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ARTICLE 1
GENERAL PROVISIONS

Section 100 Title

The title of this law is the "Town of Beekmantown Zoning Law" and shall include this text and the official zoning map.

Section 105 Purpose

The purpose of this law is to provide for orderly growth and change within the Town of Beekmantown; and to provide for the health, safety, and general welfare of existing and future residents.

Section 110 Regulated Activities

A. A Zoning Permit shall be required for any of the following actions:

1. Construction of a new building or structure.
2. Enlargement of an existing building or structure.
3. Change in the use of a building or of land.

B. Exceptions. A Zoning Permit shall not be required for:

1. Buildings or structures with less than 100 feet of ground coverage.
2. Agricultural structures and uses; however, residential structures located on farm property are not considered an agricultural use, and shall require a Zoning Permit.
3. Exempt signs listed in Section 530, part B of this Law.
4. Fences or walls.
5. Interior structural alterations, or routine maintenance and improvements which do not expand the exterior dimensions of the structure.
6. Chimneys, posts and other similar structures.
7. Roadside stands.

Section 115 Conflict with Other Laws

Whenever the requirements of this law are at variance with the requirements of any lawfully adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards, shall govern.

Section 120 Prior Existing Laws and Ordinances

- A. This law shall replace and supersede the prior existing "Land Use and Building Ordinance" of the Town of Beekmantown.
- B. This law shall replace and supersede the prior existing "Mobile Home and Travel Trailer Ordinance" of the Town of Beekmantown.
- C. This law shall replace and supersede Section 6, part D of the prior existing "Town of Beekmantown Land Subdivision Ordinance".

ARTICLE 2

DEFINITIONS

Except where specifically defined herein, all words used in this law shall carry their customary meaning. Doubt as to the precise meaning of a word shall be clarified by the Board of Appeals under their powers of interpretation.

Accessory Structure. A building or structure which is of secondary importance to the principal structure of the parcel and which is not used for human occupancy. Where an accessory structure is attached to the main structure in a substantial manner (i.e., wall or roof), such accessory structure shall be considered part of the main structure. This shall include but shall not be limited to: garages, storage sheds, satellite dishes, and swimming pools.

Accessory Use. A use customarily incidental and subordinate to the principal use, and which is located on the same parcel with such principal use.

Adult Use and Entertainment Establishments. A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers, strippers, topless waitressing, busing or service, topless hair care or massages, service or entertainment where the servers or entertainers wear pasties or g-strings or both, adult arcade, adult bookstore or adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age.

"Adult Arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas".

“Adult Bookstore or Adult Video Store” means a commercial establishment which, as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

- a) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassette or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or
- b) instruments, devices, or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with “specified sexual activities”.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as an “ADULT bookstore or ADULT video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specific sexual activities” or “specified anatomical areas”. For purposes of this definition, “principal business purpose” shall mean twenty-five percent (25%) or more or any of the following:

- 1. the number of different titles or kinds of such merchandise;
- 2. the number of copies of pieces of such merchandise;
- 3. the amount of floor space devoted to the sale and/or display of such merchandise; or
- 4. the amount of advertising which is devoted to such merchandise; either in print or broadcast media.

“Adult Cabaret” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a) persons who appear in a state of nudity; or
- b) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

“Adult Motel” means a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”, and has a sign visible from the

public right of way which advertises the ability of this adult type of photographic reproductions.

“Adult Theater” means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

“Escort” means a person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person, for consideration, agrees or offers to privately perform a striptease for another person, or for consideration, but without license granted by the State of New York, agrees to provide a massage for another person.

“Escort Agency” means a person or business association who furnishes, or offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

“Nude Model Studio” means any place where a person who appears in a state of nudity or displays “specific anatomical areas” is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

“Nudity or State of Nudity” means the appearance of “specified anatomical areas”.

“Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

“Semi-Nude” means a state of dress in which covers no more than the “specified anatomical areas” as well as portions of the body covered by supporting straps or devices.

“Sexual Encounter Center” means a business or commercial enterprise that as one of its primary purposes offers for any form of consideration, activities between persons one or more of the persons is in a state of nudity or semi-nudity.

“Specified Anatomical Areas” means (a) unless completely opaquely covered, human genitals, pubic region, buttocks, or breasts, below a point immediately above the top of the areola, and (b) even if completely opaquely covered, male genitals in a discernibly turgid state.

“Specified Sexual Activities” means and includes any of the following:

a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

- b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c) masturbation, actual or simulated; or
- d) excretory functions.

Advertising Sign. A sign which is designated solely for advertising a service or product.

Agricultural Business. A business engaged in performing agricultural, animal husbandry, or horticulture services on a fee or contract basis, including corn shelling, hay baling, and threshing; sorting, grading, and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticulture services; fruit picking; grain cleaning; land grading; harvesting; and plowing. This shall not include commercial manufacturing, mixing, or storage of regulated pesticides or herbicides.

Agricultural Structure. Barns, storage buildings, equipment sheds, and other structures customarily used for agricultural purposes.

Agriculture. The raising of crops, animals or animal products, limited forestry, the selling of products grown on premises, and any other commonly accepted agricultural operations. Incidental mechanical processing and sale of products grown on the premises are included in the definition.

Alternate Member. Alternate Member means an individual appointed by the Town Board to serve as a member of the Town Planning Board or Zoning Board of Appeals when a regular member of said Board is unable to participate on an application or matter before the respective Board, as provided herein.

Building. Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

Campground. Any area of land or water on which are located two or more cabins, tents, shelters, or other accommodations of a design or character suitable for seasonable or other temporary living purposes.

Club. Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising, or commercial activities except as required for the membership and purpose of such club. For the purpose of this law, clubs shall include lodges, fraternal organizations, mutual benefits societies, and other like organizations.

Cluster Development. Any development which takes place at the same overall density as permitted by minimum lot size requirements, but where individual lots may be reduced in size and/or where buildings may be placed closer together than otherwise permitted, so that

valuable open spaces on the development parcel, such as views or wooded areas, may be retained. The open spaces may be owned by individuals, or in common among the residents of the development.

Commercial Use. Any use involving the sale, rental, or distribution of goods or services, either retail or wholesale, such as stores, offices or the provision of recreational facilities for a fee.

Coverage. That percentage of the plot or lot area covered by the area of buildings.

Directional Sign. Off-site sign for the sole purpose of indicating directions to business and other establishments within the Town.

Dwelling Unit. Building or part thereof used as living quarters for one family, containing independent cooking and sleeping facilities. The terms dwelling unit, one family dwelling, two family dwelling, and multi-family dwelling shall not include a motel, hotel, boarding house, tourist home, or single-wide mobile home.

Dwelling, Mobile Homes. A structure transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained herein. Mobile homes shall be constructed in accordance with regulations set forth in the Code of Federal Regulations (CFR), Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing – Federal Housing Commission, Department of Housing and Urban Development, Part 3280, Manufactured Mobile Home Construction and Safety Standards, as amended. Every mobile home shall have a manufacturer's label which certifies that, to the best of the manufacturer's knowledge and belief, the home is in compliance with all applicable Federal construction and safety standards. Every mobile home shall bear a date plate, affixed in the manufacturing facility, bearing not less than the following information: (a) the statement: "This mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture."; (b) Reference to the structural zone and wind zone for which the home is designed. Every mobile home shall bear data relative to the heating and insulation zone and outdoor design temperature".

Dwelling, Mobile Home – Single Wide. A mobile home built or constructed as a single unit, having four (4) finished exterior walls, at least one of which is less than twenty (20) feet in length.

Dwelling, Mobile Home – Double Wide. A mobile home built or constructed in more than one section which when fully assembled on site has exterior walls, none of which is less than twenty (20) feet in length.

Enforcement Officer. An individual designated by the Town Board to represent them in matters pertaining to this local law.

Essential Services. Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, , and natural gas pumping stations or lines, or sewer pumping stations or lines, provided however, that none of the foregoing shall be deemed or interpreted to include a wind mill, wind turbine, or any other similar structure of any kind that converts the kinetic energy in the wind into a usable form.

Excavation. The use of a parcel of land, lot or part of removing or extracting stone, rock, sand, topsoil, gravel or any other type of earth materials.

Family. One or more persons related to each other by blood, marriage, or adoption, or not more than four individuals who are not related, living together as a single housekeeping unit.

Floating Zone. A zoning district whose requirements are described in the text of this law but which is unmapped. Such a district may be created for a particular land area by amending the zoning map.

Front Yard. The space in the front of a lot not occupied by a building, extending the full width of the lot from the road line to the part of any building which is nearest to such road line.

Gross Floor Area. For the purpose of applying the requirements for off-street parking and loading, "gross floor area" in the case of offices, merchandising, or service types of uses, shall mean the total floor area to be used or intended to be used by tenants, or for services to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

Gross Leasable Area (GLA). The gross size of the total floor area which is leasable.

Height. Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the eaves and ridge for other types of roofs. Towers, steeples, cupolas, chimneys, and similar structures are exempted in height computations.

Home Occupation. An occupation conducted in a dwelling unit or accessory structure which is clearly secondary to the property's residential use, and which does not change the character thereof.

Industrial Use. Any use involving the act of storing, preparing for treatment, manufacturing or assembling any article, substance of commodity. Excepting, that in any use involving the manufacturing or assembling of any article by an entity having less than four (4) employees, said use shall not constitute an industrial use (said use shall constitute a commercial use). For purposes of this definition, the term employee shall include all employees as that term is

defined by the United States Internal Revenue Service and all independent contractors performing services for the entity within the Town of Beekmantown.

Junk Equipment. Any equipment which is: (a) either abandoned, wrecked, stored, discarded, dismantled or partly dismantled; or (b) is not in working order; or (c) has remained unused for more than one year.

Junk Vehicle. Any motor vehicle whether automobile, bus, trailer, truck, tractor, motor home, motorcycle, all terrain vehicle, minibicycle, or snowmobile or any other device originally intended for travel on public highways which meets all the following conditions: (a) it is unlicensed; (b) it is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled; (c) it is not in any condition for legal use upon the public highway; or (d) it is in such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repair. With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle.

Junkyard. The outdoor storage or deposit of any of the following:

- (a) Five (5) or more junk vehicles.
- (b) Two (2) or more abandoned mobile homes or travel trailers.
- (c) Five (5) or more appliances including but not limited to: washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
- (d) Five (5) or more pieces of junk farm equipment or construction equipment.
- (e) Any combination of the above that totals five (5) items.

kennel. An establishment in which more than five (5) dogs more than six (6) months old are housed, groomed, bred, boarded, trained, or sold.

Large Product Retail. An establishment engaging in the sales or service of large products, including automobiles, farm machinery, mobile homes, trucks, recreational vehicles, boats, furniture, and items of similar size.

Lot. A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.

Lot Frontage. The portion of the lot abutting upon a street or road.

Lot Line. Property line bounding a lot.

Lot of Record. A lot which is a parcel of land or which is part of a subdivision approved and recorded in the Office of the County Clerk.

Lot Width. The horizontal distance between the side lot lines measured at right angles to the depth, measured at a depth equal to the minimum required front yard.

Marina. A facility for storing, servicing, fueling, berthing, or securing of pleasure boats, and which may include eating, sleeping, and retail facilities for owners, crews, and guests.

Member. Member means an individual appointed by the Town Board to serve on the Town Planning Board or Zoning Board of Appeals pursuant to the provisions of the local law or ordinance which first established such Planning Board or Zoning Board of Appeals.

Minor Residential Street. A loop street, short dead-end or cul-de-sac, or other street within a residential subdivision which is not intended to serve through traffic. Such streets are commonly constructed by developers to serve a specific residential subdivision. Point Au Roche Road north of the New York State boat launch facility shall be considered to be a minor residential Street.

Mobile Home. A movable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity as well as two (2) or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. "Mobile Home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers. Modular homes or other dwelling units that are constructed in two (2) or more main sections and transported to and permanently assembled on this site are not considered Mobile Homes.

Mobile Home Park. Any lot of record upon which two (2) or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Mobile Home Subdivision. Division of a parcel of land into two or more lots of record, whereby a single mobile home occupies each such lot.

Modular Home. A prefabricated dwelling unit delivered to the site in two (2) or more structural units and permanently assembled.

Motel/Hotel. A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities, and related activities primarily to accommodate the occupants, but not open to the general public, including buildings designated as auto cabins, auto courts, motor lodges, tourist courts, and similar terms.

Motor Vehicle Repair Shop. A building, or portion thereof, arranged, intended, or designed to be used for making repairs to motor vehicles.

Multi-Family Dwelling. A building designed for, or occupied by, three or more families living independently of one another, to include row type attached or semi-attached dwellings which share a common wall or portion thereof.

Net Buildable Site Area. The buildable portion of the site as calculated by application of the rules stated in Article 9 of this law.

Net Density. In a cluster development, the maximum density permitted on the buildable portion of the site. Net density is calculated by dividing the total number of dwelling units by the Net Buildable Site Area.

Non-Conforming Lot. A tract of land lawfully existing at the time of enactment or amendment of this local law which does not conform to the minimum lot size, minimum width, minimum front, side, or rear yards, or minimum road frontage requirements of this law.

Non-Conforming Use. A use of land existing at the time of enactment of this law and which does not conform to the regulations of the district or zone in which it is located.

One Family Dwelling. Detached building designed for, or occupied by, one family.

Person. Any individual, corporation, partnership, association, trustee, or other legal non-government entity.

Personal Service. Includes barber, hairdresser, beauty parlor, shoe repair, photographic studio, and similar businesses providing a service.

Planning Board. Planning Board means, the Planning Board of the Town of Beekmantown as established by the Town Board, pursuant to the provisions of §271 of the Town Law.

Professional or Business Office. Offices and related spaces for use as professional services as provided by medical practitioners, attorneys, architects, surveyors, engineers, accountants, and similar professions.

Public and Semi-Public Buildings and Grounds. The words “public and semi-public buildings and grounds”, as used in this ordinance, are intended to designate but not limit any one or more of the following uses, including grounds and accessory buildings necessary for their use: (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 schools, elementary schools, high schools, colleges, or universities; (d) golf courses and country clubs, however, not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft; (e) public libraries and museums; (f) not-for-profit fire, ambulance, and public safety buildings; (g) proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same area defined under the Public Health Law or the

Social Services Law of the State of New York, provided that they are duly licensed by the State of New York; (h) not-for-profit membership corporation established for cultural, social, or recreational purposes (i) recreational facilities, either for profit or not-for-profit, such as swimming, tennis, platform tennis, bowling, hockey, ice skating, or other indoor or outdoor sports; (j) daycare centers approved by the New York State Department of Social Welfare.

Rear Yard. The space in the rear of a lot not occupied by a building, measured from the rear of the building to the rear property line and extending the full width of the lot.

Residential Property Line. Property line of a lot five (5) acres or less in area which contains a residential use.

Retail Gasoline Outlet. Any establishment that sells gasoline to the public, to include service stations, convenience stores, car washes, or any other facility which sells gasoline.

Road Line. The bounds of a road as dedicated by a deed for record.

Road Width. All Town roads shall be fifty (50) feet in width. County and State roads located in the Town are sixty-six (66) in width.

Senior Accessory Housing Unit. A separate, detached dwelling unit containing all the facilities necessary for independent living, accessory to the principal residence. Such unit to be occupied by a parent or parents related to a resident owner of record in need of assistance to continue independent living.

Side Yard. The space on the side of a lot not occupied by a building, measured from the nearest side of a building to a side lot line and extending the full length of the lot.

Sign. Any material, structure, or object, or part thereof, composed of lettered or pictorial matter which is located outdoors or on the exterior of a building, which is used for the purpose of bringing the subject matter thereof to the attention of others, but excluding any flag, emblem, or insignia of a nation, political unit, school, or religious group.

Shopping Center. Facilities providing space for two or more retail sales or service establishments in excess of 25,000 square feet gross leasable area.

Shoreline. That line at which land adjoins the water of streams, rivers, or lakes at the mean low water mark.

Small Product Retail. Any retail establishment not classified as large product retail (see definition of large product retail).

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Temporary Sign. Any sign which is placed for two (2) weeks or less which advertises an event of three (3) days or less.

Travel Trailer. Shall include motor homes, truck campers, camping trailers, travel trailers and pop-up trailers less than forty-eight (48) feet in length used for recreation and travel.

Travel Trailer Park. Any plot of ground upon which two (2) or more trailers, pickup coaches or similar recreational vehicles and/or tents occupied for dwelling or sleeping purposes for transients are located.

Two Family Dwelling. Buildings designed for, or occupied by, two families living independently of one another.

Variance. A variance is any departure from the strict letter of this local law granted by the Zoning Board of Appeals as it applies to a particular piece of property, usually pertaining to dimensional requirements only. Variances run with the land and are not particular to any one land owner.

Waste Disposal Area. Any area for the disposal of garbage, refuse, sewerage sludge, construction debris, and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

Zoning Board of Appeals. Zoning Board of Appeals means the Zoning Board of Appeals of the Town of Beekmantown as established by the Town Board, pursuant to the provisions of §267 of the Town Law.

Zoning Enforcement Officer. The official designated to administer and enforce this law.

Zoning Permit. A document issued by the Zoning Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this law.

ARTICLE 3

ESTABLISHMENT OF ZONES

Section 300 Types of Zones

For the purpose of this law, the Town of Beekmantown is hereby divided into the following zones:

R1	Residential 1
R1-D	Residential 1 – Doublewides
R2	Residential 2
R2-D	Residential 2 - Doublewides
RU	Rural Use
LS	Lakeshore
MHS	Mobile Home Subdivision
AG	Agriculture
MIX	Mixed Use
CI	Commercial/Industrial

Section 310 Zoning Map

(1)The section of land 1000 feet in width having as its centerline of State Route 22. The northern end of its centerline being the point where center line of State Route 22 intersects the southern boundary of the existing Mixed zone which includes Beekmantown Corners. The southern end of its center line being the intersection of the centerline of State Route 22 and the center line of West Hill Road (a/k/a County Home Road;

(2)The section described as “Beginning at a point on the centerline of the Delaware and Hudson Railroad track parcel (hereinafter RR Centerline) 500 feet south of the intersection of the centerline of the Burke Road and the RR Centerline then running in a generally easterly direction in a line parallel to the centerline of the Burke Road and 500 feet south of the centerline of the Burke Road until the Burke Road turns and runs in a generally northerly direction at which time this bounds continues in a generally easterly direction in the same line an additional distance of 500 feet, thence turning and running in a generally northerly direction in a line parallel to the centerline of the Burke Road and 500 feet east of the centerline of the Burke Road to the centerline of the Spellman Road; thence turning and running in a generally westerly direction in the centerline of the Spellman Road until the Spellman Road intersects the RR Centerline; thence turning and running in a generally southerly direction and following the RR Centerline to the point of beginning;

(3)The area which meets all three of the following conditions: (a) located in previously Agriculture Zone; or (b) west of the RR Centerline; or (c) south of Spellman Road.

Section 320 Interpretation of Zone Boundaries on Zoning Map

- A. Unless otherwise indicated on the Zoning Map, zone boundary lines are intended generally to follow the center lines of roads, the center lines of railroad rights-of-way, the center lines of streams, and existing lot lines.
- B. Distances shown on the Zoning Map are perpendicular distances from road lines.
- C. Where a zone boundary line divides a prior existing lot of record, the zone requirements of the least restricted portion of such lot shall be understood as extending thirty (30) feet into the more restrictive portion. Upon special authorization of the Zoning Board of Appeals and after a public hearing, the zone requirements of the least restricted portion of such lot may be extended up to one hundred (100) feet into the more restrictive portion without a variance.
- D. Questions concerning the precise location of zone boundary lines shall be resolved by the Board of Appeals under their powers of interpretation.

ARTICLE 4

ZONING DISTRICT REGULATIONS

Section 410 Permitted Use Chart

X = Permitted use within the zone
 C = Permitted use after Conditional Use Approval
 Blank = Not Permitted

Any use absent from the list of uses is assumed to be not permitted in any zone.

Zoning District

A. Residential Uses

	<u>R1</u>	<u>R2</u>	<u>RU</u>	<u>LS</u>	<u>MHS</u>	<u>AG</u>	<u>MIX</u>	<u>CI</u>	<u>R1-D</u>	<u>R2-D</u>
Single Family Dwelling.....	X	X	X	X	X	X	X	C		
Two Family Dwelling.....	X	X	X	X		X	X	C		
Multi-Family Dwelling.....	C	C	C	C			C			
Mobile home, double wide.....			X		X	X	X	C	X	X
Mobile home, single wide.....			X		X					
Mobile home park.....	(NOT PERMITTED IN ANY ZONE)									
Residential accessory structure...	X	X	X	X	X	X	X	C		
Senior Accessory Housing Unit...			C		C	C				

A single mobile home may be placed on an active farm in any zoning district provided that it is located within one thousand (1000) feet of the main barn and is occupied by a person

employed full-time in the operation of the farm. The mobile home must be removed within six (6) months of the date it ceases to be used for such purposes.

A single wide and double-wide mobile home in any Zoning District for the sole purpose that said mobile home be used for the storage of building materials, personal property, junk and/or any other related items is prohibited.

Conditional Use Approval is required for all residential uses in the CI Zone.

B. General Uses

	<u>R1D</u>	<u>R2D</u>	<u>RU</u>	<u>LS</u>	<u>MHS</u>	<u>AG</u>	<u>MIX</u>	<u>CI</u>
Public and semi-public buildings and grounds.....	C	C	C	C			C	C
Club.....			C	C			C	C
Essential Services.....	C	C	C	C		C	C	C
Agricultural structures and uses.....	X	X	X	X		X	X	X
Airport.....			C					
Private air landing strip.....		C	C	C		C	C	C

C. Business Uses

	<u>R1D</u>	<u>R2D</u>	<u>RU</u>	<u>LS</u>	<u>MHS</u>	<u>AG</u>	<u>MIX</u>	<u>CI</u>
Home occupation.....	X	X	X	X	X	X	X	X
Campground, travel trailer park.....			C	C			C	C
Outdoor recreation.....			C	C			C	C
Commercial Enterprise selling only								
Fruits and/or vegetables.....			C			C	C	C
Indoor recreation.....				C			C	C
Motel, hotel, cabins.....				C			C	C
Marina, boat rental.....				C				
Restaurant.....				C			C	C
Neighborhood convenience store (+gas).....		C	C	C			C	C
Launderette.....			C	C			C	C
Antique, craft or gift shop.....		C	C	C			C	C
Used merchandise or furniture.....			C				C	C
Personal services business (beauty shop, Barber, tailor, similar business).....			C	C			C	C
Nursery, florist, greenhouse.....		C	C	C		C	C	C
Tavern, bar, nightclub.....				C			C	C
Professional or business office.....			C				C	C
Funeral home.....			C				C	C
Veterinarian, animal hospital.....			C			C	C	C
Kennels.....			C			C	C	C
Agricultural business.....	C	C	C	C			C	C
Gasoline or auto service station.....			C				C	C

Motor vehicle repair shop.....								C	C
Gun shop, fishing tackle.....	C	C						C	C
Retail store.....								C	C
Shopping Center.....									
Trucking.....								C	C
Warehousing and distribution.....								C	C
Well drilling or construction business.....								C	C
Junkyard.....								C	C
Excavations.....								C	C
Waste disposal area.....									
Automobile race track.....									
Slaughterhouse.....									
Amusement Park.....									
Other commercial uses.....								C	C

D. <u>Industrial Uses</u>	<u>R1</u>	<u>R2</u>	<u>RU</u>	<u>LS</u>	<u>MHS</u>	<u>AG</u>	<u>MIX</u>	<u>CI</u>
Sawmill.....			C			C		C
Other industrial uses.....								C
E. <u>Signs</u> (See Section 530).....	X	X	X	X	X	X	X	X

R1, RU, LS
AG, MHS, &
MIX R2 CI
ZONES ZONE ZONE

Section 420 Dimensional Requirements

A. Single Family Dwelling

Minimum lot size (square feet)			
On minor residential streets			
With on-lot water and sewer	20,000	36,000	
With community water OR sewer	15,000	20,000	
On other roads (with or without public water or sewer)	25,000	1 acre	25,000
Minimum lot width			
Abutting a state highway	200'	200'	200'
Abutting other through road	150'	200'	200'
Abutting minor residential street	100'		100'

	<u>R1, RU, LS, AG, MHS, MIX & CI ZONES</u>	<u>R2 ZONE</u>
Minimum front yard		
Along a State highway	60'	60'
Along other roads	40'	40'
Minimum side yards		
Total, both sides	50'	50'
Minimum, each side	20'	20'
Minimum rear yard	30'	30'
Maximum coverage by buildings	30%	30%
Maximum height of structures	35'	35'

B. Two Family Dwelling

Minimum lot size (square feet)		
On minor residential streets		
With on-lot water and sewer	40,000	72,000
With community water OR sewer	30,000	40,000
On other roads (with or without public water or sewer)	50,000	2 acres

	<u>R1, RU, LS AG, MHS, MIX & CI ZONES</u>	<u>R2 ZONE</u>
Minimum lot width		
Abutting a state highway	250'	250'
Abutting other through road	200'	200'
Abutting minor residential street	200'	200'
Minimum front yard		
Along a state highway	60'	60'
Along other roads	40'	40'
Minimum side yards		
Total, both sides	60'	60'
Minimum, each side	25'	25'
Minimum rear yard	50'	50'
Maximum coverage by buildings	30%	30%
Maximum height of structures	35'	35'

C. Multi-family Dwelling

Minimum lot size PER DWELLING UNIT (square feet)

On minor residential streets		
With on-lot water and sewer	20,000	36,000
With community water OR sewer	15,000	20,000
On other roads (with or without public water or sewer)	25,000	1 acre
Minimum lot width		
Abutting a state highway	300'	300'
Abutting other through road	250'	200'
Abutting minor residential street	250'	200'
Minimum front yard		
Along a state highway	60'	60'
Along other roads	40'	40'
Minimum side yards		
Minimum, each side	50'	50'
Minimum rear yard	75'	75'
Maximum coverage by buildings	30%	30%
Maximum height of structures	35'	35'
Maximum number of dwellings attached together in one building	8	8

D. Residential Accessory Structure

Minimum setback, front	40'	40'
Minimum setback, sides and rear	10'	10'
	R1, RU, LS AG, MHS, MIX & CI <u>ZONES</u>	R2 <u>ZONE</u>

E. Business Uses, Public and Semi-Public Buildings and Grounds, Clubs

Minimum lot size	1 acre	1 acre
Minimum lot width	200'	200'
Minimum front yard building setback	50' all zones	
Minimum side yard building setback, each side	20' all zones	
50' (next to existing residential)		
Minimum rear yard building setback	30' all zones	
Green space buffer, each side and rear	10' all zones	

30' (next to existing residential property)		
Maximum coverage by buildings	30%	30%
Maximum height of structures	35'	35'

F. Industrial Uses

CI Zone

Minimum lot size		none
Minimum lot width		none
Minimum front yard building setback	50' all zones	
Minimum side yard building setback, each side	20' all zones	
Minimum Rear Yard Building Setback	50' (next to existing residential prop.)	
Green space buffer, front, rear, and sides	30' all zones	
	10' all zones	
	30' (next to existing residential)	
Maximum coverage by buildings		40%
Maximum height of structures		40'

G. Agricultural Structures

Minimum front, side, and rear building setbacks	50' all zones 50' for structures housing agricultural animals.
Minimum Side Yard Buildings Setback, each side	20' all zones 50' next to existing residential property 50' for structures housing agricultural animals.
Minimum Rear Yard Building Setback	30' all zones 50' for structures housing agricultural animals.
Green space buffer, each side and rear	10' all zones 30' next to existing residential property 50' for structures housing agricultural animals.

H. Frontage on Lake Champlain

Minimum lake frontage for each lot	100' for all zones
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Section 430 Dimensional Requirements for Conditional Uses

Where additional dimensional requirements are stated elsewhere in this law, such as those applying to conditional uses in Article 6, the more restrictive of the requirements shall apply.

Section 440 Green Space Buffer

A green space buffer shall be kept as a vegetated area. No driveways, parking lots, storage of materials or vehicles are permitted, nor shall the buffer be used as a work area.

ARTICLE 5

SUPPLEMENTAL REGULATIONS

Section 500 Principal Buildings Per Lot

A. There shall be only one principal building per lot on residential lots. A principal building means the building used as dwelling quarters and does not include accessory structures.

B. Exceptions:

1. More than one residential building per lot is permitted within a cluster development approved in accordance with Article 9 of this law.
2. A single mobile home may be placed on an active farm provided that it is located within one thousand (1000) feet of the main barn and is occupied by a person employed full-time in the operation of the farm. The mobile home must be removed within six (6) months of the date it ceases to be used for such purpose.\

Section 505 Existing Undersized Lots of Record

Any recorded lot held in single and separate ownership prior to adoption of these regulations shall be exempt from the minimum lot area and lot width requirements of Article 4 herein, provided that such lot does not adjoin any other lot or lots held by the same owner such that the owner might combine two or more lots in order to meet minimum requirements. Minimum front, side, and rear yard requirements shall apply.

Section 510 Corner Lots

On corner lots, the sides facing both streets shall be considered front yards. On the other sides, one shall be considered a rear yard and the other a side yard at the owner's option.

Section 515 **Minimum Road Frontage**

A. In order to ensure adequate access, each one (1) family residential lot and each two (2) family residential lot shall have a minimum frontage of fifty (50) feet abutting on a public street, road, or highway.

B. Each multi-family residential lot and each non-residential lot must meet the minimum width requirements for frontage in the zone in which said lot is located.

Section 520 **Off-Road Parking**

A. An off-road parking space shall not be less than 9 x 20 feet exclusive of driveways and access ways. One family dwellings need not exclude driveway area.

B. No non-residential parking space shall be located within ten (10) feet of a side lot line.

C. Existing uses need not provide additional off-road parking unless one or more of the following conditions occurs: (a) the use changes; (b) the use expands its gross floor area by twenty-five (25) percent or more in a three year period; or (c) the use is destroyed and seeks to be re-established.

D. The required number of existing spaces shall be calculated based upon Gross Leasable Area (GLA), or upon Gross Floor Area if GLA is not available.

E. In calculating the number of required parking spaces, fractional portions shall be rounded to the nearest whole space.

F. Minimum requirements:

Residential uses	2 spaces per dwelling unit
Home Occupation	Adequate space to accommodate all vehicles during peak periods, including employees
Professional Offices	1 space per 200 square feet GLA
Personal Services	1 space per 200 square feet GLA
Small Product Retail	1 space per 200 square feet GLA
Large Product Retail	1 space per 400 square feet GLA

Shopping Center:

25,000 - 399,999 square feet	1 space per 250 square feet – GLA
400,000 - 599,999 square feet	1 space per 225 square feet – GLA
600,000 + square feet	1 space per 200 square feet – GLA
Facilities with drive-up windows	3 twenty feet waiting spaces per each drive-up window
Public and semi-public buildings	1 space per four (4) seats
Eating and drinking establishments	1 space per four (4) seats or stools
Funeral Homes	1 space per four (4) seats
Motel/Hotel or Tourist accommodation	1.25 spaces per each dwelling unit or sleeping room, plus one (1) space per employee
Industrial Use	1 space per employee on maximum shift plus visitor parking
Other uses subject to conditional use approval	As determined by the Zoning Board of Appeals

G. The Zoning Board of Appeals shall have the authority to lower or raise the requirements stated in part F above at the time of conditional use approval. Requirements may be lowered if the developer can demonstrate the need for fewer parking spaces.

Section 525 Off-Road Loading

A. All uses other than dwelling units, agriculture or home occupations must comply with the following off-road loading standards:

First 10,000 square feet of GLA	1 berth
Each additional 10,000 square feet	1 berth

B. With the exception of funeral homes, each loading berth shall be a minimum of twelve (12) feet wide, fifty (50) feet long, and fourteen (14) feet in height.

C. Loading area berths for funeral homes shall be a minimum of ten (10) feet wide, twenty-five (25) feet long, and eight (8) feet in height.

D. Where the use, traffic generation or function of a site is such that it can be shown by the applicant that the number of berths required is not justified, the Zoning Board of Appeals may vary these requirements.

Section 530 Signs

A. The following are prohibited:

1. Off-premise advertising signs, meaning any signs which advertise an activity not conducted on the premises or a product not available for sale on the premises, but not including signs intending solely for directional purposes.
2. Moving, flashing, blinking, or animated signs.
3. Signs over twenty (20) feet in height.
4. Any sign which projects above the roof line of a building.
5. Placement of any sign in a public right-of-way.
6. Any sign not specifically permitted by Part B, C, D, or E below.

B. The following signs are permitted in all zoning districts without the issuance of a Zoning Permit:

1. "For Sale" or "For Rent" real estate signs not exceeding ten (10) square feet in area.
2. Temporary signs on construction sites not exceeding thirty-two (32) square feet in area.
3. Temporary signs advertising sales of goods or merchandise for sale on the premises, not exceeding thirty-two (32) square feet in area.
4. One sign per public, non-commercial, charitable, or religious institution located on the premises and not exceeding thirty-two (32) square feet in area.
5. Public signs, such as safety signs, traffic control signs, or signs indicating scenic or historic points of interest.
6. One subdivision, mobile home park, residential tract, or multi-family housing name sign for each development not exceeding twenty (20) square feet in area.

7. Flags and plaques.
8. All signs less than one (1) square foot in area.
9. For each dwelling unit, one sign identifying the occupants not to exceed three (3) square feet in area.

C. The following signs are permitted in R1 Districts after issuance of a Zoning Permit:

1. For home occupations, one sign located on the premises not to exceed three (3) square feet in area. Such sign shall only be illuminated by means of indirect lighting.
2. Off-premise directional signs not to exceed three (3) square feet in area. Such signs shall not be luminous.
3. For a non-conforming business use. (a) one free standing and (b) any number of signs attached on or applied to the face of a building, provided that such signs do not protrude further than one (1) foot from the building and that the total area of signs on any one side of a building do not exceed one (1) square foot for each lineal foot of building frontage on that side.

D. The following signs are permitted in R2, RU, LS, AG, and MIX Districts after issuance of a Zoning Permit:

1. For home occupations, one sign located on the premises not to exceed six (6) square feet in area. Such sign shall only be illuminated by means of indirect lighting.
2. Off-premise directional signs not to exceed three (3) square feet in area. Such signs shall not be luminous.
3. For non-residential uses, (a) one free standing sign not to exceed thirty-six (36) square feet in area, and (b) any number of signs attached on or applied to the face of a building, provided that such signs do not protrude further than one (1) foot from the building and that the total area of signs on any one side of a building do not exceed one (1) square foot for each lineal foot of building frontage on that side.

E. The following signs are permitted in CI Districts after issuance of a Zoning Permit:

1. For home occupations, one sign located on the premises not to exceed sixteen (16) square feet in area.
2. Off-premise directional signs not to exceed three (3) square feet in area. Such signs shall not be luminous.
3. For non-residential uses, (a) one free standing sign not to exceed fifty (50) square feet in area, and (b) any number of signs attached on or applied to the face of a building,

provided that such signs do not protrude further than one (1) foot from the building and that the total area of signs on any one side of a building do not exceed one (1) square foot for each lineal foot of building frontage on that side.

4. Retail gasoline sales establishments are permitted an additional one pole sign not to exceed sixteen (16) square feet in area.

F. Placement of free standing signs: No sign shall obscure a line of sight for traffic, or otherwise constitute a traffic hazard. All signs shall be placed at least five (5) feet from the front lot line and at least twenty (20) feet from any side lot line.

G. The area of a sign shall be computed as including the entire surface within the frame of a sign. For a sign consisting of letters painted on or attached to a building, the sign area shall be calculated by multiplying the average height of the letters by the distance between the first and last letters.

H. Conditional Use Review standards:

In the case of signs proposed in conjunction with a project which requires conditional use approval, in their review of the conditional use, the Zoning Board of Appeals shall insure that no sign creates a traffic hazard, causes visual blight, nor detracts from the value of neighboring properties. All signs shall be designed so as to blend with the visual character of the area as far as practical. In their review, the Zoning Board of Appeals may take the following elements into consideration:

1. Size, bulk and mass of the sign(s).
2. Texture and materials.
3. Colors.
4. Lighting and illumination.
5. Orientation and elevation.
6. Location.
7. Proximity to roads.
8. Design, including size and character of lettering.
9. Message content.
10. Frequency and nature of all signs which are within the field of vision.

Section 535 Home Occupations

A. An occupation conducted in a dwelling unit or accessory structure which is clearly secondary to the property's residential use, and which does not change the character thereof.

B. No more than one non-member of the immediate family occupying a dwelling shall be employed as part of the home occupation.

C. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the

emission of sounds or vibrations. No use shall create noise, dust, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance in excess of that created by a residence. (SEE SECTION 530 – Sign Requirements Concerning Home Occupations.)

D. No outdoor display of goods or outside storage of materials used in the home occupation shall be permitted.

E. One small commercial vehicle such as an automobile or small truck may be used in conjunction with the home occupation and be parked on the property. Any use requiring the parking of a large commercial vehicle shall be considered a commercial use, and must meet the standards for a commercial use. For purposes of this section, any vehicle which would require a commercial driver's license (CDL) to be driven on public highways in the State of New York shall be considered a large vehicle.

F. No home occupation shall generate traffic or parking in excess of what is normal for the volume of the neighborhood for a residential use. Parking shall be provided off-street and shall not be located in front yards, except for three (3) customer cars.

G. In particular, a home occupation includes, but is not limited to the following: dressmaking, home cooking, teaching, musical instruction, beauty parlors, barber shops, and the skilled practice by an accountant, architect, artist, artisan (tin smith, furniture maker, restorer – repairer, metal smith, glass blower), engineer, insurance agent, lawyer, musician, realtor, tourist home (bed & breakfast).

H. The following uses are not home occupations and shall comply with all sections of this law which govern commercial uses: garages or shops for the repair of motor vehicles, restaurants, commercial stables or kennels, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, funeral homes, trucking business requiring the parking of a truck, and businesses of a similar nature.

Section 540 Fences and Hedges

Fences and hedges shall not constitute a traffic hazard, and shall not obscure the line of sight of traffic.

Section 545 Satellite Dishes

A. All satellite dishes shall be located in side or rear yards.

B. The satellite dish or antenna shall be visually screened from the roadway and adjoining properties by the use of vegetation to the maximum extent possible without impairing efficiency.

C. Setbacks shall conform to the requirements for accessory structures stated in Article 4 of this law.

Section 550 Stream Protection

All structures shall be set back at least fifty (50) feet from the bank of any stream designated by the New York State Department of Environmental Conservation as "C" or higher quality. No clear-cutting shall take place within twenty-five (25) feet of such waters. Such streams include, but are not limited to, the following:

Beartown Brook and its tributaries
 Sanburn Brook and its tributaries
 West Brook
 Stillwater Brook and its tributaries
 Duncan Pond

Section 560 Mobile Homes, Not in Mobile Home Parks

A. Mobile homes not located in a mobile home park shall be placed on a permanent foundation extending below the frost line.

B. The mobile home shall be provided with anchors or tie-downs capable of securing the stability of the mobile home. Anchors/tie-downs shall be placed at least at each corner of the foundation or concrete slab.

C. Each mobile home shall be provided with skirting to screen the space between the mobile home and the ground. Such skirting shall be of a durable material and shall be installed within 90 days of occupancy.

Section 565 Private Roads

A. A private road is a road measuring fifty (50) feet in width which is owned by one (1) owner and off of which shall be located a maximum of three (3) lots.

B. There shall be a maintenance agreement executed by all parties and recorded in the Clinton County Clerk's Office which shall bind the parties, their successors, heirs and assigns which will require the maintenance of said road so as to allow for passage by the parties subject thereto, and any and/or all emergency vehicles (i.e. ambulance, fire department, and police).

C. The Town of Beekmantown shall not be responsible for the enforcement of said maintenance agreements and shall not be responsible for the maintenance of private roads.

D. The Town of Beekmantown Planning Board shall have the review and approval authority and the Town's Subdivision Regulation for the approval of lots or parcels located on private roads.

Section 570 Disposal of Hazardous Waste Materials

The operation of a commercial and non-commercial hazardous waste disposal facility, including but not limited to an incinerator, within the Town of Beekmantown is hereby prohibited. Operation shall include but not be limited to, associated landfills, dumps and dumping ground intended to contain, store or stock pile solid, liquid, medical or any other kinds of waste.

ARTICLE 6

STANDARDS FOR CONDITIONAL USES

Section 600 Approval of Conditional Uses

All conditional uses shall require Conditional Use Approval in accordance with Article 7 before a Zoning Permit may be issued. No conditional use shall be approved by the Zoning Board of Appeals unless the following general and specific standards are met.

Section 610 General Standards for All Conditional Uses

A. Compatibility. The character, appearance, location, size, height, intensity, nature and site layout of the proposed use, buildings, structures, and/or outdoor signs shall be in harmony with the character and appearance of the surrounding neighborhood, and shall not cause a significant adverse impact upon nearby properties by reason of noise, fumes, odors, vibration, flashing lights, litter, traffic, or similar condition.

B. Vehicular Access. Proposed vehicular access points shall be adequate but not excessive in number, and shall be adequate in width, grade, alignment and visibility; not located too near street corners or places of public assembly; and meet similar safety considerations. All proposed buildings, structures, equipment or materials shall be readily accessible for fire and police protection.

C. Sight Distance at Entry and Exit. To the extent practicable, intersections with and entries onto any public road shall be signed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways", State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be maintained.

As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

<u>Design Speed Of Highway</u>	<u>Left Turn</u>	<u>Right Turn</u>
30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road. (Said distances represent the safe braking distance for traffic along the public road).

D. Circulation and Parking. Adequate provision for safe and accessible off-road parking and loading space shall be made.

E. Landscaping and Screening. All parking and loading areas shall be reasonably screened at all seasons of the year from the view of adjacent residential lots and streets. The general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees over eight (8) inches in diameter to the maximum extent possible.

F. Drainage and Erosion Control. Adequate provision shall be made for drainage of the site, and to insure that storm water runoff does not create an adverse impact upon nearby lands or waterways. Appropriate erosion control measures shall be taken to prevent soil erosion and sedimentation of waterways.

G. Utilities and Municipal Services. Adequate provision shall be made for water supply and sewage disposal, electrical service, and solid waste disposal. The proposed use shall not create a burden on municipal or County services.

Section 620 Multi-Family Dwelling

A useable open yard or recreation space of at least one thousand (1000) square feet per dwelling unit shall be provided. The Zoning Board of Appeals may require that recreation facilities be provided.

Section 625 Retail Gasoline Outlet

A. Gasoline and/or fuel pumps and underground fuel storage tanks shall not be located closer than seventy-five (75) feet from any side or rear lot line.

B. Adequate space shall be provided for safe pull-off, parking, waiting lines, and service, so as to prevent any interference with the roadway or shoulder. Gasoline pumps shall be located at least thirty (30) feet from the road right-of-way.

C. Such operation shall be screened from adjoining residential properties by a fence, hedge or other planting or structure so as not to be visible from adjoining properties.

Section 630 **Motor Vehicle Repair Shop**

A. There shall be a green space buffer of at least fifty (50) feet from any side or rear lot line. The buffer must be kept vegetated and shall not be used for servicing, storage, or parking of vehicles.

B. No building or structure shall be located within seventy-five (75) feet of neighboring residential property lines.

C. All junk wastes as a result of servicing motor vehicles, such as discarded parts, shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent lots.

D. Such operation shall be screened from adjoining residential properties by a fence, hedge or other planting or structure so as not to be visible from adjoining properties.

Section 635 **Essential Services**

A. The location of essential services shall be chose so as to efficiently provide the service and also so as to minimize adverse impacts upon nearby properties.

B. The design of any building or structure in connection with such facility shall, so far as practicable, conform to the general character of the area and shall not adversely affect nearby properties.

C. Adequate landscaping shall be provided to create a visual or sound buffer between such facilities and adjacent lands.

D. Adequate fencing shall be provided as necessary for security and public safety.

Section 640 **Industrial Use**

A. There shall be a minimum of ten (10) feet of green space buffer area between any industrial use in all zones and thirty (30) feet of green space buffer from any existing neighboring residential property line.

B. Such operation shall be substantially screened from neighboring residential properties, and as required by the Zoning Board of Appeals, from other property lines and roads. Plant material shall be six to eight feet in height when planted, and shall be placed to form an

opaque screen in multiple rows with alternate spacing. Other equally acceptable techniques may be substituted upon approval of the Zoning Board of Appeals.

Section 645 Excavations

A. The use of land for the excavation or removal of any type of earth material, topsoil, sand, gravel or rock is hereby prohibited in any zoning district except upon prior approval of the Zoning Board of Appeals or as otherwise provided for in this Ordinance.

a. The Zoning Board of Appeals in granting any such permit or variance may impose reasonable conditions protective of the health, safety, and welfare of the community and of the individuals in the community. Without limiting the generality of the foregoing limitation, such conditions may include limitation of removal in respect to all or any of the following:

1. Extent of time;
2. Area and depth of excavation;
3. Steepness of slopes excavated;
4. Distance between edge of excavation and neighboring property lines or ways/roads;
5. Temporary or permanent drainage in a manner to be approved by the Town Engineer;
6. The posting of security or bond in a dollar amount to be determined by the Zoning Board on the advice of the Town Engineer, to be sufficient to guarantee fulfillment of conditions imposed; and
7. The replacement of not less than three (3) inches of topsoil over the whole of any area from which earth materials are removed where the location of such removal is afterward to become a residential subdivision.

b. No such permit or variance shall be issued except upon written application thereof to the Zoning Board and until after a public hearing by the Zoning Board of Appeals on such application.

c. Such application shall include a diagram to scale of the land concerned, indicating existing and proposed elevations in the area to be excavated and stating the ownership and boundaries of the land for which such permit is sought, the names of all adjoining owners as found in the most recent tax list and the approximate locations of existing public and private ways/roads nearest such land.

d. Notice of said public hearing shall be given by publication in a newspaper published in or of general circulation in the Town of Beekmantown at least five (5) days before the date of such hearing.

e. **Permit or Denial Promptly Mailed.** A copy of any permit or variance granted hereunder by the Zoning Board of Appeals, stating all of the conditions imposed, if any, or a copy of the denial by the Zoning Board of Appeals on any such application, stating the reasons for such denial, shall be mailed forthwith by the Zoning Board of Appeals to the parties of interest.

f. 1. The foregoing regulations shall be deemed not to prohibit the removal of soil, loam, sod, clay, sand, borrow, gravel, or stone as may be incidental to and necessitated by any construction for which a building permit has lawfully been issued under the Zoning Ordinance of the Town of Beekmantown. Said building permit to be obtained prior to such earth material removal. Removal of material, issued under a permit, is limited to building footprint only.

2. The foregoing regulations shall also be deemed not to prohibit the removal of earth materials from any lot or proposed road so far as may be necessitated by the construction or installation of utilities or other engineering works on such lot or in such road, or as may be necessitated in constructing roads, provided the layout lines and grades of such works have been duly approved by the Zoning Board of Appeals, Planning Board, Highway Superintendent and/or Town Engineer prior to such removal.

3. The foregoing regulations shall also be deemed not to prohibit removal, grading or transferring of any said earth materials from one part of a lot to a separate location on said lot in same ownership.

4. The foregoing regulations shall also be deemed not to prohibit the removal of any or all of the above specified earth materials by any person, firm, or corporation shall be lawfully engaged in the business of dealing in or with any such earth materials, and shall have a current valid permit and/or approval from the Town of Beekmantown, the New York State Department of Environmental Conservation, and/or other necessary State or Federal Agency.

5. The foregoing regulations shall also be deemed not to prohibit the movement of earth materials from a portion or part of a parcel of property actively engaged in agricultural use and/or farming to a separate portion or part of the same parcel of property or to a different parcel of property owned by the same party.

B. The mining and reclamation plan prepared for the Department of Environmental Conservation shall also be reviewed and found acceptable by the Zoning Board of Appeals prior to their approval.

C. Such excavation or extraction shall not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic, or other condition.

D. Excavation activities shall be set back one hundred (100) feet from any property line or public road.

E. Excavation applications shall be accompanied by a restoration and rehabilitation plan.

F. All excavation activities shall be screened from the view of public roads and residential structures. An exception to this specific requirement will be those excavation activities that do not exceed sixty (60) consecutive days.

Section 650 Campgrounds, Travel Trailer Parks

A. Minimum lot size: 10 acres.

B. Each campground/travel trailer park shall have adequate access to a public highway, and each camp/travel trailer site shall be serviced from interior roadways.

C. The campground/travel trailer park shall be divided into campsites. The corners of each campsite shall be clearly marked, and each campsite shall be numbered for identification.

D. The minimum size of each camp/travel trailer campsite shall be 2500 square feet.

E. There shall be a minimum one hundred (100) foot green space buffer surrounding the campground/travel trailer park. No campsite or portion thereof, building, or structure shall be placed within the buffer area.

F. No campsite shall be located within fifty (50) feet of any stream, brook, pond, lake, or wetland area.

G. The Zoning Board of Appeals may require that the campground/travel trailer park be substantially screened from the view of public roads and neighboring properties.

H. Each campground/travel trailer park shall comply with all applicable rules and regulations of the New York State Department of Health and the Clinton County Health Department.

I. A minimum of ten (10) percent of the total area of the campground/travel trailer park, not including the one hundred (100) feet green space buffer, shall be dedicated to a recreation area and shall be fully maintained by the owner.

J. The owner or manager of a campground/travel trailer park shall maintain an office in the immediate vicinity of the park, and shall maintain accurate records of the names of the park residents, home address, and make, description, year, and license or identification number of the trailer. These records shall be available to any law enforcement official or the Zoning Enforcement Officer.

Section 660 Mobile Home Park Standards

A. Mobile Home Sites

1. Parks shall be divided and marked off into sites numbered consecutively, the number being conspicuously posted on each site with such number to correspond to the site shown on the site plan submitted.

2. Sites shall be a minimum of five thousand (5000) square feet.

3. Each mobile home shall be placed upon a reinforced concrete slab at least five (5) inches thick which extends the full length and width of the mobile home which is placed upon it, or upon a permanent foundation extending below the frost line.

4. No two-family or multi-family mobile homes are permitted.

5. All mobile homes, including expansions, extensions, or other additions thereof, patios, porches or garages and all other structures shall satisfy the following setback requirements:

- (a) Minimum of one hundred (100) feet from the road line of any public road.
- (b) Minimum of thirty (30) feet from the center line of any internal road.
- (c) Minimum of ten (10) feet from all site lines.

6. No site, internal road, parking lot, recreation area or storage facility for fuels, supplies, or equipment shall be located within thirty (30) feet of external boundaries of the park.

7. Each site shall be provided with a driveway sufficient for parking two (2) automobiles.

B. Park Design

1. Access Roads and Entrances.

(a) Access roads connecting internal roads with public roads shall be required to serve any park having three (3) or more mobile homes, and at least two (2) independent access roads shall be required to serve any park having twenty (20) or more mobile homes.

(b) Access roads shall intersect public roads at right angles and at compatible grades and shall meet the Town Road Standards.

(c) Entrances shall be located directly opposite or at least two hundred (200) feet from the nearest intersection of public roads, if any, and at least one hundred fifty (150) feet from any other entrances to the park, if any.

(d) Entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles.

(e) Entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road.

2. Internal Roads.

(a) Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without mobile homes attached.

(b) All sites shall face on and be serviced by internal roads.

(c) All internal roads shall be provided with a durable blacktop surface and shall be designed, graded and leveled so as to permit the safe passage of emergency and other vehicles at a speed of fifteen (15) miles per hour.

(d) Straight, uniform gridiron road patterns should be avoided.

(e) All dead-end roads shall be provided with a cul-de-sac or T-shaped turnaround at their end sufficient for snow plows and other vehicles.

(f) All internal roads shall have a minimum thirty-six (36) foot right-of-way, sixteen (16) feet of which must be of a durable blacktop surface.

3. Recreational Areas and Open Spaces.

Easily accessible and usable open spaces shall be provided in all parks. Such open space shall have a total area equal to at least fifteen percent (15%) of the gross land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.

4. Walkways.

A four (4) foot wide hard surfaced pedestrian walkway shall be provided along and at least five (5) feet from each access road between the entrance to the public highway and either the first unit or such location within the park as may be required by the Zoning Board of Appeals to assure pedestrian safety.

5. Water Supply and Sewage Disposal.

Systems shall be designed and constructed in compliance with all applicable state and county laws and regulations.

6. Drainage.

Adequate drainage facilities shall be provided to prevent standing water or ponding. Drainage shall not create a problem on surrounding properties. The Town Superintendent of Highways shall review proposed drainage facilities, and the approved site plan shall conform to his/her recommendations.

7. Fuel Oil.

(a) All fuel oil tanks shall be placed at the rear of mobile homes and not located less than five (5) feet from any exit.

(b) Supports or standards for fuel oil storage tanks shall be of a non-combustible material.

8. Liquefied Gas.

(a) Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

(b) Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of mobile homes.

(c) All liquid propane gas piping shall be well supported and protected against mechanical injury.

(d) Storage tanks shall not be less than one hundred (100) pounds and must be located at the rear of mobile homes and no closer than five (5) feet from any exit.

(e) Supports or standards for gas storage tanks shall be of a non-combustible material.

9. Park Office.

The owner or manager of a park shall maintain an office in the immediate vicinity of the park.

10. Storage Facilities.

Each mobile home park shall provide one hundred twenty-five (125) feet of secure storage space for each mobile home. Such facilities shall be located either on each site or be a permanent structure within the park which is easily accessible to the park residents at all times.

11. Service Buildings.

Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems. All service buildings and the grounds of the park shall be well lighted.

12. Screening.

The entire park shall be screened from the view of adjacent properties and roadways by the planting of shrubbery. Such shrubbery shall be of a species suitable to the Zoning Board of Appeals and shall mature to at least an eight (8) foot height.

C. Park Operations

1. The park operator shall operate the park in compliance with the standards set forth in this law and shall provide adequate supervision to maintain the park, its common grounds, roads, facilities and equipment in good repair and in a clean and sanitary condition.

2. The park operator shall place or supervise the placement of each mobile home on its mobile home pad which includes ensuring its stability by securing all tie-downs and installing all utility connections.

3. The park operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the park.

4. The park occupant shall be responsible for the maintenance of his/her mobile home and any appurtenances thereto, and shall keep all yard space on his/her site in a neat and sanitary condition.

5. A list of operator and occupant responsibilities shall be posted in the park office or made available upon request.

6. Recreational vehicles shall not be used for residential purposes, whether permanently or temporarily, in any park.

7. No open fires shall be permitted any place within the park with the exception of outdoor grills used for the preparation of food.

8. All receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times. It shall be the responsibility of the park owner to ensure that garbage and rubbish is collected and properly disposed of outside of the park. All areas of the park shall be maintained free from organic and inorganic material that might become a health, accident, or fire hazard.

Section 670 Senior Accessory Housing Regulations.

1. The unit shall contain less square footage than the residential dwelling to which it is an accessory, and must meet fire and building code requirements, including Chapter B of the New York State Uniform Fire Protection and Building Code, and all applicable laws, ordinances, and local laws of the Town of Beekmantown.

2. Occupancy of the Unit is limited to two (2) adults, and at least one (1) resident occupant must be related to a resident owner of record of the property on which the Unit is located.

3. The applicant must maintain acceptable access to the Unit for emergency vehicles and establish one parking space (9' x 20') for the Unit.

4. No permanent accessories or structures will be installed on the property.

5. The property upon which the Unit is located may not be subdivided while subject to the conditional use approval.

6. The conditional use shall be for a two (2) year period and shall be granted to the resident owner of record of the property where the Unit is located. The conditional use may be extended annually, without fee, upon recertification of eligibility from a physician or public health nurse.

7. The conditional use shall terminate thirty (30) days after the death or permanent change of residence of the original occupants of the Unit. In addition, the conditional use is automatically terminated upon failure to correct a violation within fifteen (15) days after notification of violation by Code Enforcement Officer. Within thirty (30) days after the conditional use is terminated, the Unit shall be removed from the site and the site restored to pre-conditional use condition.

Section 680 Adult Use Provisions.

An Adult Use and Entertainment Establishment shall be allowed in the allowed only zoning district set forth in Section 4 hereof, and, within such a district, shall not be allowed:

a) within five hundred (500) feet of the boundary of any residential zoning district in the Town;

b) within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town;

c) within five hundred (500) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park or playground, within the Town;

d) on the same parcel as another Adult Use and Entertainment Establishment;
or

e) within one thousand (1000) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such other establishment is located in the Town.

The above distances of separation shall be measured from the nearest exterior wall of the portion of the structure containing the Adult Use and Entertainment Establishment.

All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open arc, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity”.

ARTICLE 7

CONDITIONAL USE REVIEW

Section 710 Authority

The Zoning Board of Appeals of the Town of Beekmantown is hereby authorized to review and approve, approve with modifications, or disapprove conditional uses within the Town as designated in accordance with the standards and procedures set forth in this law.

Section 720 Application for Conditional Use Approval

A. An application for conditional use approval shall be filed with the Zoning Board of Appeals, together with the appropriate fee as determined by the fee schedule adopted by the Town Board Resolution.

B. The application shall include maps which show:

1. Existing features of the site, to include land contours, location of watercourses, wetlands, and floodplains, and vegetated areas.

2. The location of the site with respect to nearby roads, properties, and easements within 500 feet of the site, together with the names of property owners; and land uses and buildings on neighboring properties.

3. A sketch of the proposal drawn at a scale no smaller than one inch equal to one hundred feet (1" = 100').

4. Part 1 of a Short Environmental Impact Assessment Form, or Part 1 of a Full Environmental Impact Assessment Form, as applicable.

Section 730 Sketch Plan Conference

A sketch plan conference between the Zoning Board of Appeals and the applicant shall be held within forty-five (45) days of the receipt of an application. At the sketch plan conference, the Zoning Board of Appeals shall review the proposal and take one of the following actions:

1. Determine that the project is limited in scope and in potential impact, and that full review under this section is not necessary. In such event, the Zoning Board of Appeals may approve, approve with modifications, or disapprove the application, or request that additional information be provided before rendering its decision. Certain proposals shall be forwarded to the Clinton County Planning Board for their review prior to taking action (See Section 1370).

The Zoning Board of Appeals' action shall be in the form of a written statement to the application stating its decision, and in the case of disapproval, stating the grounds for said disapproval.

2. Determine that the project shall require full review under this section. In such event, the Zoning Board of Appeals shall inform the applicant what further information is necessary to constitute a complete application for Conditional Use Approval.

Section 740 Materials to be Submitted for Full Review

At the discretion of the Zoning Board of Appeals, any or all of the following materials may be required for a full review of a conditional use. Where appropriate, maps and drawings shall be certified by a licensed engineer, architect, landscape architect, and/or land surveyor:

1. Existing Features Map, drawn at a scale of one hundred (100) feet to the inch or larger, showing existing topography at a contour interval of not more than five (5) feet, and the location of pertinent natural features that may influence the design of the proposed use such as water courses, swamps, wetlands, rock outcrops, wooded areas, and areas subject to flooding.

2. Site Development Plan Map, drawn at a scale of one hundred (100) feet to one (1) inch or larger.

3. Elevations and/or sections, drawn in sufficient detail to delineate clearly the bulk and height of all buildings and other permanent structures included in the proposal.

4. Preliminary engineering plans, including road improvements, drainage system, public or private utility systems, and other such supporting data as may be necessary.

5. Name and address of applicant and owner, if different, and of the person responsible for preparation of such drawings.

6. Date, north point, written and graphic scale.

7. Boundaries of the area plotted to scale, including distances, bearings, and areas.

8. Location and ownership of all adjacent lands as shown on the latest tax records.

9. Location, name, and existing width of adjacent roads.

10. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property.

11. Complete outline of existing or proposed deed restrictions or covenants applying to the property.

12. Existing hydrologic features together with grading and drainage plan showing existing and proposed contours at five foot intervals.

13. Location, proposed use, and height and dimensions of all buildings.

14. Location, design, and construction materials of all parking and truck loading areas with access and egress drives thereto.

15. Provision for pedestrian access, including public and private sidewalks.

16. Location of outdoor storage, if any.

17. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.

18. Description of the method of sewage disposal and the location, design, and construction materials of such facilities.

19. Description of the method of securing public water and location, design, and construction materials of such facilities.
20. Location of fire lanes and other emergency zones including the location of fire hydrants.
21. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy.
22. Location, size, design, and construction materials of all proposed signs.
23. Location and proposed development of all buffer areas including indication of existing and proposed vegetative cover.
24. Location and design of outdoor lighting facilities.
25. Designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, offices, and other similar commercial or industrial activities.
26. Number and distribution by type of all proposed dwelling units.
27. General landscaping plan and planting schedule.
28. Erosion control plan.
29. A completed Part 1 of a Short Environmental Assessment Form, Part 1 of a Full Environmental Assessment Form, or Environmental Impact Statement as required pursuant to the New York State Environmental Quality Review Act (SEQR).
30. Other elemental integral to the proposed development as considered necessary by the Zoning Board of Appeals including identification of any federal, state, or county permit required for the project's execution.

Section 750 Procedures for Full Review

A. Public Hearing. Within thirty (30) days of the receipt of a complete application, the Zoning Board of Appeals shall conduct a public hearing on the conditional use. The hearing shall be advertised at least five (5) days in advance in the Town's official newspaper.

B. County Review. Where required by law, the application shall be forwarded to the County Planning Board for their review (See Section 1370 herein).

C. Decision. Within forty-five (45) days of the receipt of a complete application, and after the public hearing, the Zoning Board of Appeals shall act on the conditional use. The Zoning Board of Appeals' action shall be in the form of a written statement to the applicant

stating whether or not the application has been approved, disapproved, approved with modifications, or approved subject to conditions. If the conditional use is disapproved, the statement will contain the reasons for such findings.

D. Conditions. In situations where it is impossible to grant final approval to an application due to the inability to obtain endorsements, certifications, or other required approvals before Zoning Board of Appeal review, the Board may conditionally approve the application. Such conditions shall be in writing.

E. Certification. Upon payment by the application of all fees and reimbursable costs due to the Town, and the satisfaction of all conditions, the Zoning Board of Appeals shall endorse its approval on a copy of the final application. The decision of the Zoning Board of Appeals shall be filed in the Office of the Town Clerk, and a copy mailed to the applicant.

ARTICLE 8

ESTABLISHING MOBILE HOME SUBDIVISION (MHS) DISTRICTS

Section 800 General

Mobile Home Subdivision Districts (MHS) shall be created by amending the zoning map following the procedures prescribed within this article and the prescribed regulations for amending this Zoning Law found in Section 1360 herein.

The intent of this procedure is to consider each proposed mobile home subdivision on a case-by-case basis, and if approved, to create an MHS district for the specific land parcel to be so subdivided.

The provisions of this Article shall only apply to single wide mobile homes. Double wide mobile homes are specifically excluded from this Article.

Section 810 Procedure

A. Application for establishment of an MHS zone shall be made to the Planning Board together with the appropriate filing fee.

The application shall contain all requirements necessary for the review of a land subdivision pursuant to the "Town of Beekmantown Land Subdivision Ordinance" or its replacement or update. The Planning Board shall review the application for sufficiency and completeness.

B. Within forty-five (45) days of the acceptance of a complete application by the Planning Board, the Planning Board shall review the proposal, and submit a written report of its recommendations to the Town Board. The report should include reasons for approving or

disapproving the proposed map amendment, and any suggested conditions or modifications which should accompany an approval.

C. Within forty-five (45) days of the Planning Board report, the Town Board shall hold a public hearing on the proposal to re-zone.

D. Within forty-five (45) days of the public hearing, the Town Board shall take action to approve, approve with conditions, or disapprove the re-zoning proposal.

E. If the Town Board take action to approve the proposed re-zoning, and after the appropriate MHS zone has been placed on the Zoning map and filed in the Town Clerk's Office, the applicant must within six (6) months submit an application for subdivision plat review to the Planning Board.

F. The Planning Board shall approve, approve with modifications, or disapprove the subdivision plat in accordance with the "Town of Beekmantown Land Subdivision Ordinance" or its replacement or update.

G. In order to exceed any of the above time frames for adoption of an MHS zone, there must be agreement by both the applicant and the Town Board.

ARTICLE 9

CLUSTER DEVELOPMENT

Section 900 Purpose.

Purposes. The purposes of cluster development are to encourage flexibility of design within residential and mixed land use developments in order to:

- A. Retain open space and views while allowing development to take place at densities permitted by Article 5 of this law.
- B. Preserve the natural, scenic, and environmentally sensitive features of development sites.
- C. Provide for the provision of townhouse units, other types of attached or semi-attached residential structures, and single family homes on small lots, designed as a unit as a residential housing development.
- D. Provide for mixed use development designed as a unit.
- E. Provide for more efficient and economical provision of streets, water supply, sewage disposal, utilities, and other development infrastructure.

Section 910 Authorization.

As provided by Section 281 of the Town Law, the Planning Board of the Town of Beekmantown is hereby authorized, simultaneous with their review of subdivision plats, to modify certain provisions of this zoning law according to the standards set forth in this article.

Section 920 Standards.

Minimum lot size; minimum lot width; minimum front, side and rear yards; minimum setbacks; minimum green space buffer; and maximum coverage requirements as specified in this zoning law may be reduced provided that:

- A. One of the following applies: (1) two or more dwellings or principal structures are proposed to be placed on a single lot, or (2) a subdivision of two or more lots in single ownership or in ownership by a group or two or more owners acting in concert is involved.
- B. For residential uses, the total number of dwellings permitted within the cluster development shall not exceed the number which would otherwise be permitted by application of the minimum lot size requirements for single family dwellings to the buildable portion of the site, excluding roads. In calculating the number of dwelling units allowed, the following rules shall apply.
 - 1. The net buildable site area shall be calculated by subtracting from the area of the site as determined from actual on-site survey the following: (a) any unbuildable lands such as but not limited to wetlands, slopes exceeding fifteen (15) percent, rock outcrops, flood hazard areas, and inaccessible portions of the site, and (b) any separate parcels which are not contiguous to the remainder of the development.
 - 2. The maximum number of dwelling units allowed shall be calculated by dividing the net buildable site area by the minimum lot size permitted for single family dwellings within the zone.
 - 3. Fractions of dwelling units shall be rounded to the nearest whole number.
- C. The provisions of this section shall not be deemed to permit a change in the permissible use of such lands as specified in the zoning district regulations.
- D. Open areas within the site shall be chosen so as to facilitate one or more of the following objectives:
 - 1. To preserve prime farmland.
 - 2. To preserve views.

3. To protect environmentally sensitive features such as providing buffers for streams and wetlands.
4. To locate septic leach fields upon suitable soils.
5. To provide recreation areas.
6. To serve as a buffer between neighboring properties and roads.
7. To preserve wooded areas and hedgerows.

E. Provision, whether by deed restriction, covenant, or other legal arrangement, shall be made to ensure that the undeveloped portion of the parcel remain as permanent open space or recreation area, and to provide for its continued maintenance and/or operation.

1. Designated open space areas may be owned privately by individuals. Adequate provision shall be made by covenant, deed restriction or other legal means to prevent future development upon such areas.
2. Open space or recreation areas may be owned in common by individuals within the subdivision. In such case, covenants or other legal arrangements shall specify ownership of the cluster open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board, and any other specifications deemed necessary by the Planning Board.
3. Open space or recreation areas may be deeded to the town upon approval by the Town Board.

F. The proposed development shall not have a significant adverse impact upon adjacent property, or upon the character of the neighborhood.

Section 930 Procedures.

- A. Residential cluster developments shall be approved by the Planning Board simultaneous with their approval of the subdivision plat pursuant to the "Town of Beekmantown Land Subdivision Ordinance" or its replacement or update. A public hearing shall be held prior to rendering a decision.
- B. If the proposed cluster development contains any use, such as a multi-family dwelling or commercial use, which requires conditional use approval, then approval by the Zoning Board of Appeals in accordance with Article 6 and Article 12 of this law shall also be required.
- C. In their approval of site plans for cluster development the Town Planning Board shall maintain accurate records and maps showing the location of permanent open spaces. No further development upon the designated open spaces shall be permitted.

ARTICLE 10

FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS

Section 1000 Required Financial Security.

In order that the Town has the assurance that the construction and installation of such public improvements as drainage, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, and road surfacing will be constructed, the applicant may be required to enter into one of the following agreements with the town.

1. Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Town.
2. Deposit a certified check in sufficient amount equal to the cost of construction of such improvements and based upon the above estimate.
3. Construct all required improvements prior to final approval.

Section 1010 Conditions

Before a conditional use is approved, the applicant shall have executed a contract with the Town, and a performance bond or certified check shall have been deposited covering the estimated cost of the required improvements.

The performance bond or certified check shall be to the Town and shall provide that the applicant, his heirs, successors and assigns, their agent or servants, will comply with all applicable terms, conditions, provisions, and requirements of this law, and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the conditional use approval.

Any such bond shall require the approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety.

Section 1020 Extension of Time

The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Article shall be completed within one (1) year from the date of the approval of the conditional use. Road improvements shall be completed within two (2) years from the date of approval of the conditional use. The applicant may request an extension of time, provided he can show reasonable cause for inability to construct and install

said improvements within the required time. Such extension of time shall not exceed six (6) months, at the end of which time, the Town may use as much of the bond or check deposit as necessary to construct the improvements. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

Section 1030 Schedule of Improvements

When a certified check or performance bond are made pursuant to the preceding sections, the Town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of the construction or sequence with the cost opposite each phase of the construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten (10) percent of the check deposit or performance bond shall not be repaid to the applicant until one (1) year following the completion, inspection, and acceptance by the Town of all construction and installation covered by the check deposit or performance bond as outlined in the contract.

Section 1040 Inspections

Periodic inspections during the installation of improvements shall be made by the Zoning Enforcement Officer to insure conformity with the conditional use approval as specified in the contract and this law. The applicant shall notify the Zoning Enforcement Officer when each phase of improvements is ready for inspection. At least five (5) days prior to commencing construction of required improvements, the applicant shall pay the inspection fee required by the Town Board. Upon acceptable completion of installation and improvement, a letter shall be issued to the applicant or his/her representative and such letter shall be sufficient evidence for the release by the Town of a portion of the performance bond or certified deposit as designated in the contract to cover cost of such completed work.

Section 1050 Acceptance of Roads and Facilities

When the Zoning Enforcement Officer following final inspection of the improvements, certifies to the Planning Board that all installation and improvements have been completed in accordance with the contract, the Town Board may, by Resolution, proceed to accept the facilities for which bond has been posted or check deposited.

ARTICLE 11

NON-CONFORMING USES, LOTS AND STRUCTURES

Section 1100 Applicability

This section shall apply to those land uses, structures, and lots of record which legally existed at the time of enactment or amendment of this law, but which are not in compliance with the regulations or standards herein.

Section 1110 Intent

The intents of this Section are to (a) allow non-conforming uses and structures to continue, but to discourage their expansions; and (b) to provide for limited development upon non-conforming lots.

Section 1120 Non-Conforming Uses

Any use of land or structures which by the enactment of this law is made non-conforming may be continued on the premises provided that:

A. No non-conforming use shall be expanded, extending, or otherwise increased so as to occupy a greater area of land than was committed to the non-conforming use at the time of such enactment;

B. No non-conforming use shall be extended so as to displace a conforming use;

C. Any non-conforming use of land or structures which has, for any reason, been discontinued for a period of two (2) years, shall not be re-established and only conforming uses shall be thereafter permitted;

D. A non-conforming use of land or structures once changed to a conforming use shall not be permitted to change back to a non-conforming use.

Section 1130 Non-conforming Structures.

A. Any pre-existing structure which by the enactment of this law is made non-conforming may be used for any compatible use listed for the zone in which such structure is located provided that it shall not be enlarged or extended to increase its non-conformance in terms of setback or lot coverage.

B. Nothing under the provisions of this law shall prevent the repair, restoration, or reconstruction of a non-conforming structure damaged by fire or other hazard provided that:

1. Its owner or owners can demonstrate that construction, erection, or location of a conforming structure is physically impractical due to the size, configuration, or condition of the lot; and

2. Such repair, restoration, or reconstruction is undertaken: (a) only on the premises and to the extent previously occupied by the non-conforming structure; and (b) within one (1) year from the date on which the damage or destruction occurred.

Section 1140 Non-conforming Lots of Record

Any lot of record existing prior to the enactment of this law, and having lot size and/or lot width less than the minimum required, may be developed with any compatible use listed for the zone in which such non-conforming lot is located without requiring a variance provided that such lot:

A. Does not adjoin other property held by the same owner where sufficient land could be transferred to eliminate the non-conformity without reducing such other property to non-conforming dimensions.

B. Has sufficient area, width, and depth to undertake development which will: (1) maintain the required minimum front setback; (2) meet or exceed at least two-thirds (2/3) of the required minimum side and rear setbacks; and (3) not exceed the maximum permitted lot coverage.

C. Otherwise satisfies all applicable provisions of this law.

Section 1150 Non-conforming Mobile Home Parks

A mobile home park may be expanded to encompass the entire lot of record upon which it existed at the time this Zoning Law was enacted, provided that the expanded portion is in compliance with the mobile home park standards specified in Section 660 herein.

ARTICLE 12

VARIANCES

Section 1200 Board of Appeals

The Zoning Board of Appeals shall have the authority to review and approve requests for variances.

Section 1210 Application

A property owner(s) or his/her agent(s) may initiate a request for a variance by filing an application with the Zoning Board of Appeals, using forms supplied by the Board. The applicant

shall include a legal description of the property, a map showing the property and all properties within five hundred (500) feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed variance, and other necessary drawings or information as determined by the Board of Appeals.

Section 1220 Variance Policy

The granting of variances shall be principally for those seeking an area variance. Use variances allow activities prohibited in the Zoning District; thus such requests should be carefully reviewed.

Section 1230 Requirements for Area Variances

A. Area variances may be granted where the dimensional requirements of this law, such as minimum lot sizes, minimum lot width, required front, side and rear yards, maximum lot coverage by buildings, minimum road frontage, maximum height of buildings, and the size or placement of signs, cannot be reasonably met.

B. When an applicant requests an Area Variance, the Board of Appeals shall balance two elements: the benefit to the applicant from the variance and the detriment to the health, safety, and welfare of the community or neighborhood that would occur if the variance were to be granted. The provisions set forth five factors for the board to consider in balancing these interests:

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 grant of the variance.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

3. Whether the requested 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 difficult 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.

An Area Variance shall not include a change in use or density.

Section 1240 Requirements for Use Variances

A. A use variance may be granted to allow a land use to be established which would otherwise not be permitted by this law.

B. A use variance may be granted by the Board of Appeals only after the finding that “unnecessary hardship” exists. The term “unnecessary hardship” shall be interpreted to mean a difficulty which related primarily to the land or characteristics of the property, and not to the personal or financial circumstances of the applicant.

C. The Board shall make the following findings prior to granting a Use Variance for relief from the strict application of the zoning law. The applicant must demonstrate to the Board of Appeals that the zoning law caused unnecessary hardship which is defined to require a four part showing that:

1. Under the applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property.

2. The hardship is unique and does not apply to a substantial portion of the district or neighborhood.

3. The variance will not alter the essential character or quality of the neighborhood.

4. The alleged hardship is not self-created.

All four tests must be met for a Use Variance to be granted and must meet the intent of the Town Master Plan.

D. Imposition of Conditions: The Board of Appeals shall in the granting of both Use Variances and Area Use 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 for the period of time such variance shall be in effect.

Section 1250 Procedures for Granting a Variance

A. Upon receipt of an application for a variance, the Zoning Board of Appeals (ZBA) shall determine whether the application is complete. An application shall not be considered until all information which may be required pursuant to the State Environmental Quality Review Act (SEQR) is provided.

B. Upon receipt of a complete application, the ZBA shall:

1. Schedule a public hearing within 60 days and provide notice of such hearing as required by law.

2. Refer the application to the Clinton County Planning Board if required (See Section 1370).

- C. The Board of Appeals shall conduct a public hearing on the matter.
- D. Within 62 days of the public hearing, the ZBA shall render its decision.

ARTICLE 13

ADMINISTRATION AND ENFORCEMENT

Section 1300 Zoning Permits

- A. No building or structure shall be erected, altered, moved, or use instituted, until a zoning permit therefor has been issued. The exterior structural area of a building or structure shall not be enlarged until a zoning permit has been issued.
- B. A zoning permit shall not be required for the activities specified in Section 110, part B of this law.
- C. Parking lots for places of public assembly and commercial or business uses shall require a zoning permit for placement.
- D. When establishing measurements to meet required setbacks, the measurements shall be taken from the road right-of-way, lot line, or nearest low water elevation to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, and attached garages.
- E. A zoning permit issued under this law shall expire one (1) year from the date of issue if construction is not substantially started.
- F. Any use that has been discontinued for a period of twelve (12) months or longer shall be considered abandoned and may not be reinstated without applying for a new zoning permit.
- G. Applications for zoning permits shall be submitted to the Zoning Enforcement Officer or Town Clerk and shall include three (3) copies of a layout or plot plan showing the actual dimension of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the distance from the building line to all lot lines, road lines, waterfront property lines, streams, and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the Town Clerk.
- H. Permit fees shall be determined by Town Board Resolution.

I. Temporary permits may be issued by the Zoning Enforcement Officer, upon approval by the Board of Appeals, for a period not exceeding one (1) year. Such temporary permits are conditioned upon agreement by the owner or operator to remove any non-conforming structures or equipment upon expiration of the temporary permit or to bring the use into compliance by a specific time. Such permits may be renewed.

Section 1310 Certificate of Occupancy

A. No land shall be occupied or used and no buildings or structure hereafter used, or changes made in the use until a certificate of occupancy shall have been issued by the Zoning Enforcement Officer stating that the building, structure, or proposed use thereof complies with the provisions of this law.

B. The Zoning Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property affected.

C. Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building or lot may be issued by the Zoning Enforcement Officer. Such temporary certificate may be renewed upon request for an additional thirty (30) days.

Section 1320 Zoning Enforcement Officer (ZEO)

A. This law shall be enforced by the Zoning Enforcement Officer, who shall be appointed by the Town Board.

B. The duties of the Zoning Enforcement Officer shall be to:

1. Approve and/or deny zoning permits.
2. Scale and interpret zone boundaries on zoning maps.
3. Approve and/or deny certificates of occupancy.
4. Refer appropriate matters to the Zoning Board of Appeals, Planning Board, or Town Board.
5. Revoke zoning permits where there is false, misleading or insufficient information. Revoke zoning permits and/or certificates of occupancy where the applicant has varied from the terms of the application.
6. Investigate violations, issue stop work orders, and refer violations to the Town Board.
7. Report at regular Town Board meetings the number of zoning permits and certificates of occupancy issued and fees collected.

Section 1330 Zoning Board of Appeals

A. Creation. A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) regular members. The Town Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Town Law, and shall appoint a Chairman.. The Board of Appeals shall select an Executive Secretary. The Zoning Board of Appeals shall establish “Rules and Procedures” to conduct the board’s business and may establish a job description for the position of Executive Secretary and office procedures for Zoning Department Office.

B. Powers and Duties. The Board of Appeals shall have all the powers and duties prescribed by Section 267 of the Town Law and by the law, which are more particularly specified as follows:

1. Interpretation: Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.

2. Variances: To review and approve or disapprove applications for variances in accordance with Article 11 of this law.

3. Conditional Uses: To review and approve, approve with modifications, or disapprove conditional uses.

C. Procedures. Every decision of the Board of Appeals shall contain a full description of the reasons for granting or denying a permit which shall be set forth in the minutes of the Board of Appeals meeting at which the action was taken. A tally of each member’s vote shall be recorded. All meetings and hearings of the Board shall be public.

Section 1340 Planning Board

A. Powers and duties: The Planning Board shall have the following powers and duties with respect to the law:

1. Approval of cluster development proposals in accordance with Article 9 of this law.

2. Submittal of an advisory opinion to the Town Board for proposed amendments to this law.

B. Procedure: Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case.

Section 1345 Reimbursable Costs

Costs incurred by the Planning Board and/or the Zoning Board of Appeals for consultation fees, staff review costs, engineering fees and/or other expenses in connection with the review of a project shall be charged to the applicant together with the other reasonable costs agreed to by the applicant and the respective Board.

Section 1350 Violations and Penalties

A. Whenever a violation of this law occurs, the Zoning Enforcement Officer, Town, or any person may file a complaint in regard thereto. All such complaints must be writing and shall be filed with the Zoning Enforcement Officer who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Zoning Enforcement Officer shall issue a stop work order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time, the Town shall take action to compel compliance.

B. Pursuant to Municipal Home Rule Law Section 10 and Town Law Section 268, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Each week an offense is continued shall be deemed a separate violation of this law.

C. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

Section 1360 Amendments

A. The Town Board may amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. All proposed changes shall be referred to the Clinton County Planning Board for their recommendation and for a report thereon prior to final action. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

(1) By publishing a notice at least ten (10) days prior to the time of such hearing in the Town's official newspaper.

(2) By referring the proposed amendments to the Clerk of the County Legislature and the clerks of neighboring towns and villages, and to any housing authority or state park commission whose property might be affected, at least ten (10) days prior to the public hearing.

B. In case of a protest against such change signed by the owners of twenty percent (20%) or more of the area of land included in such proposed change or of an adverse recommendation by

the County Planning Board, the vote of the Town Board must have a majority plus one in favor to adopt the amendments.

Section 1370 Referral to the County Planning Board

A. State law requires that certain variance, conditional use approval, or zoning amendment actions be referred to the Clinton County Planning Board for their review prior to taking final action on the matter. Such actions are those which affect real property within 500 feet of any of the following:

1. a State or County highway;
2. State or County land where a public building or institution is located;
3. a State or County owned park or recreation area;
4. the Town boundary.

B. If the County Planning Board does not respond within thirty (30) days from the time it received the application, final action may be taken on the matter without such report.

C. In the event the County Planning Board disapproves the proposal, or approves it subject to modifications, then the local board may override the county opinion only by a vote of a majority plus one of its members (A majority plus one on a five person board equals four (4) members).

D. The local board shall send a copy of its final decision, and reasons therefor, to the County Planning Board within seven (7) days after the local decision is reached.

Section 1380 Severability

Should any section or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 1390 Effective Date

The provisions of this law shall take effect upon filing with the Secretary of State.