or night the noise occurs.
7. Duration of noise.
8. Whether sound source is temporary.
9. Whether the noise is continuous or impulsive.
10. Whether alternate methods are available to achieve the objectives of the sound producing activity.

If the Building Inspector has reasonable cause to believe that any device or site is in violation of the provisions of this Section, the Building Inspector may order that tests be conducted to determine whether the device or site is in violation, the owner/operator shall bear the costs of such testing and shall provide access to the device or site.

Section 11.23

Adult Uses: It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of Baldwin, adult uses shall be restricted to nonresidential and nonbusiness areas of the Town of Baldwin. The Town of Baldwin hereby finds that the operational characteristics of adult uses increase the detrimental impact on a community when such uses are concentrated; therefore, this section is intended to promote the health, safety and general welfare of the residents of the Town of Baldwin by regulating the concentration of such uses.

Definitions:

- A. General. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.
- B. Specific terms. As used in this section, the following terms shall have the meanings indicated:

ADULT BOOKSTORE - An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals, films and viewing materials for sale or viewing on premises, by use of motion picture devices or any coin operated means, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment or business containing a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT CABARET - A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

ADULT MINI-MOTION PICTURE THEATER - An enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION PICTURE THEATER - An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified, anatomical areas for observation by patrons therein.

ADULT USE - Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not

limited to adult bookstores, adult motion-picture theaters and adult entertainment cabarets.

BUSINESS - Any commercial enterprise, association or arrangement for profit.

DISSEMINATION - The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

PERSON - Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly, as well as any person having a substantial connection with respect thereto, as defined below.

SPECIFIED ANATOMICAL AREAS:

- A. Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernible turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SUBSTANTIAL CONNECTION:

- A. In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place.
- B. In a partnership, limited or general, an individual who shares in any potential profits or losses of the business or who shares in the ownership of any of the assets of the partnership business.

- C. In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, of more than twenty percent (20%) of any class or stock.
- D. Any person who furnishes more than twenty percent (20%) of the capital financing or assets of such business whether in cash, goods or services.

11.23.2 Restrictions:

In addition to the requirements of the State and Local Building Codes Laws and Regulations which may have been or is hereafter adopted, adult uses shall be permitted subject to the following restrictions:

- A. No adult use shall be allowed within a one-half (1/2) mile radius of another existing adult use.
- B. No adult use shall be located within one thousand (1,000) feet of the boundaries of any residential use.
- C. No adult use shall be located within one (1) mile of the nearest property line of any pre-existing public, private or parochial school, church, convent, monastery, synagogue or other places of worship, nor any park, library, playground or playing field, nor within two hundred fifty (250) feet of a bus stop for the picking up or dropping off of school children.
- D. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window, screen or other opening.
- E. No more than one of the adult uses defined above shall be located on any lot.

11.23.3 Registration:

- A. No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used any business or establishment, any part thereof which contains an adult use, without first complying with the provisions of this section as set forth below.

- B. In addition to any and all other necessary licenses and permits, no form of adult use shall be allowed to operate nor allowed to continue to operate, until a certificate of registration is filed with the Town Clerk containing:
- (1) The address of the premises.
 - (2) The name and address of the owner(s) of the premises and the name and address of the beneficial owner(s) if the property is in a land trust.
 - (3) The name of the business or establishment subject to the provisions of this section.
 - (4) The name, business and home address, business or home phone numbers of all owners of the business or establishment subject to the provisions of this section.
 - (5) The names, business and home addresses, business or home phone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this section.
 - (6) The date of the initiation of the adult use.
 - (7) The exact nature of the adult use.
 - (8) If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease.
- C. If there occurs any change in the information required for the certificate of registration, the Town Clerk shall be notified of such change in writing, and a new or amended certificate shall be filed by such registrant within thirty (30) days of such change.
- D. The processing fee for each certificate of registration or amendment thereto shall be one thousand (\$1,000.00) dollars payable to the Town Clerk on an annual basis expiring December 31st of each year.
- E. No certificate of registration issued under the provisions of this section shall be transferable to any person other than the registrant, nor shall a certificate of registration be transferred for use at any

premises, building or location other than that stated in the certificate of registration.

- F. The owner, manager or agent of any adult use shall cause a copy of the certificate of registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.
- G. Any knowingly false statement, or any statement which the registrant or applicant should reasonably have known to be false, which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for rejection, suspension or revocation of the certificate of registration.
- H. It is a violation of this ordinance for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without having in force a certificate of registration complying with this section.

ARTICLE 12 - NONCONFORMING BUILDINGS AND USES

- Section 12.0 Continuation of Nonconforming Use or Structure. Subject to the provisions of this article, a nonconforming structure or use may be continued and maintained. Any alterations and/or extensions to a nonconforming use or structure shall conform to standards set forth in this ordinance.
- Section 12.1 Discontinuance of Nonconforming Use. If a nonconforming use involving a structure is discontinued for a period of two years, further use of the property shall conform to this ordinance. If a nonconforming use not involving a structure is discontinued for a period of two years, further use of the property shall conform to this ordinance.
- Section 12.2 Change of Nonconforming Use. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 75% of its fair market value as indicated on the latest assessment records of the Town of Baldwin the future structure or use on the site shall conform to this ordinance.
- Section 12.3 Completion of Structure. Nothing contained in this ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, provided the building, if nonconforming use, is completed and in use within 12 months from the time the building permit is issued.

Section 12.4

Existing Undersized Lots.

- A. Any lot held in single and separate ownership prior to the adoption of this zoning ordinance and whose area and/or width and/or depth are less than the specified minimum lot requirements of this zoning ordinance for the district, may be considered as complying with such minimum lot requirements and no variance shall be required provided that:
 - 1. Such lot does not have a common boundary with any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.
 - 2. Such lot can meet all necessary Health Department requirements, for sewage disposal and water supply.
 - 3. All other setback and lot coverage requirements can be met.
- B. In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-family dwelling.
- C. A lot on nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owners' property or properties.

Section 12.5

Reduction in Lot Area. A building permit shall not be issued for a lot that is reduced in area, after the effective date of this ordinance, so that it violates any dimensional requirements.

Section 12.6

Exemption of Lots Shown on Approved Subdivision Plats. In accordance with Town Law, Section 265-a, any lot proposed for residential use in a subdivision whose plat delineates one or more new streets, roads, or highways and which said subdivision plat has been properly approved by the Planning Board, and filed in the office of the County Clerk, prior to the passage of this zoning ordinance and whose area and/or width and/or depth are less than the specified minimum lot requirements of this zoning ordinance for that district shall be considered as complying with such minimum lot requirements for two years after the filing of the subdivision plot.

If at the time of the filing of the subdivision plat referred to above there was no planning board vested with authority to approve subdivision plats, then the exemption provided for in such subdivision shall apply for a period of one year after the filing of said subdivision plat in the office of

the County Clerk.

Section 12.7

Exceptions to Front Yard Requirements. If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth. If there are dwellings on both abutting lots with front yards greater than the required depth for the district, or if there is a dwelling on one abutting lot with a front yard greater than the required depth for the district, the front yard for the lot shall be determined by averages as specified.

Section 12.8

General Exception to Height Regulations. Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, solar energy equipment and other similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

ARTICLE 13 - ZONING BOARD OF APPEALS

Section 13.0

Establishment of Duties. Pursuant to Section 267 of the Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its chairman and provide for such expenses as may be necessary and proper. A member of the Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Board of Appeals for cause and after public hearing.

13.0.1

Term of Appointment. Of the members of the Board of Appeals first appointed, their terms shall be so fixed that one member's term shall expire at the end of the calendar year in which such members were initially appointed. The remaining members' terms shall be so fixed that that one member's term shall expire at the end of each year thereafter.

Their successor shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filed by the Town Board by appointment for the unexpired term.

13.0.2

Staff. The Board of Appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.

- 13.0.3 Rules of Procedure. The Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws and forms and they may deem necessary for the proper execution of the duties and to secure the intent of this zoning ordinance. Such rules, by-laws, and forms shall not be in conflict with, nor have the effect of waiving, any provisions of this zoning ordinance or any other zoning ordinance of the Town of Baldwin. Such rules, by-laws, and forms, and any subsequent amendments or supplements thereto shall be submitted to the Town Board by the Board of Appeals for approval and filing for public view. The Town Board shall move to approve, reject, or modify such rules, by-laws, and forms within 30 days after submission. Failure of the Town Board to so move shall be construed approval thereof.
- 13.0.4 Meetings. All meetings of the Board of Appeals shall be held at call of the chairman and at such other times as such Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. The concurring vote of a majority of all members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant in any matter upon which they are required to pass under any ordinance to effect any variation in the zoning ordinance.
- 13.0.5 Minutes of Meetings. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed within 7 days with the Building Inspector and in the office of the Town Clerk and shall be a public record.
- 13.0.6 Referrals. At least 45 days before the date of hearing held in connection with any appeal or application submitted to the Board of Appeals, said Board may transmit to the Planning Board a copy of said appeal or application, and may request that the Planning Board submit to the Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearings. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the appeal or application.

Section 13.1

Public Notice and Hearings. Public notice of any required hearing by the Board of Appeals shall be given in accordance with Town Law as follows:

1. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Town not less than five days prior to the date of such hearing.
2. By giving written notice of hearing to any appellant or applicant, and any other such notice to property owners in an affected area as may be required by the Board of Appeals, and to the Planning Board not less than five days prior to such hearing.
3. By giving written notice of hearing to any required Municipal, County, Metropolitan, Regional, State or Federal Agency in the manner prescribed by law.

Section 13.2

✓ Appeals. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Building Inspector under this zoning ordinance in accordance with the procedure set forth herewith:

1. Notice of Appeal shall be filed with the Building Inspector and the Secretary to the Board of Appeals in writing, in a form required by such Board, within 30 days of the date of the action appealed from, specifying the grounds thereof.
2. Upon filing of a Notice of Appeal and payment of a filing fee to be set by the Town Board by the appellant or applicant, the Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
3. The Board of Appeals shall set forth a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent or by attorney. The Board of Appeals shall decide on the appeal within 60 days after the final hearing.
4. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals, after Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.

5. Following public notice and hearing the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the power of the Building Inspector. If the action by the Board of Appeals is to reverse the action of the Building Inspector in whole, the filing fee shall be refunded to the appellant.

Section 13.3

Variances.

13.3.1

Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this zoning ordinance, the Board of Zoning Appeals shall have the power, after public notice and hearing and pursuant to Section 267 of the Town Law, to vary or modify through a variance the application of any of the regulations or provisions of the zoning ordinance.

Imposition of conditions: The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

13.3.2

Area variance. "Area variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensions or topographical requirements of the applicable zoning regulations, such as setback lines, lot coverage, and frontage requirements. Area variances may be granted upon the applicants showing of practical difficulties.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an

- area variance;
- (3) Whether the requested area variance is substantial;
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
 - (6) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The granting of an area variance can only result in a restriction or modification which permits the applicant to use his land for one of the uses permitted in the district.

13.3.3 Use variance. "Use variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals all of the following:

- (1) That under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
- (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood;
- (4) That the alleged hardship has not been self-created;
- (5) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

13.3.4 Every proposed variance shall be referred to the Planning Board by the Building Inspector, prior to any action by the Zoning Board of Appeals, for a recommendation as to the appropriateness of said variance. The Planning Board's recommendation shall make reference to the effect of the variance on the intent of the zoning ordinance and its relation to

the comprehensive plan. If the Planning Board fails to present a recommendation to the Board of Appeals within 45 days of the date of a referral, the Board of Appeals may act without such recommendation. The Board of Appeals shall not act contrary to the Planning Board's recommendation, except by adoption of a resolution which fully states the reasons for such action.

13.3.5 All applications for variances shall be filed with the Building Inspector in writing, shall be made in a form required by the Board of Zoning Appeals, and shall be accompanied by payment of a filing fee (as determined by the Town Board) and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

13.3.6 Any variance which is not exercised within two years from the date of issuance is hereby declared to be revoked without further hearing by the Board of Zoning Appeals.

Section 13.4 Relief from Decision. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals may apply to the Supreme Court for relief by a proceeding under article seventy-eight of the Civil Practice Laws and Rules of the State of New York. Costs shall not be allowed against the Board of Appeals unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

ARTICLE 14 - AMENDMENT

Section 14.0 Intent. This ordinance may be amended by changing the boundaries of districts or by changing any other provision thereof, whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure of this Article.

Section 14.1 Authorization to Initiate Amendments. An amendment to the text or the zoning map may be initiated by any of the following:

- A. Resolution of Intention of the Town Board.
- B. Petition of the Planning Board.
- C. Application by one or more property owners, or their agents.

Section 14.2 Application for an Amendment. A property owner(s) or his agent may initiate a request for an amendment to this ordinance by filing an application with the Building Inspector. Such application shall be

accompanied by a legal description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof and a filing fee as required in Article 17, no part of which is returnable.

Section 14.3

Advisory Report by Planning Board. Every proposed amendment unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board disapproves the proposed amendment or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

Section 14.4

Public Hearing on Amendment. There shall be held at least one public hearing by the Town Board before an amendment is permitted. Notice of said hearing shall be provided as in Article 15.

Section 14.5

Decision by Town Board. The Town Board shall set the matter for public hearing as required and shall render its decision within sixty days after the receipt of the report and recommendations of the Planning Board. If the Town Board proposed to adopt an amendment that is substantially altered from the recommendation of the Planning Board, the Town Board shall refer said proposed amendment back to the Planning Board for report and recommendation, before adoption. The Planning Board shall consider and report on said amendment within thirty days of receipt of said referral. Failure of the Planning Board to so report within aforesaid thirty days will be deemed to constitute approval by the Planning Board.

Section 14.6

Notification of Decision. The Town Board shall notify the applicant for amendment in writing of the Town Board's decision within five days after the decision has been rendered.

ARTICLE 15 - PUBLIC HEARING

Section 15.0

Notice of Public Hearing. When the Town Board, Planning Board or Zoning Board of Appeals is required to hold a public

hearing, as provided for in this ordinance, notice of the hearing shall be given in the following manner:

- A. Each notice of a hearing on a conditional use and a variance shall be published in a newspaper of general circulation in the town at least 5 days prior to the date of the hearing.
- B. Recess of hearing: The Planning Board, Town Board or Zoning Board of Appeals may recess a hearing in order to obtain additional information or to serve further notice upon other property owners to persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

ARTICLE 16 - ADMINISTRATIVE PROVISIONS

Section 16.0

- A. Enforcement. This ordinance shall be enforced by the Building Inspector, who shall be appointed by the Town Board. No building permit shall be issued except where all the provisions of this ordinance have been complied with. He shall keep the Planning Board advised of all matters pertaining to the enforcement of this ordinance other than routine duties, and shall submit a monthly report to the Town Board enumerating the applications received, inspections made, permits issued or refused, and other actions taken.
- B. Enforcement - Junkyard. The Town Zoning Officer shall be responsible for enforcement of junk and/or abandoned motor vehicles and the disposal of same, according to this ordinance and any other applicable Local, County or State Laws heretofore or hereafter affecting same.
- C. Violation. Whenever a violation of this ordinance occurs, any person having knowledge thereof may place any information with regard to said violation before any proper Court or magistrate as provided by law, and pursuant to the remedies as provided in Article 17 of this ordinance.

Section 16.1

Building Permits. No building or structure shall be erected, added to, or structurally altered until a permit thereof, has been issued by the Building Inspector. Except on written order of the Board of Zoning Appeals, no such building permit shall be issued for any building where said construction,

addition, or alteration or use thereof would be in violation of any of the provisions of this ordinance. Further, the Building Inspector shall be satisfied that issuance of a building permit is not in violation of the Town's Land Subdivision Rules and Regulations, nor the NYS Uniform Fire Prevention and Building Code and of the Town's Rules and Regulations thereunder.

Section 16.1.1 All applications for building permits also shall comply with the provisions of Local Law 1 of 1988 and the Rules and Regulations adopted thereunder.

Section 16.1.2 Upon approval of an application, plans and specifications shall be endorsed with the word "approved". One set of such approved plans and specifications shall be retained in the files of the Building Inspector and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Building Inspector or his authorized representative at all reasonable times.

Section 16.2 Certificate of Occupancy. No land shall be used, changed in use or occupied and no building, mobile homes, structure hereafter erected, altered, or purchased, until a certificate of occupancy has been issued by the Building Inspector in accordance with the provisions of this ordinance, subdivision regulations, and the NYS Uniform Fire Prevention and Building Code and the rules and regulations thereof.

All certificates of occupancy for new or altered buildings or structures shall be applied for pursuant to the NYS Uniform Fire Prevention and Building Code and of the Town's Rules and Regulations thereunder. Such certificate of occupancy shall be issued upon compliance with the Town's Building Code and fire prevention laws and regulations.

A certificate of occupancy shall be issued based upon the adequacy of the following:

- a. Water system meeting minimum state standards.

- b. Sanitary system meeting minimum state standards.
- c. Plumbing system meeting minimum requirements.
- d. Electrical system meeting minimum requirements set forth by the Fire Underwriters. *or other state approved qualified Electrical Inspection Agencies.*
- e. Heating system meeting minimum requirements.
- f. Compliance with this ordinance and all other applicable provisions of the NYS Uniform Fire Prevention and Building Code and of the Town's Rules and Regulations thereunder.

ARTICLE 17 - REMEDIES

Section 17.0

Penalty. Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed, or there exists anything in violation of any of the provisions of this ordinance, and any person, firm, company or corporation who shall assist in the commission of any violation of this ordinance or any conditions imposed by the Town Board, Planning Board or the Zoning Board of Appeals; or who shall build, contrary to the plans or specifications submitted to the Building Inspector and by him certified as complying with this ordinance shall be guilty of an offense and subject to a fine of not less than fifty dollars nor more than two hundred fifty dollars, or to imprisonment for a period of not less than one day, nor more than six months, or both such fine and imprisonment. Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each week such violation, omission, neglect, or refusal shall continue.

Section 17.1

Alternative Penalties. In case of any violation or threatened violation of any of the provisions of this ordinance, or conditions imposed by the Planning Board, Building Inspector, or Zoning Board of Appeals, then in addition to other remedies herein provided, the Town Board or the Building Inspector on its behalf, may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. Additionally, and where applicable, the enforcement provisions of the Town's Rules and Regulations for the enforcement of the NYS Uniform Fire Prevention and Building Code, may be employed as

provided for therein.

ARTICLE 18 - FEE SCHEDULE

The schedule of fees for all building permits and applications shall be as set by the Town Board by resolution from time to time.

ARTICLE 19 - MISCELLANEOUS PROVISIONS

- Section 19.0 When to Take Effect. This ordinance shall take effect and be enforced from and immediately after its passage, publication of notice of adoption thereof and posting as prescribed by law.
- Section 19.1 State Environmental Quality Review Act (SEORA). Where applicable, all provisions of the Laws and Regulations governing Environmental Quality and Review shall be complied with by those so charged thereunder.