Appendix 24-1

Town of Lyme Zoning Ordinance and Town of Brownville Zoning Law

01/3/17 VERSION

TOWN OF LYME

Fishermans Paradise

12175 NYS RT. 12E • PO BOX 66
CHAUMONT, NY 13622

ZONING ORDINANCE

LOCAL LAW NO. 1 FOR THE YEAR 1989

THAT A LOCAL LAW FOR THE TOWN OF LYME REPEALING ALL PRIOR ZONING LAWS AND ORDINANCES AND PROVIDING FOR A REVISED COMPREHENSIVE ZONING LAW FOR THE TOWN OF LYME, NEW YORK. ENACTED, BY THE TOWN BOARD OF THE TOWN OF LYME, ON JANUARY 16, 1989.

AMENDMENTS:

1. LL #3 of 1989 (Corrections)
2. LL #3 of 1993 (Section 420)
3. LL #1 of 1997 (Section 425)
4. LL #1 of 2002 (Section 535)
5. LL #2, #3 of 2011 & LL #2 of 2012
   (Section 750 & 930 & consolidation of laws Dated 2-08-2012)
6. LL #1, #3 of 2012 (Section 770 & 775)
7. LL #3 of 2017

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ARTICLE I - PURPOSE. TITLE. AND APPLICATION OF REGULATIONS

Section 105: Purpose and Authorization

For the purpose of promoting the public health, safety and welfare, and the most desirable use for which the land in each district may be adapted, of conserving the value of buildings and of enhancing the value of land throughout the Town, pursuant to the authority conferred by Article 16 of the Town Law and Section 10 of Municipal Home Rule Law, and in accordance with a general plan, with reasonable consideration, among other things, of the character of each district and its peculiar suitability for the particular uses, the Town Board of the Town of Lyme in the County of Jefferson, State of New York, hereby ordains and enacts this local law. Pursuant to Municipal Home Rule Law, where this law is inconsistent with the Town Law, General Municipal Law, or any other State Law, this local law shall control and supersede those inconsistent laws.

Section 110: Title

This Law shall be known and may be cited as "The Town of Lyme Zoning Law".

Section 115: Application of Regulations

1. No building, structure or land shall be used or occupied and no building, structure or part thereof shall be erected, moved or altered (to change the exterior physical dimensions) unless in conformity with the regulations for the district in which it is located, as specified by this local law.
2. Within each district, the regulations established by this law shall be minimum regulations and shall be applied uniformly to each class or kind of structure or land.
3. Any use which is not listed as a permitted or special permit use in the appropriate district pursuant to this Law shall be deemed to be prohibited.

Section 120: Prior Existing Laws and Ordinances

All prior Zoning Laws and Ordinances, and all amendments thereto are hereby repealed.

ARTICLE II - DEFINITIONS

Section 205: General Construction of Words

When used in this Law, words in the present include the future and words of one gender include all genders. The singular number includes the plural and the plural includes the singular.

Except where specifically defined in Section 210 below, all words or terms used in this law shall carry their customary meaning. In addition, the following provisions hold true:

1. Words used in the present tense include the future tense;

2. The word "person" includes a firm, partnership, corporation, company, association, organization or trust as well as an individual;

3. The word "lot" includes the words tract of land, plot or parcel;

4. The words "used" or "occupied" as applied to any buildings, structure, or land include the words intended, arranged, or designed to be used or occupied;

5. The word "shall" is intended to be mandatory.

Section 210: Definitions

When used in this Law, unless otherwise stated, the following words and terms shall have the meanings indicated:

ABOVE GROUND LEVEL (AGL): A measurement of height from the lowest natural grade of a site to the highest point of a structure directly above. [Amended by LL #3 of 2017]

ACCESSORY BUILDING/STRUCTURE: A building or structure, the use of which is customarily incidental to that of a principal building and which is located on the same lot as that occupied by the main building. Examples of an accessory building are swimming pool, patio, garage, or, storage shed. [Amended by LL #3 of 2017]

ADMINISTRATIVE EXPENSES: All actual expenses and liabilities incurred by the Town or any of its officers or agencies in processing and reviewing applications or appeals hereunder and insuring compliance with this law and all other applicable laws or regulations, including but not limited to, engineering fees and disbursements, legal fees and disbursements, publication expenses, actual charges of the Zoning Enforcement Officer, administrative expenses and any other actual expenditure incurred or accrued by the Town.

ADULT ENTERTAINMENT USE: Any person, establishment, business, or use which has 10% or more of its Net Floor Area set aside for or 10% or more of its stock-in-trade devoted to the display, viewing or dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or related to Sexual Activity or Specified Anatomical Areas, including but not limited to: bookstores, motion picture theaters, massage establishments employing persons giving massages not licensed to do

so by the State of New York , and any establishment that allows or promotes dancers, performers, employees or invitees, whether male or female, to display specified Anatomical Areas. [Amended by LL #3 of 2017]

ADVERSE IMPACT: A condition that creates, imposes, aggravates or leads to inadequate, impractical, unsafe or unhealthy conditions on a site proposed for development or on off-tract property or facilities. Among other things it could relate to circulation, drainage, erosion, potable water, sewage collection and treatment. It may also relate to noise, traffic, visual impacts, lighting and glare, aesthetics, quality of life and impact on the environment. [Amended by LL #3 of 2017]

AGRICULTURAL STRUCTURE: A structure that is used in association with agricultural production including shelter for livestock, crop storage, manure storage, machinery, supplies and implements pursuant to NYS Ag and Markets Law Section AML 301 as of 2016. [Amended by LL #3 of 2017]

AGRICULTURAL**:** Refers to agricultural production, farming, farm related activities, or farm structures**.** [Amended by LL #3 of 2017]

AIRSTRIP: An area used by aircraft for take-offs and landings.

ALTER: To externally change or rearrange any structural part of the existing facilities of a building or structure, or to enlarge the building or structure whether by extending any side or increasing the height thereof, or to move the same from one location or position to another.

AMBIENT SOUND: All sound present in a given environment, generally a composite of sounds from many sources near and far. It includes intermittent noise events, such as nearby aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along nearby roads. Ambient sounds also includes insect and other sounds from birds and animals or people. Audible transient events are part of the ambient sound environment but are not considered part of the long-term background sound.

ANIMAL HOSPITAL: Any facility used commercially for the treatment of injured or ill animals.

ANTENNA: A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not limited to, radio navigation, radio, television, Personal Communication Systems, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

AUTOMOBILE SERVICE STATION: Any lot or building or portion thereof used or occupied for the sale or supply of gasoline or motor vehicle fluids, oils, or lubricants, or for the polishing, greasing, washing or servicing of motor vehicles.

BACKGROUND SOUND (L90): Sounds heard during lulls in the ambient sound environment present at least 90% of the time, i.e., when transient sounds from flora, fauna, and winds are not present. Background sound levels vary with time or day. Background sound levels of interest for this law are those during quieter periods which typically occur early evening and night.

BAR: establishment, or part thereof, used primarily for the sale or dispensing of alcoholic beverages by the drink. This definition does not include craft brewery**.** [Amended by LL #3 of 2017]

BED AND BREAKFAST: A private dwelling, structure, or part thereof in which lodging is provided to ten or less transient occupants in five or less bedrooms by the live-in owner or operator, which may or may not provide in-house food service to its customers. [Amended by LL #3 of 2017]

BEEKEEPING/APIARY: The raising of bees to produce apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, and queens. Definition from NYS Ag and Markets Law (AML §301). [Amended by LL #3 of 2017]

BIOMASS ENERGY SYSTEM (HYDRONIC SYSTEMS ONLY: Any device or combination of devices or components which burn wood for the source of heat to supply energy to liquid heat exchange media such as water that is circulated to the heating load and returned to the heat source through pipes.

BOATHOUSE: A covered structure solely used to store motorized or un-motorized marine craft and located wholly or partly in the waterway abutting waterfront property. [Amended by LL #3 of 2017]

BOAT STORAGE FACILITY: A commercial facility for storing boats out of water. This is principally a land operation, where boats are stored until such time as they are transferred to the water for use. [Amended by LL #3 of 2017]

BUFFER STRIP: Open spaces, landscaped areas, fences, berms or any combination thereof used to physically separate or screen one use or property from another so as to shield or block noise, views, lights or other nuisances. Criteria considered for properly placed buffers are the width of the buffer and the type of material to be planted or installed relative to its surroundings and adjoining parcels so as to avoid an adverse impact. [Amended by LL #3 of 2017]

BUILDING: Any structure having a roof supported by columns or by walls which is used or occupied for the shelter, housing or enclosure of animals, persons or property. The term, unless differentiated, includes both principal and accessory buildings.

BUILDING AREA: The total area taken on a horizontal plane at main grade level of the principal building and all accessory buildings, excluding chimneys, uncovered porches, patios, terraces, steps and open areaways.

BUILDING LINE: The line that is formed by the face of the building or the attached part of the building nearest the lot line. This includes measurements from porches, patios, terraces, attached garages and other similar protrusions.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: A solar energy system that consists of photovoltaic arrays attached to the building such as the roof or the façade.

CAMOUFLAGED: A wireless communications facility that is disguised, hidden part of an existing or proposed structure, placed within an existing or proposed structure, or completely hidden by surrounding vegetation is considered “camouflaged”. When facilities include a new tower or other tall structure, camouflage will conceal both the tall structure and the accompanying antennas and other equipment through the use of technology, which gives these facilities the appearance of structures, which are compatible with the surrounding area.

CAMPING: An outdoor recreational activity involving the spending of one or more nights in a tent,

primitive structure, a travel trailer or recreational vehicle. (Amend. 4)

CARRIER: A company licensed by the Federal Communications Commission which provides wireless communications services to customers.

CESSATION: The termination period of a ZBA approved (valid) pre-existing condition as set by the specific RV law as related to such condition. (Pursuant to Section 750. Recreational Vehicles)

CHILD DAY CARE FACILITY: A State licensed facility which provides non-medical care, protection, and supervision to more than 5 children under 18 years of age, on a less than 24-hour basis. A commercial or non-profit child day care facility includes infant centers, preschools, sick-child centers, and school-age day care facilities. These may be operated in conjunction with business, school, or church facilities, or as an independent land use. [Amended by LL #3 of 2017]

CO-LOCATION: The use of a single wireless communication facility, either on the ground or on an existing building or structure, by more than one wireless communications carrier.

COMMERCIAL FUR FARM: Any lot or building or part thereof used or occupied for raising or keeping for compensation or profit of rabbits, foxes, minks, skunks or other fur bearing animals.

COMMERCIAL HOG FARM: A commercial operation having more than five (5) resident pigs three months of age or older.

COMMERCIAL POULTRY FARM: A commercial operation with more than fifty (50) birds in residence at any one time.

COMMERCIAL CAMPGROUND: Any lot or parcel of land, or part of thereof, used or occupied by one or more tents or other similar temporary living quarters, by persons other than the owner of the real estate or his immediate family, for commercial or business purposes. (Amend. 4)

COMMERCIAL RECREATION: Business enterprises primarily devoted to the amusement of the general public. Examples include theaters, bowling alleys, indoor amusement arcade, health club, golf driving range, golf pitch and putt course, par three golf course, recreation court, open space, play-field, swimming pool, bike trails, hiking trails, and similar facilities for outdoor recreation. Incidental food service is also included.

CONTOUR MAP: A map illustrating the ground form, with contour lines that indicate the elevations of the land, in intervals that collectively indicate the slope of the land. [Amended by LL #3 of 2017]

CONVENIENCE STORE: A retail establishment or building of up to 5,000 square feet of floor area selling primarily food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption. This type of store often sells gas for vehicular use to the public. [Amended by LL #3 of 2017]

CRAFT BREWERY: A farm winery, distillery, brewery, or cidery agricultural operation for the growing of grapes, apples, or other crops such as grains and berries, and the preparation, processing, marketing, distribution, and sale of wine, beer, or other alcoholic beverages and ciders, in addition to the uses permitted by the Farm Winery Act of 1976. [Amended by LL #3 of 2017]

CROPS, LIVESTOCK, or LIVESTOCK PRODUCTS**:** including, but not limited to the following: Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans. Fruits, including apples, peaches, grapes, cherries and berries. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs and furs. Maple sap. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump. Aquaculture products, including fish, fish products, water plants and shellfish. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony. Definition from NYS Ag and Markets Law (AML §301). [Amended by LL #3 of 2017]

CUT-OFF OR SHIELDED LIGHT: A lamp or source of illumination with elements such as a shield, reflector or refractor panels that direct and cut off the light at a cutoff angle of less than 90 degrees. [Amended by LL #3 of 2017]

DAY CARE CENTER: A facility duly permitted by the New York State Department of Social Welfare for the care of three (3) or more adult persons away from their homes for more than three (3) but less than twenty-four (24) hours each day with or without compensation. This definition includes “adult day care center”. [Amended by LL #3 of 2017]

DBM: Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

DECIBEL (dB): Unit of sound level based on a reference where 0 dB represents the threshold of hearing at 1000 Hz for a healthy young adult. The suffix, A (i.e., dBA) denotes that the frequencies have been adjusted to represent the relative loudness of sounds in air as perceived by the human ear. Specifically, sounds at low frequencies are reduced because the human ear is less sensitive at low audio frequencies, especially below 1000 Hz. The suffix, C (i.e., dBC) denotes that the frequencies have not been adjusted to reflect the sound frequency response of the human ear.

DIGITAL/LED SIGN: A non-static sign employing actual motion or the illusion of motion by artificial means. Such signs constitute a broad category of which are differentiated from manually changeable or blinking signs as defined and regulated by these regulations. Digital signs include the following types: electronic display screens, message display or message centers. [Amended by LL #3 of 2017]

DIRECTIONAL SIGN: A sign limited to directional messages to assist in navigating to a location or within a project site. [Amended by LL #3 of 2017]

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation*. (Pursuant to Section 750. Recreational Vehicles)*

DWELLING, ONE FAMILY: Detached building designed for or occupied exclusively by, one (1) family.

DWELLING, TWO-FAMILY: Building designed for, or occupied by, two (2) families living independently of

each other.

DWELLING, MULTI-FAMILY: A building designed for, or occupied by, three (3) or more families living independently of each other.

EAF: Environmental Assessment Form used in the implementation of the SEQRA as defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

EQUIPMENT SHELTER: An enclosed structure, cabinet, shed or box at the base of the mount within which are housed the electronic receiving and relay equipment for a wireless communications facility. Associated equipment may include air conditioning and emergency generators. This term does not include offices, long-term storage of vehicles or other equipment storage, or broadcast studios.

ERECT: To construct, build, or re-erect, reconstruct, rebuild, or excavate a building or structure.

EROSION: The natural process by which the surface of the land is worn away by the action of water, wind or chemical action.

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, pumping stations, sewers and wastewater treatment plants and similar facilities.

EXTRANEOUS NOISE: Sound from animals, wind, insects, birds, aircraft, unusual traffic conditions, or any other infrequent component of the ambient noise.

FAA: Federal Aviation Administration.

FALL ZONE: The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY: One or more persons living together as a single housekeeping unit.

FARM OPERATION: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, and timber operation, and compost, mulch or other biomass crops and commercial equine operation as defined by NYS Ag and Markets Law (AML §301). Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other. (Refer to the definition of crops, livestock, livestock products, and farm winery). [Amended by LL #3 of 2017]

FARM WINERY: A farm operation for the growing of grapes and/or the preparation, processing, marketing and distribution of wine in addition to all uses that are allowed by the Farm Winery Act of 1976. [Amended by LL #3 of 2017]

FCC: Federal Communications Commission, an independent agency of the United States Government which regulates interstate communications by radio, television, wire, satellite, and cable.

FEMA ELEVATION CERTIFICATE: An administrative form used by FEMA, completed by a surveyor, engineer, or architect to rate a building or certify the lowest floor of a building's elevation. Note: according to the FEMA program requirements, all new and substantially improved structures must have the lowest floor elevated to or above the Base Flood Elevation (BFE). Non-residential buildings may be flood-proofed below the BFE. [Amended by LL #3 of 2017]

FENCE: A structure of wood, stone or other materials intended for defense, security, screening, partitioning or enclosure. A wall, hedge, or other screening device shall be considered a fence. [Amended by LL #3 of 2017]

FIFTH WHEEL TRAVEL TRAILER: A unit designed to be affixed and towed by a pickup equipped with special hitch in the truck bed and designed to serve as self-contained living quarters for camping or other recreational activities. (Amend. 4)

FLOOD DAMAGE PREVENTION LAW: The Town of Lyme Flood Damage Prevention Law, as adopted by Local Law No. 2-1993. [Amended by LL #3 of 2017]

FLOOD ELEVATION: Base Flood Elevation is the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles. [Amended by LL #3 of 2017]

FREE STANDING TOWER: A vertical mount for wind powered generators that is not attached to a building or other structure and may or may not use guy wires for additional stability.

FUNCTIONALLY EQUIVALENT SERVICES: Services that include, but are not limited to, Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio, and Paging.

GENERAL PLAN: The goals, objectives, and policies of the Town which are embodied by the planning process upon which these Zoning regulations are based pursuant to Section 263 of the Town Law.

GROSS DENSITY: The number of dwelling units divided by the total acreage of the land upon which they are located, excluding any land used for non-residential purposes.

GROSS FLOOR AREA (GLA): The total area of a building measured by adding together the outside dimensions of the building at each floor.

GROSS LEASABLE AREA *(GLA)* The gross floor area designed for the exclusive use of tenants, clients, and customers, not including public or common areas, such as public toilets, corridors, stairwells, elevators, lobbies or enclosed atria.

HEDGE: A barrier of natural plantings intended to act as a fence (not including shade trees). [Amended by LL #3 of 2017]

HEIGHT: The vertical distance measured from the average elevation of the main grade at the front of the building/structure to the highest point of the roof.

HELIPORT: An area of land used on a recurring basis for helicopter take-offs and landings.

HOME OCCUPATION: Any use of a service character conducted within the principal dwelling by the resident thereof which is clearly secondary to the use of the dwelling for living purposes.

IMPERVIOUS SURFACES: The impermeable or non-porous surfaces of roads, buildings, and other structures or materials on or above the ground that do not allow precipitation to be readily absorbed into the underlying soil.

IMPULSIVE NOISE: Sound from impulse sources comprising a single pressure peak or sequence of peaks, or a single burst with multiple pressure peaks with amplitude decaying with time, or a sequence of such bursts.

INSTITUTIONAL USES: Any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

1. Religious Institutions, including convents, monasteries, churches, synagogues, and rectories.
2. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority and generally open to the public.
3. Schools.
4. Public Libraries.
5. Not-for-profit fire, ambulance and public safety buildings.
6. Public or private meeting halls, or places of assembly, not operated primarily for profit.
7. Hospitals.
8. Nursing Homes.

JUNKYARD: An area of land, with or without buildings, substantially used for the storage outside of a completely enclosed building, of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, including junk, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage of two or more inoperative motor vehicles, or the major parts of two or more such vehicles, shall be deemed to make the lot a junkyard.

KENNEL: A facility set up to breed, house, groom, board, or train a number of dogs or domesticated animals. [Amended by LL #3 of 2017]

LANDSCAPING: Lawns, trees, plants and other natural materials such as rocks and wood chips, and decorative features including but not limited to sculpture, patterned walks, fountains, pools, and ponds.

LANDSCAPE NURSERY: A lot, building or structure located thereon used principally for the growing and/or sale of trees, shrubs, flowers, plants, grass seed, peat moss, mulch and other products, tools, implements and equipment for lawn or garden care. The term shall include commercial greenhouses. [Amended by LL #3 of 2017]

LATTICE TOWER: A self-supporting mount constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

LICENSED CARRIER: A company authorized by the FCC to construct and operate a commercial mobile radio services system.

LIGHT INDUSTRY: A light industry is a facility which manufactures a product for wholesale or retail sale, does not produce significant volumes of pollution and is compatible with the surrounding neighborhood.

LOT: A parcel of land occupied or capable of being used or occupied by one (1) principal building or structure and the accessory buildings or uses customarily incident to it, including such open spaces and yards as are required by this Law.

LOT, CORNER: A parcel of land at the junction of, and fronting on, two or more intersecting streets.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines.

LOT, WATERFRONT: Any parcel abutting Lake Ontario, its bays, or the Chaumont River.

LOT WIDTH: The horizontal distance between the side lot lines measured at the front lot line.

LOT LINE:

1. Front Lot Line: The property line separating a plot or parcel of property from a street line or highway right of-way line. If a lot adjoins two (2) or more streets or highways, it shall be deemed to have a front lot line respectively on each. Water-front lots shall be deemed to have a front lot line on that side of the lot closest to the water body they abut and on the side of the lot closest to any street, road, highway or private right-of-way. On waterfront lots, the front lot line will be the naturally occurring mean high water mark, not including the water line created by artificially constructed boat slips.

2. Rear Lot Line: That lot line which is opposite and most distant from the front lot line. A rear lot line shall not be adjacent to a front lot line. In the case of a comer or waterfront lot, there might be no rear lot lines.

3. Side Lot Lines: A lot line not a front lot line or a rear lot line.

LOW FREQUENCY NOISE: Noise with perceptible and definite content in the audible frequency range below 250 Hz.

MANUFACTURED BUILDING: A building which is:

1. Mass-produced in a factory; and

2. Designed and constructed for transportation to a site for installation and use when connected to required utilities or either an independent, individual building or a module for combination with other elements to form a building on the site.

MANUFACTURED HOUSING: A manufactured building or portion of a building designed for long-term residential use.

MARINA: Any lot, building, structure or part thereof located on the waterfront that:

1. Provides docking and secure mooring facilities for three or more yachts, motor boats, sail boats and other marine vehicles or craft; or

2. Provides for the sale, rental and/or storage of marine and boating vehicles; as well as supplies, service, repair and other related facilities and/or operations necessary to maintain such craft.

MEAN HIGH WATER: the approximate average high water level for a given body of water at a given location that distinguishes between predominantly aquatic and predominantly terrestrial habitat as determined, in order of use, by the following: available hydrologic data, calculations, and other relevant information concerning water levels - Mean high water elevations are established, using this method, for certain waterbodies as defined in Part 608 NYS DEC Use and Protection of Waters, Section 608.11. [Amended by LL #3 of 2017]

MEAT PROCESSING PLANT**:** a facility for the slaughter and processing of animals and fowl for food as per NYS Agriculture and Markets Law 5-A. [Amended by LL #3 of 2017]

MOBILE HOME: Manufactured housing, built on a chassis, factory designed to be less than 18 ft. in width. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.

MOBILE HOME PARK: A lot or adjacent lots with common ownership with two or more mobile homes placed on it for commercial purposes.

MONOPOLE: A self-supporting mount constructed of a single shaft of wood, steel or concrete with below grade foundations and a platform (or racks) for panel antennas arrayed at the top.

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 open to the general public, including buildings designated as auto cabins, auto courts, motor lodges, tourist courts and similar terms.

MOTOR HOME: A motor vehicle built on a truck or bus chassis and designed to serve as self-contained living quarters for camping or other recreational activities. (Amend. 4)

MOUNT: The structure or surface upon which antennas are mounted, including the following four types of mount:

Roof-Mounted – Mounted on the roof of a building.
Side-Mounted – Mounted on the side of a building.
Structure-Mounted – Mounted on a structure other than a building.
Ground-Mounted – Mounted on the ground.

NET METERING: A billing arrangement that allows solar customers to get credit for excess electricity generated on-site and delivered back to the grid.

NOISE: Any loud, discordant, or disagreeable sound or sounds. In an environmental context, noise is an unwanted sound.

NONCONFORMITY: A lot, building, structure, or use of land legally and substantially existing at the time of enactment of this Law which does not conform to the regulations of the district in which it is situated.

NON-PARTICIPANT: Any landowners not hosting a WECS or owning property that is part of the WECS site.

OFFICES: The use of offices and related spaces for such services as are provided by medical practitioners, attorneys, architects, engineers, real estate agents and similar uses.

OFF-PREMISE SIGN: Any sign or other object used to advertise goods or services not available on the property on which the advertisement is located. [Amended by LL #3 of 2017]

OWNER: The individual or entity that intends to own and operate the renewable energy system in accordance with this law, typically the owner of the property on which the system resides.

PARKING SPACE: An off-street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passage ways and accesses thereto, and having direct access to a street, road or highway.

PARTICIPANT: A landowner who is hosting a WECS on his/her tax map ID or a landowner who has entered into an agreement with the WECS licensee to become part of the WECS site.

PEDESTRIAN WALKWAY: A right-of-way for pedestrians, separate from vehicular traffic, including sidewalks, trails, access ramps, stairs, mechanical lifts, and routes through buildings and other areas that are available for public use. [Amended by LL #3 of 2017]

PLANNING BOARD**:** The Planning Board appointed by the Town Board pursuant to NYS Town Law. All references to "PB" shall mean the Planning Board. [Amended by LL #3 of 2017]

PHOTOVOLTAIC (PV) SYSTEMS: A solar energy system that produces electricity by the use of semiconductor devices (photovoltaic cells) that produce electricity when exposed to light.

PRE-EXISTING CONDITION: (Pursuant to Section 750. Recreational Vehicles) A presently existing condition which was valid when established but is not in compliance with current law. A grace period, as set by the specific violation, shall be granted for valid pre-existing conditions. (See CESSATION)

A. A pre-existing condition is classified in three categories;

    1. Pre-existing nonconforming use
    2. Pre-existing nonconforming building
    3. Pre-existing nonconforming lot

PRIMARY RESIDENCE: A dwelling unit in which is conducted the main, dominant or principal use of the lot on which such structure is located. (Pursuant to Section 750. Recreational Vehicles)

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

PRINCIPAL USE: The primary or predominant purpose, for which any lot, land, building or structure is used, utilized, employed or occupied. When the principal use is agricultural, any dwellings occupied by the owner, operator or full-time employee engaged in agricultural work on the premises, and their immediate families, shall be deemed part of the principal use. In the Agricultural and Rural Residence and Waterfront District , when the principal use of a lot is a commercial business, additional use of the lot as a single-family dwelling used by the owner/operator shall be deemed part of the commercial business use. In the Waterfront District only, those uses defined as permitted accessory uses may be principal uses subject to site plan review. (*Pursuant to Section 750. Recreational Vehicles*)

QUALIFIED SOLAR INSTALLER: A person listed as an eligible photovoltaic installer by the New York State Energy Research and Development Authority (NYSERDA) or who is listed as a certified solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be a qualified solar installer for the purpose of this definition. Persons who are not on NYSERDA's nor NABCEP's list of certified installers may be allowed to install solar equipment if the Town of Lyme determines that the person has had adequate training to perform the installation safely and effectively. Training shall include, as a minimum, the proper use of personal protective equipment and the practice of special precautionary techniques. The skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts must also be demonstrated.

QUARRY: A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or soil for sale as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

RADIO FREQUENCY RADIATION: The emissions from wireless communications facilities.

RECREATIONAL VEHICLE: Shall include motor homes, truck campers, camping trailers, travel trailers, pop-up trailers, watercraft, ATV's, snowmobiles and similar licensed vehicles and their trailers used for recreational, travel and occasional dwelling purposes. (Pursuant to Section 750. Recreational Vehicles)

RECREATIONAL VEHICLE PARKS; Any lot or parcel of land, or part thereof, used or occupied by one or more recreational vehicles or similar temporary living quarters, by persons other than the owner of the real estate or his immediate family, for commercial or business purposes.

REPEATER: A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a primary sending and receiving site in a wireless communications network.

RESIDENCE: A habitable dwelling. A residence may be part of a multi-dwelling or multipurpose building, and includes structures such as hunting camps, seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

RESTAURANT: Any establishment however designated at which food is sold for consumption to patrons seated within an enclosed building or on the premises (may or may not include alcoholic beverages). However, a snack bar or refreshment stand that is an accessory to a pool, playground, park or other recreational facility and is operated for a convenience of the patrons of such facility shall not be deemed to be a restaurant. [Amended by LL #3 of 2017]

RETAIL, LARGE-PRODUCT: Include sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, and farm implements, auctioneers where auctions take place on-site, retail tree nurseries and garden shops, and self-storage units.

RETAIL, SMALL PRODUCT: A commercial activity characterized by the direct on-premises sale of goods and services to the ultimate consumer, including on premise manufacturing, processing, and servicing and preparation customarily associated therewith and generally involving either stock in trade such as are normally associated with department stores, food markets and similar establishments, or services such as barbers, hairdressers, shoe repair, laundry, or similar uses. Small retail shall also include furniture and large appliance sales but not large product retail.

RIDING ACADEMY A facility that rents horses for riding and may offer riding instruction.

ROTOR DIAMETER: Two times the length of a rotor blade as measured from the center of the hub.

ROTOR SWEPT AREA: The area swept by the rotor blades, in square feet; also called the 'capture area'. (Area Swept by the Blades = pi times blade length in feet, squared)

SATELLITE RECEIVER: A structure attached to the ground or another structure, built or intended for receiving television or radio programming transmitted or relayed from an earth satellite.

SCENIC CORRIDOR: A roadway and its right-of-way with scenic views and scenic sites with generally a high percentage of open landscape within and alongside it.

SCENIC SITE: A building, structure, field, resource, natural condition or other feature that has scenic qualities and which has been specifically identified by the Town in the environment and natural resources chapter of its comprehensive plan or other inventory and assessment as worthy of protection because of its scenic qualities.

SCREENING: A method of visually shielding or buffering one abutting or nearby structure or use from another by a certain percentage of opaque fencing, walls, berms and\or densely planted vegetation. [Amended by LL #3 of 2017]

SCHOOL: Includes parochial, private, public and licensed nursery school or day care center, college, university, and accessory uses; and shall exclude commercially operated schools of beauty culture, business, dancing, driving, music and similar establishments.

SEASONAL OCCUPANCY: A period of use defined as being between April 1 and November 30 (Amend. 4)

SEASONAL RV PERMIT: A permit to use an RV on a seasonal basis on a lot lacking a primary residence.

Refer to section 750 D. for specific requirements. [Amended by LL #3 of 2017]

SECURITY BARRIER: A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SEPARATION: The distance between one carrier's array of antennas and another carrier's array.

SEQR: The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SEMI PERMANENT RESIDENCY: Any occupancy of a semi-permanent structure on a seasonal occupancy basis. (Amend. 4)

SEMI PERMANENT STRUCTURE: Any primarily mobile vehicle such as a travel trailer which retains its mobility but has a fixed location. (Amend. 4)

SETBACK: Distance measured between the building line and the appropriate lot line.

SHADOW FLICKER: The on-and-off strobe light effect caused by the shadow of moving blades cast by the sun.

SHARED ACCESS: Any pathway or roadway serving two or more adjoining lots. [Amended by LL #3 of 2017]

SHOPPING CENTER: A group of commercial establishments, three or more, built on a site that is planned, developed, owned and managed as an operating unit related in location, size, and type of shops to the trade area that the unit serves; it provides on-site parking in definite relationship to the type and total size of the stores.

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. Interior signs, if located in a window or within a distance equal to the greatest dimension of the window and if intended for viewing from the exterior, shall be considered an exterior sign. [Amended by LL #3 of 2017]

SITE: The continuous land area defined for the purpose of meeting all siting requirements for a single or multiple WECS, including but not limited to sound, setback, and shadow flicker limits. A site can consist of multiple contiguous parcels owned by different individuals or entities. A site cannot contain non-participant parcels. Any loss of participant land continuity will require the establishment of another site.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS): A system that uses wind to spin an electrical generator with a capacity of 50 kW or less.

SOLAR ACCESS AREA: Space open to the sun, mostly clear of overhangs or shade that allows the use of

active and/or passive solar energy systems on individual properties.

SOLAR ARRAY: A group of multiple solar panels or modules linked into a single unit.

SOLAR COLLECTOR: A photovoltaic cell, panel, array, or other device that converts solar radiation to electricity or transfers solar energy to air, water, or another storage media.

SOLAR EASEMENT: An easement recorded pursuant to the NY Real Property Law 335-b, the purpose of which is to secure the right to receive direct sunlight across neighboring property to operate a solar energy system.

SOLAR ENERGY SYSTEM: A combination of components that uses radiant energy (direct, diffuse, or reflected) from the sun to generate electricity or other forms of energy such as heat.

SOLAR THERMAL SYSTEMS: Systems that directly heat water or other liquids using solar radiation.

SOUND: A disturbance or oscillation that propagates outwardly from the source.

SOUND FREQUENCY: The number of oscillations per second expressed in hertz (Hz).

1. Audible or tonal sound – sound frequencies between 20-20,000 Hz.
2. Broadband – a wide range of frequencies above 100 Hz.
3. Low-frequency – sound with frequencies below 100 Hz, including audible sound and infrasound.
4. Infrasound – sound frequencies below 20 Hz, which, if sufficiently intense, may be perceived by individuals.

SOUND LEVEL: The A-weighted or C-weighted sound pressure level in decibels as measured using a sound level meter that meets the requirements of a Type 2 or better precision instrument according to ANSI S1.4.

STREET: A public or private thoroughfare for motor vehicles which affords the primary means of access to abutting properties.

STREET LINE OR HIGHWAY RIGHT-OF-WAY LINE: The dividing line between a lot and a street, road or private right-of-way line, as dedicated by deed or record. Where there is no right-of-way line established, the street line shall be considered to be twenty-five (25) feet from the center line of the street pavement or the generally traveled portion of the street, road, or private right-of-way.

STORMWATER POLLUTION PREVENTION PLAN: a plan for erosion and sediment control during site construction and for installation of treatment for post-construction runoff (NYS ECL Article 17, Titles 7, 8 and Article 70). [Amended by LL #3 of 2017]

STRUCTURE: Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, and any fixtures, additions, and alterations

thereto. [Amended by LL #3 of 2017]

TELECOMMUNICATION FACILITY: The same as Wireless Communication Facility.

TEMPORARY PORTABLE STORAGE CONTAINER: is a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods, that does not contain a foundation or wheels for movement. Examples of this use include piggyback containers that can be transported by mounting on a chassis, and "POD" type boxes also known as EZ-Boxes or Smartboxes that can be transported on a flatbed or other truck; but do not include prefabricated sheds that are not designed for transport after erection, or commercial trailers used by construction or other uses in the regular performance of their business. Temporary portable storage container, except those included in temporary construction permits, are subject to the provisions under the Zoning Law. [Amended by LL #3 of 2017]

TOTAL HEIGHT (WECS, SWECS): The distance from the ground to the tip of an upward pointing vertical turbine blade. [Amended by LL #3 of 2017]

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

1. Use, Special Permit: A use requiring Special Permit Approval by the Zoning Board of Appeals prior to the issuance of a zoning permit by the Zoning Enforcement Officer.

2. Use, Permitted: A use not requiring Zoning Board of Appeals review, but requiring a zoning permit issued by the Zoning Enforcement Officer.

3. Use, Temporary: An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work, and seasonal produce stands.

TRAVEL TRAILER: A unit whose original design required registration and licensing for public road use with transportation to be provided by towing by a car, van or pickup by means of a bumper or frame hitch and designed to serve as self-contained living quarters for camping or other recreational activities. The travel or recreational trailer definition shall exclude a mobile home or any other form of recreational vehicle. (Amend. 4)

VARIANCE: A variance is any departure from the strict letter of this Law granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

1. Area Variance: A variance of the dimensional requirements of this Law.

2. Use Variance: A variance of the use requirements of this Law.

VIEWSHED: The area that can be seen from a viewpoint.

VETERINARY CLINIC: Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, comparable household pets, or livestock and wherein the overnight care of said animals is prohibited except when

necessary in the medical treatment of the animal. [Amended by LL #3 of 2017]

WAREHOUSE: A facility that stores goods for future transport, including self-storage units, truck terminals and distribution centers.

WATER STRUCTURE: Any pier, boat dock, boat ramp, boat slip, wharf, dolphin, weir, boom, boathouse within the water, breakwater, bulkhead, revetment, riprap, jetty, or piling that requires review and approval by an appropriate regulating agency. [Amended by LL #3 of 2017]

WETLAND: as defined, mapped and protected by the New York State Department of Environmental Conservation pursuant to the NYS Freshwater Wetlands Act (NYS ECL ARTICLE 24, Title 23 of Article 71). The U.S. Army Corps of Engineers (ACOE) also defines and protects wetlands, under Section 404 of the Clean Water Act. [Amended by LL #3 of 2017]

WIND ENERGY CONVERSION SYSTEM ("WECS"): A commercial machine with a generating capacity equal to or greater than 500 kW that converts the kinetic energy of wind into electricity (also called a "wind turbine").

WIND ENERGY FACILITY: Any Wind Energy Conversion System, including all related infrastructure, electrical lines and substations, access roads, wind measurement tower(s), and/or accessory structure.

WIND MEASUREMENT TOWER: A tower used for the measurement of meteorological data such as temperature, wind speeds and wind direction.

WIND OVERLAY DISTRICT: Those areas within the Town of Lyme where wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures may be site.

WIRELESS COMMUNICATION ANTENNA: An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, including but not limited to, whip, panel and dish communications antenna.

WIRELESS COMMUNICATIONS FACILITY (WCF): A facility for the provision of wireless communications services, as defined by the Telecommunications Act of 1996, and usually consisting of an equipment shelter, a mount, and/or antenna(s). Radio or television transmission towers and repeaters shall be included in the definition of wireless communications facilities.

WIRELESS COMMUNICATIONS SERVICES: Three types of services regulated by this law include commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services for Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio and Paging Services. Excluded from this definition are services used for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

YARD: Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of a building and shall not project into a required yard.

1. Yard, Front: The space within and extending the full width of the lot from the front lot line to the

part of a building or structure (except water structure) which is nearest to such front lot line. If a lot adjoins two (2) or more streets, highways or water frontage, it shall be deemed to have a front yard respectively on each. Therefore, not all lots will have a rear yard. [Amended by LL #3 of 2017]

2. Yard, Rear: The space within and extending the full width of the lot from the rear lot line to the part of the building or structure which is nearest to such lot line.

3. Yard, Side: The space within the lot extending the full distance from the front yard to the rear yard or second front yard and from the side lot line to the part of the building or structure which is to such side lot line. [Amended by LL #3 of 2017]

ZONING BOARD OF APPEALS: The Zoning Board of Appeals appointed by the Town Board pursuant to Town Law. All references to "ZBA" shall mean the Zoning Board of Appeals. [Amended by LL #3 of 2017]

ZONING ENFORCEMENT OFFICER: A person appointed by the Town Board to carry out the regulations of this Law.

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

Section 305: Establishment of Districts
For the purpose of promoting the health, safety, morals, and general welfare of the community, the Town of Lyme outside the Village of Chaumont, is hereby divided into the following districts:

1. AR - Agricultural and Rural Residence District. All areas of the Town outside the Village of Chaumont not included in any other district.

2. WF -Waterfront District. The areas of land which are within 500 ft. of the mean high water mark of Lake Ontario, all of its bays, and the Chaumont River. Refer to the Zoning District Map for specifically designated locations.

3. FPD - Floating Planned Development Overlay District. Those areas of the Town within the Waterfront District so designated.

4. Wind Overlay District – Those areas of the Town within the Wind Overlay District so designated by Article VII, Section 770 H. paragraph 8.

Section 310: Zoning Map (Next Page)

The boundaries of the above-named zoning districts are bounded as shown on the map entitled "Zoning Map, Town of Lyme", dated January 2017 and filed in the Town Clerk's Office, which is by this reference made a part of this Law.
Any changes in district boundaries or other matter shown on the map shall be promptly made on the map with a statement describing the nature of the change and the date of the amendment.

Section 315: Interpretation of District Boundaries

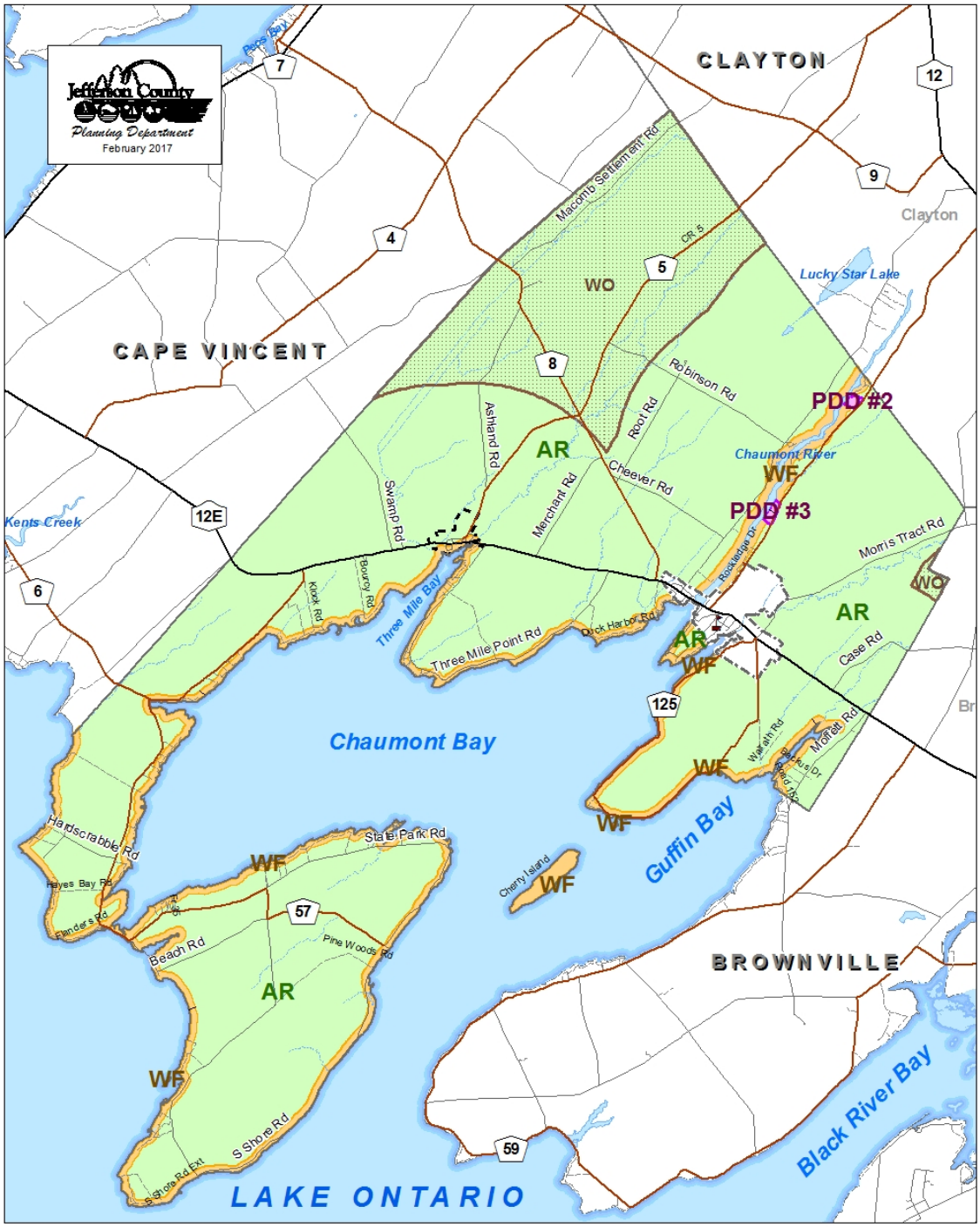
Where uncertainty exists with respect to the exact boundaries of districts as shown on the Zoning Map, as determined by the Zoning Officer, the decision or interpretation will be made by the Zoning Board of Appeals. Boundaries shown as a set distance from the waterfront shoreline shall be construed to be measured from the mean high water mark. [Amended by LL #3 of 2017]

Section 320: Lots in Two Districts

Where a district boundary line divides a lot in single or joint ownership, existing at the time of enactment of this Law, the regulations pertaining to each district will govern the use of land within that district.

Section 325: Limited Exemption for Filed Subdivision

If the plat of a residential subdivision containing one or more new streets has been duly filed in the Jefferson County Clerk's Office prior to the adoption of this Law, the lots of the subdivision may be developed with the lots and yards delineated on the plat, and any provisions of this Law requiring larger lots or yards shall not apply to the subdivision, for a period of three years from the date of such filing of the plat with the Jefferson County Clerk.



Sources: Jefferson County Real Property Tax Office, NYS Office of Cyber Security, Town of Lyme Planning Board, Jefferson County Planning Department

ARTICLE IV - DISTRICT REGULATIONS

Section 405: Agricultural and Rural Residence District – AR

A. Intent

The Agricultural and Rural Residence Districts - AR are primarily for agricultural and suburban residential uses.

B. Permitted Uses

The Agricultural and Rural Residence Districts - AR are primarily for agricultural and suburban residential uses. In them, no building or other structure shall be built, altered or erected to be used for any purpose other than the following, except by special permit as hereinafter provided:

1. Farm Operation
2. One-family dwelling
3. Two-family dwelling
4. Multi-family dwelling
5. Individual mobile home
6. Home occupation
7. Accessory Building/Structure or Accessory Use
8. Sign
9. Recreational Vehicles (as provided in Section 750)
10. Day Car Facilities/respite homes.
11. Child Day Care Facilities.
12. Solar Energy System (SEC), Rooftop/Building Mounted
13. Solar Energy System (SEC), Building-Integrated Photovoltaic (BIPV)

C. Special Permit Uses

The following uses require a special permit, additional regulations. See Articles VI and VII.

1. Motel/Hotel
2. Mobile Home Park
3. Airstrip
4. Heliport
5. Animal Hospital
6. Institutional Use
7. Essential Service
8. Quarry
9. Riding Academy
10. Automobile Service Station
11. Junkyard
12. Light Industry
13. Large Product Retail
14. Small Product Retail
15. Warehouse
16. Restaurant
17. Bar/Craft Brewery
18. Commercial Campground
19. Commercial Recreation
20. Commercial Hog, Poultry or Fur Farm
21. Office
22. Recreational Vehicle Parks (as provided in Section 765)
23. Wireless Communication Facilities
    -see Section 535(C) – Applicability/Exclusions
24. Small Wind Energy Conversion System (SWECS)
25. Biomass Energy System (BES)
26. Commercial Biomass Energy System (CBES)
27. Solar Energy System (SES), Ground Mounted/Free Standing
28. Solar Energy System (SES, Commercial
29. Boat Storage Facility

SECTION 405D: DIMENSIONAL REQUIREMENTS (NOTE 1)

USE	Minimum Lot Area (sq. ft.)	Minimum Front Setback (ft.)	Minimum Rear Setback (ft.)	Minimum Side Setback (ft.)	Minimum Lot Width (ft.)
Farm Operation Primary Bldg.	40,000	30' from front lot line	30' from rear lot line	60' from side lot line (2)	200
Farm Operation Accessory Bldg.	40,000	30' from front lot line	30' from rear lot line (3)	30' from side lot line (3)	200
Single & Two Family Dwelling, Individual Mobile Home	20,000	30' from front lot line	50' from rear lot line	15' from side lot line	100
Sign (Section 605)	N/A	5' from front lot line	N/A	15' from side lot line	N/A
Multi Family Dwelling	10,000 per unit	30' from front lot line	50' from rear lot line	15' from side lot line	150
Accessory Bldg. for Residential Use (4)	20,000	30' from front lot line	15' from rear lot line	15' from side lot line	100
Special Permit (5)	20,000	30' from front lot line	50' from rear lot line	60' from side lot line	150
Accessory Building Special Permit	20,000	30' from front lot line	15' from rear lot line	30' from side lot line	150

Note:

1. All dimensional regulations are minimums. Greater areas or setbacks may be required. NYS regulations govern on-site septic systems.

2. An additional 2' for each foot the building exceeds 35' in height.

3. Or 50' from the nearest residential lot line, whichever is greater.

4. Accessory building on a lot with no principal use or structure requires the minimum lot size. If they are located on the same lot as a principal use or structure they require no additional lot area.

5. Unless otherwise specified in Article 805.

Section 410: Waterfront District — WF

A. Intent

The Town recognizes that it's most important and sensitive resource is its extensive shoreline. Development of, access to, and scenic views of this resource are issues of major interest to the Town.

The Waterfront District - WF is established to allow for residential development and limited commercial activity which would not harm this valuable resource, if developed according to the procedures established by this law. However, this District is also established to work in conjunction with the Floating Planned Development Overlay District, described in Section 415.

B. Permitted Uses

Waterfront Districts - WF are established primarily for the purpose of providing for residential development and limited commercial activity. In them, no building or any other structure shall be built, altered or erected for any purpose other than the following, except by special permit as hereinafter provided;

1. Single-Family Dwelling
2. Two-Family Dwelling
3. Accessory Building/Structure or Accessory Use
4. Boathouse
5. Sign
6. Recreational Vehicles (as provided in Section 750)
7. Day Car Facilities/respite homes.
8. Child Day Care Facilities.
9. Solar Energy System (SES), Building-Integrated Photovoltaic (BIPV)
10. Solar Energy System (SES), Rooftop/Building Mounted

C. Special Permit Uses

The following uses require a special permit, according to the procedure outlined in Article V. These uses may be subject to additional regulations. See Articles VI and VII.

1. Home Occupation
2. Restaurant
3. Bar/Craft Brewery
4. Institutional Use
5. Essential Service
6. Retail, Small Product
7. Retail, Large Product
8. Office
9. Marina
10. Farm Operation
11. Biomass Energy System (BES)
12. Solar Energy System (SES), Ground Mounted/Free Standing

SECTION 410D: DIMENSIONAL REQUIREMENTS (NOTE 1)

USE	Minimum Lot Area (sq. ft.)	Minimum Front Setback (ft.)	Minimum Rear Setback (ft.)	Minimum Side Setback (ft.)	Minimum Lot Width (ft.)
Single Family Dwelling	20,000	30' from front lot line	30' from rear lot line	15' from side lot line	100
Two Family Dwelling	10,000 per unit	30' from front lot line	30' from rear lot line	15' from side lot line	200
Sign	N/A	5' from front lot line	N/A	15' from side lot line	N/A
Accessory Building for Residential Use (2)	20,000	30' from front lot line	15' from rear lot line	15' from side lot line	100
Special Permit Use (3)	43,560 1 acre	30' from front lot line (4)	30' from rear lot line	30' from side lot line (5)	200
Boathouse (6)	20,000	0’	0’	15’	50’

Note 1:

1. All dimensional regulations are minimums. Greater areas or setbacks may be required. NYS regulations govern on-site septic systems.

2. Accessory building on a lot with no principal use or structure requires the minimum lot size. If they are located on the same lot as a principal use or structure they require no additional lot area.

3. Unless otherwise specified in Article 805.

4. Unless otherwise determined by the Planning Board through the Special Permit Procedure.

5. An additional 2' for each foot the building exceeds 35' in height.

6. A boathouse on a waterfront lot may be located no closer than 15 feet from any side lot line.

SECTION 412: USE SCHEDULE – Town of Lyme		
	Zoning District	
Uses	**WF - Waterfront**	**AR – Agricultural Rural Residence**
Accessory Building/Structure or Accessory Use	Permitted	Zoning Permit
Airstrip	NP	Special Permit
Animal Hospital	NP	Special Permit
Automobile Service Station	NP	Special Permit
Bar/Craft Brewery	Special Permit	Special Permit
Boathouse	Zoning Permit	NP
Boat Storage Facility	NP	Special Permit
Biomass Energy System (BES)	Special Permit	Special Permit
Commercial Biomass Energy System (CBES)	NP	Special Permit
Commercial Campground	NP	Special Permit
Commercial Recreation	NP	Special Permit
Commercial Hog, Poultry, or Fur Farm	NP	Special Permit
Child Day Care Facility	Zoning Permit	Zoning Permit
Day Care Facility/Respite Home	Zoning Permit	Zoning Permit
Dwelling, One-family	Zoning Permit	Zoning Permit
Dwelling, Two-family	Zoning Permit	Zoning Permit
Dwelling, Multi-family	NP	Zoning Permit
Essential Service	Special Permit	Special Permit
Farm Operation	Special Permit	Zoning Permit
Heliport	NP	Special Permit
Home Occupation	Special Permit	Zoning Permit
Individual Mobile Home	NP	Zoning Permit
Institutional Use	Special Permit	Special Permit
Junkyard	NP	Special Permit
Light Industry	NP	Special Permit
Marina	Special Permit	NP
Mobile Home Park	NP	Special Permit
Motel/Hotel	NP	Special Permit
Office	Special Permit	Special Permit
Recreational Vehicle (as per Section 750)	Seasonal Permit	Seasonal Permit
Recreational Vehicle Park (as per Section 765)	NP	Special Permit
Retail, Small Product	Special Permit	Special Permit
Retail, Large Product	Special Permit	Special Permit
Restaurant	Special Permit	Special Permit
Riding Academy	NP	Special Permit
Sign	Zoning Permit	Zoning Permit
Small Wind Energy Conversion System (SWECS)	NP	Special Permit
Solar Energy System (SES), Building-Integrated Photovoltaic (BIPV)	Zoning Permit	Zoning Permit
Solar Energy System (SES), Commercial	NP	Special Permit
Solar Energy System (SES), Ground Mounted/Free Standing	Special Permit	Special Permit

Solar Energy System (SES), Rooftop/Building Mounted	Zoning Permit	Zoning Permit
Wind Energy Conversion System (WECS) (1)	NP	NP
Wireless Communication tower	NP	Special Permit
Quarry	NP	Special Permit
Warehouse	NP	Special Permit

*NP = Not permitted within the District. [Amended by LL #3 of 2017]

(1) Wind Energy Conversion Systems or WECS are allowed with a Special Permit within the Wind Overlay District refer to Sections 305 and 770.

SECTION 415: FLOATING PLANNED DEVELOPMENT OVERLAY DISTRICT

A. Intent and Applicability:

The Town recognizes that it's most important and sensitive resource is its extensive shoreline. Development of, access to and scenic views of this resource are issues of major interest to the Town. While the Town wishes to encourage the use and development of this resource, it believes such development must be of high quality and not in conflict with adjacent land uses. Because this land, which is coterminous with the land within the Waterfront District, can be used for a variety of uses, residential and commercial, the Town finds that its development must be monitored closely. It therefore creates this FPD - Floating Planned Development Overlay District, to review and oversee development that might otherwise cause injury to this most valuable resource.

The limits of this District are defined as coterminous with the boundaries of the Waterfront District as defined in this law. The regulations of the Waterfront district shall apply until the Town Board approves the Zone change pursuant to this Article.

It is the intent of this Floating Planned Development Overlay District to provide flexible land use and design regulations so that certain uses may be developed within the Town that incorporate a variety of residential and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. This section encourages innovations in residential and Waterfront or retail commercial development so that the growing demands for such development may be met by greater variety in type, design, and siting of development and by the more efficient use of land in such developments. Planned developments do not require a mix of residential and non-residential uses to be considered for Planned Development Overlay District status.

While the standard zoning function (use and area) is appropriate for the regulation of land use in some areas or neighborhoods, these controls represent a type of regulatory strictness which may be inappropriate to the innovative techniques of quality land development contained in the Floating Planned Development Overlay District (FPD) concept. A rigid set of space requirements along with area and use specifications would frustrate the application of this concept. Thus, where FPD techniques are deemed appropriate through the rezoning of land to a Planned Development Overlay District by the Town Board, the use and dimensional specifications found elsewhere in this Law are herein replaced by the General Requirements and Planned Development Review Standards outlined in Article IV, Section 415.B.

B. General Requirements and Planned Development Review Standards:

The following is a list of the requirements that a proposal must meet to be considered for FPD status.

1. Minimum Area: A minimum lot size and frontage for a Planned Development use, which is less than the minimum specified by Section 410 of this law, shall be specified at the discretion of the Town Board, provided that an innovative layout, which provides for increased common property and/or recreational areas and the maximum gross density specified for the particular use as specified by Article *TV,* Section 410.D is not increased. The common property created by this technique shall remain permanently dedicated to the purposes described below under Section 415.B.6.

2. Ownership: An application must be filed by all the owners of the property to be included in a proposed project. In the case of multiple ownership, the approved plan shall be binding on all owners.

3. Permitted Uses: All uses must be approved by the Town Board. In reviewing and acting on applications for FPD Status, the Town Board will evaluate each proposed use in accordance with the spirit and intent of this Article.

4. Parking: Parking provisions shall be regulated by the provisions of Article 610.

5. Traffic and Circulation:

    a. Straight and uniform grid iron road patterns should be avoided but are subject to the discretion of the Town Board.

    b. Entrances must also be located to allow safe line-of-sight distances to and from their points of intersection with a public road.

    c. Internal road widths and corner radii must facilitate movement of emergency vehicles.

    d. There should be adequate storage areas for snow that will not interfere with sight distance at intersection or pedestrian movement.

    e. Special consideration should be given to pedestrian movement from the standpoint of safety, convenience and amenity. Sidewalks, curbs and gutters should be considered in the design of the overall circulation system. Walk-through to adjoining areas should also be considered.

6. Common Property: Common property is not required for Planned Development District unless any aspect of the development does not meet the dimensional regulations of the Waterfront District. Common property in a Planned Development is a parcel or parcels of land, with or without the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, the Town Board must approve the arrangements for the improvement, operation and maintenance of such common property and facilities, including private streets, drives,

service and parking areas, utilities and recreational and open space areas.

C. Planned Development District Procedure:

The following are procedural steps that shall be followed when applying for Planned Development status:

1. In order to establish a Planned Development District, the Zoning Map must be amended by the following procedures outlined herein and the prescribed regulations for amendments to this Zoning Law found in Section 935.

2. Application for a zone change for the establishment of a Planned Development District shall be made to the Town Board by the owner(s) of the property to be included in the District. Prior to the Town Board's consideration of any application, the applicant must comply with the provisions of Section 925.

3. The applicant must provide a preliminary development plan which would enable the Town Board to determine if the proposed development is in the Town's best interest. The plans must, at a minimum, include the following:

    a. A general layout of the development

    b. Gross and net densities

    c. Size of uses involved

    d. Types of uses involved

    e. Number of proposed units

    f. General traffic circulation

    g. Necessary highway improvements

    h. Number and location of highway access points.

    i. Other details that the Town Board may find necessary in order to evaluate the proposed development and its effects on nearby land uses and public services.

    j. An environmental assessment pursuant to SEQR.

4. The Town Board shall have the discretion, in reviewing applications, to approve, approve with modifications or disapprove the proposed zoning amendment application. In considering an application, it shall weigh the need for the proposed use in the proposed location, and its consistency with the General Plan and the existing character of the neighborhood in which the use would be located. It also must consider safeguards to minimize possible detrimental effects of the proposed use on the adjacent properties, on public services, on the natural elements making up the environment of the area, and on the historic character of the area.

5. If such an amendment is enacted, the permitted development must be confined to the specific designated area and adhere to the approved development plan and special permit approval. Anything different from this constitutes a violation of this Zoning Law.

6. If the proposal is rezoned as a Floating Planned Development Overlay District, the applicant then has a maximum of 180 days to submit a special permit application to the Planning Board for a Special Permit Review in accordance with the procedural and substantive requirements of Article V, Special Permits. The Planning Board shall also review the proposal in light of the requirement for Planned Development District, Section 415.B above. [Amended by LL #3 of 2017]

7. Should the applicant fail to submit a special permit application to the Planning Board within the 180 day time period, the zone status of Planned Development District, granted by the Town Board, shall automatically revert to the Waterfront District. [Amended by LL #3 of 2017]

8. In addition to the requirements and criteria outlined in Article V, the Planning Board shall consider: [Amended by LL #3 of 2017]

    a. Whether existing and proposed streets and roads are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
    b. Whether existing and proposed utility services, including but not limited to water, sanitary sewer and storm water sewer are adequate for the proposed development.
    c. That each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscaping and utility areas necessary for creating and sustaining a desirable and stable environment.

9. If the Town Board determines that no substantial construction of the development has occurred within one (1) year from the date of the special permit approval it shall advise the owner(s) of the property within the FPD District that the land has automatically reverted to the Waterfront District.

10. A Planned Development shall not be changed to increase the number of dwelling units, increase housing density, permit a change in a type of use or an expansion of a designated use without undergoing a complete Planned Development procedure outlined in this section, including special permit review by the Zoning Board of Appeals.

11. A finally approved Planned Development District shall not be changed to affect the following elements without an additional special permit review pursuant to Article V:

    a. natural resources: water, fish, wildlife, vegetation
    b. drainage and erosion plans
    c. historic and scenic resources
    d. any pollution
    e. vehicular traffic access and circulation - site layout, including structural

alterations installation or layout of any improvements (e.g. sidewalks, curbs, water, sewer, landscaping) The Planning Board shall exercise discretion in determining if a Planned Development change should require an additional site plan review under the above conditions.

Section 425: Planned Development District No. 2 - "Sportsmen's Hideaway Charters"

A. Area Included. The Planned Development District No. 2 shall include 10.3 acres of land bordered on the west by the Chaumont River and on the east by County Route 179 and known as lands now or formerly of Gerald Kitzi, Thomas Kitzi, and Debra Slater, pursuant to deeds dated July 20, 1986 and July 21, 1986 and recorded in the Jefferson County Clerk's Office at Liber 1034 of Deeds at Page 59 and Liber 1031 at Page 150 respectively, known as Town of Lyme tax map parcels 52.09-1-1-, 52.09-1-11, and 52.09-1-12.

B. Project Scope. The project shall be in accordance with the narrative and map submitted to the Town Board and shall include the following: 15.4 acres on which may be developed up to 14 recreational vehicle sites and 20 tent sites, together with a pavilion, parking area, boat storage and docking area, and bath house clustered off of private roads and serviced by private water and sewer facilities. Ownership of all open spaces, roads, water and sewer services, and any other infrastructure improvements in common areas shall be under the control and ownership of the owners. All construction is subject to special permit.

C. Other Approvals. Prior to commencing any construction of the Planned Development District, the owner must obtain Special Use Permit approval from the Zoning Board of Appeals of the Town of Lyme.

1. Flood hazard development permit from the Town of Lyme.

2. Sewage system\SPDES permit from the New York State Department of Environmental Conservation.

3. Water supply\water system permit from the New York State Department of Health.

4. Highway right-of-way approval from the County Highway Department.

5. Permit for construction in navigable waters from the United States Army *Corps* of Engineers.

6. Such other and further permits as may be applicable by other agencies, including further review by the Jefferson County Planning Board pursuant to Section 239-m of the General Municipal Law.

D. Special Conditions. The Zoning Board of Appeals in reviewing any project in Planned Development District No. 2 for a special permit shall consider and provided for the following specific conditions and items:

1. Roads.

    a. Width. Road width should be a minimum of 35 feet for a length of 200 feet from County Route 179 on any access road into the project. Further

requirements should be reviewed with the Jefferson County Highway Department.

b. Road width within the project should be designed to assure access for emergency vehicles.

c. Roads within the project may be paved if found to be appropriate by the Zoning Board of Appeals. Such paving however, may be phased to coincide with development of the project as the Zoning Board of Appeals shall direct.

2. Drainage.

The Zoning Board of Appeals shall specifically require that a drainage plan be provided and that a drainage study be provided to show how surface water run-off will be handled. Specific attention should be given to how such surface water drainage may affect the road system within the project. All drainage facilities should be designed to minimize erosion and discharge of particulate matter into the Chaumont River.

3. Noise.

The Zoning Board of Appeals shall determine what is appropriate buffering along the southerly boundary of the project, including evergreen barriers if appropriate along such boundary. A landscaping plan and time table for planting must be submitted and approved by the Zoning Board of Appeals.

4. The Zoning Board of Appeals shall consider what provisions must be made for fire protection to adequately service the project.

5. Other. The Zoning Board of Appeals may also consider such other factors as it deems appropriate, including potential impacts of the project upon wetland areas and wild life habitats.

Section 430: Planned Development District No. 3 Chaumont River (Cohen) RV Park and Campground

[Originally adopted in resolution 2015 - 114, and added by LL #3 of 2017]

A. Area Included. The property included with PDD #3 shall be Town of Lyme Tax Map Parcel #62.00-2-3.121 to be known as Planned Development District No.3 located off County Route 179 in the Town of Lyme consisting of 19.15 acres. (Cohen Campground) as follows:

B. Project Scope. The permitted uses within PDD3 shall be Campground and RV Park.

C. Other Approvals. Prior to commencing any construction of the Planned Development District, the owner must obtain

1. Special Use Permit approval from the Zoning Board of Appeals of the Town of Lyme.
2. Sewage system/SPDES permit from the New York State Development of Environmental Conservation.
3. Water supply/water system permit from the New York State Department of Health.
4. Right-of-way approval from the Town/County Highway Department.
5. Permit for construction in navigable waters from the United States Army Corps of

Engineers, if applicable.

6. Such other and further permits as may be applicable by other agencies, including further review by the Jefferson County Planning Board pursuant to Section 239-m of the General Municipal Law.

D. Special Conditions. The Zoning Board of Appeals in reviewing any project in Planned Development District No. 3 shall consider and provide for the following special conditions:
   1. The parcel must be delineated from neighboring parcels sides of property by 2 parallel, orange nylon ropes of at least ½ inch diameter.
   2. Signs must be posted on the sides of property boundaries indicating no trespassing. Signs must be no further apart than 50 feet.
   3. There must be a thirty (30) foot setback to be considered a buffer zone along the sides of the property to be "forever wild". This is a defined area that cannot be cut or cleared, but left as the natural buffer for sound and view.
   4. All RV sites must be designed to provide a minimum of twenty five (25) foot separation between RV units with the further understanding that there would be no more than fourteen (14) RV units per acre.
   5. Prior to occupancy, a property septic system must be designed in accordance will all applicable New York State Department of Health regulations sized officially for the proposed occupancy of the property.
   6. Provision for adequate potable water for all sites must be provided in accordance with all applicable New York State Department of Health regulations.
   7. Lighting on all buildings shall be inspected by the CEO.
   8. All signage shall follow the zoning law set by the Town of Lyme – section 605.
   9. Section 640 of the Town of Lyme Zoning Code shall be followed with regard to fire protection including the provision for an adequate emergency turn-around set by the State of New York.
   10. A quiet hour's time from 10:00 p.m. to 7:00 a.m. shall be posted, observed and enforced by the site owner/operator similar to such provisions at the New York State Parks and Campgrounds.
   11. Parking shall follow article 610 in the Town of Lyme Zoning Code.
   12. Fire pit areas shall be designated at each site and no larger than three (3) square feet in diameter in accordance with New York State law.
   13. Where not provided for herein, all pertinent requirements of the current Town of Lyme Zoning Law applies.

ARTICLE V - SPECIAL PERMITS

Section 505: Purpose and Scope

The purpose of the special permit procedure is to allow the Planning Board to attach reasonable safeguards and conditions to those uses which might otherwise produce deleterious effects on the environment the neighborhood character, or the Town residents' health, safety and welfare. Furthermore, it is the purpose of the special permit procedure to authorize the Planning Board to deny a permit for any use, the deleterious effects of which cannot be mitigated. [Amended by LL #3 of 2017]

Section 510: General Requirements

A. All uses which require a special permit shall be subject to all applicable requirements of this Law, including this Article.

B. No zoning permit shall be issued for any such use until it has been granted a special permit by the Planning Board. [Amended by LL #3 of 2017]

C. The Planning Board shall review and approve, approve with conditions, or disapprove special permit applications for all uses which require special permits under the terms of this Law. [Amended by LL #3 of 2017]

Section 515: Application for Special Permits

All applications for special permits shall be submitted in writing by all owners of the real property concerned to the Planning Board through the Town Clerk. Applications shall be deemed submitted when all required documents are filed with the Town Clerk and all fees deposited with the Town Clerk. [Amended by LL #3 of 2017]

A. Presubmission Conference: If the applicant or Planning Board so requests, a pre-submission conference between the applicant and the Planning Board may be held to review the proposed development in light of existing conditions and to generally determine the information to be required on the special permit application. At the conference the applicant should provide a statement and a rough sketch depicting what is proposed and showing the location of the tract and its relationship to surrounding area.

B. Application Requirements: The Planning Board may require at the presubmission conference that any or all of the following elements be included in the special permit application. If no presubmission conference is held, then all of the following elements shall be included in the special permit application.

    1. Name and address of applicant and owner, if different, and of the person responsible for preparation of all drawings, maps or depictions.

    2. A map or drawing of the proposed buildings, structures, infrastructure, landscaping and other improvements which shows;

        a. Date, north point, written and graphic scale;

b. Boundaries of the lot plotted to scale, including distances, bearings, and areas;

c. Location and ownership of all adjacent lands;

d. Location, name, and existing width and right-of-way of adjacent roads;

e. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use located either on the site or adjoining the property;

3. Location, size, design of the following: existing and proposed buildings, driveways, parking, outdoor storage, sidewalks or pedestrian paths, drainage facilities, sewage facilities, water facilities, signs, outdoor lighting, landscaping or screening. Written plans for controlling soil erosion and sedimentation during the construction.

4. Written or depicted plans for grading and drainage showing existing and proposed contour lines of five foot intervals or less,

5. Written designation of the amount of gross floor area and gross leasable area proposed for each non-residential use;

6. An Environmental Assessment Form (EAF) or draft Environmental Impact Statement (E.I.S.) and other documents, where required pursuant to 6NYCRR Part 617 (SEQRA).

7. Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any federal, state, or county permits required for the project's execution.

8. All applicants shall deposit with the Town Clerk, sufficient security to cover the anticipated administrative expenses of the Town as provided in Section 925 of this local law.

9. Location and design of any structures, facilities and processes that potentially impact on the quality of ambient air, the quantity of the impact and the mitigating measures that will be taken to reduce the adverse impacts on the quality of the ambient air.

C. Once an application has been submitted the Planning Board shall have a maximum of 124 days (from the date of receipt) to review and approve, approve with conditions, or disapprove the proposal.

D. Within 62 days from the date the Planning Board has received the completed application, a public hearing shall be held on the proposal to entertain public comment. At least ten (10) days advance public notice of the hearing shall be published in the Town's official newspaper.

E. The final decision by the Planning Board must be made within 62 days following the hearing, in writing, specifying any conditions that may be attached to an approval, the reasons that the PB approved or denied the proposal and the vote of each member of the PB. All decisions shall be filed in the Office of the Town Clerk and a copy mailed to the applicant.

F. A special use permit will be invalid and of no further effect if the property for which it was granted is not used for the approved special permit for a continuous one year period or if the improvements to be made under the approved are not substantially made or finished within one year after the approval is filed.

G. The Planning Board shall refer all applications to the Jefferson County Planning Board as are required by General Municipal Law, Section 239-m and will not vote on approval, conditional approval or denial until all requirements of General Municipal Law Article 12B have been complied with.

Section 520: Review Criteria

The Planning Board review of the special permit application shall include, where appropriate, the following considerations:

A. Status of any federal, state, or county permits required.

B. Environmental (including physical, social and economic factors) impact on community and adjacent areas.

C. Compatibility with the General Plan.

D. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

E. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, roads widths, pavement surfaces, dividers and traffic controls.

F. Location, arrangement, appearance, and sufficiency of off-street parking and loading.

G. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.

H. Adequacy of storm water and drainage facilities.

I. Adequacy of water supply and sewage disposal facilities.

J. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of vegetation.

K. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

L. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.

M. Conformance with all other provisions of this Law.

N. Location, arrangement and design of any ventilation or exhaust device or other heat, moisture or odor producing process or use.

Section 525: Reasonable Conditions

In addition to the regulations mandated in Article VII of this local law, the Planning Board may also attach reasonable safeguards and conditions to any special permit including, but not limited to, approval of any required federal, state or county permits; redesign of building access, parking, pedestrian path location or arrangement; additional landscaping or screening; intersection improvement of traffic controls; and redesign or additional facilities for drainage, water provision, and sewage disposal. [Amended by LL #3 of 2017]

The Planning Board is hereby specifically empowered to require any reasonable screening, landscaping, walls, or other methods necessary to protect residential uses from the noise, glare, odor, vibration, traffic or activity of an adjacent commercial use. [Amended by LL #3 of 2017]

Section 530: Guarantees For Installation and Maintenance of Improvements *

A. Installation Guarantee: In order that the Town has the assurance that the construction and installation of such infrastructure improvements including but not limited to storm sewer, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, and road surfacing will be constructed, the Planning Board shall require that the applicant complete said improvements before final approval is granted or the applicant shall enter into the one of the following agreements with the Town: [Amended by LL #3 of 2017]

    1. Furnish bond with the Town named as obligee 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 Planning Board. Any such bond shall require approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety; or

    2. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit a certificate of deposit, or other forms of financial security acceptable to the Town Board. Acceptable substitutes, if furnished, shall be kept on deposit with the Town for the duration of the bond period,

    3. All plans and specifications for the improvements and infrastructure shall be approved by the Highway Superintendent or an engineer hired by the Town.

B. Maintenance Guarantees: In order that the Town has the assurance that the construction and installation of such infrastructure and improvements, including but not limited to storm sewer, water supply, sewage disposal, sidewalks, parking, access facilities, and road surfacing have been constructed in accordance with plans and specifications, the Planning Board shall require that the applicant shall enter into the one of the following agreements with the Town: [Amended by LL #3 of 2017]

    1. Furnish a maintenance bond with the Town named as obligee executed by a surety

company equal to the cost of construction of such improvements and infrastructure as built or constructed and approved by the Town Highway Superintendent or engineer retained by the Town. Any such bond shall be for a minimum period of one year and approved by the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety; or

2. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit, a certificate of deposit, or other forms of financial security acceptable to the Town Board. Acceptable substitutes, if furnished, shall be kept on deposit with the Town for the duration of the bond period.

3. After construction of the improvements and infrastructure they shall be approved by the Highway Superintendent or an engineer hired by the Town.

*** The above requirements apply to any construction and/or installation projects not created by the town but where ownership is transferred to the town upon completion whence the town accepts maintenance responsibility.**

Section 535: Wireless Communications Facilities

The Town Board of the Town of Lyme has previously enacted Local Law #1 of 1989, the "Town of Lyme Zoning Law," and subsequently amended it by local law in 1989, 1993 and 1997. Prior to the adoption of this local law, no specific procedures existed to address recurrent issues related to the siting of wireless communication facilities. The Town of Lyme wishes to maximize services and benefits to the community by accommodating the needs for these facilities. Since such uses were not originally contemplated when the Town of Lyme zoning Law was enacted, it is the purpose of this local law to add regulations for the development of wireless communication facilities. [Amended by LL #3 of 2017]

A. Findings

1. While the federal government has regulated the wireless communication industry, it has reserved to local governments the power to regulate such uses with regard to placement, construction and other related issues.

2. Local government may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services, nor regulate such uses on the basis of radio frequency radiation.

3. The Town has an interest in minimizing the number of towers that are located within its borders, since such structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.

4. In many cases, antennas mounted on existing structures can provide the same level of service with minimal or no aesthetic impacts upon neighboring uses.

5. Where the construction of new towers is necessary in order to provide services often it is possible to house more than one such provider on a given structure, thus reducing the proliferation of new tower construction.

B. Purpose

1. Promote the health, safety and general welfare of the residents of the Town through the establishment of minimum standards to reduce the adverse visual effects of wireless communication facilities through careful design, siting and screening.

2. Protect property values.

3. Provide standards for the safe provision of wireless communication facilities consistent with applicable Federal and State regulations.

4. Protect the natural features and aesthetic character of the community.

5. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures.

6. To minimize the total number of wireless communication towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.

C. Applicability/Exclusions

1. No wireless communication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.

2. No existing structure shall be modified to serve as a wireless communication facility unless in conformity with these regulations.

3. Location on antenna by other service providers on an existing tower or structure shall not require a new or modified special permit if there would be no increase in the height of the tower or structure and is allowed by Zoning Permit only. However, construction of accessory structures will require a Special Permit. The Zoning Officer will issue a zoning permit for the antennae when the applicant submits:

    a. A NYS licensed professional engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower.

    b. Documentation of intent from the owner of the existing tower or structure to allow shared use.

4. Exclusions

    a. New Wireless Communication Facilities are allowed by Special Permit in the Agricultural and Rural Residence District (AR) only, excluding the Hamlet of Three Mile Bay as defined by the boundaries of Town of Lyme Water District #2.

b. New Wireless Communications Facilities may not be located within 1500 feet of NYS Route 12E (The Seaway Trail), the shorelines of Lake Ontario, its Bays and the Chaumont River, the Ashland Wildlife Preserve, and The Barrens.

c. The following types of Wireless Communication Facilities are not subject to the provisions of this law:
    1. Antennae used solely for residential household reception.

    2. Satellite antennae measuring two (2) meters or less in diameter and located in commercial districts and satellite antennae one (1) meter or less in diameter, regardless of location.

    3. Law enforcement, fire control, E911 and medical emergency facilities.

D. Application Requirements

1. The following requirements for review of Wireless Communications Facilities shall be in ADDITION to those outlined under Sections 515, 520, 525, and 530 of this Article.

2. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality can be considered for shared use, the Board shall require that:

    a. An applicant who proposes a wireless communication facility shall notify in writing the legislative body of each municipality within the Town and each municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.

    b. Documentation of this notification shall be submitted to the Board at the time of application.

3. An application for a Wireless Communication Facility shall include, in addition to a copy of the applicant's Federal Communications Commission (FCC) license, a site plan setting forth specific site data on a map, acceptable in form and content to the Planning Board, prepared to scale in sufficient detail and accuracy and indicating the following: [Amended by LL #3 of 2017]

    a. Legal description (metes and bounds) of the property that the proposed tower will be located on;

    b. Proof of ownership of the property or proof of the landowner's consent if the applicant does not own the property;

    c. The exact location of the proposed Wireless Communication Facility with any tower guy wires and anchors;

d. The location of property lines and names of adjacent landowners within 500 feet of the parcel on which the facility is located;

e. The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of these structures to the wireless communication facility;

f. The location and nature of existing and proposed easements;

g. The location and specifications of the site access road and any and all other on-site roads and walkways;

h. The height of the proposed Wireless Communication Tower;

i. The location and proposed type and intensity of any lighting on the Tower;

j. A side elevation or sketch of the tower showing the proposed antennas and elevation of any accessory structures;

k. The location, nature and extent of any proposed fencing, landscaping and/or screening;

l. The location of all trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features of the site and on any other adjacent property within ten (10) feet of the property line;

m. The site plan shall bear the seal of a professional engineer licensed to practice in New York State.

4. Supporting Documentation

a. All information prepared by the manufacturer of the antenna and/or tower including, but not limited to the following:

1. Make and model of tower to be erected;

2. Detail of tower type with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

3. Manufacturer's design data for installation instructions and construction plans;

4. Applicant's proposed tower maintenance and inspection procedures and records systems;

5. Anti-climb devices for the tower and any guy wires.

b. The application shall include an inventory report specifying the location and height of existing, or approved, wireless communications towers and all

structures over seventy (70) feet in height, within a five (5) miles radius (search ring) of the proposed site. The report shall outline opportunities for shared use of these existing facilities (including municipal water towers, multiple story buildings, church steeples, farm silos, utility poles, barns, signs, belfries, cupolas, dome monuments, windmills, chimneys, smokestacks etc.) as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided. The applicant shall provide such information regarding his attempts for possible co-location on existing structures.

c. All applicants for a Wireless Communication Facility shall submit an Environmental Assessment Form (EAF) (long) with Visual Addendum, and an analysis demonstrating that location of the Wireless Communication Facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's wireless communications system and to provide adequate service and coverage to the intended area.

d. The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF, such as: [Amended by LL #3 of 2017]

    1. A Zone of Visibility Map showing locations from which the tower or facility may be seen.

    2. Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.

    3. Possible techniques for camouflaging the tower.

e. A New York State licensed professional engineer's report and certification as to the structural capacity of the tower and that it is designed for shared use by at least two other wireless communication service providers.

f. Documentation for the justification of the height of any tower or facility.

g. Justification for any vegetative clearing required.

h. A New York State licensed professional engineer's certification that transmissions from the Wireless Communication Facility are in compliance with Federal radio frequency emission standards and will not interfere with existing signals such as household television and radio, etc.

E. Special Permit Procedure [Amended by LL #3 of 2017]

1. Applications. All applications for a Special Permit shall be submitted to the Planning Board.

a. Within sixty-two (62) days of receipt of a complete application the Board shall hold a public hearing.

b. At least ten (10) days before such hearing, the Planning Board shall mail notices thereof to the applicant and to the County Planning Board as required by Section 239m of the General Municipal Law. The notice shall be accompanied by a full statement of the matter under consideration.

c. Such public hearing shall also be noticed at least five (5) days prior to the hearing in a newspaper of general circulation in the Town.

d. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a tower or facility is proposed. Notification, in all cases, shall be made by certified mail at least ten (10) days prior to the public hearing.

e. Documentation of this notification shall be submitted to the Board prior to the public hearing.

f. Within sixty-two (62) days of the hearing the Planning Board shall render a decision. This time period may be extended by mutual consent of the parties.

2. Application for area variance

   Notwithstanding any provision of law to the contrary, where a proposed special permit contains one or more features which do not comply with zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning law.

3. Conditions attached to the issuance of special permits [Amended by LL #3 of 2017]

   The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special permit. Upon the granting of said special permit, any such conditions must be met in connection with the issuance of permits by the enforcement official.

4. Waiver of requirements [Amended by LL #3 of 2017]

   The Planning Board may waive any requirements for review of a special permit. Any such waiver may be exercised in the event that such requirement is found not to be essential to the review in the interest of the public health, safety or general welfare or inappropriate to a particular special permit.

5. Consultant

   The municipality may employ its own Consultant to assist in reviewing the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the

applicant. Reasonable and customary charges for such service shall be the expense of the applicant.

6. Decision of the Board

   The decision of the Planning Board after the holding of the public hearing shall be filed in the office of the town clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

7. State Environmental Quality Review Act (SEQRA)

   The Planning Board shall comply with the provisions of SEQRA.

F. Special Permit Review Criteria for Wireless Communication Facilities
No special permit, renewal or modification of a current special permit, for a Wireless Communications Facility shall be authorized by the Planning Board unless it finds that such Facility conforms to the following criteria: [Amended by LL #3 of 2017]

1. The proposed location is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area;

2. Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies;

3. The facility is designed and constructed in a manner which minimizes visual impact to the extent practical;

4. Complies with all other requirements of this local law; unless expressly superseded herein;

5. Additional factors to be considered in reviewing special permits relating to towers:

   a. Proximity of the proposed tower to residential structures and residential district boundaries.

   b. Nature of uses on adjacent and nearby properties.

   c. Surrounding topography.

   d. Surrounding existing tree coverage and foliage.

   e. Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

G. Shared Use of Existing Towers or Structures

1. At all times, shared use of existing towers shall be preferred to the construction of new towers.

2. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate upon an existing structure. Copies of written requests and responses for shared use shall be provided.

H. New Towers

1. The Planning Board shall consider a new tower only when the applicant demonstrates that shared use of any existing or approved tower or structure tower is impractical as proven by the required inventory report. [Amended by LL #3 of 2017]

2. The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other wireless communication providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner and successors in interest to:

    a. Respond within 90 days to a request for information from a potential shared use applicant.

    b. Negotiate in good faith concerning future requests for shared use of the new tower by other wireless communication providers.

    c. Allow shared use of the new tower if another wireless communications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land cost, sire design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

I. Site Design Standards for Wireless Communication Facilities

1. Dimensional Standards

    a. All proposed wireless communication facilities shall be located on a single parcel;

    b. The tower should be disguised or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function;

    c. The setback for towers shall be 110% of the towers height, unless the developer can provide an engineers' report indicating a smaller debris fall zone then a smaller setback may be provided. The fall zone may not include public or private roads and must be located on property either owned or leased by the applicant,

or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the wireless communication facility. If the facility is attached to an existing structure, relief may be granted by area variance by the Zoning Board of Appeals on a case-by-case basis.

d. Guy wire anchors shall be setback from property lines the same distance as accessory structures;

e. Minimum lot size will be determined by setback requirements;

f. If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plan;

g. A lot leased or owned for the purpose of construction of a tower as a part of a wireless communication facility shall not result in the creation of a non-conforming lot;

h. If the proposed tower is within 1000 feet of a residential structure, then additional screening may be required.

2. Visual Impact Assessment

a. All towers and accessory facilities shall be sited and constructed to have the least practical adverse visual effect on the environment.

b. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

c. Pictorial representation of before and after views from key viewpoints both inside and outside of the town including but not limited to: State highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The board shall determine the appropriate key sites at a pre-submission conference with the applicant.

d. The boards shall make an assessment of alternative tower designs and color schemes.

e. The Planning Board shall make an assessment of the visual impact of the tower base, guy wires, accessory building and overhead utility lines from abutting properties and streets. [Amended by LL #3 of 2017]

f. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

3. Screening and Existing Vegetation

The Planning Board shall require that the facility have vegetative buffering, consisting of one row of native evergreen shrubs of trees capable of forming a continuous hedge of at least six (6) feet in height within two (2) years of planting, around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm. Such screening shall include the maximum feasible retention of existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground), shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public. [Amended by LL #3 of 2017]

4. Parking & Access

a. Access ways shall make maximum use of existing public or private roads to the extent practicable. Driveways must provide adequate emergency vehicles and service access.

b. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.

c. Motion activated or staff activated security lighting around the base of a tower or accessory structure entrance may be provided. Such lighting shall not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.

d. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by an unauthorized vehicle. Such gate must not protrude into the public right-of-way.

e. There shall be no permanent climbing pegs within fifteen feet of the ground on any tower.

f. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived when meeting the objectives of this subsection.

5. Fencing

   Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence at least eight (8) feet in height, design of which shall be approved by the Board.

6. Signs

   No portion of any tower or accessory structure shall be used for signage for advertising purposes. The Planning Board may require a sign not to exceed eight (8) square feet to be placed on an accessory building or fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business number and emergency number), and that no trespassing upon the site is allowed. [Amended by LL #3 of 2017]

7. Maintenance and Repair

   Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and/or operator and a copy of the inspection report shall be submitted to the Zoning Enforcement Officer.

8. Utilities

   All utility connections shall be installed underground.

9. Antennae Affixed To Existing Structures

   Antennae affixed to the face of existing structures may not protrude in excess of five (5) feet horizontally between the antenna and the existing structure face.

10. System Connections

    Where technologically feasible, connections between wireless communication facilities and the system of which they are a part shall be made by land cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six (6) feet.

11. Removal of Towers

    The applicant shall submit to the Board a Letter of Intent committing the tower facility owner and successors in interest to notify the Zoning Enforcement Officer within thirty (30) days of the discontinuance of use of the tower or facility. This letter shall be filed with the Zoning Enforcement Officer prior to issuance of a permit. Obsolete or unused towers or facilities and accessory structures shall be removed from any site within four (4) months of such notification. Failure to not notify and/or remove the obsolete or unused tower or facility in accordance with these regulations, shall be a violation of this law.

ARTICLE VI - GENERAL REGULATIONS

Section 600: Applicability

In all zoning districts, the following regulations and standards shall apply whether the use is permitted by right or upon special use permit approval. In the case of special permit uses, these standards and regulations must be reviewed as part of the special use zoning permit approval process. In the case of permitted uses, the Zoning Enforcement Officer is responsible for determining that these regulations and standards are met.

Section 605: Signs

A. Exempt Signs

A permit shall not be required for the following signs. All other signs require a zoning permit. Exempt signs are subject to the provisions of Section 605.C, General Sign Regulations.

1. Temporary Signs

    a. Special Event Signs: Two temporary special event signs advertising events, activities or other similar instances that will be terminated on a set date. Yard sales, garage sales and similar on-lot sales shall be considered temporary activities and as such, signs advertising these events shall fall under the requirements of this section. Such signs shall be removed at the end of the event by the sponsor of the **e**vent or those who placed the sign. Such signs shall not be used more than 60 days a year.

    b. Real Estate and Construction Signs - Signs announcing the construction of a project or the sale of lots or buildings. Such signs shall be removed within thirty (30) days of the completion of the construction or the sale of the building or lot.

    c. Special Sale Signs - Signs advertising special sales of goods or services shall be removed within thirty (30) days of the end of the sale period. Window signs are exempt from this time limit.

2. Flags

    Official flags of government jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premises business firms; religious, charitable, public, and nonprofit organizations.

3. Plaques

    Commemorative plaques placed by historical agencies recognized by the Town, the County of Jefferson or the State of "New York.

4. Other Exempt Signs

    1. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

2. Signs not exceeding two square feet in area and bearing only property numbers, post office box numbers, or names of occupants of premises.

3. Trespass signs or other signs advising the public of hazardous conditions.

4. Holiday decorations, including lighting, are exempt from the provisions of this local law and may be displayed in any district without a permit for a period of no more than 60 days.

B. Prohibited Signs

The following sign types shall not be allowed at any location within the Town.

1. All portable signs, other than those allowed in the previous Section 605.A.

2. Any sign which has flashing lights.

3. Any sign that does not qualify as an exempt sign under Section 605.A, or does not meet the General Sign Requirements, Section 605.C.

C. General Sign Regulations

1. All signs shall be subject to the following general standards:

   a. Unless otherwise specified, sign area shall not exceed thirty-two (32) square feet.

   b. No sign shall exceed 30 feet in height.

   c. No luminous sign, indirectly illuminated sign, or lighting device shall cast glaring or non-diffuse beams of light upon and public road, highway, sidewalk, or adjacent premises, or otherwise cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall employ any mirror or mirror like surface.

   d. No signs shall be painted or drawn upon trees, or natural features on the site, or on utility poles, bridges, culverts, towers, unregistered vehicles and watercraft or similar structures.

   e. Any business, enterprise, institution, or other advertisement entity that ceases operations shall remove their signs, supports, and electrical work within 90 days of such cessation. This provision shall not apply to seasonal businesses which are open at least ten weeks a year.

   f. In the event a standard established in this law conflicts with another standard in this law, the more restrictive standard shall apply.

   g. No sign shall project into the public right-of-way without specific written

approval from the authority having jurisdiction over the right-of-way.

Section 610: Parking

A. General

If the parking space required by this Law cannot be reasonably provided on the same lot on which the principal use is conducted, the Planning Board may permit through special permit review or the ZBA if the use is a permitted use, by variance, such space to be provided on other off-street property owned by the applicant provided such space lies within 400 feet of the main entrance to such principal use. Either Board shall ensure that such off-street property shall be dedicated to the parking required as long as the principal use remains. [Amended by LL #3 of 2017]

1. A parking space shall not be less than nine (9) feet by twenty (20) feet exclusive of access ways and driveways.

2. Existing uses need not provide additional off-street parking unless the use expands its gross floor area in existence at the time of the enactment of this law, by twenty (20) percent or more.

3. To the greatest extent possible the number of all parking spaces, other than those for dwelling units and dwelling units with a home occupation, shall be based on gross leasable area. Where gross leasable area figures are unavailable, the same standards will be used with the phrase "gross floor area" substituted for "gross leasable area".

4. Minimum standards are:

a.	Dwelling Unit (per)	2 spaces
b.	Dwelling unit with a home occupation	(1) One space for each two hundred fifty (250) square feet (per) of the floor space devoted to the home occupation in addition to the two (2) residential spaces required.
c.	Offices	1 space/250 sq. ft. GLA
d.	Retail, small product	1 space/250 sq. ft. GLA
e.	Retail, large product	1 space/400 sq. ft. GLA
f.	Shopping Centers	
	(1) Shopping Center Site	
	(sq. ft. GLA)	(Spaces)
	25,000-400,000	1 space/250 sq. ft. GLA

400,000-600,000	1 space/225 sq. ft. GLA
600,000+	1 space/200 sq. ft. GLA

(2) Office space occupying greater than ten (10) percent GLA must meet office standards.

g. Facilities with Drive-Up Service Windows

In addition to the required parking for the GLA of the facility, three twenty (20) foot car length waiting spaces for each drive-up window are required. Also, in the event there is more than one drive-up window, there shall be one additional waiting space which may be a common lane for all windows

h.	Public Facilities (churches, municipal buildings)	1 per 4 seats
i.	Funeral Homes	1 per 4 seats
j.	Industrial Facilities	1 per 1.5 employees on the largest shift
k.	Restaurant or Bar	1 per 4 seats

5. All fractional portions of parking spaces shall be deleted if the fraction is less than .50; otherwise one additional parking space is required

6. Where the use, traffic generation or function of a site is such that the applicant can show that the number of parking spaces is not justified, the Zoning Board of Appeals may modify these requirements.

7. Uses not included in this section are required to have adequate parking, according to the evident need. The Zoning Board of Appeals has the authority to require specific numbers of parking spaces for unlisted uses. In doing so, the Board shall use its sound judgment, personal experience, and information gathered through the public hearing process.

B. Off-Street Loading

1. All special permitted uses other than dwelling units or dwelling units with home occupations must comply with the following off-street loading standards;

First 5,000 sq. ft. GLA	1 Berth
Each additional 10,000 sq. ft.	1 Berth

2. 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.

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

4. Where the use, traffic generation, or function of a site is such that the applicant can show that the number of berths required is not justified, the Zoning Board of Appeals may modify these requirements.

Section 615: Well and Septic Tank Covers

All new well covers and septic tank covers shall be made of a substance not subjected to rot or decay (e.g. cement) and have sufficient strength to prevent persons or animals from falling through said covers.

Section 620: Temporary Uses and Structures

Temporary permits may be issued by the zoning enforcement officer for a period not exceeding one year, for the uses incident to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed upon application to the Zoning Board of Appeals and such renewals shall be reviewed in accordance with Article 5.

Section 625: Drainage

A. To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.

B. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

C. Provisions for storm drainage shall safely retain storm water or adequately carry and discharge accumulated run-off into drainage channels, storm sewers or natural water courses so it does not cause increased damage or increased flooding downstream.

D. Whenever the Planning Board, in its review of special permit uses, requires an engineered drainage plan, such plan shall be based on, and shall safely accommodate, a 25 year frequency rainstorm. [Amended by LL #3 of 2017]

Section 630: On-Site Sewage Disposal Systems [Amended by LL #3 of 2017]

A. All on-site sewage disposal systems shall meet the requirements of New York State Public Health Regulations, 10 NYCRR Part 75, governed by NYS Department of Health.

B. If a use meets all other requirements of this Law, including dimensional regulations, but does not meet the requirements of 10 NYCRR Part 75, it shall not be permitted.

C. All septic installations, renovations, and/or additions require a permit from the Code Enforcement Officer prior to the commencement of any work.

D. To confirm proper system updates, or suspicion of an on-site sewage disposal malfunction, the Code Enforcement Officer shall require a dye diagnostic permit to ensure proper system functionality.

Section 635: Fences [Amended by LL #3 of 2017]

Fences which are not regulated in other sections of this chapter are subject to the following requirements. However, fences erected as part of an agricultural use for the confinement or restriction of animals shall not be regulated.

A. No fences shall be placed closer than 6 inches to an adjacent property line.
B. Fences shall be constructed of standard construction materials or of materials acceptable to the zoning officer at the time of the fence being built and shall be maintained in a safe condition.
C. No fence shall exceed 4 feet in height in any yard considered to be a “front yard” or 6 feet in height elsewhere.
D. In all districts fences over 3 and 1/2 feet in height above street level are not permitted in a triangular area of any corner lots. This area is bound by lines along both streets to points 40 feet from the intersection of the road right-of-way and a line connecting these two points.
E. On waterfront lots, fences between the building line of the principal building closest to the water and the required building setback from the water front shall not exceed a height of four (4) feet.
F. On waterfront lots, fences shall not extend between the required building setback and the waterfront unless the fence is open, and does not interfere with the view of the water and in either case, shall not exceed a height of four (4) feet. Open is defined as a fence having open spaces equal to or at least 50 percent of the area of each section. Wood or vinyl panels, wrought iron, or chain link could be used so long as the required openness is met within the required area.
G. The side of the fence facing away from the fence owner’s property shall have a finished quality.
H. Fences shall not restrict access of emergency vehicles.

Section 640: Private Roads and Driveways

A. All streets, or street ways that are constructed by private individuals or enterprise, and which are intended to serve the public as a public thoroughfare shall meet highway and street standards as adopted by resolution of the Town Board. Such standards include grade, horizontal curves, right-of-way, width, type of surface, line of sight, tangents, shoulders, driveways, and drainage.

B. All driveways, residential and commercial, Fire Roads, and Private Roads that are constructed by private individuals or enterprise shall conform to the policies and standards contained in New York State Dept. of Transportation's, "Policy and Standards, For Entrances to State Highways", published and adopted in 1983 as amended from time to time, regardless of whether such driveways enter onto state, county or local roads. A minimum access width of 10’ must be provided for Emergency Vehicles. [Amended by LL #3 of 2017]

ARTICLE VII - SPECIFIC USE REGULATIONS

Section 705: Mobile Homes

A. Construction Standards: All Mobile homes shall be constructed in accordance with regulations set forth in the Compilation of Federal Regulations (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards.

B. Mobile Home Installation:

1. The location and installation of mobile homes in the Town of Lyme shall be in compliance with the New York State Uniform Fire Prevention and Building Code.

2. Each mobile home shall be installed on a firm base with adequate support for the mobile home.

3. The mobile home base shall be graded to ensure adequate drainage but in no event shall the difference in grade exceed six (6) inches from one end of the stand to the other.

4. Each mobile home shall be provided with a stand which shall have a dimension approximately the width and length of the mobile home and any expansions or extensions thereto.

5. Well anchored tie-downs shall be provided at least on each corner of the stand.

6. Stands shall be either:

    a) Ten (10) inches of compact gravel; or

    b) A full concrete slab at least six (6) inches thick; or

    c) Six (6) inches of compacted gravel with a reinforced concrete runner on each side of the stand to provide support. Such runner shall be a minimum of four (4) feet wide, equal in length to the mobile home, and six (6) inches thick.

7. Each mobile home shall be provided with a skirt to screen space between the mobile home and the ground.

8. Such skirts shall be of permanent material similar to that used in the mobile home and providing a finished exterior appearance.

C. Mobile Home Additions: All additions (excluding decks, patios, etc.) to mobile homes shall be sided in a material compatible with the siding on the mobile home.

Section 710: Shopping Center

A minimum lot area of three (3) acres shall be required for Shopping Center.

Section 715: Hotel/Motel

Hotel/Motels shall conform to the following requirements:

A. The minimum land area per establishment shall be 50,000 square feet and the minimum width of the lot at the front building line shall be 200 feet.

B. No rental structure or part thereof shall be placed closer to any street line than 50 feet or closer to a side property line than 30 feet.

C. Automobile parking space shall be provided to accommodate not less than one car for each rental unit.

D. Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All sanitary facilities including the waste disposal system and the water supply system must receive written approval from the New York State Departments of Health or Environmental Conservation, as appropriate.

E. If the rental units are individual structures, each unit is required to have 3,000 square feet of land area.

F. The minimum distance between structures shall be 15 feet.

G. The property must be appropriately landscaped, graded, and seeded.

Section 720: Mobile Home Park

A. Mobile Home Parks shall be subject to the licensing provisions of the Town of Lyme Mobile Home Park Licensing Ordinance.

B. The park shall be located on a well-drained site suitable for the purpose with an adequate entrance road at least twenty (20) feet wide.

C. Individual mobile home sites shall have an area of not less than 5,000 square feet with a minimum width of 50 feet and a minimum depth of 100 feet.

D. The total number of mobile home sites shall not exceed seven (7) per acre.

E. All individual mobile home units shall be subject to the regulations in Section 705. F. Mobile Home Parks which accommodate 25 or more mobile homes shall provide at least one recreation area consisting of at least eight (8) percent of the gross site area of the mobile home park.

G. An adequate supply of potable water shall be provided and wastes from showers, toilets and laundries shall be discharged into a suitable sewer system. Plans for the proposed water supply system and sewage disposal system must receive written approval from the New York State Department of Health and Environmental Conservation, and all other applicable agencies.

H. Refuse shall be disposed of in a manner as required by law.

I. The park shall keep a record of the name and permanent address of each occupant.

J. Before the park commences operation, the Zoning Enforcement Officer shall make an inspection of the premises to determine that all requirements of this Law have been complied with and shall issue a certificate of compliance. No use shall be permitted until such certificate has been issued.

Section 725: Quarry

A. No excavation of materials shall be located within 50 feet of the front lot line or within 20 feet of a side lot line.

B. All excavation slopes in excess of 50% shall be adequately fenced, barricaded, signed or protected as determined by the Town Planning Board. [Amended by LL #3 of 2017]

Section 730: Automobile Service Station

A. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed as to require all servicing on the premises and be no closer than 30 feet to the front lot line and no gasoline pump shall be placed closer to any other lot line than 30 feet.

B. No inoperative motor vehicles shall be kept on the premises of motor vehicle service stations for longer than four (4) weeks unless enclosed within a structure, or placed so that it is not visible from the road or adjacent properties.

C. All waste material shall be stored within a structure or enclosed within fencing so as not to be visible from adjoining properties.

D. All waste shall be disposed of in an environmentally safe manner.

Section 735: Junkyards

A. Junkyards shall be subject to the licensing provisions of the Town of Lyme Junkyard Licensing Ordinance.

B. The outside limits of the area used as a junkyard, including any fence or building, shall be located at least 50 feet from any residential, commercial, or institutional structures or lines, and at least 50 feet from any street line.

C. The Junkyard shall be totally screened by a solid fence, berms, or vegetation, except that not more than two (2) openings, no wider than fifteen (15) feet each, shall be permitted for access.

D. The premises shall be kept free from rodents or vermin and obnoxious odors.

E. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard, except as shall be necessary for the transportation of vehicles in the reasonable course of business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure.

Section 740: Commercial Campground

A. The minimum land area for a campground shall be three (3) acres.

B. All sanitary facilities, including the waste disposal system and the water supply system, must receive written approval from the New York State Departments of Health, Environmental Conservation or other appropriate State or local departments or agencies.

Section 745: Satellite Receivers

A. The receiver shall be positioned on the lot so as not to obstruct the view of a driver entering or exiting a public or private road, driveway or right-of-way.

B. Where possible, the receiver shall be positioned on the lot in such a manner as not to hinder the view from adjoining parcels.

C. When establishing the required setback for a satellite receiver as an accessory structure, the distance shall be measured from the part of the satellite dish closest to the lot line, whether it be the stand, dish, or concrete pad.

Section 750: Recreational Vehicles

Purpose: The Town Board of the Town of Lyme recognizes that zoning regulations are necessary in all Districts for the regulation of recreational vehicles, particularly travel trailers, that exists in the town of Lyme. Of special interest is the potential negative impact on neighboring property by the placement of travel trailers whose use is inconsistent with their intended design. This law is intended to provide property owners an alternative to the existing occupancy limitation while providing for standards to maintain neighborhood integrity. This and current law are not intended to restrict the appropriate storage of unoccupied recreational vehicles for which the intended use is off site recreation. Travel trailers may be used only for the purpose for which they were intended i.e. temporary residential occupancy only, not for storage.

A. Recreational vehicles (see definitions) may be stored unused and without external modifications or additions on a driveway or similar appropriate site while not in use off-site, on a lot with a primary residence and occupied by the real property owner, an on-premises tenant, or an immediate family member of that owner or tenant. RVs which do not meet NYS

motor vehicle inspection are not permitted.

B. This section provides for a Semi-Permanent Residency Permit as pertaining to travel trailers only. It allows for travel trailers, while maintaining mobile status, semi-permanent placement when used as a dwelling unit for seasonal or camping occupancy on a lot with a primary residence. A permit is required only when determination is made by the ZBA, at the request of the ZEO, that a permit is required to maintain health and public safety standards, such as pollution control, and to insure compliance with existing zoning laws including conditions listed below. Restrictions are required to maintain the integrity of neighborhoods by limiting the negative appearance of non-conforming structures. A travel trailer's status as a semi-permanent structure requires that the appropriate structural conditions of travel trailers shall apply and are listed below in addition to additional permit conditions approved by the ZBA prior to ZEO permit issuance. In those cases where a pre-existing condition exists (see definitions) see C) below;

    1. One travel trailer, used for semi-permanent residency as an accessory use to a principal building, may be stored outside, on the same lot, as a semi-permanent structure. Ownership must be by the property owner or authorized lessee residing on the real property. Conditions are as follows:

        a. Occupancy is limited to a cumulative total of 45 days.

        b. The occupancy is limited for the seasonal period of April 1 to November 30 only.

        c. Where a permit is required, the application shall include a copy of a registration or title proving ownership and providing identification i.e. make, model and year of manufacture of the trailer.

        d. Travel trailers which do not meet NYS motor vehicle inspection are not permitted.

        e. No external modifications or additions shall be made to any travel trailer used as a semi-permanent residency.

        f. No additional recreational vehicles, used for living quarters, shall be located in any district.

        g. All applicable requirements including setbacks and septic/water systems of the current zoning law shall apply. The exception shall be where the unit in question shares water, sanitary facilities and electric with the primary residence on which the travel trailer is located.

        h. Travel trailers shall be permitted with the following procedures below and under the terms and conditions for approval stated in the permit issued.

        i. A violation of any condition set within Section 750 or set by the ZBA by an approved permit is cause for immediate permit revocation by the ZEO. Revocation is reviewable by the ZBA upon appeal.

2. Permit conditions:

    a. The permit shall be issued only if neighborhood appropriate by taking into consideration any undesirable change having an adverse effect on the physical, environmental, character, health, safety and welfare of the community.

    b. Any permit issued is not valid for transfer, i.e. ownership change, nor may it be used for commercial purpose such as rental. (Nontransferable, requires new permit upon change of ownership.)

C. In those cases where a pre-existing condition (see definitions) exists, as determined in a public hearing by the ZBA, conditions as related to travel trailers that cannot comply with 1989 and subsequent zoning laws, the following shall apply:

    1. Beginning with the implementation of this law a grace period commences and concludes with cessation as follows: A pre-existing nonconforming use or structure (see definition) may be continued, with a Non-Conforming Continuation Permit approved by the ZBA and issued by the ZEO, for a period, beginning at the date authorized by this law and extending to the year 2018 of the same date. After the expiration of said period, any such pre-existing nonconforming use shall become an unlawful use and the permit shall be terminated. The pre-existing condition must have been found valid, at a hearing by the ZBA. For approved pre-existing conditions, at five years, after enactment of this law, in the year 2016, each property owner shall be notified by certified mail, including a required signed return receipt acknowledging receipt that two years remain in the compliance cycle. If the property changes ownership without a change in status of the non-conforming use or structure, the original date of the establishment of the pre-existing condition shall still apply

    2. Changes to the non-conforming preexisting condition may not result in an increase of the non-conforming condition without the loss of preexisting status. See B) i above.

D. Purpose: It also recognizes that the current zoning laws do not have zoning regulations for limited, area sensitive, single lot residential access and use of property that does not have a primary residence. The purpose of this law is to provide the Town of Lyme a means by which to enable the owner(s) of property to make such singular use of their property by allowing living quarters other than a permanent residence on a seasonal basis.

    Individual single lot and single use seasonal residency shall be permitted with the following procedures and under the terms and conditions for approval stated.

    1. Procedures:

        a. A seasonal permit application for seasonal residency shall be made to the Zoning Enforcement Officer (ZEO). Prior approval, by the Zoning Board of Appeals is required, after a public hearing for all permits issued under this law.

        b. Application shall include a detailed site plan and an application fee assigned by the Town Board of the Town of Lyme. The site plan shall be a drawing to approximate scale showing exact location of all structures, both fixed and

mobile, including front, rear and side setbacks. Proposed and existing water, septic and electrical connections are to be shown in detail. A detailed description and intended use of the area shall be supplied. The vehicle (motor home, travel trailer or fifth wheel travel trailer) shall be described in detail, with year, type, and recent picture. Also required is a copy of the last registration or title showing ownership and year of manufacture.

c. The site plan will be the basis for which the permit is issued and any changes will require a re-submission and subsequent permit amendment. The purpose of the site plan, considering the transient nature of the occupancy, is to ensure continued compliance with permit terms and conditions.

d. The seasonal permit is valid for the period, April 1 to November 30 of the current calendar year, and must be renewed annually including an annual fee set by the Town Board of the Town of Lyme.

2. Terms and Conditions for Approval:

a. The applicant(s) must be the sole owner(s) of record for the lot for which the permit is requested and the sole seasonal resident(s) for which the permit is approved. Multiple residencies are not permitted. Subdivision for purposes of implementation of this law is not permitted.

b. The permit is issued for the seasonal period of April 1 to November 30 and shall be renewed yearly. The permit is valid for the calendar year issued only.

c. Approved vehicles include motor home, travel trailer or fifth wheel travel trailer. Vehicles which do not qualify for a New York State motor vehicle inspection sticker are excluded from consideration.

d. Vehicles are not permitted on the site, for which the permit was issued, during the non-seasonal period (December 1 to March 31).

e. Suitable provision for water and septic and grey water waste shall be described in detail in the permit application. The issuance of the permit and the ZBA approved method of removal shall be a condition of the permit.

f. Accessory structures must comply with the current zoning law and shall be detailed in the site plan submitted for the permit.

g. The permit is not valid for transfer, i.e. ownership change, nor may it be used for commercial purpose such as rental.

h. The existence of a preexisting condition may be considered in granting a permit.

i. The permit shall be issued only if neighborhood appropriate by taking under consideration the following criteria which shall be met; the permit shall be

issued only if neighborhood appropriate by taking into consideration any undesirable change having an adverse effect on the physical, environmental, character, health, safety and welfare of the community.

j. All appropriated articles of the current zoning law apply particularly setback requirements. The seasonal permit setback requirements are by the Single Family Dwelling requirements of tables 405D and 410D. Non-conforming requirements of Section 805 shall apply where applicable.

k. A violation of any condition, either above or set by the approved permit, is cause for immediate permit revocation.

Section 755: Swimming Pools

No outdoor swimming pool shall be placed closer than 75 feet from the front lot line or closer to a side or rear property line than 25 feet. On a waterfront lot no outdoor swimming pool shall be placed closer than 25 feet to the front property line. If required by State law or regulations, written approval for the installation of swimming pools must be obtained from the New York State Department of Health.

Section 760: Manufactured Housing [Amended by LL #3 of 2017]

All single family dwellings that are manufactured housing shall meet the following standards.

A. The minimum roof pitch shall be a minimum of 2 1/2 ft. rise over 12 ft. run.

B. The roof and exterior walls shall have a traditional site-built appearance.

C. Modular and Manufactured Home that is transported to its site shall also meet the minimum requirements of the NYS Building Code.

Section 765: Recreational Vehicle Park

A. There shall be a minimum distance of 25 feet between recreational vehicles.

B. The park shall be located on a well-drained site suitable for the purpose and shall provide an entrance road at least twenty (20) feet wide.

C. Individual recreational vehicle sites shall have an area of not less than 2,500 square feet.

D. The total number of recreational vehicle sites shall not exceed fourteen (14) per acre.

E. Recreational vehicles located in an approved recreational vehicle park shall be exempt from the limitations of Section 750.

F. Recreational Vehicle Parks which accommodate 25 or more recreational vehicles shall provide at least one recreational area consisting of at least eight (8) percent of the gross site area of the park for use by all patrons of the park.

G. An adequate supply of potable water shall be provided and wastes from showers, toilets

and laundries shall be discharged into a suitable septic or sewer system. The water supply system and septic or sewer disposal system must receive written approval from the New York State Department of health and Environmental Conservation, and all other applicable agencies.

H. Refuse shall be disposed of in a manner as required by law.

I. The park's owner and operator shall keep a record of the name and permanent address of each occupant and allow the Zoning Enforcement Officer access to these records on reasonable notice.

J. Before the park commences initial operation or before an expanded section of the park commences operation, the Zoning Enforcement Officer shall make an inspection of the premises to determine that all requirements of this Law have been met. If so, the Zoning Enforcement Officer shall issue a certificate of compliance. No use shall be permitted until such certificate has been issued.

Section 770: Wind Energy Conversion Systems

1). Permits and Applicability

A. Permits Required

1. No WECS shall be constructed, reconstructed, modified, or operated in the Town of Lyme, except in compliance with this Local Law.

2. No WECS shall be constructed, reconstructed, modified, or operated in the Town of Lyme, except in a Wind Overlay District.

3. No WECS Permit shall be issued allowing construction, reconstruction, modification or operation of a WECS, until all other permits as may be required (e.g., FAA, DEC, etc.) have been issued and evidence of same provided.

4. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated, except in compliance with this Local Law.

5. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.

B. Applicability

WECS may be regarded as either a principal or an accessory use. Any existing use or existing structure on a Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on the Site.

2). Wind Overlay District, Applications, Reviews, and Standards

A. Creation of Wind Overlay District

The Town of Lyme has designated areas for siting WECS and related infrastructure, electrical lines, transmission lines and substations, access roads and accessory structures. It consists of the Wind Overlay District which is defined as follows:

Section 305 of the Zoning Ordinance of the Town of Lyme is hereby amended, adding a new subparagraph 4 – Wind Overlay District.

Section 310 of the Zoning Map is hereby amended and restated as follows:

The boundaries of the above named District are shown on the map entitled "Zoning Map, Town of Lyme" which is by reference made a part of this Law.

B. Applications for Wind Energy Conversion Systems (WECS) – A complete application for a WECS or group of WECS known as a project shall include:

1. APPLICATION: A package containing all of the information required as described below.

2. LOCATION MAP: A section of the most recent USGS Quadrangle Map at a scale of 1:24,000 or similar showing the proposed WECCS Site, associated roadways, transmission lines and the area within two miles from the proposed site boundaries.

3. SITE PLAN: A site plan prepared by a Licensed Land Surveyor, Professional Engineer, Landscape Architect or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), including:

    a. A description of the project, including the number of WECS and the power rating of each WECS.

    b. Property lines and physical dimensions of the site.

    c. Location, approximate dimensions and types of major existing structures and uses on the site; public roads and properties within 2,640 feet beyond the site boundaries; the Wind Overlay District boundaries.

    d. Location, GPS coordinates, and elevation of each proposed WECS.

    e. On-site locations of transmission lines with interconnection points, transformers, and all ancillary facilities or structures.

    f. Plots of topographic contour lines, roads, rights of way, land cover, wetlands, streams, water bodies and areas proposed to be temporarily cleared of vegetation, areas to be permanently cleared of vegetation, areas of grading, and areas of cut and fill.

    g. Location of residential structures within the site and their distance from each proposed tower.

    h. Plans for long-term ingress and egress to the proposed project site, including:

1) A description of the access route from the nearest state, county, and/or town-maintained roads to include:

    i. Road surface material, stating the type and amount of surface cover.
    ii. Width and length of the access route.
    iii. Dust control procedures.

2) A road maintenance schedule.

i. Landscaping plan, depicting existing land features and contours, average height of brush, trees, forest cover and other vegetation, and describing all proposed changes to existing features, the area to be cleared and the specimens proposed to be added, identification by species and size of the specimen at installation, and their locations.

j. Construction Access Plan, prepared by a Professional Engineer licensed to practice in New York State, reviewed in advance by the Jefferson County Highway Department, the Town Highway Department, the Chaumont Fire Department, and the Three Mile Bay Fire Dept. The Access Plan should include the following:

1) Identification of all roads, including seasonal roads, and rights of way within the Town to be used for site access during construction, and a plan for marked detours where necessary, so traffic to residences and businesses can continue unobstructed,

2) Estimate of the number of vehicle trips over each road by vehicle type and gross weight.

3) Indicate any areas where clearing of trees, road widening, or realignment is necessary.

4) The engineer shall provide an analysis of potential road damage.

5) A video of the current condition of all roads to be used for construction and long term access.

6) The anticipated staging areas.

7) The execution of a Highway Use Agreement. [Amended by LL #3 of 2017]

The final, approved version of this plan is not expected to be complete at the time of the application submittal. It shall be available prior to final project approval.

k. A fire protection and emergency response plan must be created in consultation with the fire department(s) having jurisdiction over the proposed site and the Jefferson County Office of Fire and Emergency Management.

l. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, the 911 emergency notification system, and other wireless communication must be conducted by an independent contractor, following all applicable FCC requirements.

m. An assessment, pre- and post-installation, must be performed to determine the potential existence of stray voltage problems on the site and on neighboring properties within one mile of the project boundary and to establish mitigating actions.

n. A geotechnical report must be prepared that includes: soils engineering and geologic characteristics of the site using sampling and testing; a bedrock profile within one mile of the site boundary; information on depth and average flow rates of wells and, with permission by owner, performance of water quality tests for all wells within two miles of the site; grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.

o. The Town shall require the applicant to deposit funds to cover the amounts by which the Town's customary and reasonable costs of review of the applications exceed the application fees paid by the Applicant. Those costs shall include, but not be limited to, engineering fees, legal fees, and the fees and/or costs of special consultants, as may be required.

p. Proof of continuous liability insurance in the amount of $5,000,000 per occurrence with a total policy minimum of $20,000,000 per year shall be provided. The policy shall be submitted to the Town indicating coverage for potential damages and injury to landowners.

q. For any financial interest held by a Municipal Officer or employee or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this local law, the Applicant shall disclose in a separate section of the application the Municipal Officer and his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person. The disclosure shall include all such instances of financial interest of which the Applicant has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.

r. Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town Clerk and placed in the Town Library and Town Clerk's office as well as on the Town of Lyme website.

4. ELEVATIONS: A drawing of a WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing is sufficient to depict all WECS of the same type and total height. The make, model, picture and manufacturer's specifications, including noise (in decibels) data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed WECS design.

5. LIGHTING PLAN: Lighting Plan showing and FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure. However, if such determination is not available at the time of the application, no WECS permit for any lighted facility may be issued until such determination is submitted. Lighting shall be directed up and horizontal, minimizing the downward component to the extent permitted by FAA regulations. The Applicant must utilize any methods and equipment allowed by the FAA that minimize the time that the warning lights would be illuminated.

6. STORM WATER MANAGEMENT PLAN: Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, as applicable, and to standards that may be established by the Town of Lyme.

7. CONSTRUCTION SCHEDULE: A construction schedule describing commencement and completion dates, beginning and ending hours of daily construction, a traffic analysis with a description of the routes and times to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles. This schedule shall also include a construction plan detailing the staging processes. The final version of this schedule is not expected as part of the initial application but must be complete prior to issuance of the WECS permit.

8. DECOMMISSIONING PLAN: Decommissioning Plan that includes information required by this law.

9. PROPERTY OWNER LIST: List of property owners, with their mailing address, within one mile of the site boundary.

10. COMPLAINT RESOLUTION: A complaint resolution process that follows the process described in Article V, Section 1 of this law.

11. TRANSPORTATION PLAN: A description of impacts anticipated during construction, reconstruction, modification, or operation of WECS on the local transportation infrastructure shall be prepared. Transportation impacts to be considered shall include potential damage to local road surfaces, road beds, and associated structures; traffic impacts caused by haulers of WECS materials; effects on school bus routes; impacts of visitors to the WECS facilities. Local roads shall include all state, county, and town highways, and village streets, which will or may be used by the applicant. The transportation plan must describe routes used for delivery of project components,

equipment and building materials, and for access to the Site during and after construction. The plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction.

12. EMERGENCY SHUTDOWN PROCEDURES: A description of emergency and normal shutdown procedures.

13. FULL EAF: A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the Wind Energy Facility. If the Board decides the project could have potentially significant environmental impact(s), then an Environmental Impact Statement (EIS) shall be prepared, and at a minimum, shall include the following assessments, studies, reports and/or plans:

    a. A study of potential Shadow Flicker, including a graphic to identify locations where Shadow Flicker may be caused by the Wind Turbines and expected durations of the flicker at these locations. The study shall identify areas where Shadow Flicker may affect residences and describe measures to be taken to eliminate Shadow Flicker problems. There shall be no Shadow Flicker on off-site properties.

    b. A visual impact study of the proposed WECS, as installed, shall be prepared that includes digital simulations of views from the following vantages: major roadways, public recreation areas, state parks, wildlife management areas, and residences within one (1) mile of the site boundary. Color photographs of the site depicting pre-construction conditions shall be included. The visual analysis shall also describe exterior treatment of system components and any visual screening to reduce the system's visual prominence.

    c. An analysis of impacts on local wildlife shall be prepared, describing impacts anticipated during construction, reconstruction, modification or operation of WES. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, and insects), ground inhabiting creatures, and flora. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must include at least two years of pre-construction data. Literature surveys for threatened and endangered species that provide relevant information on critical flyway location and potential impacts of proposed facilities on bird and bat species shall be performed. An impact avoidance or mitigation plan that meets the approval of the NYS DEC must be submitted, including a description of post-installation studies to determine plan effectiveness.

    d. An assessment must be conducted to determine potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related to excavation, blasting, clear-cutting and grading during the site preparation phase.

e. An assessment of archaeological, historical, and cultural resources that may be impacted by the project shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation and make use of the Town's Comprehensive Land Use Plan to identify local resources and stated priorities.

f. Any other issues that result from the SEQRA review must be addressed.

14. AFFIRMATION: A statement signed under penalties of perjury that the information contained in the application is true and accurate.

15. SIGNATURES REQUIRED: The application shall be signed in the presence of a Notary Public by the Licensee.

C. Application Review Process

1. Applicants are encouraged to have a pre-application meeting with the Planning Board, and with any consultants retained by the Town for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

2. Twenty paper copies and a digital version in Adobe pdf format of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.

3. Zoning Enforcement Officer with the Planning Board shall determine, within 60 days of receipt, or such longer time if agreed to by the applicant and the Planning Board, if all information required under this Article is included in the application. This determination may also require Town-designated consultants, which shall be retained at the expense of the applicant to make a like determination.

   If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the application is more than 20% deficient, or there is a significant change in the application, as determined by the Planning Board, such as but not limited to an increase in the proposed number of WECS.

4. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by registered or certified mail with a return receipt requested, to property owners within two miles of the site boundary and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing produced by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

5. Any subsequent public hearing(s) may be combined with public hearings on any Environmental Impact Statement.

6. Notice of the project shall also be given, when applicable, to (1) the Jefferson County Planning Board, if required by General Municipal Law §239-l and §239-m, and (2) to adjoining Towns under Town Law §264.

7. SEQRA review. Applications for Commercial WECS Permits are deemed Type I projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said agencies shall be part of the record of the Planning Board's proceedings. The Town shall require sufficient financial deposit(s) from the applicant to cover the engineering and legal review of the applications and any environmental impact statements before commencing its review. The determination by the Town shall provide a minimum balance that the applicant must maintain with the Town from which the Town shall pay its professional fees for review.

8. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

9. To the extent that this procedure conflicts within Article V of the Town of Lyme Zoning Ordinance, this Section shall control.

10. If approved, the Planning Board will issue a WECS Permit for each WECS, allowing construction. The Zoning Enforcement Officer will issue a Certificate of Compliance for each WECS, when complete and in compliance with the conditions with the conditions of this local law, allowing operation.

11. If any approved WECS is not fully operational within two (2) years, the WECS Permit shall expire for that WECS only and decommissioning procedures will commence.

D. General Standards for WECS

The following standards shall apply to all WECS:

1. All power transmission lines from the tower to any building or other structure shall be located underground, including all transmission lines and those transiting the Town of Lyme from WECS sited within other jurisdictions.

2. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and telecommunications facilities.

3. No advertising signs are allowed on any part of the WECS, including fencing and support structures.

4. No tower shall be illuminated except to comply with FAA requirements. Only downward directed security lighting for ground level facilities may be allowed as approved on the site plan.

5. All applicants shall use measures to minimize the visual impact of WECS. All structures in a project shall be finished in a single, non-reflective matte finish. WECS shall be constructed in a manner that provides reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades, or on surrounding property.

6. No WECS shall be installed in any location where its proximity with existing antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the WECS Certificate of Compliance for the WECS(s) causing the interference.

7. All waste including hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all State and Federal rules and regulations.

8. WECS shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top-soil disturbed during construction, reconstruction or modification of WECS shall be stockpiled and returned to the site upon completion of the activity, where possible. When additional soil is required, new soil must be of similar quality to that of the original site.

9. Pursuant to the SEQRA determination, WECS shall be located in a manner that minimizes negative impacts on animal species in the vicinity, particularly bird and bat species, including those that are listed by the U.S. Fish & Wildlife Service as threatened or endangered. Measures to mitigate or eliminate negative impacts will be determined on a case-specific basis.

10. WECS shall be located in a manner consistent with all applicable state and federal wetland laws and regulations, particularly as applied to the Chaumont Barrens and NYS Ashland Flats Wildlife Management Area.

11. Storm water run-off and erosion control shall be managed in accordance with all applicable State and Federal laws and regulations.

12. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts.

13. The maximum total height of any WECS, including the upward vertical extent of the blade, shall be 400 feet.

14. Constructions of the WECS shall be restricted to the hours of 7AM through 7PM Monday through Friday. No construction activities shall be permitted on Saturday, Sunday, or Federal holidays. Exceptions may be granted through written request/approval of the Planning Board or, for emergencies, verbal approval from the CEO or Town Supervisor.

15. Underground cables and wires, substations, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows, and/or as near the edge of any fields as possible to minimize disruption to residences, pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition. During construction the licensee shall follow best agricultural practices to insure the post construction integrity of the site.

16. WECS shall be located in a manner that minimizes significant negative impact on the historical landmarks and cultural aspects of the community pursuant to the SEQR process.

17. This law supersedes all commercial, industrial, and private agreements affecting any aspect of this law, except as specified in this law.

E. Required Safety Measures

1. Fencing may be required to limit public access. Copies of any keys or key codes shall be given to the Zoning Officer who will ensure that other responsible town departments have access including, for example, the fire and police departments.

2. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building containing emergency contact information, including a local telephone number with 24 hour, 7 days per week coverage.

3. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers. Alternatively, the structure must be equipped with a locked anti-climb device.

4. The minimum distance between the ground and any part of the rotor blade system shall be thirty-five (35) feet.

5. WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are keep securely locked. Copies of any keys or key codes shall be given to the Zoning Enforcement Officer who will ensure that other responsible town department have access including the fire and police departments.

6. Copies of all reports concerning operating and safety inspections for each WECS shall be filed with the Town Clerk.

F. Traffic Routes

1. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include:

    a. Minimizing traffic impacts from construction and delivery vehicles;

    b. Minimizing WECS related traffic during times of school bus activity;

    c. Minimizing wear and tear on local roads; and

    d. Minimizing impacts on local business operations.

    Permit conditions limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public. This shall be coordinated with the Town Highway Superintendent, and Transportation Supervisor for the Lyme Central School District, in compliance with the provisions of the Agreement for Road Use, Repair, and Improvements.

2. Prior to commencement of construction of the WECS, the applicant shall bring all State Highways, County Highways, Town Highways and Village streets, including seasonal use roads, to the standards applicable to the loads anticipated as set forth by the Jefferson County Highway Department and the Town of Lyme Highway Superintendent and the NYS DOT.

3. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. The escrow agreement shall include an installation guarantee which shall be posted in cash to the escrow account prior to the issuance of any WECS Certificate of Compliance in an amount, determined by the Planning Board, sufficient to compensate the Town for any damage to local roads in accordance with Section 530 of the Town Zoning Law. The Planning Board shall coordinate with the State, County, and Town Highway Departments. The Town Board is responsible for approving and signing the final road agreement.

G. Noise Standards for WECS

The Sound Pressure Level shall not exceed 1 and 2 as follows. Permissible Sound Pressure Levels of 1 and 2 shall be modified if the sound includes Prominent Tones.

1. A-weighted SOUND PRESSURE LEVEL shall be less than or equal to 30 dB from the hours of 7:00pm to 7:00am and less than or equal to 35 dB at all other times, measured at the nearest, non-participant SITE BOUNDARY.

2. C-weighted SOUND PRESSURE LEVEL shall be less than or equal to the above values plus 18 dB as measured at the nearest, non-participant SITE BOUNDARY.

Sound Measurement Methods.

Sound Measurements shall use sound meters that meet the ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. The measurement spectrum shall be 6 Hz to 10 kHz. The testing method shall include the following provisions:

1. The BACKGROUND SOUND is the preconstruction Sound Pressure Level measured during the quiet time for the soundscape under evaluation (typically, between 10pm and 4am) and with test duration of ten continuous minutes. Several contiguous ten-minute tests may be performed in one hour to determine the statistical stability of the sound environment. Measurement periods such as at dusk or dawn when bird or insect activity is high are not acceptable measurements times. Test results are only valid when the A-weighted level exceeded 10% of the time is not more than 10dB above the A-weighted level exceeded 90% of the time during the same period. Furthermore, the C-weighted level exceeded 10% of the time minus the C-weighted level exceeded 90% of the time is not to exceed 10 dB to be valid. The Background Sound levels documenting the preconstruction baseline conditions shall be determined when the 10 minute maximum wind speed is less than 2m/s as measured within 5 m of the microphone and at the microphone height of 1.5 and the atmosphere is considered stable with no vertical heat flow to cause air mixing. Sound measurement points shall be taken between inflection points of the Site survey and at locations nearest residences. For example, a rectangle parcel contains 4 inflection points (the corners) and would result in a minimum of four measurement points, one along each side of the property. A five-sided parcel would have a minimum of five measurements points etc. Measurement points shall be quiet locations remote from streetlights, transformers, street traffic, flowing water and other local noise sources. The background sound may be measured following construction using the above method but with the WECS turned off if, with the consent of the Town, it is determined that the Background Sound level (both A and C weighted) exceeded 90% of the time has increased by more than 3 dB from those measured under the pre-construction nighttime conditions.

2. The SOUND PRESSURE LEVEL during turbine operation shall be measured when the maximum wind speed, sampled within 5m of the microphone and at its height, is less than 4 m/s. The wind speed at the WES blade height shall be at or above the nominal rated wind speed and operating at its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WECS blade height should be selected to as nearly as possible reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s.

H. Setback Standards for Wind Energy Conversion Systems.

Each WECS shall conform to the following setbacks:

1. One-half mile (2,640 feet) safety setback from the nearest public road or right of way.

2. One-half mile (2,640 feet) from non-participating property lines and boundaries with neighboring towns.

3. 1,600 feet from any non-WECS above-ground utilities located within the project boundary.

4. One-half mile (2,640 feet) from state-identified parks, wildlife management areas, nature preserves, and wetlands.

5. One mile (5,280 feet) from the current Village of Chaumont boundary and from the Hamlet of Three Mile Bay Lighting District boundary.

6. All WECS shall be setback a minimum of one mile (5,280 feet) from

    a. Schools and churches

    b. Public land where people gather (e.g., public access sites, ball fields, cemeteries)

7. One mile (5,280 feet) from NYS Route 12E, the Great Lakes Seaway Trail State Scenic Byway.

8. Two mile setbacks from Lake Ontario, Chaumont Bay, and the Chaumont River.

9. Setbacks resulting from the noise limitations set forth in this law shall apply when more restrictive than the setbacks defined in Sections A through G above.

I. Abatement or Decommissioning

1. If any WECS remains non-functional or inoperative for a continuous period of 12 months, the licensee shall, without further action by the Planning Board, remove said system at its own expense in accordance with the provisions of subsection C of Section 10. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, consultant, project manager, etc.) appointed by the Planning Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. Alternately, the applicant may provide an explanation for the extended period of inoperability and the plan for returning the WECS to operation for Planning Board consideration.

2. Decommissioning and Site Restoration Plan and Requirements

    An Application for a WECS Building Permit shall include a decommissioning and site restoration plan containing the following information and meeting the requirements in this section.

a. The Plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all WECS and other structures, hazardous materials, and electrical facilities and cables. The plan shall provide for the removal of all access roads that the owners of the Project Parcels want removed. The plan shall provide for the restoration of the Project Parcels to be graded to approximately the original topography.

b. The Plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the abandonment of the WECS. The WECS shall be deemed abandoned if its operation is ceased for 12 consecutive months and the owner/operator is not actively pursuing remedies to restore its operation.

c. The Plan shall include: (a) estimated decommissioning cost in current dollars; (b) how the estimate was determined; (c) the method establishing the cash or other acceptable forms of funds for decommissioning and restoration; and (d) the method that will be used to keep the decommissioning costs current. The Town Board will make arrangements to ensure the fund amount is adjusted annually to reflect inflation and other cost increases.

d. The Plan shall include provisions for financial security to ensure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund payable to the Town, in cash or other acceptable security as part of the decommissioning agreement in an amount to be determined by the Town for the period of the life of the facility. This fund shall be no less than 125% of the cost of full decommissioning. No credit for salvage value will be given. All decommissioning funding requirements shall be met prior to commencement of construction.

e. The Plan shall include written authorization from the permit holder and the owners of all parcels within the project for the Town to access the Parcels and implement the decommissioning and site restoration plan, in the event the permit holder fails to implement the plan.

f. Use of Decommissioning Fund

    (1) Any non-functional or inoperative WECS, or any WECS for which the Certificate of Compliance has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration plan within 90 days of the date on which the facility becomes non-functional or inoperative, as defined above, or of the Certificate of Compliance revocation date.

    (2) If removal of the WECS is required and the applicant, or successors, fail to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the applicant, by accepting the Certificate of Compliance, authorizes the Town to

contract for such removal and restoration and to pay for the removal and restoration from the decommissioning and site restoration fund under the escrow agreement.

(3) If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

J. Limitations on Approvals; Easements on Town Property

Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation to reduce turbulence and increase wind flow to the WECS other than what was described in the application. Nothing in this Local Law shall be deemed a guarantee against Town approvals of future construction that may in any way impact the wind flow to any WECS. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

K. Permit Revocation

1. Testing Fund. The Certificate of Compliance shall contain a requirement that the applicant fund noise testing by an accredited independent third-party acoustical measurement consultant, which may be required upon request of the Zoning Enforcement Officer to remedy any non-compliance sound issue.

2. Operation. A WECS shall be maintained in operational condition at all times, subject to maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Zoning Enforcement Officer. If the problem cannot be resolved within the required time frame, a request for time extension can be filed with the Planning Board. The request must address the basis for the extension.

3. Notwithstanding any other abatement provision under this Local Law, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular time frame, or (2) order revocation of the Certificate of Compliance for the WECS and require removal of the WECS within 90 days. If the WECS is not removed, the Town shall have the right to use the security posted as part of the Decommission Plan's escrow agreement to remove the WECS.

3). <u>Wind Measurement Towers</u>

A. Wind Site Assessment

Prior to construction of a WECS, an assessment is needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted only in those areas within the Wind Overlay District.

B. Application for Wind Measurement Towers

1. An application for a Wind Measurement Tower shall include:

a. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the applications shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

b. Name, address, telephone of the property owner. If the property owner is not the applicant, the applications shall include a notarized letter or other notarized written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

c. A scale map showing the location of the site within the Town and the property lines.

d. The location, approximate dimensions and types of major existing structures and uses on the site, public roads and adjoining properties within 2,640 feet of the tower, and the Wind Overlay District boundaries must be indicated.

e. The location, GPS coordinates, and elevation of the proposed tower, and all onsite utility lines, including transformers, the interconnection point with transmission lines, and other ancillary facilities or structures must be indicated.

f. The locations of affected rights of way, land cover, wetlands, streams, water bodies and areas proposed to be temporarily cleared of vegetation, areas to be permanently cleared of vegetation, areas of grading, and areas of cut and fill must be indicated.

g. Ownership and land use information within a 2640-foot radius of the proposed tower location must be provided. The distance from the center of the tower to all on and off-site residences within 5,280 feet shall be noted.

h. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the requirements contained in the current edition of the National Electric Code.

i. A Decommissioning Plan and a security bond or cash to cover the cost for removal of the tower.

C. Application Review Process for Wind Measurement Towers

1. Applicants may request a pre-application meeting with the Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

2. Twenty copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. The Town Clerk shall transmit the application to the Planning Board.

3. The ZEO and Planning Board with Town-designated consultants, if necessary, shall within 60 days of receipt, or such longer time if agreed to by the applicant and Planning Board, determine if all information required under this Article is included in the application.

4. If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of Wind Measurement Towers proposed is increased or if the application submitted is more than twenty percent incomplete.

5. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within one mile of each proposed Wind Measurement Tower and published in the Town's official newspaper, no less than ten no more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

6. The public hearing may be combined with public hearings on any Environmental Impact Statement.

7. Notice of the project shall also be given, when applicable, to (1) the Jefferson County Planning Board, if required by General Municipal Law §239-l and 239-m, and (2) to adjoining Towns under Town Law §264.

8. SEQRA review. Applications for Wind Measurement Towers are deemed Unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Town will require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.

9. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

D. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the property line or any structure shall be at least 2 times the Total Height of the tower.

2. Certificates of Compliance for Wind Measurement Towers may be issued for a period of up to thirty (30) months. Permits may be renewed if the Facility is in compliance with the conditions of the Certificate of Compliance, subject to review by the Planning Board.

3. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.

4. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for WECS projects shall be adhered to both inside and outside of agricultural districts.

4). Miscellaneous

A. Complaint Resolution Process

1. The offended party shall first bring their complaint to the Zoning Enforcement Officer. If the Zoning Enforcement Officer finds it to be valid, he will notify the WECS licensee of the complaint. The licensee shall have the opportunity to resolve the complaint. The time frame of resolution will be dependent on the nature of the complaint. The complaints may include, but will not be limited to: excessive noise, flicker or shadow effect, change in water quantity or quality, loss of or diminished telephone, TV, radio reception, interference with a medical device, changes in value to the residence, new or increased presence of radon gas. Should it be necessary for the validity of the complaint to be verified by an outside consultant, the Town will select and employ a firm to do testing, collect data or whatever else may be necessary to determine validity. The funds for payment of these services will come from the established escrow account.

2. The Complaint Resolution Process will apply, but not be limited to, the following categories:

    a. Shadow Flicker Complaint Resolution Process: When a written complaint is received by the Zoning Enforcement Officer from a non-participant identifying a specific turbine(s) in the wind project with a complaint of shadow flicker, the licensee shall be notified within 72 hours by the Zoning Enforcement Officer. The validity of the complaint must be verified by the Zoning Enforcement officer using outside resources, as necessary. Upon establishment of the validity of the complaint, the licensee must mitigate the violation within 72 hours. If the licensee does not comply, the Town Board may take enforcement as established in Section 930 of this local law.

b. Setbacks Complaint Resolution Process: When a written complaint is received by the Zoning Enforcement Officer from a non-participant in the wind development project identifying that a setback requirement is noncompliant and is determined by the Zoning Enforcement Officer to be valid, the licensee within 72 hours must correct the non-compliance violation or define a process to resolve the violation. If the licensee fails to comply, the Town Board may take enforcement as established in Section 930 of this local law.

c. Noise/Sleep Interference Complaint Resolution Process: When a written complaint supported by a log listing the times of excessive noise is provided to the Zoning Enforcement Officer from a non-participant alleging noise disturbance from a wind turbine(s), the licensee will be informed of the complaint within 72 hours after receipt of the complaint. The validity of the complaint will be determined by the Zoning Enforcement Officer. The Town may retain an independent acoustic investigation paid for with the funds in the escrow account, as necessary. If the licensee is found to be non-compliant with the Town's wind facilities law noise standards, the violation must be corrected. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

   If the validity of the complaint requires the services of an acoustical consultant, the procedure described below must be followed:

   Violations and enforcement shall be determined by measurement without undue timing constraints. The Town will use the services of an outside contractor, as necessary, to determine the violation and associated enforcement actions. The Town's acoustical consultant shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The protocol described below must generally be followed but may be modified as circumstances require by the acoustical engineer provided that modifications generally conform to the protocol.

   (1) Initially a preliminary study shall be conducted for a period of 30 minutes. During the 30 minute period, the equivalent level (LEQ) generated by the noise shall be measured. The measurement shall be on the complainant's property line nearest the noise source. Measurements shall be entirely within the appropriate time period e.g. during the nighttime for nighttime enforcement and the noise source shall operate continuously (if normal operation) during the 30 minute measurement. [Amended by LL #3 of 2017]

   (2) If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The licensee shall fully cooperate with Town officials and

their agents to ensure accurate measurements, including turning the source on and off as required.

(3) For both types of surveys, the microphone shall be situated between 4 and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10 dB below the lowest level measured.

(4) A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.

(5) A wind screen shall be used as recommended by the sound-level meter manufacturer.

(6) An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ±2 miles per hour (±0.9 meters per second).

(7) For the detailed, long-term study a compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.

(8) For all measurements, the surface wind speed, measured at a 1.5 m height, shall be less than 5 m/s.

(9) The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacture, model, and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one-third-octave band noise floors, if utilized, for each sound-level meter used.

d. Electromagnetic/Stray Voltage Complaint Resolution Process: Upon receipt of a written complaint from a non-participant alleging violations associated with electromagnetic inference or stray voltage, the Zoning Enforcement Officer will

provide a copy of the complaint to the licensee within 72 hours. The Zoning Enforcement Officer will determine validity of the complaint. The Town may hire, if necessary, a certified electrical engineer consultant to conduct a stray voltage investigation or electromagnetic interference investigation at the cost of the licensee, to assist in determining complaint validity.

If the complaint is determined to be valid, the licensee shall resolve the problem and return the facility to full compliance with the law within a time period determined by the Zoning Enforcement Officer. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

e. Protection of Aquifers, Ground Water and Wells: When a written complaint is received by the Zoning Enforcement Officer from a resident regarding disturbance of an aquifer, ground water or well water, the Town will notify the licensee within 72 hours. The Zoning Enforcement Officer will determine the validity of the complaint. The Town may hire a qualified engineer at the expense of the licensee to verify validity of the complaint. If the complaint is found to be valid, the licensee must make potable water available to the resident(s) immediately and establish a course of action to resolve the complaint. If the complaint is verified and the well is found to contain toxins, the licensee and/or the Town must notify the Department of Conservation (NYS DEC) of the finding. If the circumstance falls under the jurisdiction of the NYS DEC, the NYS DEC will assume responsibility for corrective actions. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

3. Fees Fees shall be established by the Town Board.

a. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay engineering and legal costs that are fair, reasonable and customary for the area for application review, including the review required by SEQRA.

b. The Town Board shall establish fees. [Amended by LL #3 of 2017]

c. In addition to the amendments being made to the Zoning Ordinance of the Town of Lyme, the Town Board of the Town of Lyme also hereby exercises its right to opt out of the tax exempting provisions of the Real Property Tax Law Section 487, pursuant to the authority granted by Section 487 subdivision 8.

Section 775: Renewable Energy Systems

A. Application Requirements

1. No Renewable Energy System (RES) shall be constructed or installed without first receiving a special permit from the Town of Lyme Planning Board. A special permit shall also be required for a major physical modification to an existing RES. [Amended by LL #3 of 2017]

2. The Town of Lyme Zoning Enforcement Officer (ZEO) will provide application forms specific to the RES to be built. The applicant may request a pre-meeting with the ZBA or ZEO or any consultants retained by the PB for the purpose of reviewing the application. [Amended by LL #3 of 2017]

3. The property owner must submit the completed application for a RES special permit to the ZEO. The application must be on a form provided by the ZEO and must include, as a minimum, the following information.

    a. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

    b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

    c. A description of the project, including the manufacturer, output power rating, technical specifications, and other details of the RES. If the RES is a custom design, a full engineering review performed by a NYS licensed professional engineer with certification in the technical area associated with the RES must be presented with the application. The engineering review must include a certification that the custom design meets all the requirements and standards applicable to a comparable commercially manufactured unit.

    d. Provide a drawing of the property, indicating property lines and physical dimensions, the location of the proposed RES, and the locations with approximate dimensions of major on-site structures. If applicable, indicate the locations of all on-site utility lines, transformers and other ancillary facilities, and the RES interconnection point.

    e. For BES and SWECS only, identify public roads, rights of way, and properties within 1250 feet of the property lines on which the proposed RES will be located. Include ownership, land use information, and locations of residences on the identified properties.

f. If applicable, provide a site map describing land cover, wetlands, streams, water bodies, and areas proposed to be temporarily or permanently cleared of vegetation, areas to be graded, and areas to be cut and filled sufficient to demonstrate that there will be no adverse impact on neighboring properties.

g. Provide a description of the system electrical components in sufficient detail to demonstrate that the installation conforms to the most recent version of the NEC electric code requirements.

h. For any system with an electrical output capacity equal to or greater than 10kw, provide written certification that the electric utility service provider has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan to connect the system to the electric grid and so states in the application.

i. Detailed manufacturer's installation specifications must be submitted with the application to provide the code inspector with sufficient information to ensure conformation with all applicable NYS fire and building codes, all industry and manufacturer requirements, and all requirements of this local law.

4. The ZEO, after a completeness review, will refer the application to the Planning Board for action. [Amended by LL #3 of 2017]

5. The owner shall conspicuously post the special permit at the construction site until construction and installation of the RES is complete.

6. The special permit shall lapse if construction does not commence and be substantially complete within one year from date of permit issuance.

B. Biomass Energy Systems (BES)

1. Special permit applications must include an engineering analysis demonstrating compliance with the Uniform Statewide Building Code. This analysis may be supplied by the manufacturer. Wet stamps shall not be required.

2. In addition to all other applicable construction codes, the provisions of the applicable, system-specific requirements within NYS DEC Regulation, Part 247: Outdoor Wood Boilers, must be met.

3. BESs must comply with all building and structure setbacks and height requirements for the zoning district in which the system is to be installed. Setbacks shall be adjusted to ensure that there is sufficient distance between the BES and adjacent properties to prevent unhealthy or unpleasant effects from BES emissions on neighboring residences. Emission effects from the BES on adjacent properties can be mitigated in several acceptable ways but not limited to the following: increasing the setback between the BES and the property lines; installing taller smokestacks; installing catalytic converters in smokestacks; incorporating emission-mitigating engineered solutions provided by the manufacturer or other technically qualified firms. The most up-to-date safety standards adopted by New York State at the time of application review shall be used by the

Planning Board in determining the acceptance of BES applications for a special permit. The Planning Board shall exercise judgment in requiring mitigation equipment to ensure that adjacent property owners are sufficiently protected from any harmful effects of BES emissions. Regardless of technology employed, no BES can be sited less than 200 feet away from all adjacent property lines. [Amended by LL #3 of 2017]

4. Current (i.e. at the time of application review) NYS and/or Federal safety standards shall be used by the Planning Board in determining the acceptance of the BES special permit application. Specifically: [Amended by LL #3 of 2017]

    a. Ensure that the system is sized for its application in accordance with NYS code requirements, in particular, Manual J.

    b. Indoor units that are "exempt" per NYS Part 247 shall include thermal storage capability acceptable to the PB to ensure system high performance and minimal emissions.

5. All exterior electrical and/or plumbing lines must be buried.

6. BESs must comply with the accessory structure restrictions contained in the zoning district where the system is located.

7. For systems using wood pellets as fuel: Bulk storage facilities for wood pellets shall be located external to habitable dwellings. In cases where this is not possible, a sealed wood pellet storage container shall be used that incorporates its own mechanical ventilation system to prevent carbon monoxide (CO) from entering the home. Exhaust from the ventilation system shall be located such that the CO cannot be entrained in the dwelling or adjacent buildings. CO monitors shall be installed per NYS "Amanda's Law" for all circumstances in which stored wood pellets could release CO into living quarters.

8. An acceptable waste (combustion products) management plan must be in place at the time of initial BES operation and followed throughout the BES service life.

9. Acceptable operation of a BES will be determined by the CEO using, in part, the definitions and requirements stated in NYS Part 302.6.

10. No commercial BESs are permitted in the waterfront district.

C. Small Wind Energy Conversion Systems (SWECS)

1. SWECS systems with an output power rating equal to or less than 50kw are allowed within the Town of Lyme except in the Waterfront District. SWECS applications must include copies of letters sent to the owners of all adjoining properties by the applicant, at least 30 days prior to the submission of an application, informing them of his/her intent to apply for a special permit to construct a SWECS. No more than one SWECS shall be permitted on parcels up to 200 acres. Applications for an additional SWECS on parcels greater than 200 acres shall be considered by the ZBA on a case-by-case basis.

2. Tower height is allowed to vary, dependent on the technology employed, up to a **never to exceed maximum of 125 feet**, including the upward vertical blade length.

3. Setbacks from all property lines shall be maintained as follows:

SWECS Design:	Minimum Setback to Property Line:
Free-standing Tower, Horizontal Or Vertical Axis	5 times tower height
Roof Mounted	Conform to building code

4. Exterior lighting on any structure associated with the SWECS shall be limited to a maximum height of 20 feet above the ground except lighting which is specifically required by the Federal Aviation Administration.

5. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and shall have non-reflective finishes on non-painted surfaces.

6. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

7. The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system until damage is mitigated.

8. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on the generator housing in an unobtrusive manner.

9. Towers shall be constructed to restrict unauthorized access. Examples: tower-climbing apparatus located no closer than 12 feet from the ground; locked anti-climb device installed on the tower; other methods subject to CEO approval.

10. The lowest extensions of any horizontal axis wind turbine blade shall be at least 30 feet above any obstacle, in any direction, within 500 feet of the turbine.

11. All SWECS, including tower structures, shall be designed and constructed to comply with pertinent provisions of the Uniform Building Code and National Electric Code under the National Fire Protection Association (NFPA).

12. All SWECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

13. New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be followed both inside and outside of agricultural districts.

14. SWECS shall be designed, installed, and operated so that noise generated by the system shall not exceed 35 decibels, A-weighted (dBA) from 9:00pm to 7:00am and 50 decibels, A-weighted (dBA) from 7:00am to 9:00pm, as measured at the SWECS site property lines.

D. Solar Energy Systems (SES)

1. Rooftop and Building-Mounted Solar Collectors are permitted in all zoning districts in the Town of Lyme subject to the following conditions:

    a. Height limitations shall not be applicable to solar collectors that extend three feet or less above the peak of the roof.

    b. Rooftop solar units must be set back at least three feet from all roof boundaries.

    c. Roof structures must be engineered to support the solar collector weight in addition to other weight bearing requirements.

2. Building-Integrated Photovoltaic (BIPV) Systems are allowed in all zoning districts. No separate special permit is required of the system is designed and installed as part of the original construction and the plans are reviewed and approved.

3. Ground-Mounted Racks and Free Standing Solar Collectors mounted on a pole are permitted as accessory structures in all zoning districts, subject to the following conditions:

    a. Special permits are required for all Ground-Mounted and Free Standing Solar Collectors 10 feet or less in height above the ground. Height above ground is determined by the highest extension of any part of the solar array. For solar arrays that move to maintain optimal exposure to the sun, the highest extension of any array component in any attainable orientation shall serve as the limiting height.

    b. For residential lots less than or equal to 5 acres, one 100 square foot solar array is permitted for each 10,000 square feet of lot area. For lot sizes greater than 5 acres, one 100 square foot solar array is permitted for each 5,000 square feet of lot area. The total capacity of the solar arrays cannot exceed 125% of the estimated site electrical needs.

c. The arrays must be installed in accordance with all setback standards applicable to residences.

d. Solar systems with an output less than 1 kilowatt do not require any permit.

e. Solar arrays mounted on motor-driven mounts that allow optimal orientation toward the sun must meet environmental safety requirements including but not limited to, wind and snow loads appropriate for the local climate. Setback requirements must be met for any and all orientations of motor-driven arrays.

4. Solar-Thermal Systems (roof and building mounted) are permitted in all zoning districts, while ground mounted systems require a special permit prior to installation. [Amended by LL #3 of 2017]

5. No commercial solar farms are permitted in the WF zoning district, while in the AR zoning district a special permit is required prior to installation. [Amended by LL #3 of 2017]

E. Additional Considerations

1. RESs must be maintained in accordance with all applicable manufacturers' requirements. Failure to abide by and faithfully comply with any and all conditions attached to the granting of the RES permit shall constitute grounds for revocation.

2. The CEO may issue a "Notice of Unsafe Energy System" ("Notice") to the owner of a RES that is determined to be unsafe. The owner shall repair or remove the RES at his/her expense within three (3) months of receipt of the "Notice". The owner has the right to respond, in writing, to the "Notice" within 30 days from receipt. If the owner demonstrates that the RES has been repaired or removed, the CEO shall withdraw the "Notice".

3. Any RES not used for twelve (12) consecutive months shall be deemed abandoned, shall be dismantled, and shall be removed from the property at the expense of the property owner within six months from the declaration of abandonment. If the owner fails to repair or remove the RES, the Town Board shall pursue legal, as necessary.

4. Agricultural structures in a County Agricultural District will be subject to review under this law, as may be modified by NYS Agriculture and Markets guidelines.

F. Fees

The most recent Town of Lyme fee chart will be used to determine charges for renewable energy system applications.

ARTICLE VIII – NONCONFORMITIES

Section 805: Applications

A. A nonconforming use may be continued subsequent to adoption of this Law but the structure shall not be enlarged or altered in a way which increases its nonconformity, and use shall not be enlarged or increased to occupy a greater land area.

B. A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of this Law.

C. Nothing in this Law shall be deemed to prevent the strengthening or restoration to a safe condition of any structure declared unsafe by the Zoning Enforcement Officer. However, unless a structure has been declared unsafe by the Zoning Enforcement Officer, a non-conforming structure cannot be rebuilt once it is demolished.

D. A nonconforming structure or use may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:

1. It has once been changed to a conforming one.

2. A nonconforming use of a structure or land has ceased for a consecutive period of twelve months or a total of twenty-four months during any three year period.

E. Nonconformities created by amendments to this law shall be subject to the provisions of this Article.

F. Non-Conforming Lots. Any non-conforming lot in existence prior to the enactment of this local law and having lot width or lot depth less than the minimum area requirements set forth in this local law may be developed with any permitted or special permitted use listed for the district in which such nonconforming lot is located without requiring a variance provided that such lot:

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

2. Has sufficient area, width and depth to undertake development which will:

    a. Maintain the required minimum front and rear setback; and

    b. Meet or exceed at least 1/2 of the required minimum side setbacks; and

3. Otherwise satisfies all applicable provisions of this local law or any other law or ordinance of the Town.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

Section 905: Zoning Permits

A. No building or structure shall be erected or demolished, or use instituted, until a zoning permit for it has been issued. The exterior of any structure shall not be enlarged until a zoning permit therefore has been issued. If a new road or driveway is to enter onto a public road, no zoning permit will be issued until approval for such entry on a public road has been issued by the State or local agency having jurisdiction on said road.

B. A zoning permit shall not be required for

1. Routine maintenance and improvement (e.g., roofing, window replacement, siding replacement, etc.) that does not expand the exterior dimensions of the structure;

2. Chimneys.

3. Exempt signs.

4. Structures less than 4 feet high and 25 sq. ft. in floor area. [Amended by LL #3 of 2017]

C. When establishing measurements to meet the required front yards and structure setbacks, the measurements shall be taken from the street lot line to the furthermost protruding part of the structure. This shall include such projecting facilities as cornices, eaves, porches, carports, attached garages, etc.

D. No such zoning permit or certificate of compliance shall be issued for any building or structure where said construction, addition, and exterior expansion or use thereof would be in violation of any of the provisions of this law.

E. Notwithstanding any other provision of this law, a zoning permit issued under this law shall expire one (1) year from the date of issue if substantial construction is not started. However, a zoning permit issued for the demolition of a building or structure shall require that the site of the demolition be restored to a pre-development appearance, and all construction and demolition debris be properly disposed of within ninety (90) days from the date of issue. Extensions may be granted by the approving authority for the permit if the applicant has shown that good reasons beyond his control were responsible for the delay.

F. Any use that has been discontinued for a continuous period of twelve (12) months or longer shall be termed abandoned and may not be reinstituted without applying for a new zoning permit.

G. Applications for zoning permits, together with all fees, shall be submitted by the owner of the property involved to the Zoning Officer or Town Clerk and shall include two (2) copies of a layout or plot plan showing the actual dimensions of the lot to be built upon; the size and location on the lot of the structures and accessory structures to be; the distance from the building line to all lot lines, street right-way-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 a form issued by the Town.

H. Temporary permits may be issued by the Zoning Enforcement Officer, for a period not exceeding one (1) year, in accordance with Section 620. Such temporary permits are conditioned upon agreement by the owner or operator to remove the nonconforming structures or equipment upon expiration of the temporary permit or to bring the use into compliance by a specific time.

I. Parking lots for places of public assembly and commercial or business uses shall require a zoning permit for placement. They shall meet the requirements of Section 610.

J. The Zoning Enforcement Officer shall issue annual permits for certain recreational vehicles in accordance with Section 750.

Section 910: Certificate of Compliance

A. After a zoning permit is issued no structure or land shall be used or occupied until a certificate of compliance has been issued by the Zoning Enforcement Officer stating that the building, structure, or proposed use thereof complies with the provisions of this law and the zoning permit.

B. All certificates of compliance shall be applied for at the same time as the application for a zoning permit. Said certificate shall be issued after the structure has been inspected and approved by the Zoning Enforcement Officer as complying with the provisions of this law and the zoning permit.

C. The Zoning Enforcement Officer shall maintain a record of all certificates.

D. No certificate of compliance shall be issued for a special permit use until all required improvements, such as storm sewer, water supply, sewage disposal, landscaping, traffic controls, sidewalks, curbs, parking, access facilities, etc., have been constructed or installed in accordance with the approved plan, including all conditions the Planning Board or the Town Board may have required in accordance with Article Five. [Amended by LL #3 of 2017]

Section 915: Zoning Officer

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

B. The B. Zoning Enforcement Officer shall perform the following duties:

1. Zoning Permits.

a. The Zoning Enforcement Officer shall approve or deny zoning permits within 30 days of receipt of application.

b. If the Zoning Enforcement Officer denies a zoning permit, he will inform the applicant that his decision can be appealed to the Zoning Board of Appeals as well as the reasons for his decision. If requested, he will provide the applicant

with an application for appeal or variance and assist the applicant in preparing it.

c. The Zoning Enforcement Officer shall revoke a zoning permit where there is false, misleading or insufficient information on the application.

2. Special Permits

a. If a use requires a special permit before a zoning permit can be issued, the Zoning Enforcement Officer must provide the applicant with a special permit application and direct him to the Planning Board. [Amended by LL #3 of 2017]

3. Certificates of Compliance

a. The Zoning Enforcement Officer shall issue certificates of compliance in accordance with Section 910.

4. Records and Reports

a. The Zoning Enforcement Officer shall keep accurate records of all permits issued and denied, and of all other actions taken.

b. The Zoning Enforcement Officer should attend Planning Board, public hearings upon request and shall make reports to the Planning Board, Zoning Board of Appeals, or Town Board upon request. [Amended by LL #3 of 2017]

Section 918: Planning Board [Amended by LL #3 of 2017]

The Planning Board shall have the power and duties prescribed by NYS Town Law Section 271 and by this Ordinance. Specifically, the Planning Board is hereby granted the authority to administer the special permit process and requirements found within Article V and other pertinent sections of this Ordinance. In addition, the Planning Board may be assigned other specific tasks from time-to-time by the Town Board.

Alternate Members: "The Town Board of the Town of Lyme may appoint (2) alternate members to the Planning Board in accordance with Section 271(15) of the Town Law. Such member shall be appointed by resolution of the Town Board. Alternate members shall be allowed to participate in any absence of regular members or in the event of a conflict of interest. The Chairperson of the Planning Board may designate alternate members to substitute for a member under those circumstances.

When so designated, the alternate member shall possess all the powers and responsibilities of the member for whom they are substituting. Such designation shall be entered into the minutes of the Planning Board meeting at which the substitution is made. Any alternate appointed shall be subject to all training and education, attendance and conflict of interest requirements as regular member and shall also have to meet all other criteria for eligibility.

Section 920: Zoning Board of Appeals [Amended by LL #3 of 2017]

A. Powers and Duties: The Zoning Board of Appeals shall have all the powers and duties prescribed by Section 267 of NYS Town Law and by this law, which include the following:

1. Interpretation: Upon appeal from a decision by an administrative official, it will 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**: The Zoning Board of Appeals may vary the strict application of any of the requirements of this law as outlined below:

   a. **Area Variance** - The ZBA shall have the power, upon an appeal from a decision or determination of the enforcement officer, to grant area variances as defined herein.

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

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

   The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

   b. **Use Variance** - The ZBA shall have the power, upon an appeal from a decision or determination of the enforcement officer, to grant use variances as defined herein. The ZBA, on appeal from a decision or determination of the enforcement officer shall have the power to grant use variances, as defined herein.

      No such use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused an unnecessary hardship. In order to prove such unnecessary hardship the

applicant shall demonstrate to the zba that for each and every permitted use under the zoning regulations for the particular district where the property is located,

1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4) that the alleged hardship has not been self-created.

The ZBA, in the granted of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

c. No variance shall be granted unless it:

(1) Observes the spirit of this law and would not damage the character of the district in which it is requested; and

(2) Observes the intent of the general plan.

d. **Imposition of conditions**. The ZBA shall, in the granting of both area variances and 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. Such conditions shall be consistent with the spirit and intent of the zoning ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

B. **Procedure**: The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the Town. Every appeal of application shall refer to the specific provisions of the law being appealed, shall exactly set forth the interpretation that is claimed, the details of the appeal that is applied for, and the grounds on which it is claimed that the appeal should be granted, as the case may be. A public hearing shall be held for all variance actions or interpretive appeals in conformance with the requirements of Town Law. A decision of the Zoning Board of Appeals must contain findings of fact upon which its decision is based. The reasons for the action may be set forth in minutes of the Zoning 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 as provided by the Public Officer's Law.

C. **County Referrals**: Prior to taking action on any matter which would cause any change in the regulations or use of land or building or real property as specified in Section 239-m of the General Municipal Law, the Board shall make referrals to the County Planning Board in accordance with section 239-m of the General Municipal Law.

If within thirty (30) days after receipt of a full statement of such referred matter, the County Planning Board disapproves the proposal or recommends modification thereof, the Zoning

Board of Appeals shall not act contrary to such disapproval or recommendations except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The Chairperson shall read the report, if available, of the review. If the County Planning Board fails to report •within such period of thirty (30) days, or such longer period as may have been agreed upon by it and the County Planning Board, the Board may act without such report. The Zoning Board of Appeals shall notify the County Planning Board of its final action within seven (7) days of such final action.

D. **Alternate Members**: "The Town Board of the Town of Lyme may appoint (2) alternate members to the Zoning Board of Appeals in accordance with Section 267(11) of the Town Law. Such member shall be appointed by resolution of the Town Board. Alternate members shall be allowed to participate in any absence of regular members or in the event of a conflict of interest. The Chairperson of the Zoning Board of appeals may designate alternate members to substitute for a member under those circumstances.

   When so designated, the alternate member shall possess all the powers and responsibilities of the member for whom they are substituting. Such designation shall be entered into the minutes of the Zoning Board of Appeals meeting at which the substitution is made. Any alternate appointed shall be subject to all training and education, attendance and conflict of interest requirements as regular member and shall also have to meet all other criteria for eligibility. (Adopted by Resolution 2007 — 76)

Section 925: Fees

All applicants for any permit, approval or variance under this Local Law are required to pay a fee to cover the administrative expenses of the Town. Failure to pay such fee shall be deemed a violation of the Local Law.

All applications for any approval, permit, or variance shall be accompanied by a cash deposit, certified check or surety bond payable to the Town of Lyme in an amount determined by:

A. Supervisor for all applications requiring the Town Board's approval or other action;

B. Chairman of the Planning Board, for all applications requiring the Planning Board's approval;

C. Chairman of the Zoning Board of Appeals for all applications requiring such Board's approval or decision.

D. Zoning Officer for matters requiring his approval or action. Such amount shall include his anticipated actual charges to the Town for reviewing the application.

The Supervisor, Chairman of the Planning Board, Chairman of the Zoning Board of Appeals, and Zoning Officer, as the case may be, should obtain estimated expenses from the Town Engineer, Town Attorney, and Town Clerk and Town Zoning Enforcement Officer prior to setting the amount of the cash deposit, certified check or surety bond required of each applicant.

The Supervisor, Chairman of the Planning Board, Chairman of the Zoning Board of Appeals or Zoning

Officer, as the case may be, may require additional security for the Town's administrative expense, in accordance with the provisions of this section, in the event that the Town's potential liability for such expense exceeds the initial amount deposited.

Upon completion of the latter of:

A. Final approval, or rejection of, any application or approval, or

B. Final approval of any and all completed improvements and submission of all final bills to the Town for its administrative expenses incurred as a result of the applicants proposed plan, all unused funds or proceeds from a surety bond shall be refunded to the applicant.

Section 930: Violations and Penalties

A. Failure to obtain a zoning permit or special permit prior to initiating a project which requires such a permit by the zoning law constitutes a violation. [Amended by LL #3 of 2017]
B. Failure to obey an order from the CEO constitutes a violation and if a property owner fails to comply with a properly issued order of such an official, a separate violation exists. [Amended by LL #3 of 2017]
C. Whenever a Town Official or aggrieved resident complains of a zoning violation or the Zoning Enforcement Officer notices a violation, the Zoning Enforcement Officer shall conduct an inspection. If an apparent violation exists, as determined by the Zoning Enforcement Officer, the Zoning Enforcement Officer shall issue a Stop Work Order and Notice to Correct Violation, which shall inform the landowner of the nature of the violation and require that the landowner comply with this law within fourteen (14) days.

   Failure to comply shall be deemed a separate violation. The filing of a timely appeal to the zoning board of appeals stays enforcement of the order from the Zoning Enforcement Officer and stays prosecution in the justice court.

D. If the violation continues, it is an offense punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

   The Town may appear in Court and prosecute all violations by an Attorney retained by the Town, with the consent of the District Attorney.

E. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel

compliance with or restrain by injunction the violation of this Law.

Section 935: Amendments

A. The Town Board may from time to time amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. If applicable. General Municipal Law Section 239-m must be complied with prior to taking any action on a proposed amendment. The Town Board, by resolution, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as required by Town Law.

Section 940: Interpretation and Severability

A. Interpretation: Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare: Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

B. Severability: Should any section or provision 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 945: Effective Date

The provisions of this law shall take effect upon filing with the Secretary of State and upon complying with NYS Town Law Section 264.

Town of Brownville Zoning Law

Part I: Administrative Legislation

Chapter 1

GENERAL PROVISIONS

ARTICLE I
Adoption of Code
[Adopted 8-7-1996 as L.L. No. 1-1996]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Brownville, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 165, together with an Appendix, shall be known collectively as the "Code of the Town of Brownville," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Brownville" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Brownville, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Town of Brownville in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Brownville prior to the effective date

of this local law or any action or proceeding brought for the enforcement of such right or liability.

B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Brownville or any penalty, punishment or forfeiture which may result therefrom.

C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Brownville.

D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Brownville.

E. Any local law or ordinance of the Town of Brownville providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Brownville or any portion thereof.

F. Any local law or ordinance of the Town of Brownville appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Brownville or other instruments or evidence of the town's indebtedness.

G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.

H. The levy or imposition of special assessments or charges.

I. The annexation or dedication of property.

J. Any legislation relating to salaries.

K. Any local law or ordinance amending the Zoning Map.

L. Any legislation adopted subsequent to L.L. No. 1-1995, adopted 7-5-1995.

M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article, chapter or part thereof

directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Brownville and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Brownville by impressing thereon the Seal of the town, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Brownville" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of Brownville required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code may be purchased from the Town Clerk of the Town of Brownville upon the payment of a fee to be set by resolution of the Town Board, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Brownville or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Brownville to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars ($250.) or imprisonment for a term of not more than fifteen (15) days, or both.

§ 1-11. Changes in previously adopted legislation.

In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Brownville, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made. Certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Brownville, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

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

Chapter 6

ASSESSMENT

GENERAL REFERENCES

Taxation — See Ch. 147.

ARTICLE I
Assessor
[Adopted 1-8-1986 by L.L. No. 1-1986 (Ch. 4 of the 1978 Code)]

§ 6-1. Single Assessor.

Pursuant to § 328 of the Real Property Tax Law, from and after the date this article becomes effective, as hereinafter specified, there shall be but one Assessor in the Town of Brownville, to be appointed by the Town Board.

§ 6-2. Permissive referendum.

This article shall be subject to a permissive referendum in the manner prescribed in § 24 of the Municipal Home Rule Law.

§ 6-3. When effective.

This article shall take effect 45 days after its adoption or, if a petition is filed pursuant to Subdivision 1 of § 24 of the Municipal Home Rule Law, upon its approval by a majority of the qualified electors of the Town voting on a proposition therefor and upon filing copies hereof in the office of the Secretary of State.[1]

1. **Editor's Note: No valid petition having been filed, this local law was deemed duly adopted 2-24-1986.**

ARTICLE II
Board of Assessment Review Meeting
[Adopted 2-1-2017 by L.L. No. 1-2017[2]]

§ 6-4. Grievance day.

Commencing with May 2017, the day for presentment of complaints to the Board of Assessment Review in the Town of Brownville and for hearings on such complaints shall begin on the fourth Tuesday of May for that year and each year thereafter in accordance with § 512 of the Real Property Tax Law.

2. Editor's Note: This local law also repealed former Art. II, Board of Assessment Review Meeting, adopted 7-1-2009 by L.L. No. 1-2009.

Chapter 15

ETHICS, CODE OF

ARTICLE I
Intent of Town Board

§ 15-1. Legislative intent.

The Town Board of the Town of Brownville recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this town, as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the town's officers and employees, as provided for herein.

§ 15-2. Interpretation.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest, provisions or procedures prescribed by statute of the State of New York and also in addition to common-law rules and judicial decisions relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

ARTICLE II
Code of Ethics

§ 15-3. Definitions.

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

TOWN — Any board, commission, district, council or other agency, department or unit of the government of the Town of Brownville.

TOWN EMPLOYEE — Any officer or employee of the Town of Brownville, whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

§ 15-4. Conflicts of interest.

No town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 15-5. Standards of conduct.

A. No town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.

B. No town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

C. No town employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

D. No town employee shall engage in any transaction as representative or agent of the town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

E. A town employee shall not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.

F. Each town employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

G. Each town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

H. No town employee employed on a full-time basis, nor any firm or association of which such employee is a member, nor corporation a substantial portion of the stock of which is owned or controlled, directly or indirectly, by such employee shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the town in which such employee serves or is employed.

§ 15-6. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any such town employee who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment in the manner provided by law.

ARTICLE III
Board of Ethics

§ 15-7. Board established; qualifications.

There is hereby established a Board of Ethics consisting of at least three (3) members to be appointed by the Town Board, all of whom shall reside in the Town of Brownville and who shall serve without compensation and at the pleasure of the Town Board of the Town of Brownville. A majority of such members shall be persons other than town employees, but such Board shall include at least one (1) member who is an elected or appointed town employee of the Town of Brownville.

§ 15-8. Opinions and recommendations.

The Board of Ethics established hereunder shall render advisory opinions to town employees upon written request and, upon request of the Town Board, shall make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the town employee be disclosed, except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.

§ 15-9. Procedures and records.

Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

ARTICLE IV
Administration

§ 15-10. Distribution of copies.

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every town employee of this town. Failure to distribute any such copy or failure of any town employee to receive such copy shall have no effect on the duty of compliance with this code nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the town. Failure to so post this chapter shall have no effect on the duty of compliance herewith, nor the enforcement of provisions hereof.

§ 15-11. Filing of copy.

Within thirty (30) days of the adoption of this chapter, the Town Clerk shall file a copy thereof in the office of the State Comptroller.

§ 15-12. Appropriations.

The Town Board may appropriate moneys from the general town funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of town moneys except within the appropriations provided herein.

Chapter 18

FIRE DISTRICT

GENERAL REFERENCES

Outdoor burning — See Ch. 59.

Fire prevention and building code enforcement — See Ch. 81.

§ 18-1. Legislative authority.

The Town Board of the Town of Brownville pursuant to the authority granted it under § 189 and Article 11-A of the Town Law and §§ 10 and 20 of the Municipal Home Rule Law of the State of New York, hereby enacts as follows.

§ 18-2. Findings; purpose; establishment of Joint Fire District.

The Town Board of the Town of Brownville has determined that it is in the public interest of the Town of Brownville to establish a Joint Fire District within the Town of Brownville encompassing the entirety of the Village of Brownville, the Village of Dexter and that portion of the Town of Brownville Fire Protection District previously serviced by the Village of Brownville and Village of Dexter Fire Departments as a fire protection contract. Said Joint Fire District having been duly established in accordance with Article 11-A of the Town Law, it is necessary under § 189-c to alter, diminish and amend the existing district; said diminishment to coincide with the effective date of the Joint Fire District. It is the purpose of this chapter to accomplish the same.

§ 18-3. Boundaries.

The boundaries of the existing Brownville Fire Protection District shall be altered, diminished and amended to exclude that portion of said Brownville Fire Protection District being encompassed by the Town of Brownville Fire District effective immediately pursuant to the provisions of §§ 172-d, 185 and 189-C of the Town Law. Said remaining contract coverage areas not affected by the formation of said Joint Fire District shall remain in effect.

Chapter 26

ORDINANCES, PUBLICATION OF

§ 26-1. Procedure following adoption; time of taking effect.

Every ordinance, including zoning ordinances, and all changes, amendments or supplements thereto, or repeal of all or any portion thereof, hereafter enacted, adopted or approved by the Town Board of the Town of Brownville shall be entered in its minutes, except that it shall not be

necessary to enter in its minutes any map adopted or approved in connection with a zoning ordinance or amendment, and a copy thereof shall be filed in the office of the Town Clerk; and the title and a brief description of the contents thereof, together with a statement that the same is on record with the Town Clerk, where it may be seen and examined, shall be published once in such newspaper published in the County of Jefferson and having a circulation in the Town of Brownville as the Town Board may designate, and a printed copy thereof shall be posted on the signboard maintained by the Town Clerk pursuant to Subdivision 6 of § 30 of the Town Law, and affidavits of such publication and posting shall be filed with the Town Clerk. Such ordinance or change, amendment or supplement thereto shall take effect ten (10) days after such publication and posting; but such ordinance, change, amendment or supplement shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Town Clerk under the corporate seal of the town and showing the date of its passage and entry in the minutes.

§ 26-2. Proof of ordinances.

The certificate of the Town Clerk of the enactment, adoption or approval of one (1) or more ordinances, changes, amendments or supplements thereto and the filing of a copy thereof in the office of the Town Clerk and the publication and posting of a brief description thereof, as required by § 20-1, shall he presumptive evidence of such enactment, adoption, approval, filing, publication and posting in any action or special proceeding in any court or otherwise.

§ 26-3. Laws modified and superseded.

This chapter shall modify and supersede §§ 133 and 134 of the Town Law and the relevant provisions of §§ 264 and 265 of the Town Law in regard to the publication and posting of town ordinances, including zoning ordinances, and changes, amendments or supplements thereto.

Part II: General Legislation

Chapter 47

ANIMALS

ARTICLE I

Running at Large

[Adopted 11-9-1978 as Ch. 3, Art. I, of the 1978 Code (originally adopted 11-10-1977)]

§ 47-1. Running at large prohibited.

No person shall allow or permit any horses, cattle, sheep, fowl or other domestic animals to run at large in the Town of Brownville at any time.

§ 47-2. Penalties for offenses.

Each and every offense or violation of this article shall constitute disorderly conduct and shall be punishable by a fine and/or imprisonment, as provided for under the New York Penal Law.

§ 47-3. Additional remedies.

The Town Board may also, and in addition to the above-prescribed penalty, maintain an action or proceeding in the name of the town to compel compliance with, or to restrain by injunction the violation of, this article.

ARTICLE II
Dog Licensing and Control
[Adopted 2-1-2017 by L.L. No. 2-2017[3]]

§ 47-4. Title.

This article shall be known and may be cited as the "Dog Licensing and Control Law of the Town of Brownville."

§ 47-5. Definitions.

All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of Article 7 the Agriculture and Markets Law of the State of New York. As used in this article, the following terms shall have the meanings indicated:

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, and as may thereafter be amended from time to time.

DANGEROUS DOG — As also defined in Article 7, means any dog which, without justification:

A. Attacks a person or companion animal and causes physical injury or death; or

B. Behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious injury or death to a person, companion animal or domestic animal; or

C. Without justification, attacks a service dog, guide dog or hearing dog and causes physical injury or death.

DOG — Any member of the species canis familiaris.

DOG CONTROL OFFICER — An individual appointed by the Town to assist in the enforcement of this article.

IDENTIFICATION TAG — A tag issued by the Brownville Town Clerk which sets forth an identification number, name of the municipality and "State of NY," contact information for the Town Clerk and such other information deemed necessary by the municipality.

OWNER — Any person who harbors or keeps any dog, is entitled to claim lawful custody and possession of a dog, who is responsible for purchasing the license for such dog. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be deemed to be the owner of such dog.

OWNER OF RECORD — The person in whose name a dog was last licensed pursuant to this article; except that if any license is issued on application of

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3. Editor's Note: This local law also superseded former Art. II, Dog Licensing and Control, adopted 11-3-2010 by L.L. No. 2-2010.

a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

PERSON — Any individual, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

RESIDENT — Any individual who maintains a residence within the Town of Brownville, County of Jefferson, State of New York.

SERVICE DOG — Any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability.

TOWN — The Town of Brownville, County of Jefferson, State of New York.

TOWN BOARD — The Town Board of the Town of Brownville.

TOWN CLERK — The Town Clerk of the Town of Brownville.

§ 47-6. Licensing of dogs; rabies vaccination requirement.

A. License required.

(1) No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the New York State Agriculture and Markets Law and this article. All dogs within the Town that are four months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months.

(2) Application. The owner of any dog requiring licensure shall provide proof of spay or neuter, any applicable license surcharges and such additional fees as may be established by the Town, pursuant to the authority of this article. In no event will there be refunds of fees.

(3) Licenses issued by animal shelters and pounds. The Town does not allow the licensing of dogs by a shelter. The shelter must send an adoptive dog owner to the Brownville Town Clerk for licensing before the adoption is complete.

(4) Grace period for dogs licensed in New York City or outside New York State. Any dog harbored within the Town which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a nonresident of New York State and licensed by a jurisdiction outside the State of New York, shall, for a period of 30 consecutive days while within the Town, be exempt from the licensing and identification provisions of this article.

(5) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.

B. Proof of vaccination against rabies. Each license application shall be accompanied by proof that the dog has been vaccinated against rabies

or a statement from a licensed veterinarian that such vaccination would endanger the dog's life, in which case vaccination shall not be required.

C. Purebred dog license and fee. There will be no distinct purebred licenses as provided for by the state. Any purebred licenses previously issued will now be required to comply with this article.

D. Term of license and renewals. Each license issued pursuant to this article shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued.

§ 47-7. Fees.

A. Schedule of fees. The Town Board of the Town of Brownville, County of Jefferson, is hereby authorized to adopt and establish by resolution a schedule of fees for dog license, enumeration, impoundment and replacement tags. The Town Board may exercise its authority under this section to adopt and amend such schedule of fees as it deems appropriate.

B. Administration. All fees collected will be used in funding the administration of the Brownville Dog Control Law.

C. Service dog exemption from license fees. There shall be no fee for any license issued for the following types of dogs, as defined in Article 7 of the State Agriculture and Markets Law: guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog and therapy dog.

D. Surcharges. In addition to the license fee charged in accordance with Subsection A of this section, the Town of Brownville is required to provide for the assessment of a surcharge of at least $1 for altered dogs and at least $3 for unaltered dogs. Such surcharges shall be submitted to the Commissioner of Agriculture and Markets for the purpose of carrying out animal population control efforts.

§ 47-8. Issuance of license; identification tag.

A. Upon validation by the Town Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

B. The Town Clerk shall assign to each dog a permanent municipal identification number when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times.

C. An identification tag is not required to be worn while the dog is participating in a dog show.

D. The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

E. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.

F. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Replacement tags shall be obtained by the owner at the owner's expense, pursuant to the schedule of fees established by the Town Board.

§ 47-9. Change of ownership; lost or stolen dogs.

A. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.

B. In the event of a change in ownership of any dog which has been assigned an official identification number or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Town Clerk.

C. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Town Clerk.

D. In the case of a dog's death, the owner of record shall so notify the Town Clerk no later than the expiration date of the license.

§ 47-10. Restrictions.

It shall be unlawful for any owner of any dog in the Town to permit or allow any dog to:

A. Run at large unless the dog is under the full control of its owner or a responsible person with the owner's permission. For the purpose of this article, a dog in the company of a hunter shall be considered as accompanied by its owner.

B. Engage in habitual and loud howling, barking, crying or whining or conduct so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.

C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner.

D. Chase, jump upon or at, or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm.

E. Habitually chase, run alongside or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place, or upon private property without the consent or approval of the owner of such property.

F. Create a nuisance by defecating, urinating or digging on public property, or on private property without the consent or approval of the owner of such property.

G. Be off the owner's premises or unrestrained by a leash, when in heat.

§ 47-11. Procedure for seizure of dogs.

A. The Town Dog Control Officer, a peace officer or police officer may seize a dog as follows:

(1) Any unlicensed dog whether on or off the owner's premises;

(2) Any dog not wearing a tag which is not on the owner's premises; and

(3) Any dog found to be in violation of § 47-12A through G of this article, such dog to be kept and managed in accordance with the provisions of Article 7 of the New York State Agriculture and Markets Law and in conformity with any order of the Town Justice of the Town of Brownville.

B. The Dog Control Officer or a peace officer observing a violation of this article shall issue an appearance ticket for such violation.

C. Any person who observes a dog in violation of this article may file a complaint under oath with the Town of Brownville Justice Court specifying the nature of the violation, the date thereof, a description of the dog and the name and residence of the owner, if known. Such complaint may serve as a basis for enforcement of the provisions of this article.

§ 47-12. Violations; penalties for offenses.

A. It shall be a violation, punishable as provided in Subsection B of this section, for:

(1) Any owner to fail to license any dog.

(2) Any owner to fail to have any dog identified as required by this article.

(3) Any person to knowingly affix to any dog any false or improper identification tag, or tag for identifying guide, service or hearing dogs.

(4) Any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose under this article.

(5) Any person to furnish false or misleading information on any form to be required to be filed with the Town of Brownville.

(6) The owner or custodian of any dog to fail to exercise due diligence in handling his or her dog that results in harm to any guide, hearing or other service dog.

(7) Any owner of a dog to fail to notify the municipality in which his dog is licensed of any change in ownership or address.

B. It shall be the duty of the Brownville Dog Control Officer to bring an action against any person who commits any violation set forth in Subsection A of this section. The Town of Brownville may elect to prosecute such action as a violation under the Penal Law or to commence an action to recover in a civil penalty.

(1) First violation: a fine of no less than $25.

(2) Second offense within a five-year period: a fine of no less than $50.

(3) Third or subsequent offense within a five-year period: a fine of no less than $100.

§ 47-13. Repeal of inconsistent local laws or ordinances.

This article shall supersede all prior inconsistent local laws, ordinances, rules and regulations relative to the licensing and control of dogs within the Town. All prior inconsistent local laws, ordinances, rules and regulations shall be, upon the effectiveness of this article, null and void.

§ 47-14. Severability.

The provision of this article are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this article.

§ 47-15. Effective date.

This article shall be effective January 1, 2017, after filing with the Secretary of State.

Chapter 52

BINGO

GENERAL REFERENCES

Games of chance — See Ch. 90.

Public assembly — See Ch. 118.

§ 52-1. Authorization; license required.

Games are authorized and shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law of the State of New York, upon obtaining the required license to conduct the game of bingo within the territorial limits of the Town of Brownville, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-b of the Executive Law.

Chapter 57

BUILDING PERMITS

GENERAL REFERENCES

Fire prevention and building code enforcement — See Ch. 81.

Flood damage prevention — See Ch. 85.

Sewers — See Ch. 124.

Site plan review — See Ch. 128.

Subdivision of land — See Ch. 143.

Zoning — See Ch. 165.

§ 57-1. Declaration of intent.

The Town of Brownville having been identified by the Federal Insurance Administration as having a special flood hazard area or areas, which area or areas are shown on a map dated December 6, 1974, and designated as Federal Insurance Administration Flood Hazard Boundary Map No. H01-10, it is the intent of the Town of Brownville to comply with the provisions of Section 1910.3(b) of the criteria of Land Management and Use, as determined pursuant to Title 24, Housing and Housing Credit, Chapter 7, Federal Insurance Administration, Department of Housing and Urban Development.

§ 57-2. Permit required; exceptions.

No building or structure shall be erected, added to or structurally altered until a permit therefor has been issued by the Town Clerk or other authorized representative, except that permits will not be required for ordinary exterior repairs such as roof replacements or repair, patch repair,

new siding, window replacement, etc., and such interior renovation as remodeling of ceilings, walls, floors, etc.

§ 57-3. Review prior to issuance of permit.

A. The Town Clerk or other authorized representative of the Town of Brownville shall:

(1) Review all building permit applications for construction, substantial improvements or major repairs to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has been designated a special flood hazard area, any proposed new construction, substantial improvement or major repair (including prefabricated and mobile homes) must:

(a) Be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure.

(b) Use construction materials and utility equipment that are resistant to flood damage.

(c) Use construction methods and practices that will minimize flood damage.

(2) Review subdivision proposals and other proposed new developments to determine if:

(a) All such proposals are consistent with the need to minimize flood damage.

(b) All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed so as to minimize or eliminate flood damage.

(c) Adequate drainage is provided so as to reduce exposure to flood hazards.

(3) Require new or replacement water supply systems and/or sanitary sewage systems to be designed so as to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

B. Upon determination by the Town Clerk that all of the foregoing requirements have been met, such Clerk may issue the permit required by this chapter.

§ 57-4. Submission of plot plan.

There shall be submitted with all applications for building permits two (2) copies of a layout or plot plan showing the actual dimensions of the lot to

be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter.

§ 57-5. Reports of permits issued.

The Town Clerk shall report to the Town Board the building permits issued at regular meetings of the Town Board.

§ 57-6. Conflicts with other provisions.

The provisions of this chapter shall take precedence over any other ordinances, laws and codes in effect in the Town of Brownville to the extent that the provisions of this chapter are more stringent than such other ordinances, laws or codes.

§ 57-7. Variances.

Any person seeking a variance from the strict letter of these regulations may make application therefor to the Town Board. Upon such application, the Town Board shall, when there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the regulations, have authority to vary or modify the application of such regulations so that the spirit of such regulations shall be observed, public safety and welfare secured and substantial justice done.

§ 57-8. Where effective.

This chapter shall be effective and operative only in that portion of the town outside the Incorporated Villages of Brownville, Dexter and Glen Park.

Chapter 58

BUILDINGS, UNSAFE

GENERAL REFERENCES

Building permits — See Ch. 57.

Fire prevention and Building Code enforcement — See Ch. 81.

Zoning — See Ch. 165.

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§ 58-1. Authority.

The Town Board of the Town of Brownville, pursuant to the authority granted it under Article 4 of the Town Law and §§ 10 and 20 of the Municipal Home Rule Law of the State of New York, enacts the following.

§ 58-2. Purpose; findings.

The Town Board of the Town of Brownville hereby finds that unsafe buildings pose a threat to life and property in the Town of Brownville. The buildings and structures may become unsafe by reason of damage by fire, the elements, age, or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, and serve as a point of congregation for vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby causing a health menace to the community. It is the purpose of this chapter to provide for the safety, health, protection, and general welfare of persons and property in the Town of Brownville by requiring such unsafe buildings to be repaired, demolished or removed.

§ 58-3. Definitions.

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

BUILDING — Any building, structure, or portion thereof used for residential, agricultural, business, or industrial purposes.

CODE OFFICER — The Code Enforcement Officer of the Town of Brownville, or any other law enforcement official chargeable with enforcement of the local laws of the Town of Brownville.

OWNER — The person, partnership, corporation or other entity shown to be the owner of a property as per those documents most recently recorded in the Jefferson County Clerk's records.

§ 58-4. Investigation; report.

The Code Officer shall cause or make an inspection thereof and report in writing to the Town Board his findings and recommendations in regard to repair, demolition, and/or removal when in his opinion or upon receipt of information that, a building or remains of a building:

A. Is or may become dangerous or unsafe to the general public as a result of deterioration or fire;

B. Is open at the doorways and windows, making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants or other trespassers;

C. Is or may become a place of rodent infestation;

D. Presents any other danger to the health, safety, morals, and general welfare of the public; or

E. Is unfit for the purposes for which it may be lawfully used.

§ 58-5. Town Board order.

The Town Board shall consider any report rendered to it under this chapter by the Code Officer and by resolution; determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order that it be made safe, secured or removed; and further order that a notice be served upon the persons identified below in the manner provided herein.

§ 58-6. Contents of notice.

The notice shall contain the following:

A. A description of the premises.

B. A statement of the particulars in which the building is unsafe or dangerous.

C. A report outlining the manner in which the building is to be made safe, secured, or removed.

D. A statement that the securing or removal of the building shall commence within 30 days of service of the notice and shall be completed within 60 days thereafter, except in case of emergency, in which case the Town Board may shorten such time frames, or where for good cause shown the time should be extended.

E. A date, time, and place for hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than 10 business days from the date of service of the notice.

F. A statement that in the event of neglect or refusal to comply with the order to secure or remove the building, the Town Board, after the hearing, is authorized to provide for its demolition and removal, and to assess all expenses incurred thereby against the owner of the property and institute a special proceeding to collect the costs of demolition, including legal expenses.

§ 58-7. Service of notice.

The notice shall be served by the owner of the premises, or his executor, administrator, legal representative, agent, lessee, or any other person having a vested or contingent interest in the property, either personally or by certified mail, return receipt requested, addressed to the last known address, if any, of the owner, or other persons mentioned herein, as shown by the records of the receiver of taxes and/or in the Office of the County Clerk. A copy of such notice is also to be posted on the premises. The notice shall be considered served upon personal delivery or five days after it is mailed.

§ 58-8. Refusal to comply; action to be taken by Town.

In the event of a failure or refusal of the owner to comply with said order of the Town Board, after the hearing, the Town Board may provide for the demolition and removal of such building and/or structure, either by Town employees or by contract. Except in emergency cases as provided in § 58-10, any contract for demolition and/or removal of building in excess of $10,000 shall be awarded through competitive bidding.

§ 58-9. Assessment of costs.

A. The Town Board may assess all costs and expenses incurred by the Town in connection with the proceeding to remove and/or secure, including the cost of actually removing said building or structure, against the land on which such building or structure is located as a special assessment on the next Town tax bill.

B. The Town Board may commence a special proceeding in a court of competent jurisdiction to collect all costs and expenses incurred by the Town in connection with the proceedings to remove or secure, including the cost of actually removing said buildings or structures, from the owners of any buildings or structures. The provisions of Article 4 of the Civil Practice Law and Rules shall govern any special proceeding commenced under this section.

§ 58-10. Emergency cases.

Where it reasonably appears that there is a present, clear and imminent danger to the life, safety, or health of any person or property unless an unsafe building is immediately repaired, secured, or demolished, the Town Board may, by resolution, authorize the Code Officer or any other representative of the Town to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such repair or demolition shall be recovered as provided in § 58-9.

Chapter 59

BURNING, OUTDOOR

GENERAL REFERENCES

Fire prevention and Building Code enforcement — See Ch. 81.

Furnaces, outdoor — See Ch. 88.

§ 59-1. Burning of certain items prohibited.

Except as permitted below or by State law or regulation, no person shall burn or allow or permit to be burned any brush, wood, lumber, paper

products, plastic, tires, chemicals, trash, garbage, refuse or other combustible materials within the limits of the Town of Brownville.

§ 59-2. Exceptions.

A. Nothing contained herein, however, shall prevent the operation of outdoor grills or fireplaces for the preparation of food or the installation and use of indoor fireplaces and wood stoves. The fuel for the aforementioned devices shall be that material typically used in the device, such as charcoal briquettes and wood in its natural state or wood pellets. All installations of fireplaces and woodstoves shall be in conformance with the New York State Fire Prevention and Building Code.

B. Nothing contained herein shall prohibit the use of an open campfire or shorefire provided the campfire or shorefire is contained in a fireproof containment device and the fuel for said campfire or shorefire is natural wood, charcoal or charcoal briquettes.

§ 59-3. Burning by public agencies and fire departments.

Any public agency or fire department may burn structures, lumber or other nonhazardous items, provided they obtain permits and/or comply with the regulations as required by the New York State Department of Environmental Conservation or any other state or federal agency.

§ 59-4. Filing of complaints.

Any person who observes a violation of this chapter may file a signed complaint under oath with any law enforcement officer or with the Town Constable specifying the violation, the date of the violation and the name and address of the violator. Any law enforcement officer or Town Constable duly appointed by the Town of Brownville may administer and enforce the provisions of this chapter and shall have the authority to issue an appearance ticket for violations thereof.

§ 59-5. Penalties for offenses.

Violations of this chapter shall constitute a violation as defined in the Penal Law of the State of New York and shall be publishable by a fine of not less than $50 and not more than $250 or by imprisonment for not more than 15 days, or both, for a first offense; by a fine of not less than $100 and not more than $250 or by imprisonment for 15 days for a second offense within a three-year period; and by a fine of not less than $150 nor more than $250 or by imprisonment for 15 days for a third offense within a three-year period.

Chapter 63

CEMETERIES

§ 63-1. Burials prohibited.

No further burials will be allowed in cemeteries for which the Town Board has inadequate records to determine the layout of plots, plot ownership or where burials have already occurred. The Town Board reserves the right to make exceptions for individuals who are can prove to the satisfaction of the Town Board lot ownership, location and that there has been no prior burial in the plot. It shall include the following cemeteries:

Ferry Cemetery

Freeman Cemetery

Ingalls-Ingerson Cemetery

Limerick Cemetery

Luther Hill Cemetery

Perch River Cemetery

Pettit Cemetery

Sherwins Bay Cemetery

Stone Cemetery

Taylor Cemetery

Chapter 75

(RESERVED)

Chapter 81

FIRE PREVENTION AND BUILDING CODE ENFORCEMENT

GENERAL REFERENCES

Building permits — See Ch. 67.

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§ 81-1. Town not to enforce provisions.

Pursuant to § 381, Subdivision 2, of the Executive Law, the Town of Brownville will not enforce the New York State Uniform Fire Prevention and Building Code on and after January 1, 1984.

Chapter 85

FLOOD DAMAGE PREVENTION

GENERAL REFERENCES

Fire prevention and building code enforcement — See Ch. 81.

Zoning — See Ch. 165.

§ 85-1. Findings.

The Town Board of the Town of Brownville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Brownville and that such damages may include: destruction or loss of private and public housing; damage to public facilities, both publicly and privately owned; and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 85-2. Purposes.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.

D. Control filling, grading, dredging and other development which may increase erosion or flood damages.

E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 85-3. Objectives.

The objectives of this chapter are to:

A. Protect human life and health.

B. Minimize expenditure of public money for costly flood control projects.

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. Minimize prolonged business interruptions.

E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

G. Provide that developers are notified that property is in an area of special flood hazard.

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 85-4. Word usage and definitions.

A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

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

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater annual chance of flooding to an average annual depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 through A30, A99, V, VO, VE or V1 through V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — See "structure."

CELLAR — The same meaning as "basement."

COASTAL HIGH-HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1 through V30, VE, VO or V.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING —

(1) A nonbasement building:

   (a) Built, in the case of a building in Zones A1 through A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zones V1 through V30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

   (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

(2) In the case of Zones A1 through A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

(3) In the case of Zones V1 through V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD OR FLOODING —

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

   (a) The overflow of inland or tidal waters.

   (b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection B(1)(a) above.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOODPLAIN OR FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of "flooding").

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair facilities. The term does not include long-term storage, manufacturing, sales or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

LOWEST FLOOR — Lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the flood plain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community, and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

ONE-HUNDRED-YEAR FLOOD — The same meaning as "base flood."

PRIMARY FRONTAL DUNE — A continuous or nearly continuous mound or ridge of sand, with relatively steep seaward and landward slopes, immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the "primary frontal dune" occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRINCIPALLY ABOVE GROUND — At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

(1) Built on a single chassis.

(2) Four hundred (400) square feet or less when measured at the largest horizontal projections.

(3) Designed to be self-propelled or permanently towable by a light-duty truck.

(4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 85-13B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project and/or physical alteration of the property and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages and sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 85-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Brownville, Jefferson County, New York.

§ 85-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard are identified and defined on the following document prepared by the Federal Emergency Management Agency: the Flood Insurance Rate Map (multiple panels) Index No. 361063C 01-10, whose effective date is June 2, 1992. The above document is hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Town Clerk's Office, Limerick, New York.

§ 85-7. Interpretation and conflict with other laws.

A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 85-8. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter, by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars ($250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Brownville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 85-21 and 85-22 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 85-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Brownville, any officer or employee thereof nor the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 85-10. Designation of local administrator.

The Code Enforcement Officer is hereby appointed the local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 85-11. Purpose of floodplain development permit; fees.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 85-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of fifty dollars ($50.). In addition, the applicant shall be responsible for reimbursing the Town of Brownville for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than five hundred dollars ($500.) to cover these additional costs.

§ 85-12. Permit application.

The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.

A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved

structure to be located in Zones A1 through A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1 through V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 85-15C, Utilities.

E. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 85-18, Nonresidential structures (except coastal high-hazard areas).

F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 85-6, when notified by the local administrator and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

G. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

I. In Zones V1 through V30 and VE, and also Zone V if base flood elevation data are available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of twenty (20) pounds per square foot.

J. In Zones V1 through V30 and VE, and also Zone V if base flood elevation data are available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this chapter.

§ 85-13. Powers and duties of local administrator.

Duties of the local administrator shall include, but not be limited to, the following:

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit. The local administrator shall:

(1) Review all applications for completeness, particularly with the requirements of § 85-12, Permit application, and for compliance with the provisions and standards of this chapter.

(2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 85-14 through 85-20, and in particular, § 85-14B, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 85-14 through 85-20, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 85-12H, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage. The local administrator shall:

(1) In Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) In Zones V1 through V30 and VE, and also Zone V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the local administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).

(3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project, unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

(1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 85-8 of this chapter.

(2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 85-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 85-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

(1) Floodplain development permits and certificates of compliance.

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections D(1) and D(2), and whether or not the structures contain a basement.

(3) Floodproofing certificates required pursuant to Subsection D(1) and whether or not the structures contain a basement.

(4) Certifications required pursuant to § 85-17N, Breakaway wall design standards, and § 85-12J of § 85-12, Permit application.

(5) Variances issued pursuant to §§ 85-21 and 85-22.

(6) Notices required under § 85-13C, Alteration of watercourses.

§ 85-14. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 85-6:

A. Coastal high-hazard areas. The following requirements apply within Zones V1 through V30, VE and V:

(1) All new construction, including manufactured homes and recreational vehicles on a site one hundred eighty (180) days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.

(2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on a site one hundred eighty (180) days or longer is prohibited.

(3) The man-made alteration of sand dunes which would increase potential flood damage it prohibited.

B. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage.

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage.

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

C. Encroachments.

(1) Within Zones A1 through A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted, unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location; or

(b) The Town of Brownville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brownville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brownville for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 85-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(b) The Town of Brownville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brownville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brownville for all costs related to the final map revisions.

§ 85-15. Standards for all structures.

A. Anchoring.

(1) New structures and substantial improvements to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) Enclosed areas.

(a) For enclosed areas below the lowest floor of a structure within Zones A1 through A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] A minimum of two (2) openings shall be provided having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding; and

[2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

(b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) Within Zones V1 through V30 and VE, and also within Zone V if base flood elevation data are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with nonsupporting breakaway walls, open wood lattice work or insect screening intended to collapse under wind and water loads, without causing collapse, displacement or other structural damage

to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking of vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

C. Utilities.

(1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 85-16. Residential structures.

Except for structures located in coastal high-hazard areas, the following standards, in addition to the standards in § 85-14B, Subdivision proposals, and § 85-14C, Encroachments, and § 85-15, Standards for all structures, apply to structures located in areas of special flood hazard:

A. Within Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.

B. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three (3) feet above the highest adjacent grade.

C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on

the community's Flood Insurance Rate Map, enumerated in § 85-6 [at least two (2) feet if no depth number is specified].

D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 85-17. Coastal high-hazard areas.

The following standards, in addition to the standards in § 85-14A, Coastal high-hazard areas, and § 85-14B, Subdivision proposals, and § 85-15, Standards for all structures, apply to structures located in areas of special flood hazard shown as Zones V1 through V30, VE or V on the community's Flood Insurance Rate Map, designated in § 85-6.

A. Elevation. New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above the level of the base flood so as not to impede the flow of water.

B. Determination of loading forces. Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

(1) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls or other natural or man-made flow obstructions could cause wave run-up beyond the elevation of the base flood.

(2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.

(3) Wind loading values used shall be those required by the Building Code.[4]

C. Foundation standards.

4. **Editor's Note: See Ch. 81, Fire Prevention and Building Code Enforcement.**

(1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).

(2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

D. Pile foundation design.

(1) The design ratio of pile spacing to pile diameter shall not be less than eight to one (8:1) for individual piles (this shall not apply to pile clusters located below the design grade). The maximum center-to-center spacing of wood piles shall not be more than twelve (12) feet on center under load bearing sills, beams or girders.

(2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of five (5) feet below mean sea level (msl) datum if the base flood elevation (BFE) is ten (10) feet below mean sea level (msl) or less, or to be at least ten (10) feet below mean sea level (msl) if the base flood elevation is greater than ten (10) feet below mean sea level (msl).

(3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.

(4) The minimum acceptable sizes for timber piles are a tip diameter of eight (8) inches for round timber piles and eight by eight (8 x 8) inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.

(5) Reinforced concrete piles shall be cast of concrete having a twenty-eight-day ultimate compressive strength of not less than five thousand (5,000) pounds per square inch and shall be reinforced with a minimum of four (4) longitudinal steel bars having a combined area of not less than one percent (1%) nor more than four percent (4%) of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than one and one-fourth (11/4) inches for No. 5 bars and smaller, and not less than one and

one-half (11/2) inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two (2) inches.

(6) Piles shall be driven by means of a pile driver or drop hammer, jetted or augered into place.

(7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.

(8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support, even if scoured from beneath.

(9) Diagonal bracing between piles, consisting of two-inch-by-eight-inch members (minimum) bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods [minimum diameter of one-half (1/2) inch] or cable-type bracing is permitted in any plane.

(10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be two-by-eight lumber bolted to the sides of the pile/beam, or four-by-four or larger braces framed into the pile/beam. Bolting shall consist of two (2) five-eighths-inch galvanized steel bolts (each end) for two-by-eight members or one (1) five-eighths-inch lag bolt (each end) for square members. Knee braces shall not extend more than three (3) feet below the elevation of the base flood.

E. Column foundation design. Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads and be connected with a movement-resisting connection to a pile cap or pile shaft.

F. Connectors and fasteners. Galvanized metal connectors, wood connectors or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe-nailing, as a principal method of connection, is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

G. Beam-to-pile connections. The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (if precast) shall be securely connected by bolting and welding. If sills, beams or girders are

attached to wood pilings at a notch, a minimum of two (2) five-eights-inch galvanized steel bolts or two (2) hot-dipped galvanized straps, three-sixteenths by four by eighteen (3/16 x 4 x 18) inches, each bolted with two (2) one-half-inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below fifty percent (50%).

H. Floor and deck connections.

(1) Wood two-by-four-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be one-by-three-inch members, placed eight (8) feet on center maximum, or solid bridging of the same depth as the joist and at the same spacing.

(2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than three-fourths (3/4) inch in total thickness and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

I. Exterior wall connections. All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous fifteen-thirty-second-inch or thicker plywood sheathing, overlapping the top wall plate and continuing down to the sill, beam or girder, may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then two-by-four nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of one-half (1/2) inch diameter or galvanized steel straps not less than one (1) inch wide by one-sixteenth (1/16) inch thick may be used to connect from the top wall plate to the sill, beam or girder. Washers with a minimum diameter of three (3) inches shall be used at each end of the one-half-inch round rods. These anchors shall be installed no more than two (2) feet from each corner rod, no more than four (4) feet on center.

J. Ceiling joist/rafter connections.

(1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.

(2) Gable roofs shall be additionally stabilized by installing two-by-four blocking on two-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of eight (8) feet toward the house interior from each gable end.

K. Projecting members.

(1) All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eaves and overhangs shall be limited to a maximum of two (2) feet and joist overhangs to a maximum of one (1) foot. Larger overhangs and porches will be permitted if designed or reviewed by a registered professional engineer or architect and certified in accordance with § 85-12J of this chapter.

L. Roof sheathing.

(1) Plywood, or other wood material, when used as roof sheathing, shall not be less than fifteen-thirty-seconds (15/32) inch in thickness and shall be of exterior sheathing grade, or an equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion-resistant material.

(2) All corners, gable ends and roof overhangs exceeding six (6) inches shall be reinforced by the application of waterproof industrial adhesive to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end or roof overhang.

(3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys and other points of discontinuity in the roofing surface.

M. Protection of openings.

(1) All exterior glass panels, windows and doors shall be designed, detailed and constructed to withstand loads due to the design wind speed of seventy-five (75) miles per hour. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple-panel sliding glass doors shall not exceed three (3) feet.

N. Breakaway wall design standards.

(1) The breakaway wall shall have a design safe-loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure shall be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load.

Knee braces are required for front row piles that support breakaway walls.

(2) Use of breakaway wall strengths in excess of twenty (20) pounds per square foot shall not be permitted, unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components and certifies that the breakaway walls will fail under water loads less than those that would occur during the base flood; and the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by the building code.

§ 85-18. Nonresidential structures.

Except in coastal high-hazard areas, the following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 85-14B, Subdivision proposals, and § 85-14C, Encroachments, and § 85-15, Standards for all structures.

A. Within Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

(1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or

(2) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's, FIRM [at least two (2) feet if no depth number is specified]; or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2) above.

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator certifying that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2) above, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade.

§ 85-19. Nonresidential structures.

Except for coastal high-hazard areas, in Zones V1 through V30 and VE, and also Zone V if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to the base flood elevation in Zones V1 through V30, VE and V.

§ 85-20. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 85-14, General standards, and § 85-15, Standards for all structures, apply in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1 through A30, AE, AH, V1 through V30, V and VE shall either:

(a) Be on site fewer than one hundred eighty (180) consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the requirements for manufactured homes in Subsections B, D and E.

(2) A recreational vehicle is ready for highway use if it is on its wheels or a jacking system, is attached to the site only by quick disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1 through A30, AE, AH, V1 through V30 or VE and that is on a site either outside of an existing manufactured home park or subdivision as herein defined, in a new manufactured home park or subdivision as herein defined, in an expansion to an existing manufactured home park or subdivision as herein defined or in an existing manufactured home park or subdivision as herein defined, on which a manufactured home has incurred substantial damage as the result of a flood, shall, within Zones A1 through A30, AE and AH, be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement; or, within Zones V1 through V30 and VE, be elevated on a pile foundation such that the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) is elevated to or above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zone A1 through A30, AE, AH, V1 through V30 or VE, in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage, shall be:

(1) Elevated in a manner such as required in Subsection B, or

(2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 85-6 [at least two (2) feet if no depth number is specified]. Elevation on piers consisting of dry stacked blocks is prohibited.

§ 85-21. Appeals board.

A. The Zoning Board of Appeals, as established by the Town of Brownville, shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court, pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger to life and property due to flooding or erosion damage.

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(4) The importance of the services provided by the proposed facility to the community.

(5) The necessity to the facility of a waterfront location, where applicable.

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(7) The compatibility of the proposed use with existing and anticipated development.

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of § 85-21D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 85-22. Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that items in § 85-21D have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria of Subsections A, D, E and F of this section are met.

(2) The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F. Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from said lowest floor elevation.

Chapter 88

FURNACES, OUTDOOR

GENERAL REFERENCES

Outdoor burning — See Ch. 59.

§ 88-1. Definitions.

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

OUTDOOR FURNACE — A self-contained unit designed to provide heating to a building or structure, which unit is located outside of that building or structure.

§ 88-2. Location and use restrictions.

A. With respect to any outdoor furnaces installed, such outdoor furnaces must be set back a minimum of 50 feet from any property line.

B. The use of such furnaces must follow all operating instructions supplied by the manufacturer.

C. The only fuels allowed shall be those listed fuels recommended by the manufacturer. The following are prohibited: trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, railroad ties and pressure-treated wood), leaves, paper products and cardboard.

D. Users must follow the manufacturer's written instructions for recommended loading times and amounts.

E. Lighter fluids, gasoline or chemicals to start the furnace are prohibited.

F. The unit must be located with due consideration to the prevailing wind direction.

G. Stack location.

(1) If located 50 feet or less to any residence not served by the furnace, the stack must be at least two feet higher than the eave line of that residence.

(2) If located more than 50 feet but no more than 100 feet to any residence not served by the furnace, the stack must be at least 75% of the height of the eave line of that residence, plus an additional five feet.

(3) If located more than 100 feet but no more than 150 feet to any residence not served by the furnace, the stack must be at least 50% of the eave line of that residence, plus an additional five feet.

(4) If located more than 150 feet but no more than 200 feet to any residence not served by the furnace, the stack must be at least 25% of the height of the eave line of that residence, plus an additional five feet.

§ 88-3. Compliance with other regulations. [Amended 9-21-2009 by L.L. No. 2-2009]

Any outdoor furnace must also comply with any other county, state or federal guidelines for the same and a certificate showing county inspection of the installed outdoor furnace must be provided to the Code Officer before such outdoor furnace is put into operation.

§ 88-4. Seasonal use. [Amended 10-6-2010 by L.L. No. 1-2010]

Outdoor furnaces may be used only from September 1 to May 31 each year. All existing outdoor furnaces which as of the date of adoption of this chapter are not in compliance shall comply with this chapter immediately.

§ 88-5. Permit required; fee.

Any resident wishing to install an outdoor furnace must secure a permit from the Code Enforcement Officer of the Town of Brownville and a copy of the regulations from the Town of Brownville. The permit fees will be established from time to time by the Town Board which will be in the minimum amount of $25 per unit.

§ 88-6. Penalties for offenses.

Any violation of this chapter shall be considered a violation within the meaning of the Penal Law of the State of New York and shall subject the owner of the property on which the outdoor furnace is located to a fine of not less than $100 and no more than $250 for each violation and/or 15

days in jail, or both. Each week that such violation shall continue shall be considered a separate violation.

§ 88-7. Complaints.

Any resident who has secured a permit to install an outdoor furnace in doing so will also be agreeing to allow the Town Code Enforcement Officer or any other person designated by the Town to inspect the outdoor furnace if a complaint is filed in writing relative to a violation of this chapter.

Chapter 90

GAMES OF CHANCE

GENERAL REFERENCES

Bingo — See Ch. 52. **Public assembly — See Ch. 118.**

§ 90-1. Definitions.

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

AUTHORIZED ORGANIZATION — An authorized organization as defined in Article 4 of § 186 of the General Municipal Law.

GAMES OF CHANCE — A game of chance as defined in Article 3 of § 186 of the General Municipal Law.

§ 90-2. Authorization; license.

Authorized organizations may obtain a license from the Town Clerk to conduct games of chance within the Town of Brownville, as provided in Article 9-a of the General Municipal Law and as provided further in this chapter. Such games of chance shall be conducted in accordance with the laws of the State of New York, rules and regulations adopted by the New York State Racing and Wagering Board and pursuant to this chapter.

§ 90-3. Restrictions.

The conduct of games of chance shall be subject to the restrictions opposed by § 189 of the General Municipal Law.

§ 90-4. Sunday games.

Games of chance may be conducted on Sunday pursuant to this chapter. However, no games of chance shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

§ 90-5. Enforcement.

Enforcement shall be through the Sheriff of Jefferson County or any law enforcement official appointed by the Town Board of the Town of Brownville, and the same shall exercise control over and supervision of all games of chance conducted by duly authorized licensees. The Jefferson County Sheriff or any designated law enforcement official shall have all those powers and duties set forth in and for the enforcement of Article 9-a of the General Municipal Law.

Chapter 102

JUNKYARDS AND DUMPS

GENERAL REFERENCES

Building permits — See Ch. 67. **Zoning — See Ch. 165.**

Solid waste — See Ch. 134.

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§ 102-1. Definitions.

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

DUMP OR DUMPING GROUND — Any place for the collection, accumulation, storage, deposit, burial or disposal, in any manner thereon, of rubbish or garbage as defined in this section.

GARBAGE — Waste food, papers, dead animals or parts thereof and all waste or discarded wood, lumber or vegetable matter of any kind or any other matter which shall be inflammable or combustible or capable of fermentation or decay.

JUNKYARD — Any place of storage or deposit, whether in connection with another business or not, where two (2) or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which, taken together, equal in bulk two (2) or more such vehicles.

MOTOR VEHICLE — All vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways.

PERSON — An individual, society, club, firm, partnership, corporation or association of persons, and the singular number shall include the plural number.

RUBBISH — Waste metal, tin cans, ashes, cinders, glass, pottery, dismantled, abandoned or worn-out motor vehicles or farm machines or other machines of any kind, or parts thereof, and all discarded substances of a solid and incombustible nature.

§ 102-2. License required.

No person shall operate, establish or maintain a dump, dumping ground or junkyard, as above defined, unless and until he has obtained a license to operate the same.

§ 102-3. Application for license.

Application for such a license shall be made, in writing, to the Town Board and shall contain the following information:

A. The place within the town where such dump, dumping ground or junkyard is to be located.

B. A plot plan of said place showing the exact location on the land where said dump, dumping ground or junkyard is to be maintained, and showing the dimensions and area thereof and its relation to adjoining properties.

C. Such application shall also be accompanied by evidence and proof that the applicant is:

   (1) A citizen of the United States.

   (2) Either the owner of the premises on which the dump, dumping ground or junkyard is or is proposed to be located or the lessee of said premises, under a lease wherein he has assumed the responsibility for the condition of said premises.

§ 102-4. Public hearing.

A public hearing on the application shall be held within said town not less than two (2) nor more than four (4) weeks from the date of the receipt of the application by the Town Board. Notice of such public hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a general circulation within the town, which publication shall not be less than seven (7) days before the date of the hearing.

§ 102-5. Considerations prior to approval.

At the time and place set for the public hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain such dump, dumping ground or junkyard. In considering such application, the Town Board shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations

concerning the proposed dump, dumping ground or junkyard, to any record of convictions for any type of larceny or receiving of stolen goods and to any other matter within the purposes of this chapter. In passing upon such application, the Town Board shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity to churches, schools, hospitals, public buildings and other places of public gathering, and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odor or smoke or of other causes. The Town Board may also take into account a clean, wholesome and attractive environment and consider whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon, and the Town Board may consider collectively the type of road servicing the dump, dumping ground or junkyard or from which the same may be seen, the natural or artificial barriers protecting the same from view, the proximity thereof to established residential and recreational areas or main access routes thereto, as well as reasonable availability of other suitable sites for the dump, dumping ground or junkyard.

§ 102-6. Grant or denial of application.

After such public hearing, the Town Board shall within two (2) weeks make a finding as to whether or not the application shall be granted, giving notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license shall be forthwith issued to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual fee without hearing, provided that all provisions of this chapter are complied with during the license period, that the dump, dumping ground or junkyard does not become a public nuisance under the common law and that the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules.

§ 102-7. License fee. [Amended 9-14-1988]

A. The application for a license shall be accompanied by an application fee of five hundred dollars ($500.).

B. The annual license fee shall be such amount as the Town Board may, from time to time, establish by resolution and shall be paid at the time application is made and annually thereafter in the event of renewal.

C. In the event that the application is not granted, the application fee and the annual license fee shall be returned to the applicant. In addition to the license fee, the Town Board may assess the applicant with the costs of advertising such public hearing and application and such other reasonable costs incidental to the hearing as are clearly attributable

thereto and may make the license conditional upon payment of the same.

§ 102-8. Fencing requirements.

A. Before use, a new dump, dumping ground or junkyard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens and with a suitable gate which shall be closed and locked, except during the working hours of such dump, dumping ground or junkyard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway. All rubbish, garbage and motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the dump, dumping ground or junkyard, except as removal shall be necessary for the transportation of same in the reasonable course of business.

B. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in all or in part, the fencing requirements hereunder may be reduced by the Town Board upon granting the license; provided, however, that such natural barrier conforms with the purposes of this chapter.

§ 102-9. Established dumps and junkyards.

For the purposes of this chapter, the location of dumps, dumping grounds or junkyards established prior to the effective date of the General Municipal Law § 136, September 1, 1965, shall be considered approved by the Town Board and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the adoption of this chapter, however, the owner shall furnish the Town Board the information as to location which is required in an application, together with the license fee, and the Town Board shall issue him a valid license until the next April 1, at which time the operator of such dump, dumping ground or junkyard may apply for renewal, as herein provided. Such applicant shall comply with all other provisions of this chapter, including the fencing requirements set forth above.

§ 102-10. Required distances from certain buildings.

Notwithstanding any of the foregoing provisions of this chapter, no dump, dumping ground or junkyard hereafter established shall be issued a license for the operation thereof or any part thereof within one thousand two hundred (1,200) feet of a church, school, hospital, public building or place of public assembly or any building or structure used as a residence or place of human habitation.

§ 102-11. Maintenance of site.

The person operating such dump, dumping ground or junkyard shall use the maximum practicable rodent, insect and nuisance control and shall

maintain the site in a safe and sanitary condition at all times, and there shall be no fire or burning of any material on such site at any time.

§ 102-12. Responsibility of license holder.

The holder of such a license shall be personally responsible at all times for the condition of such dump, dumping ground or junkyard or any condition created elsewhere as a result of the condition of said dump, dumping ground or junkyard.

§ 102-13. Penalties for offenses.

Any violation of any portion of this chapter shall be an offense punishable by a fine not exceeding one hundred dollars ($100.), and each week that such violation is carried on or continues shall constitute a separate violation. In addition, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any of the provisions of this chapter pursuant to Town Law § 135, and the Town Board may also maintain an action to recover a civil penalty of not less than twenty-five dollars ($25.) nor more than one hundred dollars ($100.) for each such violation.

§ 102-14. Revocation of license.

The violation of any of the terms of this chapter by the holder of any license to maintain a dump, dumping ground or junkyard shall be grounds for revocation of such license by the Town Board, after a public hearing concerning the same.

§ 102-15. Applicability.

This chapter shall be effective and operative only in that portion of the town outside of any incorporated village in the town.

Chapter 113

PEDDLING AND SOLICITING

§ 113-1. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — A building or store in which a person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits during regular business hours.

HAWKER AND PEDDLER — Except as hereinafter expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or from place of business to place of business, on foot or on or from any animal or vehicle standing in a street or highway,

sells or barters, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except as hereinafter exempted.

PERSON — One (1) or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

SOLICITOR — Any person who goes from place to place or house to house or who stands in any street or public place, taking or offering to take orders for goods, wares or merchandise, except as hereinafter exempted, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

§ 113-2. Exemptions as to certain persons and sales.

Nothing in this chapter shall be held to apply to any sales conducted pursuant to statute or by order of any court; to any person selling personal property at wholesale to dealers in such articles; to merchants having an established place of business within the town, or their employees; to the peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities; to dealers in milk, baked goods, heating oil and daily newspapers; to any honorably discharged member of the Armed Forces of the United States who has procured a license as provided by the General Business Law of the State of New York; or to persons soliciting or collecting for any bona fide charitable organization. This chapter shall also not apply so as to unlawfully interfere with interstate commerce.

§ 113-3. License required.

It shall be unlawful for any person within the territorial limits of the Town of Brownville to act as a hawker, peddler or solicitor, as herein defined, without first having obtained and paid for and having in force and effect a license therefor.

§ 113-4. Application for license.

Every applicant for a license as herein provided shall submit to the Town Clerk a written application, under affidavit, setting forth the following information:

A. Whether he is a citizen of the United States.

B. Whether he has ever been convicted of a felony or misdemeanor, and if so, giving the details.

C. A detailed statement of the particular business, trade or occupation for which the license is requested.

D. The number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested.

E. The kinds of goods, wares and merchandise he desires to sell or the kind of service he desires to render.

F. The name, address and age of the applicant.

G. The name and address of the person, firm or corporation he represents.

H. The names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation.

I. The name and address of a resident of the State of New York upon whom a legal notice may be served.

§ 113-5. Issuance of license.

Upon the filing of the application as provided in the preceding section, the Town Clerk shall, upon his approval of such application, issue to the applicant a license as provided in § 23-3, signed by the Town Clerk. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of public safety, health, morals or general welfare. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this chapter. Such license shall automatically expire on January 1 following the date of issuance of such license, but such license may provide for an earlier expiration date. No license shall be granted to a person under eighteen (18) years of age. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

§ 113-6. Annual license fees.

The license fee for hawkers, peddlers or solicitors shall be as follows: twenty-five dollars ($25.) per year.

§ 113-7. Employees of licensee restricted.

Any licensee using a horse and wagon or motor vehicle may employ not more than two (2) persons to assist in selling and delivering the wares, but such persons shall so act only while accompanying a licensed peddler, hawker or solicitor.

§ 113-8. Name and address required on vehicle.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly, distinctly and legibly painted in letters and figures at least two (2) inches in height in a conspicuous place on the outside of each side of every such vehicle, and such name and address shall be kept so painted plainly and

distinctly at all times while such vehicle is in use during the continuance of the license.

§ 113-9. Refusal or revocation of license.

Upon the refusal of the Town Clerk to issue a license to any applicant, or upon the determination of the Town Board that any license should be revoked, the procedure prescribed in Section 137 of the Town Law shall be complied with. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason therefor, in writing, shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application, and a copy of such notice shall be filed with the Town Clerk.

§ 113-10. Regulation of licensees.

A licensed hawker, peddler or solicitor shall:

A. Not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

B. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.

C. Not stand or permit the vehicle used by him to stand in one (1) place in any public place or street for more than ten (10) minutes or in front of any premises for any time if the owner or any lessee of the premises objects.

D. Not sell any confectionery or ice cream within two hundred fifty (250) feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

E. Not permit any vehicle used by him to stop or remain on any crosswalk.

F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

G. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.

§ 113-11. Method of taking orders.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and

one (1) copy shall be given to the purchaser at the time the deposit or money is paid to the solicitor.

§ 113-12. Records.

It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

§ 113-13. Penalties for offenses. [Amended 7-10-1974]

Any person or persons, association or corporation committing an offense against this chapter or any section or provision thereof is guilty of a violation punishable by a fine not exceeding two hundred fifty dollars ($250.) or imprisonment for a period not exceeding fifteen (15) days for each such offense, or by both such fine and imprisonment.

Chapter 118

PUBLIC ASSEMBLY

GENERAL REFERENCES

Streets and sidewalks — See Ch. 139.

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§ 118-1. Purpose.

The Town Board, in order to promote proper government and ensure the proper protection, order, conduct, safety, health, welfare and well-being of persons and property within the Town of Brownville, County of Jefferson, New York, finds that it is in the public interest to enact this chapter pursuant to the provisions of § 130, Subdivisions 11, 15 and 19, of the Town Law of the State of New York. This chapter shall regulate the assembly of persons where such assembly exceeds five hundred (500) persons per individual assembly within the Town of Brownville, County of Jefferson, New York, except where such assembly is organized by and under the direct control and for the sole financial benefit of a volunteer fire company located within the town, a fraternal or civic organization having a local chapter within the town or a religious corporation having a house of worship within the town.

§ 118-2. Definitions and word usage.

A. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

ASSEMBLY — The gathering or collecting or congregating of persons at any place within the town, with or without the levy of an admission fee, for a common purpose, such as, but not limited to, sports events, circuses, carnivals, festivals, music festivals, religious observances or rodeos.

BUILDING — A structure wholly or partially enclosed with exterior walls and a roof, of permanent or temporary nature, affording shelter to persons, animals or property.

PERSON — Any individual, firm, company, association, society, corporation or group.

STRUCTURE — A combination of materials to form a construction that is safe and stable, including, among other things, stadiums, stages, prop forms, radio towers, sheds, storage bins, tents, billboards, space signs, bleachers, ramps, seats, rides and food dispensaries.

B. Word usage.

(1) Words used in the present tense include the future; the singular number includes the plural; and the masculine shall include the feminine.

(2) "Shall" is mandatory; "may" is permissive.

§ 118-3. Permit required; application for permit; criteria for issuance or denial.

A. No person shall use or allow, let or permit to be used his own property for the assembly of persons in excess of five hundred (500) persons, nor shall any person use or allow, let or permit to be used property for any part or portion of such assembly of persons, which total assembly in the aggregate is in excess of five hundred (500) persons, except when a written permit authorizing such use and assembly is issued by the Town Board, through its Clerk, following a public hearing held by the Town Board.

B. Application information; advertising of event.

(1) Application for such permit shall be by verified petition on forms to be furnished by the town, addressed to the Town Board and filed with the Town Clerk at least one hundred twenty (120) days prior to the date upon which such use and assembly shall occur. The Town Board shall conduct a public hearing within thirty (30) days after the application's completed submission and act upon it within thirty (30) days after such public hearing. Such application shall include the following information:

(a) A statement of the name, age and residence address of the applicant; if the applicant is a corporation, the name of the corporation and the names and addresses of its directors and officers; if the applicant does not reside within the Town of

Brownville, the name and address of an agent who shall be a natural person who shall reside in or have a place of business in the County of Jefferson and who shall be authorized to and shall agree, by verified statement, to accept notices or summonses issued with respect to the application, the conduct of the assembly or use in any manner involving it arising out of the application, construction or application of this chapter.

(b) A statement containing the name, address and record owner of the property where the assembly and use shall occur and the nature and interest of the applicant therein; the proposed dates and hours of such assembly and use; the expected maximum number of persons intended to use the property at any one (1) time and collectively; the expected number of automobiles and vehicles intended to use the property at any one (1) time and collectively; and the purpose of the assembly and use, including the nature of the activity to be carried on and the admission fee to be charged, if any.

(c) A map, prepared by a licensed land surveyor or licensed public engineer, showing:

[1] The size of the property, including Tax Map section, block and lot number designations.

[2] The zoning district, if any, in which it is located.

[3] The names of the record owners of the adjoining properties.

[4] The streets or highways abutting said property.

[5] The size and location of any existing buildings or structures.

[6] The size and location of any buildings or structures to be erected for the purpose of the assembly and use, and the method of construction and materials to be used in any new building or structure.

(d) Sanitary and water facilities.

[1] A plan or drawing, to scale, prepared by a licensed public engineer or licensed land surveyor, showing the method and manner in which:

[a] Sanitary facilities are to be provided for the disposal of human waste, garbage and other debris.

[b] Water is to be supplied, stored and distributed to those people attending.

[2] All state and local agencies having any interest in Subsection B(1)(d)[1][a] and [b] shall be consulted and any license or permits requested by such agencies shall be obtained by the applicant.

(e) A plan, drawn to scale, showing the layout of any parking area for motor vehicles, including the means of egress and ingress to such parking area. Under no circumstances will on-road parking be allowed. Violation of this provision will be grounds for the revocation of the permit and forfeiture of all fees required in the original permit application.

(f) A statement containing the type, number and location of any radar device, sound amplifier, loudspeaker, sound truck or other similar sound equipment.

(g) A statement specifying whether food or beverage is intended to be prepared, served or distributed. If food or beverages are intended to be prepared, sold or distributed, a statement shall be submitted specifying the method of preparation and distribution of such food or beverage and the method of disposing of garbage, trash, rubbish or any other refuse arising therefrom. If food or beverage is to be prepared, sold and distributed, a plan or drawing to scale must be attached to the application showing the buildings or other structure from which the food or beverages shall be prepared, sold or distributed. All state and local agencies having any vested interest in this subsection shall be consulted, and any license or permit required by these agencies shall be obtained by the applicant.

(h) A statement specifying what private security guards or police will be engaged, the number of such persons and duties to be performed by such persons, including the hours to be worked and areas of responsibility. All persons so engaged will be employed in such capacity on their own off-duty time and not during the course of their regular job tour of duty, except as so assigned by their superiors.

(i) A statement specifying the precautions to be utilized for fire protection, including a plan or drawing to scale specifying the location of fire lanes and water supply for fire control, and showing approval of the Chief of the local fire company within whose jurisdiction the assembly is planned.

(j) A statement specifying whether any outdoor lights or signs are to be utilized, and, if so, a map showing the number, location, size, type and illuminating power of such lights and signs.

(k) A statement specifying the facilities to be available for emergency treatment of any person who may require medical or nursing attention.

(l) A statement specifying whether any camping or housing facilities are to be available, and, if so, a plan, drawn to scale, showing the intended number and location of the same.

(m) A statement specifying the contemplated duration of the assembly up to a maximum of seven (7) consecutive days or nights.

(n) If the assembly and use are to continue from one day into another, a statement specifying the camping or housing facilities available or to be made available on the premises.

(2) No advertising of the event shall occur until the permit is issued by the Town Clerk. All posters or other public advertising media shall be removed within fifteen (15) days after the final event. Failure to remove such advertising will result in the town doing so at the expense of the sponsor.

C. Criteria for issuance of permits; hours of event noted.

(1) No permits shall be issued by the town unless it is clearly shown that all of the following are provided for and approved, in writing, by the State Department of Health and State Department of Environmental Conservation, the St. Lawrence-Eastern Ontario Commission, the Town of Brownville Planning Board and the Jefferson County Planning Board, and the issuance of permits and permits and licenses have been issued therefor by such agencies, if required, and any other agencies requested by the Town Board:

(a) Drinking water adequate in quantity and quality satisfactory to the permit-issuing official. Drinking water shall be readily available to all persons attending the assembly or use. Only drinking water shall be so delivered or piped as to be easily accessible. A well or spring used as a source of drinking water and the structure used for the storage of drinking water shall be so constructed and located as to protect the contents against pollution. A pipe or pump delivering the drinking water shall be of the type and installation acceptable to the permit-issuing official. There shall be no physical connection between a pipe carrying drinking water and a pipe carrying water not of a quality satisfactory to the permit-issuing authority. A fixture, installation or equipment from which backsiphonage may occur shall not be supplied water from a pipe carrying drinking water. All pipes carrying drinking water shall be buried to a sufficient depth below the surface of the ground to prevent their damage or destruction. A common drinking container shall not be provided or allowed to be used. Any drinking fountain shall be of approved sanitary design and construction. Where a water treatment process is employed, an accurate and complete report of the process and operation thereof shall be maintained daily, and no change in the source or in the method

of treatment of a drinking water supply shall be made without first notifying the permit-issuing official and securing his written approval to do so.

(b) Toilet facilities adequate for the capacity of the assembly or use. These facilities shall be so located as to be conveniently available and shall be so constructed and maintained that they will not be offensive. Toilet facilities for groups of people consisting of both sexes shall be so arranged that the facilities shall be separated for each sex. No privy shall be so located or constructed that it will, by leakage or seepage, possibly pollute a water supply, surface or adjacent ground surface, and each such privy shall be constructed in accordance with the requirements of the State Department of Health and shall be so maintained that it will not permit access of flies to the privy vault. State or local requirements for handicapped toilet facilities must be complied with.

(c) Adequate facilities for the satisfactory disposal or treatment and disposal of sewage. Such facilities shall meet the standards and requirements of the New York State Department of Health.

(d) Adequate facilities and arrangements for safe, clean disposal of solid waste, garbage and trash.

(e) Adequate supply of food, including provisions for sanitary storage, handling and protection of food and beverages until served or used. A showing must be made that, where food is to be prepared or consumed, there are facilities for washing, disinfecting and storing dishes and food utensils.

(f) Adequate off-street and off-road parking facilities for the contemplated number of people attending the assembly or use. Parking space shall be provided for at the rate of at least one (1) car for every four (4) persons in attendance. Parking facilities for the handicapped shall comply with state or local requirements.

(g) Adequate camping and housing facilities for the contemplated number of people in attendance, if it is contemplated that the assembly or use shall extend from one day to another.

(h) An adequate number of access roads to and from the site of the assembly or use.

(i) Adequate medical facilities, including a first aid station. It must be shown that at least one (1) doctor will be in attendance at all times and that at least one (1) registered nurse for each five hundred (500) people in attendance will be on duty at all times.

(j) Adequate fire-protection arrangements, which shall be made to satisfy the Fire Chief having jurisdiction of the area where the event is to be held. In any case, if in the opinion of the Town Board, manned on-site fire-protection equipment is deemed necessary, it shall be the obligation of the applicant to obtain such manned equipment at his expense, with major preference given to the local Fire Department having first call status for the event area.

(2) The hours for each and every event shall be stated in writing to the Town Board and must be complied with so that the local area is not disturbed as far as noise, traffic or any activity which would constitute a nuisance to the population of the general area.

D. No permit shall be issued unless the owner and his tenant or lessee, if any, shall furnish the town with written authorization to permit the town or its lawful agents to go upon the property at any time for the purpose of inspecting the same, the facilities thereon and the cleaning of the premises after the termination of the assembly.

E. No permit shall be issued unless the applicant shall furnish the town with a comprehensive liability insurance policy insuring the town against liability for damage to persons and property, with limits of not less than five million dollars/ten million dollars ($5,000,000./$10,000,000.) for bodily injury or death and limits of not less than five million dollars/twenty-five million dollars ($5,000,000./$25,000,000.) for property damage, sufficient to save the town harmless from any liability or cause of action which might arise by reason of the granting of the permit and not cancelable without ten (10) days' prior written notice to the town. The applicant shall further provide a security deposit by certified check, payable to the town, in the amount of ten thousand dollars ($10,000.) for each day of the scheduled events. This security deposit will ensure the timely removal of trash and other waste material, the timely removal of all posted advertising, the cost of additional persons if, in the opinion of the Sheriff, state police, zone commander or Supervisor of the town, such additional help is required in order to assure the health and safety and well-being of the residents or region where such event is being or was held. This security deposit will also assure the town the necessary funds to correct and restore any condition the Town Board feels was caused by the event to the ultimate detriment of the region where such event was held. Any unused portion of such deposit shall be returned to the applicant within thirty (30) days after such condition is corrected.

F. Within five (5) days from the date of the termination of the assembly, trash, paper, garbage and other waste material shall be completely removed from the premises, adjoining property or any other area of accumulation in a safe, clean and sanitary manner.

G. Any permit issued may be revoked by the Town Board through its Clerk or Supervisor if, at any time, it shall be determined that the applicant

has failed to provide the facilities as specified in the application or that the setting up of the facilities provided for in the application cannot be reasonably accomplished within the time or date set for the assembly or use.

§ 118-4. Fees.

Each application shall be accompanied by a fee in the amount of five hundred dollars ($500.) at the time of its submission. The fee shall compensate the town for its examination and processing of such application and shall not be refundable in whole or in part. The fee for groups of five thousand (5,000) or more shall be one thousand dollars ($1,000.).

§ 118-5. Enforcement; penalties for offenses.

A. Any person who shall use or allow, let or permit to be used property for the assembly of persons in excess of five hundred (500) or shall use or allow, let or permit to be used property for any part or portion of such assembly, which total assembly in the aggregate is in excess of five hundred (500) persons, or any person who shall cause the gathering, collecting or congregating of persons in excess of five hundred (500) at any place within the town without first obtaining a written permit in accordance with the provisions of this chapter shall be deemed to have violated this chapter and committed a misdemeanor and shall be liable to the penalties hereinafter provided. Any person who commits or permits any act in violation of any provision of this chapter shall be deemed to have violated this chapter and committed a misdemeanor and shall be liable to the penalties hereinafter provided.

B. For each violation of the provisions of this chapter, the person violating the same shall be subject to a fine of not more than one thousand dollars ($1,000.) or imprisonment not to exceed one (1) year, or to both such fine and imprisonment.

C. In addition to the above-provided penalties, 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 to restrain by injunction the violation of this chapter.

D. In addition to the above responsibilities, it shall be deemed the final responsibility of the permittee (not his contractor or contractors) to comply with the above code and its regulations.

§ 118-6. Time limit for holding event; variances; construal.

A. Events or usage for which a permit has been obtained must occur within thirty (30) days of the designated dates or the permit will expire.

B. Variance from Subsection A above may be granted by the Town Board if deemed by the same to have created undue hardship to the permittee.

C. Nothing herein contained shall be deemed or construed to excuse the applicant/permittee from compliance with all provisions and requirements covering such assemblies, as outlined in Chapter I, State Sanitary Code, Part 7, Subpart 7-1, Temporary residences and mass gatherings (statutory authority: Public Health Law, § 225).

§ 118-7. Liability of town.

All exempt organizations will provide the Town of Brownville with a statement, signed by all officers of said organization, holding the Town of Brownville and its officials harmless in all civil and criminal cases of liability arising from said sponsored event.

§ 118-8. When effective.

This chapter shall take effect immediately upon compliance with the provisions of Local Law No. 1-1975 of the Town of Brownville (Chapter 26 of the Code).

Chapter 124

SEWERS

GENERAL REFERENCES

Building permits — See Ch. 67.

Solid Waste — See Ch. 134.

Streets and sidewalks — See Ch. 139.

Part 1
Disposal Requirement[1]

[Adopted 11-9-1978 As Ch. 30, Part 1, Of The 1978 Code (Originally Adopted 10-8-1975)]

ARTICLE I
General Requirements

§ 124-1. Disposal system required.

An adequate and safe sewage disposal system shall be provided in all homes, residences, places of habitation, places of business or buildings in which any type of sewage will be discharged.

§ 124-2. Design and construction requirements.

Such system shall be designed and constructed and maintained in accordance with any and all town, county and state health laws, as well as the New York State Building Code[5] as it applies to sewage disposal.

§ 124-3. Penalties for offenses.

Each and every violation of this Part 1 shall constitute disorderly conduct and shall be punishable as provided in the New York State Penal Law.

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5. Editor's Note: See Ch. 81, Fire Prevention and Building Code Enforcement .

Part 2
General Provisions

[Adopted 5-12-1985 As L.L. No. 3-1985 (Ch. 30, Part 2, Of The 1978 Code)]

ARTICLE II
Introductory Provisions

§ 124-4. Title.

This Part 2 shall be known as the "Town of Brownville Sanitary Code Law."

§ 124-5. Purpose.

The purpose of this Part 2 is to promote the health, safety and general welfare of the community by ensuring, through the location, construction and use of properly designed facilities, that sewage and other wastes are disposed of in a manner that will not create a health hazard or adversely affect the environment.

§ 124-6. Statutory authority.

Enactment of this Part 2 is pursuant to § 10 of Municipal Home Rule Law and Articles 2 and 3 of the Public Health Law of the State of New York.

§ 124-7. Permit and certificate of compliance required; exceptions.

A. Permits required. It shall be unlawful to construct, replace or make major modifications, alterations or extensions to on-site sewage disposal systems without first obtaining a sewage disposal permit from the Town Clerk of the Town of Brownville, pursuant to requirements outlined in Article IV of this Part 2.

B. Certificates of compliance required. It shall be unlawful to cover or use any such newly constructed, replaced, altered or extended facility for purposes of sewage disposal without first obtaining a certificate of compliance from the Town of Brownville Land Use Inspector.

C. Activities not requiring a permit.

(1) A permit is not needed for minor modifications, alterations or extensions of, nor for repairs to, an existing on-site sewage disposal system. This Part 2 shall have no application to a community or public sewage disposal system.

(2) Where the New York State Department of Health or the New York State Department of Environmental Conservation require discharge permits, a town permit is not required.

ARTICLE III
Definitions

§ 124-8. Definitions.

As used in this Part 2, the following terms shall have the meanings indicated:

COMMUNITY WATER SUPPLY SYSTEM — A public water system which serves at least five (5) service connections used by year-round residences or regularly serves at least twenty-five (25) year-round residents.

EXTENSION — Any increase in the size of a leaching facility.

LAND USE INSPECTOR — The person appointed by the Town Board whose duty and authority it is to administer and enforce the provisions of this Part 2.

LEACHING FACILITY — Any structure that is designed to distribute sewage into the soil, such as a seepage pit or tile field.

MAJOR MODIFICATION OR ALTERATION — Any replacement or reconstruction affecting at least one-half (1/2) of the leaching facility of an individual sewage disposal system.

MINOR REPAIR — Any remedial measure not defined as a major repair, major alteration or extension.

ON-SITE SEWAGE DISPOSAL SYSTEM — Any facility, other than a public sewage disposal system, intended or used for the discharge of sewage; septic tanks, leach fields, pipes, dry wells, soil absorption systems, self-composting or chemical-type toilets and privies.

SEWAGE — The combination of human and household waste with water which is discharged to the home plumbing system; the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine or the water-carried waste from any other fixtures or equipment or machine.

ARTICLE IV
Standards

§ 124-9. Adoption of standards; word usage; alternative systems.

On-site sewage disposal systems shall comply with the applicable specifications and standards set forth in the most recent editions of Waste Treatment Handbook, Individual Household Systems, New York State Department of Health, and Standards for Waste Treatment Works - Institutional and Commercial Sewerage Facilities, New York State Department of Environmental Conservation. Language such as "should" in these publications shall be considered mandatory ("shall") for the purposes of this Part 2. Alternative systems (e.g., evaporation-absorption systems, sand filter system, etc.) may be permitted by application to the State Department of Health or, if applicable, the Department of Environmental Conservation.

§ 124-10. General standards.

A. Only sewage may be discharged into the on-site sewage disposal system. Surface and subsurface water, including roof, cellar, foundation and storm drainage, shall be excluded from such systems and shall be disposed of so they will in no way affect the system.

B. No leaching facility shall be located under driveways, roadways, parking areas or areas subject to heavy loading, unless approved by the Land Use Inspector.

C. No leaching facility will be permitted within two hundred (200) feet of the shoreline of a lake, pond or stream if the percolation rate is three (3) minutes per inch or less.

ARTICLE V
Administrative Provisions

§ 124-11. Application form.

Application for sewage disposal permits shall be made on forms supplied by the Town Clerk and shall be submitted to the Land Use Inspector.

§ 124-12. Contents of application.

The application shall include such information as the Town Board and Land Use Inspector may require, including the following:

A. The name and address of the applicant.

B. The specific location of the property on which the construction, alteration or extension is proposed.

C. A plan of the proposed disposal system with substantiating data indicating that the minimum standards set forth in this Part 2 will be complied with.

D. A sketch of the property showing the location of the proposed disposal system construction, alteration or extension, and including delineation of the property lines and sources of water supply for the property and adjoining properties.

E. A percolation test is required for the site of a proposed leaching facility. The Land Use Inspector may verify the results of such tests and require supporting information necessary for such review from the applicant.

F. Site data which might affect or be affected by the proposed system, including, but not limited to, specifications regarding soil type, topography, depth to seasonal high groundwater, depth to impervious material, depth to bedrock and distance to surface bodies of water. The determination of depth to seasonal high water shall be made in the months of March, April, May or June, within six (6) weeks of the time that the frost leaves the ground. If such determination is made at any other time, seasonal high groundwater shall be evaluated and certified by a qualified person approved by the Town Board. All determinations shall be accompanied by a detailed statement of the testing methods used, as well as the basis for the determination.

G. The Land Use Inspector shall determine whether an application is complete.

§ 124-13. Powers and duties of Land Use Inspector.

The Land Use Inspector appointed by the Town Board shall have the duty to administer and enforce the provisions of this Part 2, in conjunction with the Town of Brownville Health Officer.

A. Authority to verify information. The Land Use Inspector shall have the authority to require certification or retesting to verify information submitted as part of the application. The Land Use Inspector may conduct such investigations, examinations, tests and site evaluations as he deems necessary to verify information contained in an application for a sewage disposal permit, and the applicant or owner of land on which the system is proposed shall grant the Land Use Inspector or his agents permission to enter on his land for these purposes.

B. Issuance of sewage disposal permit. The Land Use Inspector shall issue a sewage disposal permit if:

(1) All pertinent site data has been submitted, verified and certified as required by this Part 2, all permit fees have been paid and the Land Use Inspector has determined that the construction, alteration or extension, as proposed in the application, complies with all specifications contained in this Part 2; or

(2) The Land Use Inspector is specifically ordered to issue a sewage disposal permit by the Town Board pursuant to § 124-17 of this Article and all permit fees have been paid.

C. Disapproval of permit application. The Land Use Inspector may disapprove an application for a sewage disposal permit if he determines that:

(1) The individual sewage disposal system, as proposed, will not conform to the requirements or specifications of this Part 2 or an order of the Town Board.

(2) The applicant has failed to supply all data necessary to make a determination as to whether or not such individual sewage disposal system conforms to the requirements or specifications of this Part 2 and has failed to supply such information for thirty (30) days after a written request for such additional information has been mailed.

(3) The applicant has failed to pay all necessary fees and has failed to make such payment for thirty (30) days after notice of such nonpayment has been mailed.

(4) The proposed system does not meet Appendix 75-A of the New York State Public Health Law 201, Waste Water Treatment - Individual Household Systems.

D. Order to stop work. The Land Use Inspector may, by written notice, order all further work stopped on any individual sewage disposal systems which is being constructed, altered or extended in violation of this Part 2.

§ 124-14. Certificate of compliance.

It shall be unlawful to cover with soil or other material or to utilize any new individual sewage disposal system unless a certificate of compliance has been issued either by the Land Use Inspector or the New York State authority.

A. Inspection. It shall be the duty of the holder of the sewage disposal permit to notify the Land Use Inspector when the installation of the disposal system is ready for inspection. The inspection shall be made as soon thereafter as practicable by the Land Use Inspector. The Land Use Inspector may also make inspections during construction to ensure that the system is being installed in accordance with the terms of the sewage disposal permit. Any part of any installation which has been covered prior to final approval shall be uncovered upon the order of the Land Use Inspector.

B. Compliance. A certificate of compliance shall not be granted until the Land Use Inspector has determined that the individual sewage disposal system has been installed in compliance with this Part 2. The Land Use Inspector may make such a determination only after he has made an on-site investigation of the system or received a certification from the individual designing and installing the system that the system conforms to the specifications as set forth in the application and this Part 2 or an order of the Town Board pursuant to this Article. The Land Use Inspector may withhold a determination until after an on-site investigation has been completed, notwithstanding that the system has been certified as properly installed and designed.

§ 124-15. Site inspections.

In filing an application for a sewage disposal permit, an applicant shall be deemed to have consented to site inspections by the Land Use Inspector, and/or other person designated by the Town Board, conducting examinations, tests and other inspections of the disposal system site. Entrance upon the applicant's property shall be made only at reasonable times and with advance notice to the applicant, where possible.

§ 124-16. Expiration of permits.

Unless otherwise provided for in the permit, all permits shall expire within one (1) year of issuance. Once a permit expires, and the disposal system is not completed, a new permit application is required.

§ 124-17. Appeals.

Appeals from any actions, decisions or rulings of the Land Use Inspector or from the strict application of the standards stated in Article IV herein may be made to the Town Board. Requests for all appeals shall be made, in writing, to the Town Board not later than thirty (30) days of the act, decision or ruling from which relief is sought.

A. Public hearing.

(1) The Town Board shall hold a public hearing of the appeal, with prior publication and notice as required by law, within thirty (30) days of receipt of the written request. The cost of publication shall be paid by the applicant.

(2) Any hearing may be recessed by the Town Board in order to obtain additional information or to serve further notice upon other property owners or to persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. No further notice or publication will be necessary.

(3) Within thirty (30) days of the final adjournment of a public hearing, the Town Board shall affirm, modify or deny the action, decision or ruling of the Land Use Inspector or correct any omission by him or approve, approve with conditions or disapprove the application.

(4) The decision of the Town Board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Town Board.

(5) As part of any decision, the Town Board shall direct the Land Use Inspector to issue any appropriate permit in conformity with its ruling and shall state a time by which such permit shall be issued, in conformity with this Part 2.

B. Appeal to vary standards. The discretion of the Town Board in considering an appeal shall not extend to granting variances from the standards stated in Article VI herein, unless such variance has received prior approval of the New York State Department of Health and is consistent with the spirit and purpose of this Part 2.

§ 124-18. Review of decisions.

An action, omission, decision or ruling of the Town Board pursuant to this Part 2 may be reviewed at the instance of any aggrieved person, in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be made not later than four (4) months from the effective date of the decision or ruling or the date when the action or omission occurred.

ARTICLE VI
Emergency Repairs

§ 124-19. Procedure.

A. In the event of system failure, repairs may be undertaken immediately to correct the problem.

B. Any emergency repairs should be in conformance with the standards set forth in this Part 2 (Article III, §§ 124-6 and 124-7A, B and C).

C. Notification must be given to the Land Use Inspector, Town Clerk or, in their absence, any member of the Town Board, within forty-eight (48) hours, that emergency repairs are being undertaken.

D. Notification of the Land Use Inspector or a designated alternate shall be required within forty-eight (48) hours of completion of repairs to the failed system.

E. The Land Use Inspector must approve, pending any necessary modifications to the repaired system, pursuant to the requirements outlined in Article IV of this Part 2.

ARTICLE VII
Enforcement

§ 124-20. Penalties for offenses.

Any person owning, controlling or managing any building, structure, land or premises wherein or whereon there shall be placed or there exists a structure or system in violation of this Part 2, and any person who shall commit or assist in the commission of any violation of this Part 2 or who shall build, erect or construct, or attempt the same, any structure contrary to the plans or specifications submitted to the Land Use Inspector and, by him, certified as complying with this Part 2 and any person who shall omit, neglect or refuse to do any act required by this order shall be subject to a civil penalty of not more than two hundred fifty dollars ($250.), to be recovered by the Town Board in any court of competent jurisdiction. Every such person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the person for the purposes of this Article.

§ 124-21. Additional remedies.

In case of any violation or threatened violation of any of the provisions of this Part 2, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent unlawful construction, structural alteration, repair, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the use of the individual sewage disposal system or to prevent any illegal act, conduct, business or use regarding such disposal system.

§ 124-22. Misrepresentation.

Any permit or approval granted under this Part 2 which is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstances known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the other remedies available to the Town Board under this Part 2.

ARTICLE VIII
Miscellaneous Provisions

§ 124-23. Construal of provisions.

Where the conditions imposed by any provision of this Part 2 are less restrictive than comparable conditions imposed by any other provisions of this Part 2 or of any other statute, ordinance, local law, order, rule or regulation, the provisions which are more restrictive shall govern.

§ 124-24. Effect on previous provisions.

The adoption of this Part 2 shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this Part 2 takes effect.

§ 124-25. Fees.

All fees required by this Part 2 shall be set by resolution of the Town Board.

Chapter 128

SITE PLAN REVIEW

GENERAL REFERENCES

Building permits — See Ch. 67.

Fire prevention and building code enforcement — See Ch. 81.

Sewers — See Ch. 124.

Subdivision of land — See Ch. 143.

Zoning — See Ch. 165.

ARTICLE I
Introductory Provisions

§ 128-1. Statutory authority.

The Town Board of the Town of Brownville, Jefferson County, New York, does hereby ordain and enact the Town of Brownville Site Plan Review Law pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law and §§ 130, Subdivision 21, and 274-a of the Town Law.

§ 128-2. Title.

This chapter shall be known as the "Town of Brownville Site Plan Review Law."

§ 128-3. Intent; Planning Board review.

A. Through site plan review, it is the intent of this chapter to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town, and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

B. It is further the intent of this chapter to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town by regulating land use activity within the town through review and approval of site plans. It is not the intent of this chapter to prohibit, per se, any land use activity, but to allow all land use activities which will meet the standards set forth in this chapter.

C. The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the town, as hereinafter designated, pursuant to and in accordance with the standards and procedures set forth in this chapter.

ARTICLE II
Definitions

§ 128-4. Definitions.

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

AGRICULTURE STRUCTURES — Barns, storage buildings, equipment sheds, silos and other structures on a farm customarily used for agricultural purposes.

DWELLING, ONE-FAMILY — A complete self-contained residential unit for permanent habitation by one (1) family only and containing one (1) or more rooms and facilities for living, including cooking, sleeping and sanitary needs.

DWELLING, TWO-FAMILY — Two (2) complete but separate self-contained residential units, each intended for permanent habitation by one (1) family only in a single structure having a common wall, roof, wall or ceiling and containing separate rooms and facilities for living, including cooking, sleeping and sanitary needs.

FAMILY — A person or persons related to each other by blood, marriage or adoption and/or not more than three (3) individuals not so related, living together as a single housekeeping unit.

FRONT YARD — The space between the road line and that part of the principal building which is nearest to such road line.

GENERAL PLAN — A Comprehensive or Master Plan for the development of the town prepared by the Planning Board pursuant to § 272-a of the Town Law.

LAND USE ACTIVITY — Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but shall not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions to existing uses, roads, driveways and excavations for the purpose of extracting soil or mineral deposits.

LAND USE INSPECTOR — An individual appointed by the Town Board to carry out the administration of the regulations of this chapter. The powers and duties of the "Land Use Inspector" are more particularly defined within this chapter.**[Amended 4-27-1987 by L.L. No. 2-1987]**

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, with a permanent foundation, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

MOBILE HOME — A structure which is eight (8) feet or more in width and thirty-two (32) feet or more in length, transportable in one (1) or more sections, built on a permanent chassis and designed to be used as a dwelling without a permanent foundation when connected to the required utilities,

and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

MOBILE HOME ACCESSORY BUILDING OR STRUCTURE — A building or structure which is an addition to or supplements the facilities prohibited to a mobile home. It is not a self-contained, separate and habitable building or structure.

MOBILE HOME PARK (HEREAFTER ALSO KNOWN AS "PARK") — Any property consisting of a tract of land containing two (2) or more mobile homes and/or manufactured homes, and buildings or other structures that may be pertinent to their use, any part of which may be occupied by persons for residential purposes, other than recreation, traveling or vacationing, and wherein are provided services or facilities necessary for their use of the property.

MOBILE HOME SITE (HEREAFTER ALSO KNOWN AS "SITE") — A designated parcel of land in a mobile home park and designed for accommodating one (1) mobile or manufactured home, its accessory buildings or structures and accessory equipment for the exclusive use of the occupants.

MOBILE HOME STAND — That area of a site which has been reserved for the placement of the home.

OPERATOR — The owner, lessee or any person designated as responsible for the maintenance and operation of a park and such services and facilities as are provided and/or necessary for the use of such property.

PERSON — Any individual, group of individuals, partnership, firm, corporation, association or other legal entity.

PLANNING BOARD — The Planning Board appointed by the Town Board of the Town of Brownville.

ROAD LINE — The right-of-way line of a road, as dedicated by a deed or record. Where the width of the road is not established, the road line shall be considered to be twenty-five (25) feet from the center line of the road pavement.

SETBACK — Unless otherwise stated herein, a minimum distance of forty (40) feet between the road line and any building.

SIGN — Any letter, word, model, banner, pennant, insignia, trade flag or other device or representation used as or which is in the nature of an advertisement, announcement or direction, but excluding any public traffic or directional signs.

STRUCTURE — Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs and tanks and any fixtures, additions and alterations thereto.

TOWN BOARD — The Town Board of the Town of Brownville.

TRAVEL TRAILER — Any vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation or vacation uses. Its body design shall not exceed eight (8) feet in width.

TRAVEL TRAILER PARK — Any parcel of land used or which has been planned or improved for the placement of motor homes, campers and travel trailers and/or tents, for transient use, consisting of three (3) or more travel trailer sites.

TRAVEL TRAILER SITE — A parcel of land within a travel trailer park which has been equipped with the necessary utilities and improvements for the temporary placement thereon of a single travel trailer or tent.

ARTICLE III
Applicability of Site Plan Review

§ 128-5. Site plan required.

Any person, before starting development of any new land use activity at any location within the town where this chapter requires approval of site plans, shall submit a site plan, together with any supporting data for review and approval, in accordance with the standards and procedures set forth in this chapter. No permit or certificate of occupancy shall be issued by the Land Use Inspector, except upon authorization by and in conformity with an approved site plan.

§ 128-6. Exceptions; application for jurisdictional determination.

A. All new land use activities within the town shall require site plan review and approval before being undertaken, except the following:

   (1) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this chapter.

   (2) Ordinary repair or maintenance of existing structures or uses.

   (3) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than twenty-five percent (25%) or having a cost value of less than twenty-five thousand dollars ($25,000.).

   (4) Interior alterations having a cost value of less than twenty-five thousand dollars ($25,000.).

   (5) Nonstructural agricultural or gardening uses.

   (6) Agricultural structures.

   (7) Signs under ten (10) square feet.

B. Any person uncertain of the applicability of this chapter to a given land activity may apply, in writing, to the Planning Board for a written jurisdictional determination.

§ 128-7. Existing uses and structures.

This chapter does not apply to uses and structures which are lawfully in existence as of the date this chapter becomes effective. Any use which would otherwise be subject to this chapter that has been discontinued for a period of one (1) year or more shall be subject to review pursuant to the terms of this chapter before such use is resumed. Any use or structure shall be considered to be in existence, provided that the same has been commenced as of the effective date of this chapter and fully constructed and completed within one (1) year from the effective date of this chapter.

ARTICLE IV
Campers, Motorhomes and Travel Trailers

§ 128-8. Overnight occupancy.

No person shall occupy a travel trailer, camper, motor home or tent on an overnight basis, except:

A. In a travel trailer park which has been approved by the Planning Board; or

B. On private land, with the consent of the owner, provided that all health standards are met.

§ 128-9. Temporary permits for mobile homes.

A temporary permit may be issued for a mobile home not located in a mobile home park when such mobile home is to be used as an interim dwelling during construction of a permanent residence or in the event that a permanent residence has been damaged or destroyed or similar hardship conditions. In such cases, said mobile home shall be removed within twelve (12) months from the date of issuance of the temporary permit. An extension of twelve (12) months may be granted by the Planning Board. The mobile home shall be installed in full compliance with Article X, Standards, § 128-27D of this chapter.

ARTICLE V
Objectives

§ 128-10. Considerations.

In order to provide for the orderly growth of the community, consistent with the objectives set forth in the General Plan, all land use activities requiring site plan approval shall be accompanied by a proposed site plan. In considering and acting on site plans, the Planning Board shall consider the public health, safety, welfare and comfort and convenience of the public in general, the residents of the proposed development and the residents of the immediate surrounding area. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishments of the following objectives in particular:

A. Vehicular access. That proposed access points are not excessive in number, but adequate in width, grade, alignment and visibility; not located too close to intersections or places of public assembly; and other similar safety considerations.

B. Circulation and parking. That adequate off-road parking and loading spaces are provided to prevent parking of vehicles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots and that it provides adequate separation of pedestrian and vehicular movements.

C. Landscaping and screening. That all parking, storage, loading and service areas are reasonably screened at all seasons of the year from the view of adjacent residential areas and that the general landscaping of the site is in character with the surrounding areas.

D. Natural features. That the proposed use, together with its sanitary and water service facilities, is compatible with geologic, hydrologic and soil conditions of the site and adjacent areas and that existing natural scenic features are preserved to the extent possible.

ARTICLE VI
Procedure

§ 128-11. Sketch plan. [Amended 4-27-1987 by L.L. No. 2-1987]

A. The applicant shall submit a sketch plan of the proposed development to the Land Use Inspector. The sketch plan shall be accompanied by an application for site plan review. The Land Use Inspector shall review the materials submitted for completeness and request additional information, if necessary. When sufficient information is received to fully apprise the Land Use Inspector of the character and scope of the proposal, the Land Use Inspector shall determine if the proposed land use activity is subject to the provisions of this chapter and, if so, shall take one (1) of the following actions:

   (1) In case of a proposal involving a one- or two-family dwelling with appurtenant structures or a manufactured or mobile home with accessory structures on an individual lot outside of a mobile home park or an accessory use that is clearly subordinate or incidental to the otherwise residential use of the land in question, such as garages or sheds, the Land Use Inspector shall approve and date the site plan application, provided that the proposal is in accord with the requirements of this chapter and the Town of Brownville Sanitary Code Law.[6] The Land Use Inspector shall subsequently carry out the duties prescribed in Article XI, § 128-28, regarding recordkeeping, inspections and certificates of occupancy. A sketch plan fee for these uses will be determined by the fee schedule adopted by the Town Board resolution.

   (2) In the case of all nonapprovable land use activities outside of the category in Subsection A(1) above, the Land Use Inspector shall refer the application to the Planning Board for its review, pursuant to the following procedure contained in this chapter.

B. In the event that the office of Land Use Inspector is vacant, the Planning Board shall carry out the duties normally the province of the Land Use Inspector contained in Subsection A(1) and (2) above.

§ 128-12. Initial review. [Amended 4-27-1987 by L.L. No. 2-1987]

When the Planning Board receives a sketch site plan referral from the Land Use Inspector, the Board shall conduct an initial review to determine the conformity of the proposal to the General Plan and to provide the applicant with a firm indication of whether the proposal, in its major features, is acceptable or should be modified before expenditures for more detailed planning are made. The Board shall also review the preliminary site plan application requirements to determine information the applicant will need to present with the site plan.

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6. Editor's Note: See Ch. 124, Sewers, Part 2.

§ 128-13. Application for preliminary site plan approval.

An application for preliminary site plan approval shall be filed with the Town Clerk, together with the appropriate fee as determined by the fee schedule adopted by Town Board resolution. The application and plan shall include the following:

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

B. Date, North point, written and graphic scale.

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

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

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

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

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

H. Existing hydrologic features, together with a grading and drainage plan showing existing and proposed contours at five-foot intervals.

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

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

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

L. Location of outdoor storage, if any.

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

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

O. Description of the method of securing public water and location, design and construction materials of such facilities.

P. Location of fire lanes and other emergency zones, including the location of fire hydrants.

Q. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.

R. Location, size, design and construction materials of all proposed signs.

S. Location and proposed development of all buffer areas, including indication of existing and proposed vegetative cover.

T. Location and design of outdoor lighting facilities.

U. Designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other similar commercial or industrial activities.

V. Number and distribution by type of all proposed dwelling units.

W. General landscaping plan and planting schedule.

X. A completed State Environmental Quality Review (SEQR) environmental assessment form.

Y. Other elements integral to the proposed development, as considered necessary by the Planning Board, including identification of any federal, state or county permits required for the project's execution.

§ 128-14. Planning Board review of preliminary site plan.

A. The Planning Board shall consider the proposed site plan and its net effect on the community. Such considerations shall include, as appropriate, but shall not be limited to, compatibility with the General Plan, the economic, social, physical and environmental aspects of the proposal and such other matters as may be determined pertinent. The Board may consult with local and county officials, its designated consultants and also with representatives of federal, state and county agencies, including, but not limited to, the Soil Conservation Service, the New York State Department of Transportation, the Department of Environmental Conservation and the Department of Health.

B. The Planning Board shall be responsible for completion of the environmental assessment requirements of the State Environmental Quality Review (SEQR) Law.

§ 128-15. Public hearing.

The Planning Board shall conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within forty-five (45) days of the receipt of the completed application for preliminary site plan approval and shall be advertised at least five (5) days before the hearing in the town's official newspaper.

§ 128-16. Planning Board action on preliminary site plan.

Within forty-five (45) days of such public hearing, the Planning Board shall act on the preliminary site plan. If no decision is made within said time period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the

applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications. The statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission after it has been revised or redesigned.

§ 128-17. Procedure for final site plan approval.

A. After receiving approval with or without modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan for approval. If more than six (6) months has lapsed since the time of the Planning Board's action on the preliminary site plan, and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision before accepting the proposed final site plan for review.

B. The final detailed site plan shall conform substantially to the approved preliminary site plan and shall incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

C. The following additional information shall accompany an application for final detailed site plan approval:

   (1) Record of application for and approval status of all necessary permits from federal, state and county officials.

   (2) Detailed sizing and final material specifications of all required improvements.

   (3) An estimated project construction schedule.

   (4) The estimated cost of entire project.

§ 128-18. Planning Board action on final site plan.

A. Within forty-five (45) days of receipt of the completed application for final site plan approval, the Planning Board shall make a decision on the plan submitted. If no decision is made within the forty-five-day period, the final site plan shall be considered approved.

B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the final site plan.

C. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy mailed to the applicant.

ARTICLE VII
Required Materials

§ 128-19. Materials to be submitted.

The following materials shall be submitted by the applicant:

A. Vicinity map. This map, at a scale of two thousand (2,000) feet to the inch or larger, shall show the relationship of the proposal to existing community facilities that may affect or serve it, such as roads, shopping areas, schools, employment centers, etc. It shall show all properties, subdivisions, roads and easements within three hundred (300) feet of the proposal. Such a sketch may be superimposed on a United States Geological Survey map of the area.

B. Topographic map. This map of the property on which the proposal is to be situated shall be drawn at a scale of one hundred (100) feet to one (1) inch or larger and shall show existing topography at a contour interval of not more than five (5) feet. This map shall also show the location of pertinent natural features that may influence the design of the proposed use, such as watercourses, swamps, wetlands, rock outcrops, wooded areas, areas subject to flooding, etc.

C. Site development plan. This map of the property on which the proposal is to be situated shall be drawn at a scale of one hundred (100) feet to one (1) inch or larger and shall show the location of all automobile parking and all parking for commercial vehicles while loading and unloading, the location and width of all driveways, exits and entrances, the location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, and shall provide a description and shall show the location and size of all signs, the location of proposed buffer areas and the design of lighting facilities and such other facilities, as indicated in the preliminary site plan checklist.

D. Elevations and/or sections. The site plan shall be accompanied by preliminary elevations and/or sections at the same or larger scale as required for the site plan, drawn in sufficient detail to delineate clearly the bulk and height of all buildings and other permanent structures included in the proposal.

E. Engineering plans. Preliminary engineering plans, including road improvements, drainage systems and public or private utility systems and other such supporting data as may be necessary, including the total estimated cost thereof.

ARTICLE VIII
Planning Board Review

§ 128-20. Elements to be considered.

The Planning Board's review of the site plan shall include, as appropriate, but shall not be limited to, any of the following items:

A. General considerations.

(1) Status of any federal, state or county permits required.

(2) Existing or proposed deed restrictions.

(3) Environmental impact on the community and adjacent areas.

(4) The age and mobility of the design population.

(5) Compatibility with the General Plan.

B. Landscaping and screening.

(1) Location and proposed development of the buffer area, including vegetative cover.

(2) Outdoor lighting and the time of use proposed.

(3) A general landscaping plan and planting schedule.

(4) The location, size, design and construction materials of signage.

(5) Any areas subject to flooding, pondage, stormwater overflow or erosion.

(6) The location of existing watercourses, wetlands, rock outcrops, forests, gorges or other unique natural features.

(7) Proposed fencing construction and materials.

(8) Clearing, alteration or removal of any existing natural feature.

C. Access and circulation.

(1) Entrances and exits to public roads.

(2) Deceleration strips.

(3) Traffic control measures.

(4) Speed limits on adjacent roads.

(5) Traffic volumes on and adjacent to the site.

(6) Special access for emergency vehicles.

(7) Internal circulation, including road width, pavement surface, separation of pedestrian and vehicular traffic.

(8) Intersections.

(9) Existing or proposed easements.

(10) Existing or proposed setbacks.

D. Parking, loading and storage.

(1) The location, design and construction materials.

(2) Adequacy to meet standards for occupants, visitors and employees.

(3) Truck loading facilities; separate access.

(4) Outdoor storage.

(5) Snow removal.

(6) Stormwater treatment.

(7) Solid waste collection and removal.

E. Architectural features.

(1) The location, design and construction materials.

(2) Space devoted to retail sales, storage, service, wholesale or other commercial facilities.

(3) The number and type of housing units per building and the proposed site density.

(4) Floor plans, elevations and sections of typical structures.

(5) Lot coverage; density.

F. Site characteristics and utilities.

(1) Suitability of soil for proposed use.

(2) Existing topography.

(3) Proposed grading and drainage plan, including calculated stormwater runoff.

(4) Measures to control erosion.

(5) A description of sewage disposal systems, including the location, design, construction materials and the estimated cost of facilities.

(6) A description of the method to secure public water, including the location, design and construction material for the proposed facilities.

(7) The location of fire and/or emergency zones, including special access, if any.

(8) The location, design and construction materials of all energy distribution facilities (electric, gas, solar, etc.).

G. Scheduling, financing and economic impact.

(1) The general timetable for construction of structures and facilities.

(2) Financial plans for carrying out project.

(3) A general statement of financial aid, facilities or other assistance the applicant expects to be provided, and by what source.

(4) Proposed staging of various subunits of development.

(5) The fiscal impact on surrounding areas and the community generally.

(6) The economic impact on the community.

ARTICLE IX
Bonds

§ 128-21. Bond or certified check to cover cost of improvements.

In order that the town has the assurance that the construction and installation of such improvements as storm sewer, water supply, landscaping, road signs, sidewalks, parking, access facilities and road surfacing will be constructed, the Planning Board may require that the applicant enter into one (1) of the following agreements with the town:

A. Furnish a 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 Planning Board; or

B. Deposit a certified check in sufficient amount equal to the cost of construction of such improvements, as shown on the plans and based on the above estimate.

§ 128-22. Conditions.

A. Before the final site plan 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, where required by the Planning Board.

B. 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 chapter and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

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

D. Wherever a certified check is made, the name shall be made payable to the town.

§ 128-23. Extension of time.

The construction or installation of any improvements or facilities, other than roads, for which guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one (1) year from the date of approval of the final site plan. Road improvements shall be completed within two (2) years from the date of approval of the final site plan. The applicant may request an extension of time, provided that he can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or check deposit to

construct the improvements not performed in accordance with applicable standards and specifications.

§ 128-24. Schedule of improvements.

When a certified check or performance bond is 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 construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvements or installation. However, ten percent (10%) 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.

§ 128-25. Inspections.

Periodic inspections during the installation of improvements shall be made by the Land Use Inspector to ensure conformity with the approved plans and specifications as contained in the contract and this chapter. The applicant shall notify the Land Use Inspector 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 to the Town Clerk the inspection fee required by the Town Board. Upon acceptable completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his representative, and such letter shall be sufficient evidence for the release by the town of the portion of the contract to cover cost of such completed work.

§ 128-26. Acceptance of roads and facilities.

When the Land Use Inspector, following final inspection of the improvements with the Town Superintendent of Highways, certifies to the Town 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 X
Standards

§ 128-27. Specific standards.

A. All structures shall have a minimum setback of forty (40) feet from the road line, unless otherwise specified hereunder.

B. Permanent placement of manufactured or mobile homes on individually owned sites. Individually placed manufactured or mobile homes shall:

(1) Meet the New York State Uniform Fire Prevention and Building Code.[7]

(2) Be permanently placed either:

(a) On a full six-inch concrete pad over a six-inch compacted base of sand or stone;

(b) Over a masonry cellar;

(c) On ten (10) inches of compacted gravel;

(d) On a full concrete slab at least six (6) inches thick; or

(e) On six (6) inches of compacted gravel, with a reinforced-concrete runner on each side of the stand to provide support. Such runner shall be a minimum of four (4) feet wide and six (6) inches thick and extend the full length of the structure.

(3) Be skirted with:

(a) A continuous masonry wall; or

(b) Permanent, manufactured, fire-resistant mobile home skirting.

(4) Have the hitch assembly removed.

(5) Have permanent connections to all required utilities, including water, sewage and electricity, etc.

C. Mobile home park location and conditions. The site of a proposed mobile home park shall:

(1) Be located where orderly development of a mobile home park can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-street parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply,

7. Editor's Note: See Ch. 81, Fire Prevention and Building Code Enforcement.

provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering.

(2) Have generally level to gently rolling topography over an area of sufficient size to allow development of the mobile home park, in compliance with Subsection D below, without significant alteration or disturbance of existing natural amenities or features, such as stands of mature trees, stream courses, shorelines, wetlands or bedrock outcropping.

(3) Be essentially free from adverse, unsafe or unhealthful conditions, including, but not limited to, breeding areas for insects or rodents, smoke, noise, odors, heat, glare or toxic or volatile substances. Adequate and dependable means for surface water drainage and the necessary drainage of existing wet and hazardous areas must be provided. Protection against flooding and damage from stormwater must be assured.

D. Restrictions on occupancy. No mobile home manufactured prior to January 15, 1974, shall be installed in a mobile home park. Mobile homes manufactured after January 15, 1974, and prior to June 15, 1976, must meet the State Code for Construction and Installation of Mobile Homes (Title 9 of the New York Codes, Rules and Regulations) or shall not be installed in a mobile home park. Mobile homes manufactured after June 15, 1976, must meet the United States Department of Housing and Urban Development Mobile Home Construction and Safety Standards (24 CFR 280) or shall not be installed in a mobile home park.

E. Mobile home stands.

(1) Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home.

(2) Such stand shall have a dimension approximately the width and length of the mobile home and any expansions or extensions thereto.

(3) Well anchored tie-downs shall be provided at least on each corner of the stand. Stands shall be either:

(a) Ten (10) inches of compact gravel;

(b) A full concrete slab at least six (6) inches thick; or

(c) Six (6) inches of compacted gravel with a reinforced-concrete runner on each side of the stand to provide support. Such runner shall be a minimum of four (4) feet wide and six (6) inches thick and extend the full length of the structure.

(4) An enclosure or skirt of fire-resistant material shall be erected around the entire base of each mobile home and shall be designed to allow ventilation in order to inhibit decay of the structure.

(5) The stand area shall be graded to ensure adequate drainage, but in no event shall the grade variance exceed six (6) inches from one end of the stand to the other.

F. Park standards.

(1) Mobile home site size. Each mobile home park shall be divided (exclusive of internal roads, open space or common areas) into mobile home sites which satisfy the following requirements:

(a) Minimum site size shall be ten thousand (10,000) square feet. In special cases where innovative park design for mobile home parks of ten (10) or more mobile homes provides clustering and allows for wide roads or a greater amount of usable recreation area or open space, exceptions may be granted. In no case, however, shall the site area be reduced below seven thousand five hundred (7,500) square feet.

(b) Minimum site width shall be one hundred (100) feet, or seventy-five (75) feet for exceptions.

(c) Minimum site depth shall be one hundred (100) feet.

(2) Setbacks and spacing.

(a) All mobile homes, including expansions, extensions and other additions thereto, patios, porches or garages and all other structures in a mobile home park shall satisfy the following setback requirements. A detached structure accessory to and located on the same site with an individual mobile home shall be considered part of the mobile home for the purpose of spacing requirements.

[1] A minimum of one hundred fifty (150) feet from the road line of any public road.

[2] A minimum of thirty (30) feet from the center line of any roadway internal to the mobile home park.

[3] A minimum of seventy-five (75) feet from any mobile home park property line.

[4] A minimum of spacing of forty (40) feet between adjacent mobile homes and any other structures in the mobile home park.

[5] A minimum of ten (10) feet from rear lot lines.

(b) No internal roadway, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within fifty (50) feet of a property in common with adjoining property external to the mobile home park and abutting a public roadway.

(3) Park design requirements.

(a) Access. Each mobile home park shall provide for safe, legal means of access from one (1) or more public roads as follows:

[1] Access roads shall meet the public roads at right angles and at compatible grades.

[2] 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 mobile home park, if any.

[3] Entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles.

[4] Entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road.

[5] At least one (1) common entrance and access road shall be required to serve any mobile home park.

[6] At least two (2) independent entrances and access roads shall be required to serve any mobile home park having twenty (20) or more mobile homes.

[7] Access roads connecting mobile home park interior roads with the public road shall meet town road standards.

(b) Internal roads.

[1] 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.

[2] All mobile home sites shall face on and be serviced by such internal roads.

[3] All roads shall be paved and shall be designed, graded and leveled as to permit the safe passage of emergency and other vehicles at a speed of fifteen (15) miles per hour.

[4] Straight, uniform gridiron road patterns should be avoided, unless they can be relieved by mobile home clustering, landscaping and an interesting open space system.

[5] Culs-de-sac shall be provided in lieu of closed-end roads, with a turnaround having an outside roadway character of at least ninety (90) feet.

[6] All internal roads shall have a compacted minimum thirty-foot right-of-way, eighteen (18) feet of which must be paved.

(c) Parking.

[1] Each mobile home shall be provided with at least two (2) off-street parking spaces adjacent to the mobile home.

[2] Each parking space shall measure at least nine by twenty (9 x 20) feet.

[3] Parking spaces or areas shall have at least eight (8) inches of crushed stone base or two (2) inches of pavement over four (4) inches of crushed stone base.

(d) Recreational area and open space. A variety of centrally located easily accessible and usable open spaces shall be provided in all mobile home 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.

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

(f) Water supply. An adequate supply of water shall be provided for all mobile homes and service buildings. Where public water is available, connection shall be used exclusively, unless local authorities deem otherwise. If a public water system is not available, the development of a private water system shall be approved by the health authority or other authorities having jurisdiction thereof.

(g) Sewage. An approved sewage system shall be provided in all mobile home parks for the conveying, disposing and treatment of sewage from mobile homes, service buildings and other accessory facilities. Such system must be designed, constructed and maintained in accordance with the New York State Department of Health standards and regulations or the Town of Brownville Sanitary Code,[8] as applicable.

(h) Garbage and refuse. Each mobile home lot shall be provided with at least two (2) twenty-gallon metal or plastic garbage

8. Editor's Note: See Ch. 124, Sewers.

cans with tight-fitting covers. The cans 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 shall be collected and properly disposed of outside of the mobile home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.

(i) Fuel supply and storage.

[1] General requirements. All fuel oil supply systems provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.

[2] Specific requirements.

[a] All fuel oil tanks shall be placed at the rear of the mobile home and located no closer than five (5) feet from any exit.

[b] It is recommended that all fuel oil tanks shall be buried.

[c] It is recommended that a central fuel supply system be provided.

[d] Supports or standards for fuel storage tanks are to be of a noncombustible material.

[3] Gas supply, natural.

[a] Natural gas piping systems installed in mobile home parks shall be maintained in conformity with accepted engineering practices.

[b] Each mobile home lot provided with piped natural gas shall have an approved shutoff valve and cap to prevent accidental discharge of gas.

[c] Proper planning and early communication with utility companies are recommended to provide necessary easements by utility companies, i.e., gas, electricity and telephone.

[4] Liquefied gas.

[a] Such system 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 (1) accessible means for shutting off gas. This means shall be located outside of individual 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 the mobile home and no closer than five (5) feet from any exit.

[e] It is recommended that a central underground gas storage system be furnished.

(j) Electrical service.

[1] Every mobile home park shall contain an electrical wiring system, consisting of wiring fixtures, equipment and appurtenances, which shall be installed and maintained in accordance with local electric power company specifications and regulations. All wiring fixtures must have an approval of the New York Board of Fire Underwriters or other authority as designated by municipality.

[2] Each mobile home stand shall be supplied with not less than a one-hundred-ampere service.

[3] Adequate lights shall be provided to illuminate internal roads, driveways and walkways, for the safe movement of vehicles and pedestrians at night. A minimum lighting level of three-tenths (0.3) footcandle shall be provided.

[4] All electrical distribution lines shall be placed underground.

(k) Telephone service. When telephone service is provided to mobile home sites, the distribution system shall be placed underground.

(l) Service buildings.

[1] 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.

[2] All service buildings and the grounds of the mobile home park shall be well lighted and maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

(m) Fire protection and control.

[1] Every mobile home park shall be equipped at all times with fire-extinguishing equipment in good working order, of such type, size and number so located within the park as to satisfy applicable regulations of the fire district within which the mobile home park is located.

[2] No open fires shall be permitted any place within the mobile home park, with the exception of outdoor grills used for the preparation of foods.

G. Travel trailer parks. In addition to the standards required by the State Health Department, the following standards shall be met prior to granting a permit:

(1) Each travel trailer park shall have adequate access to a paved, dedicated public highway. All entrance roads shall be at least twenty-four (24) feet wide. Each travel trailer site shall be serviced from interior roadways which are at least fifteen (15) feet in width and provide clear access to each travel trailer site. The park owner or operator shall be responsible for constructing, maintaining and plowing these roads.

(2) All buildings and travel trailer sites shall have a front yard setback of one hundred twenty-five (125) feet from the road line of all roads and no closer than two hundred (200) feet to adjacent property lines, with the setback area being seeded and adequately landscaped to provide screening from the road and adjoining properties.

(3) An overnight travel trailer site shall be a minimum of two thousand five hundred (2,500) square feet.

(4) The owner or manager of a travel trailer park shall maintain an office in the immediate vicinity of the park and shall maintain accurate records of the names of park visitors, 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 Land Use Inspector.

(5) A minimum of fifteen percent (15%) of the total area of the travel trailer park, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the park owner.

(6) Travel trailer sites shall be located on generally level terrain, not to exceed an eight-percent slope, that is well drained, free of flood hazard and clear of dense brush.

(7) The corners of each travel trailer lot shall be clearly and permanently marked, and each lot numbered for identification.

(8) Where the park terrain is adequate, pull-through lots will be provided.

(9) Sewer, water and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, New York State Sanitary Code, which is adopted herein by reference, and subject to any other town requirements.

(10) All travel trailer parks shall provide a building containing at least one (1) toilet, lavatory and shower for each sex for each ten (10) travel trailer lots. At least one (1) public telephone shall be provided in each travel trailer park.

(11) Mobile homes shall not be in any travel trailer park.

(12) Refuse shall be disposed of in a manner acceptable to the town and to the New York State Health Department or other appropriate state agency. There shall be no lot-exposed garbage, junk or other wastes. One (1) garbage can shall be provided for no more than two (2) sites.

H. Other uses. Land uses not specifically enumerated herein, including, but not limited to such uses as parking lots, quarries, mines, dumps, general storage areas, equipment storage areas, airports or landing strips, junkyards, recreational areas, outdoor performances, large group gatherings, stadiums, racetracks, etc., shall be subject to the provisions of this chapter, as well as those of any other applicable local, county, state or federal laws and/or regulations.

ARTICLE XI
Miscellaneous Provisions

§ 128-28. Appointment of Land Use Inspector, duties. [Amended 4-27-1987 by L.L. No. 2-1987]

The Town Board shall appoint a Land Use Inspector to carry out the duties assigned to that position by this chapter. Those duties are more particularly defined as follows:

A. To approve those site plan permits not subject to Planning Board review.

B. To conduct site and construction inspections to ensure that regulated work is progressing in accordance with the terms of the permit.

C. To issue or deny certificates of occupancy.

D. To file all matters of record pertaining to permit application in the office of the Town Clerk or other suitable public office.

E. To coordinate with other agencies and officials as appropriate.

F. To attend Town Board and Planning Board meetings as is deemed necessary to report the status of to-date permit issuance.

G. To carry out other duties as may be designated by local law or by resolution of the Town Board.

§ 128-29. Amendments.

The Town Board may amend, supplement or change this chapter after referral to and recommendation of the Planning Board and after public hearing.

§ 128-29.1. Exceptions. [Added 4-27-1987 by L.L. No. 2-1987]

Exceptions to the provisions of this chapter may be made at the discretion of the Planning Board only upon unanimous vote when it has been clearly shown and demonstrated unequivocally and beyond doubt by the petitioner that an extremely unusual circumstance and/or barrier to compliance exists which was unknown to exist prior to the petitioner's commitment to the project and it appears that, in the best interests of the community, an exception should be made.

§ 128-30. Appeals.

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the town may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

§ 128-31. Penalties for offenses; additional remedies.

A. 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 chapter shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than two hundred fifty dollars ($250.) or by imprisonment for not exceeding six (6) months, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this chapter.

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

Chapter 134

SOLID WASTE

GENERAL REFERENCES

Junkyards and dumps — See Ch. 102. **Abandoned vehicles — See Ch. 154.**

Sewers — See Ch. 124.

§ 134-1. Definitions.

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

GARBAGE — Waste, food, papers, dead fowl and animals, or parts thereof, and all waste or discarded wood, lumber or vegetable matter which may be flammable or capable of fermentation or decay.

PERSON — Includes all individuals, societies, clubs, firms, partnerships, corporations or association of persons; the singular number shall include the plural number.

RUBBISH — Waste metal, tin cans, ashes, cinders, glass, pottery and all discarded substances of a solid noncombustible nature or combustible nature; machinery or machine parts; and construction debris.

§ 134-2. Restrictions on disposal.

A. No person shall throw, dump or deposit or cause to be thrown, dumped or deposited in any part of the Town of Brownville, including the Town of Brownville transfer site, any rubbish, garbage, trash or abandoned vehicles or part thereof, from any source whatever, originating from outside the Town of Brownville, either directly or indirectly; and no person shall permit such throwing, dumping or depositing thereof on property owned, leased or controlled by such person.

B. No person shall throw, dump or deposit or cause to be thrown, dumped or deposited in any part of the Town of Brownville, including the town transfer site, any oil, petroleum or petroleum products or derivatives; and no person shall permit such throwing, dumping or depositing thereof upon property owned, leased or controlled by such person.

C. No person shall accumulate, in the open areas of their property, any rubbish, garbage, trash, machine parts or scrap lumber.

§ 134-3. Penalties for offenses.

A. The Town Board shall have the following enforcement alternatives available to it, according to the following schedule:

(1) Upon a first offense, not less than two hundred fifty dollars ($250.) or more than five hundred dollars ($500.) and/or ten (10) days in jail.

(2) For a second offense within a five-year period, a fine of not less than five hundred dollars ($500.) nor more than one thousand dollars ($1,000.) and/or fifteen (15) days in jail.

(3) For a third offense within five (5) years or more, a fine of not less than one thousand dollars ($1,000.) nor more than one thousand five hundred dollars ($1,500.) and/or thirty (30) days in jail.

B. In interpreting this section, each week that a violation shall be carried on or continued shall constitute a separate offense.

C. Upon a finding by the court that any person is in violation of this chapter and has failed to clean up the property as directed by the town, the town shall have the power to direct the Town Highway Department or some other designated individual to enter the property to clean up the violation. All costs incurred in doing so shall be charged back to the property owner as a special assessment.

D. In addition to all other remedies available to the town under this section, the town shall further have the authority and ability to seek injunctive relief in a court of competent jurisdiction.

Chapter 139

STREETS AND SIDEWALKS

GENERAL REFERENCES

Peddling and soliciting — See Ch. 113.

Public assembly — See Ch. 118.

Abandoned vehicles — See Ch. 154.

ARTICLE I
Notification of Defects
[Adopted 7-8-1981 as L.L. No. 1-1981 (Ch. 32, Art. I, of the 1978 Code)]

§ 139-1. Written notice of defect required; failure to repair.

No action shall be maintained against the Town of Brownville or the Town Superintendent of Highways of said town for damages or injuries to person or property sustained by reason of any highway, street, bridge, culvert, sidewalk or any other town property being defective, out of repair, unsafe, dangerous or obstructed, or in consequence of the existence of snow or ice thereon, unless written notice of such defective, out of repair, unsafe, dangerous or obstructed condition or the existence of such snow or ice, specifying the particular place, was actually given to the Town Clerk or Town Superintendent of Highways and there was a failure or neglect, within a reasonable time after the giving of such notice, to repair or remove the defect, danger or obstruction complained of or to cause such snow or ice to be removed or to make the place otherwise reasonably safe.

§ 139-2. Time limit for exchange of notification.

The Town Clerk shall transmit, in writing, to the Town Superintendent of Highways, and the Town Superintendent of Highways shall transmit, in writing, to the Town Clerk, within twenty-four (24) hours after receipt thereof, a copy of all written notices received pursuant to this Article.

§ 139-3. Record to be maintained.

The Town Clerk shall keep an indexed record, in a separate book, of all written notices received of the existence of a defective, out of repair, unsafe, dangerous or obstructed condition or the existence of such snow or ice, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of each notice shall be preserved for a period of five (5) years after the date it is received.

§ 139-4. Construal of provisions.

Nothing herein contained shall be construed to relieve a claimant of the obligation to file a notice of claim as provided by § 50-e of the General Municipal Law. Further, nothing contained in this Article shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these classes of actions, but, on the contrary, shall be held to be additional requirements of the right to maintain such action.

ARTICLE II
Restrictions on Parking, Camping and Open Fires
[Adopted 8-8-1990 as L.L. No. 1-1990]

§ 139-5. Authority.

The Town Board of the Town of Brownville, pursuant to the authority granted it by Title VIII of the Vehicle and Traffic Law of the State of New York; Article 4, § 64 of the Town Law of the State of New York; and Articles 2 and 3 of the Municipal Home Rule Law of the State of New York, hereby enacts the following.

§ 139-6. Purpose; findings.

The Town Board of the Town of Brownville has determined that public activity on land adjacent to certain roads in the Town of Brownville and, more particularly, on lands on Pillar Point, near the water, constitutes a traffic safety hazard and, further, endangers the health, safety and welfare of the residents of Brownville. In order to prevent such traffic safety hazards and protect the health, safety and welfare of the citizens of Brownville, this Article establishes a ban on parking, camping and open fires along those designated areas in the Town of Brownville.

§ 139-7. Title.

This Article shall be known as "Town of Brownville Local Law Prohibiting Parking, Camping and Open Fires Along Designated Areas."

§ 139-8. Application. [Amended 8-14-1992 by L.L. No. 2-1991]

No parking, camping or open fires shall be permitted along either side of the following designated areas at any time on County Route 59, beginning at Baldwin Road, South Shore Road intersection, continuing for six-tenths (0.6) of a mile east along the South Shore Road to Cottage Road, Number 1249.

§ 139-9. Penalties for offenses.

Any person violating any provision of this Article shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars ($250.) or imprisonment for a term not to exceed fifteen (15) days, or both.

Chapter 143

SUBDIVISION OF LAND

GENERAL REFERENCES

Building permits — See Ch. 67.

Fire prevention and building code enforcement — See Ch. 81.

Flood damage prevention — See Ch. 85.

Sewers — See Ch. 124.

Site plan review — See Ch. 128.

Streets and sidewalks — See Ch. 139.

Zoning — See Ch. 165.

ARTICLE I
General Provisions

§ 143-1. Statutory authorization.

Pursuant to the authority granted to the town in § 10 of the Municipal Home Rule Law and § § 276, 277 and 278 of the Town Law, the Town Board of the Town of Brownville authorizes and empowers the Planning Board of the Town of Brownville to approve plats within that part of the Town of Brownville outside the limits of any incorporated city or village and to pass and approve the development of plats already filed in the office of the Clerk of Jefferson County if such plats are entirely or partially undeveloped; and the Planning Board is authorized and empowered to approve or disapprove changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the office of the Clerk of Jefferson County and the laying out, closing off or abandonment of streets, highways or public areas under the provisions of the Town and Highway Laws within that part of the Town of Brownville outside the limits of any incorporated city or village.

§ 143-2. Title.

This chapter shall be known as the "Subdivision Control Law of the Town of Brownville."

§ 143-3. Purpose; Planning Board approval required.

A. The purpose of this chapter is to protect and enhance the physical and visual environment of the town; to provide for the government protection, order, control, safety, health and well-being of persons and property in the town; and to provide for orderly, efficient growth within the community and afford adequate facilities for the transportation, housing, comfort, convenience, safety, health and welfare of its population.

B. No subdivision or portion thereof shall be sold, offered for sale, leased, rented or otherwise disposed of by any corporation, company or person until a plan or map of such subdivision shall be submitted to the Planning Board for approval and either approved or deemed approved by failure of the Planning Board to render a decision within the time specified in § 143-12C.

§ 143-4. Administration.

This chapter shall be administered by the Planning Board and the Land Use Inspector.

§ 143-5. Variances.

When, in the opinion of the Planning Board, undue individual hardship may result from strict compliance with this chapter, it may modify the

application of this chapter so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of this chapter. In the case of a large-scale development, such as a neighborhood unit plan which would include provisions for housing, shopping and recreation facilities, the Planning Board may modify this chapter, provided that such development shall include covenants, restrictions and other legal provisions necessary to guarantee full achievement of such a proposed plan.

ARTICLE II
Terminology

§ 143-6. Definitions.

For the purpose of this chapter, words and terms used herein are defined as follows:

FINAL PLAT — A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by this chapter to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

GENERAL PLAN — A Comprehensive or Master Plan for the development of the town prepared by the Planning Board pursuant to § 272-a of the Town Law.

LAND USE INSPECTOR — Any person appointed, designated or otherwise retained by the Town Board to carry out the functions assigned to such person according to this chapter.

LOT LINE ADJUSTMENT — A transfer of land from one property owner to another intended to increase the size of one lot while decreasing the size of the lot from which it is transferred without, however, creating any new lots. Lot line adjustments are subject to review under § 143-7B of this chapter.**[Added 2-5-1997 by L.L. No. 1-1997]**

OFFICIAL SUBMISSION DATE — The date on which an application for plat approval, complete and accompanied by all required information, endorsements and fees, has been filed with the Planning Board.

PLANNING BOARD — The Town of Brownville Planning Board.

PRELIMINARY PLAT — A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

ROAD, MAJOR — A road intended to serve heavy flows of traffic from minor roads, or as a business road providing access to business properties.

ROAD, MINOR — A road intended to serve primarily as an access to abutting residential properties.

SKETCH PLAN — A sketch of a proposed subdivision to enable the subdivider to save time and expense in reaching a general agreement with the Planning Board as to the form of the layout and objectives of this chapter.

SUBDIVISION — The division of any parcel into two or more lots, blocks or sites for the purpose of conveyance, transfer of ownership, improvement, building development or sale. The term "subdivision" shall include resubdivision. Tracts of land shall constitute a subdivision upon the sale, rental, offer for sale, lease or building development.; except that the transfer of land intended to increase the size of an adjoining lot or parcel

which creates no nonconformities under Chapter 165, Zoning, shall not be considered a subdivision.**[Amended 6-10-1992 by L.L. No. 3-1992; 2-5-1997 by L.L. No. 1-1997]**

SUBDIVISION, MAJOR — Any subdivision of four or more lots or any subdivision involving construction of a road, shared driveway or requiring a variance. In determining whether a subdivision is major, the configuration of the property as of July 1, 1992, shall be controlling.**[Added 6-10-1992 by L.L. No. 3-1992]**

SUBDIVISION, MINOR — Any subdivision of three or less lots with existing road frontage and requiring no variance. In determining whether any subdivision is minor, the configuration of the property as of July 1, 1992, shall be controlling.**[Added 6-10-1992 by L.L. No. 3-1992]**

ARTICLE III
Review and Approval Procedure

§ 143-7. Stages. [Amended 2-5-1997 by L.L. No. 1-1997]

A. A subdivision shall be processed in the following stages:

(1) Sketch plan conference.

(2) Public hearing.

(3) Preliminary plat approval.

(4) Optional public hearing.

(5) Final plat approval.

B. A lot line adjustment shall be reviewed in accordance with the following stages:

(1) Any persons wishing to make a lot line adjustment must submit sufficient information to the Code Enforcement Officer to allow the Code Enforcement Officer to review the same for compliance with this chapter.

(2) The Code Enforcement Officer may approve lot line adjustments by issuance of a permit, except in the following cases:

(a) Where the lot line adjustment will create a depth to width ratio which exceeds three to one on any of the lots.

(b) Where the lot line adjustment creates a nonconformity under the Zoning Law.[9]

(c) Where the lot line adjustment affects a lot previously subdivided by the Planning Board.

(3) In the event that the Code Officer cannot approve the lot line adjustment, it must be submitted to the Town of Brownville Planning Board for approval. Approval of a lot line adjustment by the Planning Board shall be in accordance with the same procedures set forth for the approval of subdivisions in § 143-7(A).

§ 143-8. Preapplication procedure.

Prior to the preparation of and the submission of a plat for approval, the subdivider should proceed to gather the necessary information and data on the existing conditions at the site. He should study the site's suitability and opportunities for development. Presumably he will discuss financing, planning and marketing with the lending institutions. With his licensed land surveyor, he should develop a preliminary layout in sketch form, which in

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9. Editor's Note: See Ch. 165, Zoning.

turn should be submitted to the Planning Board for advice and assistance and should include a preliminary environmental assessment form (EAF).

§ 143-9. Sketch plan conference.

The subdivider should request an appointment with the Planning Board for the purpose of reviewing the sketch plan. The Planning Board will notify the subdivider of the time, date and the place that the Planning Board will meet to consider and review such sketch plan and the program as they relate to the Community General Plan, design standards and improvement requirements. This meeting is intended to assist the subdivider in the planning and preparation of the preliminary or final plat to save him both time and money in preparing maps and plans. This step does not require formal application, fee or filing with the Planning Board.

§ 143-10. Department of Health approval.

New York State Department of Health approval shall be required for any subdivision containing five or more lots. Early contact by the subdivider with the Department of Health is advised.

§ 143-11. Preliminary plat.

A. All subdivisions shall be subject to the preliminary plat requirements, as specified herein. The subdivider shall file an application for approval of the preliminary plat on forms available from the Town Clerk and accompanied by all documents specified in Article IV herein.

B. Review of subdivision. Following the review of the preliminary plat and supplementary material submitted for the conformity with this chapter, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Board shall hold a public hearing. This hearing shall be held within 45 days of the official submission date of the plat. The subdivider shall attend the hearing. This hearing shall also fulfill the requirements of the State Environmental Quality Review Act[10] on the draft environmental impact. Within 45 days from the public hearing, the Planning Board shall approve, approve with modifications or disapprove the preliminary plat, and state its reasons for disapproval.

C. Notice of public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. Notice of the hearing shall be mailed to the owners of all adjoining properties within 150 feet of the subdivided property at least five days before the hearing.

D. State environmental quality review. The lead agency in the state environmental quality review process shall be responsible for completion of all requirements of the State Environmental Quality

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10. Editor's Note: See Environmental Conservation Law § 101 et seq.

Review Act. A statement of findings must accompany approval of the plat.

E. Notice of decision. The action of the Planning Board shall be noted on three copies of the preliminary plat and reference made to any modifications determined. One copy shall be returned to the subdivider and the other two copies retained by the Planning Board.Page 6

F. Effect of approval. Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider must comply with this chapter and all requirements set forth by the Planning Board in its review of the preliminary plat and any other State Health Department requirements.

§ 143-12. Final plat.

A. All subdivisions, as defined herein, shall require final plat approval by the Planning Board.

B. The subdivider shall file an application for final plat approval on forms available from the Town Clerk, accompanied by documentation as specified in Article IV herein to the Planning Board. Such application shall be submitted at least 10 days prior to the meeting at which it is to be considered by the Planning Board and no later than six months after the date of the preliminary plat approval.

C. Optional public hearing. A public hearing may be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within 45 days of the official submission date of the plat. The subdivider shall attend the hearing. The Planning Board shall approve, conditionally approve or disapprove the final plat within 45 days of the public hearing. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provision violated by the plat. Failure of the Planning Board to render a decision within the stated forty-five-day period shall be deemed final approval of the plat.

D. Notice of public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. Notice of the hearing shall be mailed to the owners of all adjoining properties within 150 feet of the subdivided property at least five days before the hearing.

E. Waiver of public hearing. If the final plat is in substantial agreement with the preliminary plat, the Planning Board may waive the public hearing requirement. If no hearing is held, the Planning Board shall approve, conditionally approve or disapprove the plat within 45 days of the official submission date.

F. Notice of decision. The subdivider shall be notified of the final action of the Planning Board, and he shall record the final plat, or section thereof, in the office of the Clerk of Jefferson County, New York, within 60 days after the date of approval; otherwise the plat shall be considered void and must again be submitted to the Planning Board for approval before recording in the office of the Clerk of Jefferson County, New York.

G. Conditional approval. Upon conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. The plat shall be certified by the Town Clerk, and a certified statement of such requirements shall accompany such plat which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval. The Planning Board may, however, extend the expiration time for a period not to exceed six months.

ARTICLE IV
Required Documents

§ 143-13. Documents to be submitted with preliminary plat.

A. The following shall be submitted with all applications for approval of a preliminary plat:

(1) Name and address of subdivider and professional advisers, including license numbers and seals.

(2) Three copies of the plat map, drawn to scale. The map scale shall be one inch to 100 feet, unless otherwise specified by the Planning Board, and must show the following:

(a) Subdivision name, scale, North arrow and date.

(b) Subdivision boundaries.

(c) Contiguous properties and names and addresses of all adjoining property owners within 150 feet.

(d) Existing and proposed roads, utilities and structures.

(e) Watercourses, marshes, wooded areas, public facilities and other significant physical features on or near the site.

(f) Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, water supply and sewage disposal facilities.

(g) Land contours at ten-foot intervals or other suitable indicators of slope.

(h) All subdivision plats must contain a note indicating that lot lines as approved cannot be further altered without Planning Board approval. **[Added 2-5-1997 by L.L. No. 1-1997]**

(3) Copy of Tax Map(s).

(4) Existing restrictions on the use of land, including easements, covenants and zoning.

(5) Total acreage of subdivision and number of lots proposed.

(6) Building types, approximate size and cost.

(7) Identification of all parcels of land proposed to be dedicated to public use and the conditions of such use.

(8) Grading and landscaping plans.

(9) The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.

(10) The approximate location and size of all proposed water lines, hydrants and sewer lines, showing connection to existing lines.

(11) Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.Page 8

(12) Plans and cross sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of pavements and subbase and the location of any underground cables.

(13) Preliminary designs for any bridges or culverts.

(14) The proposed lot lines with approximate dimensions and area of each lot.

(15) An actual field survey of the boundary lines of the tract, giving complete description by bearings and distances, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.

(16) A copy of all covenants or deed restrictions intended to cover all or part of the tract.

(17) A completed state environmental quality review environmental assessment form.

(18) Where the preliminary plat submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.

(19) Additional information as deemed necessary by the Planning Board.

(20) Any required fees.

§ 143-14. Minor subdivisions. [Added 6-10-1992 by L.L. No. 3-1992]

A. The following shall be submitted with all applications for approval of the final plat for subdivision:

(1) A copy of the plat to be submitted to the County Clerk, drawn with ink on appropriate material, plus two paper copies.

(2) Information specified under § 143-13, updated and accurate, except as the Planning Board may have waived such requirements.

(3) Sufficient data acceptable to the Planning Board to readily determine the location, bearing and length of every street line, lot line and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.

(4) On-site sanitation and water supply facilities shall be designed to meet the specification of State Department of Health, and a statement to this effect shall be made on the application.

(5) A copy of such covenants or deed restrictions as they are intended to cover all or part of the tract.

(6) Additional information as deemed necessary by the Planning Board.

(7) Any required fees as established by resolution of the Town Board from time to time.

B. A public hearing shall be held on all minor subdivisions prior to approval being given. Minor subdivisions shall not go through a preliminary plat stage, however, and final approval may be given immediately following the public hearing.

§ 143-15. Documents to be submitted with final plat.

A. The following shall be submitted with all applications for approval of a final plat:

(1) One copy of the plat to be submitted to the County Clerk, drawn with ink on suitable material, plus two copies. The map scale shall be one inch to 100 feet, unless otherwise specified by the Planning Board.

(2) Proposed subdivision name and the name of the town and county in which the subdivision is located; the name and address of record owner and subdivider; and the name, address, license number and seal of the surveyor and/or engineer.

(3) Road lines, pedestrianways, lots, easements and areas to be dedicated to public use.

(4) Sufficient data, acceptable to the Planning Board, to determine readily the location, bearing and length of every road line, lot line and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.

(5) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearing given for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale and true North point.

(6) All offers of cession and any covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

(7) Permanent reference monuments shall be shown and constructed in accordance with Planning Board specifications.

(8) Approval of the State Health Department of water supply systems and sewage disposal systems proposed or installed.

(9) A draft environmental impact statement, if required.

(10) Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements and subbase and other facilities, and the estimated cost thereof.

(11) Evidence of legal ownership of property.

(12) Deed restrictions, existing and proposed in form for recording.

(13) A certificate by the Land Use Inspector certifying that the subdivider has complied with one of the following alternatives:

(a) All improvements have been installed in accord with the requirements of this chapter and with the action of the Planning Board giving approval of the preliminary plat; or

(b) A performance bond or certified check has been posted in sufficient amount to assure such completion of all required improvements.

(14) Any other data, such as certificates, affidavits, endorsements or other agreements, as may be required by the Planning Board in enforcement of this chapter.

(15) All subdivision plats must contain a note indicating that lot lines as approved cannot be further altered without Planning Board approval. **[Added 2-5-1997 by L.L. No. 1-1997]**

§ 143-16. Waiver of submission requirements.

When an application concerns a subdivision of uncomplicated nature, such as a small subdivision along an existing road that requires no installation of public facilities, the Planning Board may waive certain submission requirements.

ARTICLE V
Design Standards and Required Improvements

§ 143-17. Road design standards.

A. Conformity with General Plan. The arrangement, width, location and extent of major roads and all minor roads should conform and be in harmony with the General Plan for the town. Roads not in the General Plan should conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of land. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.

B. Arrangement. Residential minor roads shall be designed to discourage through traffic, whose origin and destination is not within the subdivision.

C. Location. When a proposed subdivision is adjacent to or contains a state highway, the Planning Board may seek information from the New York State Department of Transportation as to the status of said highway in reference to right-of-way and direction. The Planning Board may require a marginal road approximately parallel to and on each side of such a right-of-way at a distance suitable for an appropriate use of the intervening land as for park purposes in residential districts or for commercial or industrial purposes. Such distance shall also be determined with due regard for the requirements of approach grades and future grade separation. Railroad rights-of-way shall receive similar consideration.

D. Intersections. Roads shall intersect one another at angles as near to a right angle as possible, and no intersections of roads at angles less than 60° shall be approved. Road intersections shall be rounded with a radius of 25 feet measured at the right-of-way line when said intersection occurs at right angles. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve of radius acceptable to the Planning Board. Road jogs with center-line offsets of less than 125 feet shall be avoided.

E. Dead-end roads. Each dead-end road shall be provided with a turnaround deemed sufficient by the Town Highway Superintendent for snowplowing. Dead-end roads designed to be so permanently shall not be permitted unless provided with a turnaround.

F. Half roads. Dedication of a half road shall be prohibited, except when essential to the reasonable development of the subdivision in conformity with the other requirements of this chapter and where the Planning Board finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half road is adjacent to a tract to be subdivided, the other half of the road shall be platted within such tract.

G. Access. In commercial and industrial districts, definite and assured provisions shall be made for service access, such as off-road parking, loading and unloading consistent with and adequate for the uses proposed.

H. Names and numbers. Names of new roads shall not duplicate existing or platted roads. New roads which are extended or in alignment with existing roads shall bear the name of the existing roads. House numbers shall be assigned in accordance with the house numbering system now in effect in the town.

I. Road signs. The subdivider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections prior to acceptance of the constructed roads.

J. Trees. If roadside trees are provided, they should be outside of the road right-of-way and planted in such a manner as to not impair visibility at any corner or corners.

K. Drainage. Adequate and dependable means for surface water drainage and the necessary drainage of existing wet and hazardous areas must be provided. Protection against flooding and damage from stormwater must be assured.

L. Standards for road design. The standards for road design are as follows: **[Amended 8-3-2005 by L.L. No. 2-2005]**

Standard	**Minor Road**	**Major Road**	**Private Road**
Minimum width of right-of-way	50 ft.	60 ft.	25 ft.
Minimum width of pavement	18 ft.	24 ft.	Note 1
Minimum width of shoulders	5 ft.	5 ft.	3 ft.
Minimum radius of horizontal curves	150 ft., except for road intersection corners	400 ft.	75 ft.
Minimum length of vertical curves	Such that at least a line of sight of 100 ft. exists measured 3 ft. above the road surface	200 ft.	50 ft.

Standard	Minor Road	Major Road	Private Road
Minimum length of tangents between reverse curves	100 ft., except where excessive grades may be reduced to reasonable grades by shortening a tangent	200 ft.	50 ft.
Maximum grade	10%, except that grades up to 14% may be approved on short runs	6% to 8%	10%
Minimum grade	1/2%	1/2%	0.50%
Minimum braking	200 ft.	300 ft. sight distance	100 ft.

Notes:

1. Pavement not required, provided driving surface must be a minimum of 16 feet.

M. Private road special requirements. Any person wishing to subdivide land providing access by means of a private road must show and demonstrate to the Planning Board a plan for the ownership and continued upkeep and maintenance of that road through some sort of mechanism satisfactory to the Planning Board. A note shall be placed on such subdivision plats, and a restrictive covenant shall be filed with the County Clerk's office notifying all potential buyers that the road is a private road, that it is not intended to be nor shall it be dedicated as a public road, and that maintenance is pursuant to a plan between the private property owners, specifying what that plan might be and so designated on the plat map and by restrictive covenants that Town and public services, including school busing and Town plowing, shall not be provided by the municipality. **[Added 8-3-2005 by L.L. No. 8-2005]**

§ 143-18. Road construction standards. [Amended 6-1-1993 by L.L. No. 3-1993]

A. Road improvements shall be installed at the expense of the subdivider and with the approval and direction of the Town Highway Superintendent.

B. Roads shall be built with:

(1) A subgrade, which shall be rough graded and compacted the full width of the road right-of-way. The subgraded material shall consist of a minimum of 12 inches compacted Type 3 material.

(2) A base course shall be placed on top of the subgrade consisting of a minimum of four inches compacted Type 4 material. The base course is to be applied to the width designated by the Town Highway Superintendent.

(3) A surface course shall consist of a minimum of three inches compacted asphalt concrete Type 3 binder. Over this binder, a one-inch layer of compacted asphalt concrete Type 6 top shall be applied.

C. When the asphalt concrete is used, shoulders shall be brought up level to the edges of the asphalt concrete and tapered off according to the discretion of the Town Highway Superintendent, using Type 4 material.

§ 143-19. Sidewalks, curbs and gutters.

Sidewalks, curbs and gutters may be required and shall be installed as follows:

A. Sidewalks, curbs and gutters shall be installed at the expense of the subdivider, at such locations as the Planning Board may deem necessary.

B. Sidewalks, curbs and gutters must be constructed to comply with the detail specifications of the New York State Department of Transportation.

C. Sidewalks shall be concrete or other approved material and have a minimum width of four feet in residential areas and five feet in commercial and industrial areas.

D. Curbs shall be concrete.

§ 143-20. Utilities.

Public utility improvements may be required and shall be installed as follows:

A. Fire protection. Hydrants shall be of size, type and location specified by the Insurance Services Organization.Page 13

B. Street lighting. Poles, brackets and lights shall be of size, type and location approved by the local power company.

C. Electricity. Power lines shall be placed underground and shall be approved by the local power company.

D. Utility services. Utility services shall be located from six to eight feet from the front property line.

§ 143-21. Water supply.

A. Individual wells shall be installed at the expense of the subdivider.

B. If, in the opinion of the Planning Board, it is feasible and desirable to require a public water supply system, such system shall be installed at the expense of the subdivider and in accordance with New York State Department of Health Sanitary Code.

§ 143-22. Sewage disposal.

A. Individual septic systems shall be installed at the expense of the subdivider in conformance with the Town of Brownville Sanitary Code Law.[11]

B. If, in the opinion of the Planning Board, it is feasible and desirable to require a community sanitary sewer system, such system shall be installed at the expense of the subdivider, in accordance with plans approved by the New York State Department of Health and Department of Environmental Conservation.

C. Dry sewer lines may be required in those parts of the town deemed to have sufficient population density to merit community sanitary sewer systems in the future. Such requirements shall be in harmony with the General Plan for the town.

§ 143-23. Lots. [Amended 6-10-1992 by L.L. No. 3-1992; 6-1-1993 by L.L. No. 3-1993]

All lots shall abut by their full frontage on public roads to ensure suitable access. The Planning Board is however, given the power pursuant to § 280-a, Subdivision 4, of the Town Law to allow the establishment of an open development area wherein permits may be issued for the erection of structures where access is given by right-of-way, easement or private road, upon the following terms and conditions:

A. All such rights-of-way, easements, or private roads must comply with §§ 143-17 and 143-18 of this chapter as to road design standards and construction standards, with the exception that the Planning Board may waive the requirements of § 143-18B(3) on a case by case basis where the developer can provide suitable rationale why this provision should be waived.

B. The developer must establish, by deed restriction or other suitable method, proper notice to all potential purchasers that lots do not have frontage on a public road but are accessed through a private easement, right-of-way or private road. Such restriction shall state that the Town of Brownville has no duty to maintain or repair such private easement, right-of-way or private road, and the same can not be dedicated to the town unless and until it meets all then current town road standards.

C. The developer must provide suitable proof to the Planning Board that a mechanism will be in place to provide for ongoing maintenance and

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11. Editor's Note: See Ch. 124, Sewers, Part 2.

upkeep of said easement, right-of-way or private road and a method must be provided for collecting the costs of the same from the property owners who gain access through that easement, right-of-way or private road.

D. Where a developer is seeking access to lots off an easement, right-of-way or private road, a detailed statement as to this matter shall be set forth in the application for subdivision approval and no such application shall be considered complete until a suitable explanation has been provided.

E. Configuration. Lots whose depths exceed three times the average width of the lot are to be discouraged. The Planning Board has full authority to ask for alternate drawings showing lot configurations in conformity with this principle.

§ 143-24. Preservation of unique and natural features.

Unique physical features, such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours and similar features, shall be preserved where possible. Also, streams, lakes, ponds and wetlands shall be left unaltered and protected by easements. All surfaces must be graded and restored within six months of completion of the subdivision so no unnatural mounds or depressions are left. Original topsoil moved during construction shall be returned and stabilized by approved methods. Damage to existing trees should be avoided.

§ 143-25. Open space.

A. Consideration shall be given to the allocation of areas suitably located for community purposes as indicated on the General Plan and be made available by one of the following methods:

(1) Dedication to the town.

(2) Reservation of land for the use of property owners by deed or covenant.

(3) Reservation for acquisition by the town within a reasonable period of time. Said reservation shall be made in such manner as to provide for a release of the land to the subdivider in the event that the town does not proceed with the purchase.

(4) If the Planning Board determines that suitable park or parks of adequate size cannot be properly located in the plat or is otherwise not practical, the Board may require, as a condition to approval of the plat, a payment to the town of a sum to be determined by the Town Board, which sum shall constitute a trust fund to be used by the town exclusively for neighborhood park, playground or recreational purposes, including the acquisition of property.

B. The Planning Board may require the reservation of such other areas or sites of a character, extent and location suitable to the needs of the town as water plants, sewage treatment plant and other community purposes not anticipated in the General Plan.

§ 143-26. Unsuitable land.

As a safety measure for the protection of the health and welfare of the people of the town, that portion of a proposed lot which is found to be unsuitable for subdivision due to harmful features (e.g., drainage problems), shall not be subdivided until adequate methods are formulated by the subdivider and approved by the Planning Board. Before final approval, the subdivider shall, in lieu of the improvements, furnish a surety bond or certified check covering the cost of the required improvements.

ARTICLE VI
Performance Bonds for Installation of Improvements

§ 143-27. Types of agreements.

In order that the town has the assurance that the construction and installation of such improvements as storm sewer, public water supply, sewage disposal, road signs, sidewalks and road surfacing will be constructed, the subdivider shall enter into one of the following agreements with the town:

A. Construct all improvements directly affecting the subdivision as required by this chapter and by the Planning Board, prior to the final approval the plat.

B. In lieu of the completion of the improvements, furnish a bond executed by the 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 Planning Board.

C. In lieu of the completion of improvements, deposit a certified check in sufficient amount equal to the cost of construction of such improvements as shown on the plans and based on the above estimate.

§ 143-28. Conditions.

A. Before the final plat is approved, the developer shall have executed a subdivider contract with the town, and a performance bond or certified check shall have been deposited covering the estimated cost of the required improvements that have been designated by the Planning Board.

B. The performance bond or certified check shall be to the town and shall provide that the subdivider, his heirs, successors and assigns and their agent or servants will comply with all applicable terms, conditions, provisions and requirements of this chapter and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and regulations.

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

D. Wherever a certified check is made, the same shall be made payable to the town.

§ 143-29. Extensions of time.

The construction or installation of any improvements or facilities, other than roads, for which a guaranty has been made by the subdivider in the form of a bond or certified check deposit shall be completed within one year from the date of approval of the final plat. Road improvements shall be completed within two years from the date of approval of the final plat. The subdivider

may request an extension of time, provided that he can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six months, at the end of which time the town may use as much of the bond or check deposit to construct the improvements as necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

§ 143-30. Schedule of improvements.

When a certified check or performance bond is made pursuant to the preceding sections, the town and subdivider shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the subdivider upon completion and approval after inspection of such improvement or installation. However, 10% of the check deposit or performance bond shall not be repaid to the subdivider until one 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 subdivider's contract.

§ 143-31. Inspections.

Periodic inspection during the installation of improvements shall be made by the Land Use Inspector to ensure conformity with the approved plans and specifications as contained in the subdivider's contract and this chapter. The subdivider shall notify the Land Use Inspector when each phase of improvements is ready for inspection. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board. Upon acceptable completion of installation and improvements, the Planning Board shall issue a letter to the subdivider or his representative, and such letter shall be sufficient evidence for the release by the town of the portion of the performance bond or certified deposit as designated in the subdivider's contract to cover cost of such completed work.

§ 143-32. Acceptance of roads and facilities.

When the Land Use Inspector, following final inspection of the subdivision with the Town Superintendent of Highways, certifies to the Planning Board and the Town Board that all installation and improvements have been completed in accordance with the subdivider's contract, the Town Board may, by resolution, proceed to accept the facilities for which bond has been posted or check deposited.

ARTICLE VII
Miscellaneous Provisions

§ 143-33. Fees.

All fees required by this chapter shall be set by resolution of the Town Board.

§ 143-34. Penalties for offenses; additional remedies.

A. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resist the enforcement of any of the provisions of this chapter shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than $250 or by imprisonment for not exceeding six months, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this chapter.

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

§ 143-35. Filing with county.

The Town Clerk is hereby directed to forthwith file a certified copy of this chapter with the Clerk of Jefferson County.

§ 143-36. Amendment procedure.

The Town Board may amend, supplement or change these regulations after referral to and recommendation of the Planning Board and after a public hearing.

Chapter 147

TAXATION

ARTICLE I

Business Investment Exemption

[Adopted 11-9-1978 by L.L. No. 1-1978 as Ch. 34, Art. I, of the 1978 Code (originally adopted 3-9-1977 as L.L. No. 1-1977)]

§ 147-1. Partial exemption repealed.

Pursuant to the authority of Subdivision 7 of § 485-b of the Real Property Tax Law, the partial exemption from taxation, special ad valorem levies and service charges provided by such § 485-b is hereby repealed, insofar as such exemption would have been applicable to eligible real property assessed for town purposes.

ARTICLE II
Veterans Exemption
[Adopted 6-12-1985 as L.L. No. 6-1985 (Ch. 34, Art. II, of the 1978 Code)]

§ 147-2. Purpose.

The purpose of this Article is to preserve the ratio which each veterans exemption from taxation on real property bears to the total assessed value of the real property for which such exemption has been granted whenever such total assessed value increases or decreases due only to a change in the manner of assessing.

§ 147-3. Definitions.

The meaning of words and expressions as used in this Article shall be identical to their meanings as used in §§ 307[12] and 458, as amended, of the Real Property Tax Law of the State of New York.

§ 147-4. Change in assessment.

A. If the ratio between the exemption granted under § 458 of the Real Property Tax Law of the State of New York and the total assessed value of real property for which such exemption has been granted increases or decreases due only to a full value assessment in the town, the amount of the exemption heretofore or hereafter granted shall be increased or decreased in such subsequent year in the same proportion as the total assessed value has been increased or decreased.

B. Such adjustment shall be made by the Assessors in the manner provided in Paragraph (3) of Subdivision 1 of such § 458 of the Real Property Tax Law of the State of New York, and no application therefor need be filed by or on behalf of any owner of any eligible property.

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12. Editor's Note: The provisions of said section expired October 30, 1981 pursuant to section 5 of L. 1978, c. 476; amended L. 1980, c. 880, § 3; L. 1981, c. 259, § 5.

ARTICLE III

Alternative Veterans Exemption [Adopted 12-26-1984 as L.L. No. 2-1984 (Ch. 34, Art. III, of the 1978 Code)]

§ 147-5. Purpose.

The purpose of this Article is to provide that no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 147-6. No exemption granted.

Pursuant to the provisions of Subdivision 4 of § 458-a of the Real Property Tax Law of the State of New York, no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law for purposes of real property taxes levied for the Town of Brownville.

ARTICLE IV
Senior Citizens Exemption
[Adopted 11-2-2005 by L.L. No. 5-2005]

§ 147-7. Exemption granted.

Any person who shall turn 65 years of age during the calendar year which tax roll is filed shall be eligible to apply for this exemption, even though their birthday may occur after the taxable status date. The Assessor of the Town of Brownville is hereby authorized to grant an exemption to such person, provided proper application is made prior to the taxable status date. Such exemption shall be granted on the following basis:

Annual Income	Percentage Assessed Valuation Exempt from Taxation
Less than or equal to $12,800	50%
More than § 12,800 but less than or equal to $13,800	45%
More than $13,800 but less than or equal to $14,800	40%
More than $14,800 but less than or equal to $15,800	35%
More than $15,800 but less than or equal to § 16,700	30%
More than $16,700 but less than or equal to $17,600	25%
More than $17,600 but less than or equal to $18,500	20%

ARTICLE V

Solar, Wind and Farm Waste Energy Systems [Adopted 12-6-2017 by L.L. No. 4-2017]

§ 147-8. Energy systems opt-out.

Henceforth no exemption under § 487 of the Real Property Tax Law shall be applicable in the Town of Brownville for solar and wind energy systems or farm waste energy systems, including, but not limited to microhydroelectric energy systems, full cell electric generating systems, micro-combined heat and power generating systems and electric energy storage systems.

Chapter 154

VEHICLES, ABANDONED

GENERAL REFERENCES

Junkyards and dumps — See Ch. 102.

Streets and sidewalks — See Ch. 139.

ARTICLE I
Public Property
[Adopted 4-8-1992 as L.L. No. 1-1992]

§ 154-1. Authority.

The Town Board of the Town of Brownville, pursuant to the authority granted under § 64 of the Town Law, § 1660 of the Vehicle and Traffic Law and §§ 10 and 20 of the Municipal Home Rule Law of the State of New York, hereby enacts the following.

§ 154-2. Purpose; finding.

The Town Board of the Town of Brownville hereby finds that it is in the public interest to keep highways within the town unobstructed so as to allow for uniform traffic movement and snow removal. This Article is intended to provide a mechanism for the removal of abandoned vehicles from highways within the Town of Brownville.

§ 154-3. Title.

This Article shall be known as "Abandoned Vehicle Law of the Town of Brownville."

§ 154-4. Removal of vehicles.

A. The Superintendent of Highways of the Town of Brownville shall have the power to cause the removal and disposition of any vehicle left unattended for more than twenty-four (24) hours within the right-of-way of any highway, street or road or on any other public property within the Town of Brownville.

B. The Superintendent of Highways shall have the power to cause the immediate removal from the right-of-way of any highway, street or road within the Town of Brownville of any vehicle which obstructs or interferes with the use of such a highway for public travel; or which obstructs or interferes with the construction, reconstruction or maintenance of such highway, street or road; or which obstructs or interferes with the clearing or removal of snow or ice from such highway, street or roads; or which obstructs or interferes with the operation of the Town Highway Department during a public emergency.

C. The owner of the vehicle removed under any of the provisions of this Article shall be responsible to reimburse the town all actual costs incurred by the town in removal, disposition and storage of the vehicle.

D. The term "vehicle" as used in this section shall mean every device in, upon or by which any person or property is or shall be transferred or drawn upon a street, highway or road, except devices moved by human power or used exclusively on stationary rails or tracks.

ARTICLE II
Private Property
[Adopted 4-7-1993 as L.L. No. 1-1993 (Ch. 5 of the 1978 Code)]

§ 154-5. Purpose.

The outdoor storage of junked, abandoned, unused or dangerous motor vehicles or the parts therefrom within the Town of Brownville is a hazard to the preservation of the public health, welfare and safety in that it constitutes a health, fire and safety hazard and is an attractive nuisance to children, which is a peril to their safety. Such outdoor storage constitutes a blight on the town's landscape, and it is general unsightly, and its existence tends to depreciate the value of property in the neighborhood and the town generally. The control of the outdoor storage of junked, abandoned, unused or dangerous motor vehicles or parts therefrom within the Town of Brownville is therefore regulated for the preservation of the public health, safety and welfare of its residents.

§ 154-6. Definitions.

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

ABANDONED — Any motor vehicle, the ownership of which cannot be reasonably determined, or of which the owner does not intend to recover possession or of which the owner does not intend to use on a public highway, excepting competition vehicles. The intent of the owner of a motor vehicle may be determined by the physical condition of the motor vehicle, the length of time since the motor vehicle has last been used on a public highway and whether the motor vehicle is licensed or unlicensed.

COMPETITION VEHICLES — Those vehicles which have been so modified for use on a track or dragstrip that they cannot be legally operated on a public way.

DANGEROUS — Any motor vehicle which has smashed and broken windows and/or areas of sharp and torn metal edges and points and which cannot legally be operated upon a public way.

HISTORIC MOTOR VEHICLE — A motor vehicle manufactured more than twenty-five (25) years prior to the current calendar year, which is owned and operated as an exhibition piece or collectors item and is used and operated as an exhibition piece or collectors item and is used for participation in club activities, exhibits, tours, parades and for occasional transportation and similar uses, but not generally used for daily transportation.

JUNKED — Any motor vehicle which is unregistered by the State of New York or any other state and is not operable.

MOTORCYCLE — A motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

MOTOR VEHICLE — Every vehicle which, if operated on the highways of this state, would be required by law to be licensed by the Department of Motor Vehicles of the State of New York.

OPERABLE — Any motor vehicle which can be registered in the State of New York and which can be legally operated upon a public way. A vehicle which is in a condition to pass the requirements for the New York State motor vehicle inspection sticker shall be deemed in a condition for legal use upon a public highway.

RECREATIONAL VEHICLES — Those vehicles which are either propelled by their own power or drawn on the public highways and which are used at temporary residences, such as tent trailers, campers or mini- and motor homes.

UNUSED — Any operable motor vehicle which is unregistered by the State of New York or any other state and/or upon which is not displayed a valid state inspection sticker.

UTILITY VEHICLES — Those vehicles having a seasonal or limited use, such as box trailers and construction trailers, and snow removal or snowplowing equipment.

VEHICLE OWNER — A person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty (30) days.

§ 154-7. Applicability.

This Article does not apply to competition vehicles, utility vehicles, motorcycles or historic vehicles, unless such vehicle is abandoned or dangerous.

§ 154-8. Outdoor storage restrictions.

A. It shall be unlawful for any person, firm or corporation, either as an owner, occupant, lessee, agent, tenant, trespasser or otherwise, of or on any property within the Town of Brownville to store or deposit or cause or permit to be stored or deposited junked, abandoned or dangerous motor vehicle or vehicles or parts therefrom in the Town of Brownville, except:

   (1) That no more than ten (10) such motor vehicles may be stored at one (1) time in an open area at a gasoline filling station or outdoors at a New York State licensed repair shop for the purpose of repair or reconditioning, only provided that the outdoor storage of a specific vehicle shall not exceed one hundred eighty (180) days.

   (2) That nothing herein shall restrict the storage of unused motor vehicles for sale by a duly licensed new or used car dealer.

(3) As otherwise provided by law.

B. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant, trespasser or otherwise, of or on any privately owned lot within the Town of Brownville to store or deposit or cause or permit to be stored or deposited more than one (1) of either one (1) unused vehicle or one (1) competition vehicle in the Town of Brownville. This prohibition does not apply to the one (1) allowable vehicle, so long as the one (1) vehicle stored or deposited on the lot is not stored or deposited in a manner which creates a hazard to the health, safety of the occupant of a building or the public and the vehicle is placed out of the public view. The storage of this vehicle shall be within a wholly enclosed building or in an area enclosed by a secured wall or fence to be screened by natural objects, plantings or other appropriate means so as to not be visible from any highway, street, sidewalk or other location.

C. Any junk, abandoned, unused or dangerous motor vehicle or vehicles or parts therefrom stored or deposited in violation of this law on any land in the Town of Brownville shall be removed by the vehicle owner, property owner, occupant, lessee, agent, tenant or other person, firm or corporation occupying, managing or controlling such land or vehicle.

§ 154-9. Enforcement.

A. This law shall be enforced by the Town of Brownville Town Board.

B. The Town Board may delegate enforcement to the Building Inspector, Constable, Code Enforcement Officer, Highway Department and all other municipal officials as the Town Board may from time to time direct by resolution.

§ 154-10. Right to enter to inspect.

A. During regular business hours or in an emergency at any hour whatsoever, the Town Board or its representative or any duly authorized town representative, upon the showing of proper credentials and in the discharge of his duties, may enter upon any premises where a motor vehicle is stored. If access to such property is refused, the Town Board or its designee may apply for a search warrant in an appropriate court, and a warrant shall be issued showing that there are reasonable grounds to believe that a junked, abandoned or dangerous vehicle or parts therefrom are stored or deposited on the property or that the owner of the property or the owner of the vehicle is in violation of this law.

B. The Town Board or its representative or any duly authorized representative may enter the premises without a search warrant in the case of an emergency which requires immediate action to abate a direct hazard or imminent danger to the health, safety, welfare of the occupants of a building or the public.

§ 154-11. Notice; failure to abate violation.

A. Notice of violation. Whenever the Town Board determines that there has been a violation of this law, it or its representative shall serve written notice upon their property owner, occupant or person having charge of such land upon which any vehicle is illegally stored or deposited or upon the vehicle's owner, if such party can be determined. Such notice shall specify the alleged violation and shall provide a thirty-day time limit for compliance.

B. Notice shall be served, either personally or by certified mail, return receipt requested, to the property owner at his last known address, as shown upon the latest assessment roll. If, after due diligence, an address cannot be determined, then the Town Board or its representative shall cause a copy of such notice to be posted on the property or on the motor vehicle, or both. The notice shall be in substantially the following form:

TO THE OWNER OF THE MOTOR VEHICLE OR THE OWNER, OCCUPANT, LESSEE OR TENANT OF THE PROPERTY WITHIN THE TOWN OF BROWNVILLE KNOWN AS:
_____ NOTICE IS HEREBY GIVEN that an abandoned, junked, unused or dangerous motor vehicle has been stored or deposited on the above-described property in the Town of Brownville in violation of Section _____ of the Code of the Town of Brownville. Violation of Section _____ constitutes an offense. The automobile must be removed within thirty (30) days from the date of this notice. Failure to remove in accordance with this notice may subject you to a fine of not to exceed two hundred fifty dollars ($250.). In addition, the Town Board may cause the abandoned, junked, unused or dangerous vehicle to be removed at the property owner's expense.

Please advise the Town Clerk, Telephone No. 639-6266, of your compliance with this notice.

Dated: _____

Town of Brownville

By: _____

Constable/Code Enforcement officer

C. Failure to abate violations. In case the property owner, agent, operator, vehicle owner or occupant cannot be found within the time limit set for the abatement of said violations or if such owner, agent, operator, vehicle owner or occupant shall fail, neglect or refuse to abate such violations, the Town Attorney shall be advised of all facts in the case and shall institute appropriate action in the court to compel compliance.

§ 154-12. Penalties for offenses.

Each violation of this Article shall be deemed an offense and shall be punishable by a fine not exceeding two hundred fifty dollars ($250.) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

§ 154-13. Emergency removal; expense to constitutes lien.

In cases in which the Town Board determines that immediate action to abate a direct hazard or imminent danger to the health, safety or welfare of the occupants of a building or the public is required, it shall promptly cause the removal of the motor vehicle, vehicles or parts presenting such hazard or danger as a public nuisance, and the expense incurred by the Town shall be assessed against the property upon which such vehicle was found, which assessment shall constitute a lien and charge on such property and be collected as provided by law for the collection of delinquent taxes.

§ 154-14. Requested removals; charges.

The Town Board or any duly authorized town representative is hereby authorized to remove any junked, abandoned, unused or dangerous motor vehicle or the parts thereof at the request of the property owner on whose property said vehicle or parts are stored. The cost of such removal shall be borne by the property owner making such request and shall be payable to the provider of said services. If not paid promptly, the costs may be charged to the property owner as a special assessment on his taxes.

Chapter 159

WATER

GENERAL REFERENCES

Sewers — See Ch. 124.

ARTICLE I
Water District No. 1 Rules and Regulations
[Adopted 7-2-2003 by L.L. No. 2-2003[13]]

§ 159-1. User charges/benefit assessment.

A. Capital. This shall include all principal and interest required to retire any indebtedness and any additional sums allocated by the Town Board to establish, fund or increase reserve accounts. The elements shall be assessed as follows:

(1) A flat charge/benefit assessment per unit. A flat charge/benefit assessment shall be billed to users (A user is a property owner/ parcel owner.) based on the number of units. A full unit will be addressed as an equivalent dwelling unit (EDU) and will be defined as a parcel with a dwelling on it that has the capability of using water. A partial EDU will be defined as a vacant parcel through which the water line passes. Such parcels shall be charged $0.25 per linear foot of road frontage. Trailer parks shall be charged 1/2 EDU per lot. A full-unit EDU will be charged annually and billed on the Town tax bill. A one-half-unit EDU will be charged annually and billed on the Town tax bill. A quarter-unit EDU will be charged annually and billed on the Town tax bill. These figures may be adjusted by the Town Board. Actual charges are to be determined upon placement upon final financing. This charge will be on the annual Town tax bill.

(2) Whenever a property owner within Water District No. 1 owns vacant land with road frontage that would normally be charged at the rate of $0.25 per foot, and said road frontage assessment would exceed the normal benefit assessment charged residential property owners, the owner of said vacant parcel would be charged no more than the residential benefit assessment in effect during that calendar year.

(3) The number of EDU's shall be determined each year as of the taxable status date, March 1. That number shall be used to calculate the annual benefit assessment. This benefit assessment shall be billed to the property owner.

B. Operation and maintenance charge.

(1) This shall include maintaining the distribution and supply systems and any administrative expenses. The O & M charge may be adjusted by the Town Board if deemed necessary.

(2) An O & M charge based on the EDU will be charged for each billing period. A full EDU will be charged $50 annually, or $12.50 each

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13. Editor's Note: This local law also superseded former Art. I, Water District No. 1 Rules and Regulations, adopted 8-1-2001 by L.L. No. 2-2001, as amended.

quarter. One-half EDU will be charged $25 annually, or $6.25 each quarter. One-quarter EDU will be charged $12.50 annually, or $3.13 each quarter.

(3) The operation and maintenance charge will apply to any dwelling, building, whether occupied or not, in which a lateral curb stop has been installed. **[Added 1-7-2004 by L.L. No. 1-2004]**

C. Water charge. This shall include the cost of purchasing water from the Development Authority of the North Country. The rate shall be based on anticipated meter consumption at an amount per 1,000 gallons of water usage. Initially, that rate shall be $2.20 per 1,000 gallons of water usage as metered. All charges or fees imposed by the Development Authority of the North Country will apply to any dwelling or building, whether occupied or not, in which municipal water is or has been used within the past 12 months. **[Amended 1-7-2004 by L.L. No. 1-2004]**

D. Whenever a residence within the Town of Brownville Water District No. 1 shall be removed or destroyed so that it is not habitable, the benefit assessment due the next calendar year will be eliminated and the property charged as vacant land.

E. Minimum charge, water usage. A minimum charge of $25 will be assessed with each quarterly bill in addition to all other applicable charges where municipal water is being used or supplied. **[Added 1-7-2004 by L.L. No. 1-2004]**

§ 159-2. Connection to distribution system following initial construction.

A. All new buildings or structures within the Water District that require water services must connect to the District's facilities.

B. After initial construction of the system, any property owner seeking connection to the system shall properly fill out an application form (water service connection application) and abide by the requirements of said water service connection application.

C. After initial construction of the system, any person wishing to connect must pay a connection fee equal to $100 per unit to cover the cost of the District's inspection expenses.

D. It shall be the property owner's responsibility to connect from the main to the curb stop. It shall be the property owner's responsibility to connect from the curb stop with the meter in the residence. The materials will meet Town standardized specifications and be inspected by Town inspectors at the time of installation. No on-site water system shall be connected to the District system.

E. Where the connection within the District requires the extension of a main or lateral, such extension shall be the sole cost of the property

owner. No main shall be extended across private property unless an easement is provided.

F. In the event a main or lateral is extended under § 159-2E hereof and, within five years of such extension, other users are added to such extension, the original property owner that paid for such extension shall be rebated for a portion of the cost of the original extension, prorated on a per-foot basis, which rebate shall be charged to the new person connecting as an additional connection fee.

G. All laterals and or piping are to be installed by pushing or boring under all roads, be they Town, county, state roads. No road cuts will be allowed unless approved by the Town Highway Superintendent.

§ 159-3. Curb stops.

A. Curb stops are the responsibility of the Water District and shall be owned, and installed by the Water District during initial construction of the Water District. Only one curb stop is required per parcel.

B. Curb stops installed after initial construction of the Water District will be provided by the Water District and once water is turned on becomes the property of the Water District. This will apply to connection within or outside of the Water District.

C. The water supply to any dwelling or building, whether occupied or not, shall not be turned off or turned on except by a duly authorized agent of the Town of Brownville. **[Added 1-7-2004 by L.L. No. 1-2004]**

§ 159-4. Meter reading; billing; late payments; penalties.

A. Meter readings.

(1) Where applicable, meters will be read on or about the last week of December, March, June and September. Owners shall allow the Town reasonable access to meters as needed.

(2) Large-volume consumers, at the discretion of the Town, shall be read the last week of each month.

B. Water bills. Water bills will be mailed on or about the first of the month following meter readings. Included in the October and April billings will be a notice relative to the flushing of the hydrants.

C. Payments of bills. All water bills are due and payable when prepared. All bills are payable at the Supervisor's office without penalty, up to and including the due date indicated on the water bill. This due date shall be 30 days following preparation of water bills. If the billing due date falls on a weekend or a legal holiday, payment without penalty shall be extended to the next business day. Any payment received after the due date will accrue a ten-percent penalty. The date of a check does not enter into the criteria of determination of penalty imposition. The

postmark date will be deemed sufficient. Failure to pay any charge under this article, within 30 days of rendering of bill, shall be cause for termination of water service. No partial payments will be accepted.

D. Additional readings and billing. Any request for, or requirement for, additional readings separate from the regular scheduled readings will be performed with a charge of $20 imposed.

E. Unpaid bills. Any water bills, including penalties, more than 60 days delinquent shall be added onto the property owner's Town tax bill as a special assessment.

F. All billings for water usage in multiple dwellings will be sent to and the responsibility of the building owner.

G. All additional charges imposed by the District are due within 30 days of the date on the invoice. **[Added 1-7-2004 by L.L. No. 1-2004]**

§ 159-5. Termination of service.

A. Water service will be terminated for nonpayment of water bills or violation of these regulations. Refer to § 159-4C.

B. Seasonal property owners may request service be shut off on proper notice and payment of a fee of $20 to the District and/or a fee to DANC in the case of direct connection.

§ 159-6. Restoration of service.

A. When service has been terminated for any reason or service has never been turned on, service will not be restored until all bills, penalties and service charges are paid in full. This includes an additional fee of $50 for service restoration between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, exclusive of holidays, together with any fees charged to the District by the Development Authority of the North Country. Restoration of service at any other time will require a payment of a one-hundred-dollar fee, plus any Development Authority of the North Country charges. Restoration of service by the Town Water District will be completed within a reasonable period of time from the time of request as determined by the Superintendent of Highways. **[Amended 1-7-2004 by L.L. No. 1-2004]**

B. When the service has been terminated per § 159-5B, the property owner may request that service be restored on proper notice and payment of a fee of $20 to the District and/or a fee to DANC in the case of direct connection.

§ 159-7. Transfer of property ownership.

A. It is the responsibility of the current property owner to notify the Supervisor's Office of the impending date of transfer and request a meter reading for final billing.

B. The Supervisor's Office shall, upon notice of the impending transfer of property, make arrangements for reading the meter, it applicable. Upon meter reading, a final bill will be prepared and mailed to the owner. Final bills are due at the Supervisor's Office within five days. Upon receipt of payment, water records will be changed to reflect the new owner.

C. This constitutes a special reading, and the fee of $20 applies.

§ 159-8. Maintenance responsibilities.

A. The Town has the responsibility of maintenance of all facilities within the highway right-of-way and/or within any granted easement limits, except for lateral easements.

B. The property owner has the responsibility of maintenance from the curb stop to the house, insuring that the meters do not freeze or are otherwise damaged. The District may notify a property owner to make certain repairs to the water service on the owner's property. The failure to timely make such repairs shall be grounds for termination of service.

C. The property owner is responsible for any damage to the water meters. Replacing of a damaged meter will be done at a cost of $500, paid in advance. This fee will cover cost of replacement of meter plus labor to install.

D. No person shall make any attachment to or connection with pipes, mains or meters of the District nor make any repairs, additions or alterations to the service pipes except on the consumer side of the water meter, unless he or she is a duly authorized agent of the Town of Brownville. Meters are the property of the Water District and if not being used, shall be removed at the discretion of the District. **[Added 1-7-2004 by L.L. No. 1-2004]**

§ 159-9. Hydrants.

Hydrants are solely for the purpose of fire protection. Hydrants shall not be turned on except by authorized fire departments for the sole purpose of fighting fires or by Town maintenance personnel for maintenance, flushing, repair or testing.

§ 159-10. Multidwelling units.

A. All requests for water service to multidwelling units shall be brought to the Town Board for consideration. The Town Board shall determine whether a single meter per building or a separate meter for each dwelling unit will be required. In no event may the owner of a multidwelling unit buy water from the District and make a profit on the resale of water.

B. All billings for water usage in multiple dwelling will be sent to and be the responsibility of the building owner.

§ 159-11. Outside users.

A. The District is not obligated to provide service to any outside users. Where service is provided to outside users, it shall be provided only if the outside user agrees to sign a contract to pay for such water with the Town in a form acceptable to the Town Board and Town Attorney and pays to the District a connection fee of $150.

B. When providing water to outside users, the Town shall be responsible for the delivery of water only to the boundary of the District or any rights-of-way owned by the District. It shall be the responsibility of the outside user to properly install and maintain all mains, laterals, and other appurtenant features to deliver water from the boundaries of the Water District or District rights-of-way to the outside user's premises. The outside user shall be fully responsible for all maintenance of all facilities outside the boundaries of the District or District right-of-way. In the event of a leak, the Town and District retain the ability to turn off water to the outside user, unless and until such leak is properly repaired.

C. Fees to be charged to outside users for the use of water shall be in an amount at least equal to that charged to users within the District, plus a factor of 25%.

D. Outside users shall be subject to other terms and conditions of these rules and regulations as from time to time amended, including payment of bills and late payments and penalties.

E. In the event that there is insufficient water to provide service to residents within the District, the Town, as Commissioners of the District, retains the ability to terminate water service to outside users upon reasonable notice. In the event that the Town, as Commissioners of any water district, should institute conservation measures due to shortage of water supply, all outside users shall be equally subject to such conservation measures and penalties for noncompliance.

F. Request for water service outside of the District requires the completion of a water service connection application.[14] Completion of said application implies that applicant will abide by requirements of said application.

§ 159-12. Restrictions on use.

A. Should lower than normal pressure or other emergency-type situations occur in the water distribution system or serious fire hazard exist, a restriction may be placed on water usage above basic health and sanitation requirements. If water restrictions are imposed, compliance is mandatory.

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14. Editor's Note: See § 159-20, Water service connection application/permit.

B. In no case will the Town of Brownville be liable for any damage or loss that may arise due to a fluctuation in water pressure.

§ 159-13. Penalties for offenses.

A. The opening of a water hydrant by an unauthorized person or evidence that attempts have been made to bypass a meter or in any manner obtain water from the District without proper payment will result in prosecution under the penal laws of New York State.

B. A violation of these regulations may result in the termination of water service to the violator. All violations of these regulations shall be brought to the attention of the Town Board for disposition.

C. A person found to be in violation of these regulations shall be guilty of a violation and shall be subject to a fine not to exceed $250 per offense. Each week of continued violation shall constitute a separate offense.

§ 159-14. Right to inspect.

The Town of Brownville and or its agents shall have the right to inspect the water meters and related accessories upon notifying said property owner in writing by certified mail. In case of an emergency, the Water District's right to inspect shall be immediate.

§ 159-15. Charges when meter malfunctions.

Water bills shall be computed in accordance with water meter readings. No deduction will be made for leakage. If the meter fails to accurately record the quantity used, it shall be determined and the charge made based upon the quantity used in the preceding billing period, or in the corresponding period of the preceding year, or upon a corrected water bill as shown by a meter test, as the Superintendent may, at his discretion, determine.

§ 159-16. Steam boilers and hot-water tanks.

In all places where steam boilers or hot-water tanks are supplied with water from the water system, the owner or customer must see that the plumber places a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. There will be no cross connections allowed. The District, the Town and the Superintendent shall not be liable for any damage resulting from sudden shutting off of the supply of water from any steam boiler or other fixture deriving its supply from the District water system.

§ 159-17. Liability.

In the event of an emergency, including but not limited to breaks in a water main, the Town shall not be liable for any damage which may result to any person or premises from the shutting off of the water from any main or

service for any purpose whatever, even in cases where notification is not given.

§ 159-18. Fire prevention services; costs.

Where on-premises fire prevention services are permitted, the entire cost of materials, installation and maintenance of the service from the main to the premises and within the limits of the premises shall be borne by the consumer. The consumer will pay a connection charge as listed. Failure to make proper repairs of the system, after due notice, will result in the water being turned off. When the consumer or a representative of the consumer desires to make flow tests or to make repairs to the fire service system, except in emergencies, the consumer or the representative of the consumer must give the operation and maintenance contractor 48 hours' advance notice before commencing such testing or repairs. The connection charges per billing shall be as adopted by the Town Board from time to time.

§ 159-19. Administrative Board.

The Town Board of the Town of Brownville will serve as the Administrative Board for Water District No. 1 and all future Water Districts.

§ 159-20. Water service connection application; permit.

Town of Brownville

Water Service Connection Application/Permit

Please Print

I hereby request the Town of Brownville to provide municipal water to the following address:

Name: _____

Address: _____

Parcel No.: _____ Phone: _____

If billing for water is to be sent to a different address list below:

Name: _____

Address: _____

The name and address of person/firm who will perform the work is:

Name: _____ Phone: _____

Address: _____

I hereby agree to abide by the Rules and Regulations of the Town of Brownville Water District No. 1 as adopted or amended.

To notify the Town when water service is ready for inspection and connection to the curb stop.

Material specifications can be obtained from the Town and no substitutions will be allowed.

No work is to be covered until inspected by the Town.

This property is located within the boundaries of Water District No. 1? Yes No

$100.00 water service connection fee within the Water District is due with application: _____

$150.00 water service connection fee outside the Water District is due with application: _____

Application approved and permit issue on _____

Signed _____

Lateral installation inspected on _____ by _____ and approved or rejected.

Meter installation inspected on _____ by _____ and approved or rejected.

Curb connection inspected on _____ by _____ and approved or rejected.

Copy to: Owner
Denny
File

Comments:

§ 159-21. Extensions of water system. [Added 2-1-2006 by L.L. No. 2-2006]

A. Engineering plans and approval required. Engineered plans and specifications prepared and stamped by a professional engineer licensed to practice in New York State shall be required for any new water system extensions. Plans shall be subject to review and approval of the Town Engineer. Where extension is proposed by someone other than the Town Board on behalf of the district; all cost associated with the extension, including the cost of such review, shall be borne by the person proposing the extension.

B. Standard specifications and details. Extensions to the water system shall be made in accordance with the Town of Brownville Rules and Regulations as adopted by the Town Board. In addition, any regulations or requirements of the Development Authority of the North Country pursuant to their hookup protocol shall be complied with.

C. Construction inspection required. Construction of water system extensions shall be inspected by the Town Engineer, or, at the discretion of the Town Board, the Superintendent. Where an extension is proposed by someone other than the Town Board on behalf of the district, the cost of inspections shall be borne by the person proposing the extension. No work shall advance unless inspected to the satisfaction of the Superintendent and the Town Board and/or the Town Engineer.

D. Testing and certification. All water system extensions must be successfully leak-tested in accordance with AWWA specifications, and disinfected and tested for bacteriological contamination in accordance with AWWA regulations prior to acceptance by the district. Written certification by a New-York-State-licensed professional engineer attesting as such shall be provided to the Superintendent by the person making the extension prior to the Town Board's acceptance of the extension.

E. Record drawings. Record drawings shall be prepared for all water system extensions by the design engineer which shall reflect any substantive modifications to the original plans and specifications made during construction. A copy of said record drawings is to be supplied to the Town prior to dedication of the line.

F. Dedication of facilities. Upon written acceptance by the Town Board, completed facilities for water system extensions which have been privately constructed shall be dedicated to the district, at which time they will become the property of the district. At the time of dedication, the person dedicating the facilities to the town shall provide a guarantee against defects in materials and workmanship for a period of one year. The guarantee shall be in such form and contain such provisions as deemed necessary by the Town Board, secured by a surety bond or such other security as the Town Board may approve.

G. Easements. Any extension of the water system constructed on or adjacent to private property which property must be entered upon for the purposes of maintaining or reconstructing said water system extension will require easements. Any such easements will be written such that the town and the district have the right to access for maintenance and reconstruction of the waterlines. Easements shall extend along the length of the waterline a minimum width of 30 feet; 15 feet on each side of the center line of the waterline. For extensions made by someone other than the Town Board on behalf of a district, all costs associated with obtaining any such easements shall be born by the person making the extension.

H. Restoration. All surface features and landscaping shall be fully restored to at least as good a condition as existed prior to construction by the person making the water system extension. Restoration shall be included in the warrantee and covered by the bond required in Subsection F.

I. Materials. All material equipment, meters, radio readers, etc. used to hook up individual homes, multiple dwellings or businesses shall be identical to those now in use throughout the district.

J. Remedies. In the event of a conflict involving this § 159-21 with any other section of the Town of Brownville Rules & Regulations, a decision as to which section takes precedence will be determined by the Town Highway Superintendent and the Town Supervisor.

K. Fees (due with application). All fees must be paid before municipal water is turned on for consumer use. Fees for review under this extension shall be set from time to time by resolution of the Town Board. The initial fee shall be:

(1) Plan Review by Town Engineer: $250 for each water connection.

(2) Construction Inspection by Town Engineer: $250 for each water service connection per site visit. Additional site visits due to incomplete or incorrect work will result in a additional fee of $250 per visit.

(3) Town permit/application:

Within district: $100*

Outside district: $150*

* Initial fee covers first five lots in subdivision and $20 for each lot in excess of five lots.

(4) DANC fee, if applicable.

Chapter 165

ZONING

GENERAL REFERENCES

Building permits — See Ch. 67.

Fire prevention and building code enforcement — See Ch. 81.

Flood damage prevention — See Ch. 85.

Junkyards and dumps — See Ch. 102.

Sewers — See Ch. 124.

Site plan review — See Ch. 128.

ARTICLE I
General Provisions

§ 165-1. Title.

This chapter shall be known and may be cited as the "Town of Brownville Zoning Law."

§ 165-2. Authority.

This chapter is enacted pursuant to the authority granted under Article 16 of the Town Law and § 10 of the Municipal Home Rule Law.

§ 165-3. Findings.

The Town Board of the Town of Brownville hereby finds that:

A. Increased development activity has heightened public awareness and concern about uncontrolled development patterns, congested shoreline development, declining agricultural land use, increased land subdivision and impacts on the rural character and natural resources of the community.

B. A Comprehensive Plan was adopted on August 9, 1989, to serve as a general guide for future land use and development in the town. The enactment of zoning regulations is a necessary and appropriate means of implementing such plan and the recommendations therein.

§ 165-4. Purpose; objectives.

A. The purpose of this chapter is to promote the public health, safety and general welfare of the community by setting forth regulations and restrictions on the location and use of buildings, structures and land for residence, business, industry, agriculture or other purposes; the density of population; the size of buildings; the percentage of lot coverage; and the size of yards, courts and other open spaces.

B. In furtherance of the general purpose, the regulations and restrictions of this chapter are intended to accomplish the following objectives:

(1) To promote the use of land in a manner that appropriately considers its suitability for development in view of physical limitations, impacts on sensitive natural resources and both the public and private interests.

(2) To provide for the orderly growth and development of the community in accordance with the Comprehensive Plan.

(3) To protect the established character of the community and the social and economic well-being of its citizens.

(4) To secure safety from fire, panic, flood, environmental pollution and other dangers.

(5) To provide adequate light, air and convenience of access.

(6) To prevent overcrowding of land or buildings and to avoid undue concentration of population.

(7) To conserve the value of land and buildings within the community while providing for the continued construction of affordable housing.

(8) To lessen and, where possible, prevent traffic congestion on public roads and highways in the community.

(9) To protect and enhance historic and recreational resources of the community.

§ 165-5. Scope; interpretation; conflicts with other provisions.

A. Applicability.

(1) This chapter shall apply to all lands within the Town of Brownville, exclusive of the Villages of Brownville, Dexter and Glen Park.

(2) No land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, altered, used or occupied, except in conformity with all of the regulations specified for the district within which said land, building or structure is located.

(3) The regulations of this chapter shall not apply to land, buildings, structures or the uses thereof in existence prior to the effective date of this chapter. Any proposed land use or development activity which, prior to such date, has been authorized by issuance of a building permit or has been granted preliminary site plan approval by the Planning Board shall be considered preexisting and may be undertaken in accordance with said permit or a subsequent final site plan approval, as applicable. Any physical alteration of existing land, buildings or structures or any change in the use thereof otherwise occurring after said effective date shall conform to all of the regulations of this law applicable to such alteration.

B. Interpretation of regulations. In their application, the regulations of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.

C. Conflicts. Whenever any provision of this chapter conflicts with any other provision of law, whether set forth in this chapter or in any other law, ordinance or regulation of the Town of Brownville, the State of New York or the United States of America, the provision which is more restrictive or imposes the higher standards or requirements shall govern.

§ 165-6. Permits. [Amended 6-10-1992 by L.L. No. 2-1992]

A. No building, structure or driveway shall be erected or uses instituted until a zoning permit for it has been issued. The exterior structural area of a building shall not be enlarged unless a zoning permit therefor has been issued.

B. A zoning permit shall not be required for:

(1) Routine maintenance and improvements (e.g. roofing, window replacement, siding replacement, etc.) that do not expand the exterior dimensions of the structure;

(2) Chimneys, placement of posts and other minor accessory uses; or

(3) Television antennae and satellite dishes placed in accordance with § 165-24.

(4) Storage sheds under one hundred square feet; provided, however, that such storage sheds must comply with all setback requirements for such district and must comply with all other requirements of § 165-21F. **[Added 5-5-1993 by L.L. No. 2-1993; amended 3-5-1997 by L.L. No. 2-1997]**

ARTICLE II
Terminology

§ 165-7. Word usage.

Unless expressly stated otherwise, the following general rules of definition shall be used in this chapter:

A. Words used in the present tense shall include the future tense.

B. The word "person" shall include "firm," "partnership," "corporation," "company," "association" or "trust," as well as an "individual."

C. The word "lot" shall include the word "parcel."

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

E. Words in the singular shall include the plural.

F. The word "shall" is mandatory.

§ 165-8. Definitions.

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

ACCESSORY BUILDING OR STRUCTURE — A building or structure which is secondary and incidental to a principal building or a structure and located on the same lot. Garages and storage buildings may be located on an adjacent or a nearby lot (within 200 feet) where it is impossible to place it on the same lot of the principal structure. Accessory buildings and structures for one and two family include, but are not limited to, private garage, carport, swimming pool, small storage building, cabana and gazebo. Accessory buildings and structures for agricultural uses include, but are not limited to, a barn, a silo, storage shed, pen and roadside produce stand. Accessory buildings and structures for other principal uses include any buildings or structures commonly associated therewith and clearly incidental thereto. Minor accessory structures include patios, exempt signs (§ 165-26D), freestanding radio or television antennas or satellite dishes for private use, poles, doghouses, uncovered entry steps, private play equipment, bird houses or feeders and lawn ornaments.**[Amended 6-10-1992 by L.L. No. 2-1992; 11-3-2004 by L.L. No. 2-2004]**

ACCESSORY USE — A use which is secondary and incidental to a principal use and located on the same lot therewith. "Accessory uses" for one- or two-family dwellings include, but are not limited to, a home occupation, private parking and private storage. "Accessory uses" for agricultural uses include, but are not limited to, storage of seed, fertilizer, machinery, fuel or feed for the agricultural use; auctioning of livestock; slaughtering other than for compensation; and sale of firewood, lumber, honey, livestock or other produce grown or raised by the agricultural operation. "Accessory uses" for

other principal uses include any use commonly associated therewith and subordinate thereto.

ADULT ENTERTAINMENT ESTABLISHMENT — Any lot, building, structure or portion thereof in which a minor is not allowed due to the adult entertainment use conducted therein. "Adult entertainment establishments" include, but are not limited to, adult bookstores, adult theaters (live or motion picture), massage parlors and topless or striptease bars, each of which is more particularly defined below:

A. ADULT BOOKSTORE — An adult entertainment establishment used for the sale, whether at retail or wholesale, or rental, whether for viewing on or off premises, of books, magazines, periodicals, recordings, films, video tapes/cassettes or other viewing materials distinguished or characterized by an emphasis on the display or depiction of sexual activity or specified anatomical areas.

B. ADULT THEATER (LIVE OR MOTION PICTURE) — An adult entertainment establishment used for live performances or motion pictures distinguished or characterized by the display or depiction of sexual activity or specified anatomical areas.

C. MASSAGE PARLOR — An adult entertainment establishment used for administering massages to the external parts of the human body, including the rubbing, stroking, kneading, tapping or vibrating thereof with the hand or any instrument. This definition shall not be deemed to include any of the following: a medical care facility, nursing home or office of any health care practitioner licensed by the State of New York; a barbershop or a beauty shop administering massage to the scalp, face, neck or shoulders; a manicure or pedicure shop administering massage to the hands or feet, respectively; a volunteer rescue squad; or a community facility or indoor or outdoor recreation facility operated by a governmental agency or nonprofit organization.

D. TOPLESS OR STRIPTEASE BAR — An adult entertainment establishment used for the serving and consumption of alcoholic beverages and featuring topless dancers, waitresses, strippers or other person displaying sexual activity or specified anatomical areas for the patrons thereof.

ADULT ENTERTAINMENT USE — Any business or activity conducted for gain, either as a principal or accessory use, which devotes or intends to devote more than 25 square feet of net floor area or more than 10% of its total net floor area, whichever is less, or more than 10% of the volume of its stock to display, exhibit or disseminate material distinguished or characterized by emphasis on the display or depiction of sexual activity or specified anatomical areas, regardless of whether by live entertainment, motion picture, video cassette, photograph, cartoon or the means, in a manner unsuitable for viewing by minors or otherwise prohibited by the statues of New York State.

A. SEXUAL ACTIVITY — Any act of masturbation, fellatio, cunnilingus, sodomy, sadomasochism, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be female, breast.

B. SPECIFIED ANATOMICAL AREAS — Human male or female genitals, pubic area or, when absent of any opaque covering, buttocks; female breasts with less than a full opaque covering of any portion thereof below the top of the areola; and covered male genitals in a discernibly turgid state.

AGRIBUSINESS — A business engaged principally in providing supplies, implements, livestock and other products needed for agricultural uses, including but not limited to seed, fertilizers, herbicides, pesticides, animal feeds, tools, fencing and parts for farm machinery or equipment, but not including agricultural processing plants, dealerships for farm equipment or machinery or slaughterhouses.

AGRICULTURAL PROCESSING PLANT — A business engaged principally in providing, on a contractual or other fee basis, the services of storing, processing, cleaning, grading and/or packing of fruits or vegetables; the milling of grains; or the processing of dairy products. The term shall not include a slaughterhouse.

AGRICULTURAL USE — The use of land and any buildings or structures thereon principally for growing crops or trees; raising livestock, fish or game; production of dairy products; beekeeping; or other customary agricultural activity conducted for compensation. The term includes, but is not limited to, cultivation, fertilizing, harvesting, animal husbandry, horticulture timber cutting, pasturing and the wholesale or retail sale of agricultural products grown or raised on the premises. The term does not include agribusinesses, agricultural processing plants or commercial hog, fowl, fish or fur farms.

AIRSTRIP — An area used principally for the storage, takeoff and landing of aircraft without a control tower, terminal, hangers or other support facilities commonly associated with an airport.

ALTERATION, STRUCTURAL — The change of any wall, roof, ceiling, floor, window, supporting beam, column, exterior architectural feature, entrance or exit; the enlargement of a structure by extension, addition or increase in height; or the relocation or demolition of a building or structure.

AMBIENT SOUND LEVEL — Also referred to as "ambient noise level" and "ambient sound pressure level"; means the background (exclusive of the development proposed) sound level (L90) found to be exceeded 90% of the time over which sound is measured in a noise analysis. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable.**[Added 6-7-2017 by L.L. No. 3-2017]**

ANIMAL CARE FACILITY — A building, structure or portion thereof used principally for the business of providing health care, temporary shelter,

training and/or breeding service for animals. The term includes, but is not limited to, an animal hospital, kennel and boarding stable.

ANTENNA — A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, personal communications systems and microwave communications.**[Added 10-7-1998 by L.L. No. 2-1998]**

ARRAY — Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.**[Added 8-1-2018 by L.L. No. 1-2018]**

BAR — A building, structure or portion thereof used principally for the business of serving alcoholic beverages to patrons.

BARBERSHOP OR BEAUTY SALON — A building, structure or portion thereof used principally for the business of providing cosmetic services including, but not limited to, haircutting, coiffures, facials, manicure and/or tanning.

BOARDINGHOUSE OR ROOMING HOUSE — A detached residential dwelling used and occupied by five or more individuals unrelated by blood, marriage or adoption who pay either a room rental, room and board charges or a share of the total rent for the dwelling, having separate or shared sleeping rooms and individual or common bathroom facilities. A family may rent a sleeping room to one or two boarders or roomers without being considered a "boardinghouse or rooming house."

BOATHOUSE — A residential accessory building used primarily for the storage of watercraft.

BOAT STORAGE FACILITY — Any lot, building or structure which is used or intended to be used principally for seasonal storage of three or more watercraft, for compensation and not within a marina.

BUFFER — An open space, the sole purpose of which is to protect adjacent property from the impacts of a use or uses on a given property. A "buffer" may or may not include additional protection in the form of fencing, plantings, natural vegetation, earthen berm or combinations thereof.

BUILDING — Any structure having a roof supported by columns or by walls and used or occupied for the shelter, housing or enclosure of animals, persons or property. In general use, the term includes both principal and accessory buildings.

BUILDING FACE — An outside face of any exterior wall of a building or structure.

BUILDING HEIGHT — The vertical distance to the highest point of a building or structure measured from the average elevation of the surrounding grade.

BUILDING LINE — The line measured along any given building face or protrusion therefrom and to which the setback distance is measured from the closest lot line or road right-of-way. "Building line" includes uncovered porches, eaves, cornices, roof overhangs, chimneys, bay windows and similar protrusions.

BUILDING PERMIT — A permit for the construction, reconstruction, addition, extension or placement of a building or structure in accordance with applicable requirements of the New York State Uniform Fire Prevention and Building Code, which permit is issued only after the issuance of a zoning permit, when required by this chapter.

BUILDING PRODUCTS SUPPLY FACILITY — A lot or any building or structure thereon or portion thereof used principally for the business of indoor or outdoor storage and sale of bulk building products, including, but not limited to, masonry materials, sand, gravel, cement, septic tanks, sewer pipe, framing lumber, exterior siding, subflooring, insulation, dry wall and other sheet goods, whether for wholesale or retail sale. Indoor storage and sale of plumbing, heating, air-conditioning, electrical, hardware or decorating supplies shall not constitute a "building products supply facility," but may be included therewith.

BUSINESS — A commercial or mercantile enterprise principally involving the purchase, sale or any other transaction for the handling, provision or disposition of any article, substance, service or commodity for profit. The term shall include retail, wholesale, office, administrative, recreational and amusement enterprises and any buildings, structures, vehicles, equipment, storage facilities or display associated therewith. For the purposes of this chapter, the term shall not include agricultural use, home occupation or other sale of one's own real estate or personal property in a manner incidental to the principal use and not as an enterprise.

CAMPGROUND — A parcel of land used by two or more tents, travel trailers and/or other recreational vehicles on a seasonal or other transitory basis and conducted principally as a business or as part of a community facility, institutional use, membership club or nonprofit organization.

CAR WASH — A building, structure or portion thereof used principally for the washing, waxing and/or other cleaning of motor vehicles.

COMMERCIAL HOG, FOWL, FISH OR FUR FARM — A lot and any buildings or structures thereon used for keeping, raising and/or breeding of the following, respectively:

A. More than four hogs over six months old;

B. Fowl, primarily for compensation;

C. Fish for commercial consumption or recreation; or

D. More than four fur bearers, such as mink, chinchilla or other animal valued only for its fur.

COMMERCIAL WIND ENERGY FACILITY (WECS) — Any wind energy conversion system, including all related infrastructure, electrical lines and substations, access roads and accessory structures, where the power generated is sold.**[Added 6-7-2017 by L.L. No. 3-2017]**

COMMUNITY FACILITY — A lot or a building or structure thereon or a portion thereof used primarily for general community benefit and not for

profit. The term includes, but is not limited to, community center, meeting hall, library, museum, post office, art gallery, public arena, public park or playground.

COMPRESSED GAS — Any mixture or material having in the container either an absolute pressure exceeding 40 pounds per square inch at 70° F., an absolute pressure exceeding 104 pounds per square inch at 130° F. or both or any liquid flammable material having a vapor pressure exceeding 40 pounds per square inch at 100° F. as determined by the standard method of testing for vapor pressure of petroleum products (Reid Method, American Society For Testing And Materials Designation ASTM D 323).**[Added 6-5-2002 by L.L. No. 2-2002]**

CONSTRUCTION EQUIPMENT STORAGE YARD — A lot or portion thereof, the principle use of which is the outside storage of heavy construction equipment, including, but not limited to, back hoes, bulldozers, cranes, graders and dumptrucks. The term shall not include the incidental storage of such equipment as an accessory use or the temporary storage of such equipment at a construction site during the period of construction.

CORROSIVE LIQUIDS — Those acids, alkaline caustic liquids and other corrosive liquids which, when in contact with living tissue, will cause severe damage of such tissue by chemical action or are liable to cause fire when in contact with organic matter or with certain chemicals.**[Added 6-5-2002 by L.L. No. 2-2002]**

DAY-CARE CENTER — A building or structure used principally for the temporary care of infants and preschool age children, under adult supervision, certified pursuant to the New York State Social Services Law. The term includes accessory facilities for meal preparation, health care and indoor or outdoor recreation.

DECK — A platform-type structure adjacent to a building and providing outdoor living space without walls or a roof.**[Added 6-10-1992 by L.L. No. 2-1992]**

DRIVEWAY — An all-weather surface improved with gravel, crushed stone or other paving material and used or intended to be used to provide for vehicular access to a given lot.

DWELLING — A building or part thereof used as living quarters for one or more families. The term shall not include tents, travel trailers, motor homes, other recreational vehicles, motels or hotels.

DWELLING, MULTIPLE-FAMILY — A residential dwelling containing three or more dwelling units for occupancy or use by three or more families, with no more than one family per dwelling unit.

DWELLING, ONE-FAMILY — A detached residential dwelling comprising a single dwelling unit for occupancy or use by no more than one family. When three or more one-family dwellings are attached with common-wall construction on separate lots or in condominium ownership, they shall be deemed multiple-family dwellings for the purposes of this chapter.

DWELLING, TWO-FAMILY — A detached residential dwelling containing two dwelling units for occupancy or use by two families, with no more than one family per dwelling unit.

DWELLING UNIT — One or more rooms connected together in a building or an entirely self-contained portion of a building providing a separate, independent housekeeping unit with cooking and sleeping facilities for owner or renter occupancy or use. Boardinghouses, rooming houses, nursing homes and convalescent homes shall be deemed special forms of a dwelling unit.

EAF — Environmental assessment form used in the implementation of the SEQRA, as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.**[Added 6-7-2017 by L.L. No. 3-2017]**

EXPLOSIVES — All explosives, ammunition, blasting agents and pyrotechnics includable under 9 NYCRR 176.**[Added 6-5-2002 by L.L. No. 2-2002]**

FAMILY — One or more persons occupying a single dwelling unit and sharing kitchen and bathroom facilities, provided that no such family shall contain more than four persons not related by blood, marriage or adoption, except as residents of the following:

A. A group home as defined and regulated under New York State Social Services Law; or

B. A community residence as defined and regulated under New York State Mental Hygiene Law.

FENCE — A vertical wall, barrier or other assemblage of material erected outdoors for the purposes of delineating property boundaries, preventing trespass or theft, containing animals or providing for privacy.

FUEL STORAGE/SUPPLY DEPOT — A lot used principally for storage and/or supply of fuel oil, gasoline, kerosene or other liquid petroleum-derived fuel or liquefied petroleum gas. The term shall not include fuel storage accessory to an agricultural use, as part of a gasoline station, or up to 550 gallons of fuel oil or 500 gallons of liquefied petroleum gas for a dwelling unit.

FUNERAL HOME — A building or portion thereof, with or without an accessory dwelling unit, used principally for preparing cadavers for interment, including embalming, holding wakes or conducting funeral services. The term shall include a mortuary.

GARAGE, PRIVATE — A building accessory to a dwelling and used for the parking or storage of motor vehicles, boats, travel trailers or personal property of the occupants of such dwelling.

GAS STATION — A building, structure or portion thereof used principally for the dispensing of gasoline and motor oil. A gas station may include incidental repairs and services and/or the sale of groceries or other convenience goods as accessory uses.

GROSS FLOOR AREA OR GFA — The sum total of all floor area of a building or structure based upon exterior dimensions.

GROUND-MOUNTED SYSTEM (GMS) — A solar photovoltaic energy system mounted on a structure, pole, or series of poles constructed specifically to support the solar photovoltaic energy system and not attached to any other structure.**[Added 8-1-2018 by L.L. No. 1-2018]**

HAZARDOUS MATERIALS — Includes such materials as compressed gases, explosives, corrosive liquids, salt, radioactive material, highly toxic materials, poisonous gases, potentially explosive chemicals and petroleum as herein defined.**[Added 6-5-2002 by L.L. No. 2-2002]**

HIGHLY TOXIC MATERIALS — A material so toxic to humans as to afford an unusual hazard to life and health during fire-fighting operations.**[Added 6-5-2002 by L.L. No. 2-2002]**

HOME OCCUPATION — A residential accessory use which is generally of a service character, is conducted by an individual or family wholly within a dwelling unit and/or building accessory thereto, does not alter the residential character of the lot on which it is conducted and does not have any exterior storage, display or other evidence of the occupation, except for such sign as permitted under § 165-27 of this chapter. The term includes, but is not limited to, a dressmaker, a seamstress, an upholsterer, music or voice instruction or an office in the home for a lawyer, architect, landscape architect, engineer or surveyor.

HOTEL/MOTEL — A commercial use consisting of one or more buildings which provide sleeping rooms used or intended to be used for transient occupancy by persons who reside elsewhere. The term includes, but is not limited to, an inn, lodge and boat-tel. The term does not include a bed-and-breakfast.

INDUSTRIAL USE — See "manufacturing or assembly plant."

INSTITUTIONAL USE — A lot, a building or structure thereon or a portion thereof used principally for educational, governmental, medical, health care or religious activities and/or services for general public or quasi-public benefit. The term includes, but is not limited to, public or parochial schools, vocational schools, academies, colleges, government offices, hospitals, clinics, hospices, nursing homes, sanitariums, churches, temples and synagogues.

INTERCONNECTION — The technical and practical link between the solar photovoltaic energy systems and the grid providing electricity to the greater community.**[Added 8-1-2018 by L.L. No. 1-2018]**

KENNEL — A lot or a building or a structure located thereon where four or more dogs or cats, six months of age or older are housed, boarded, groomed, bred and or trained.**[Amended 12-6-2000 by L.L. No. 1-2000]**

KILOWATT (KW) — A unit of electrical power equal to 1,000 watts, which is a metric measurement of instantaneous power (not energy).**[Added 8-1-2018 by L.L. No. 1-2018]**

LANDSCAPE NURSERY — A lot or a building or structure thereon used principally for the growing and/or sale of trees, shrubs, flowers, plants, grass seed, peat moss, mulch and other products, tools, implements and equipment for lawn or garden care. The term shall include commercial greenhouses.

LARGE SOLAR PHOTOVOLTAIC ENERGY SYSTEM - (LSES) — A solar photovoltaic energy system with a rated capacity larger than 35kW. A large solar photovoltaic energy system is considered an accessory use of the property, if the principal purpose is to provide electrical power to be consumed onsite and for sale to the general power grid or to provide electrical power to be consumed onsite and to be sold to other power customers through a power purchase agreement. A large solar photovoltaic energy system is not considered an accessory use if the principal purpose is to provide electrical power for offsite consumption.**[Added 8-1-2018 by L.L. No. 1-2018]**

LIMITED BUSINESS — A business conducted upon the same lot as a one-family dwelling or agricultural use and subject to special use standards set forth under § 165-41 of this chapter.

LOT — A parcel of land which is described separately by deed and which is occupied or designed to be occupied by a principal use, including such principal buildings or structures, accessory buildings or structures and accessory uses as may comply with all applicable provisions of this chapter.

LOT AREA — The lot area shall equal the minimum lot width times the minimum lot depth.**[Amended 5-5-1993 by L.L. No. 2-1993]**

LOT, CORNER — A lot located at the intersection of and having frontage on two road rights-of-way.

LOT COVERAGE — The percentage of total lot area covered collectively by buildings and structures having individual ground coverage of 10 square feet or more.

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

LOT, FLAG — A lot which is separated from the road right-of-way by one or more frontage lots, except for a narrow portion of the lot providing access to such road right-of-way.

LOT, INFILL — A vacant lot situated between two lots, each with an existing dwelling thereon.

LOT LINE — A line dividing a lot from a road right-of-way, an adjoining property or a water body. The road right-of-way is deemed the front lot line. The lot line opposite to and most distant from the front lot line is deemed the rear lot line. Any lot line other than the front and rear lot lines is deemed a side lot line.

LOT OF RECORD — An existing lot under separate ownership which, individually or as part of a subdivision, has been recorded in the Jefferson

County Clerk's Office and for which proof can be provided that such lot was intended for development prior to the enactment of this chapter.

LOT, THROUGH — Any lot fronting on two public roads or highways other than at an intersection.

LOT WIDTH — The horizontal distance between the side lot lines, measured along the minimum front setback line.

MANUFACTURED HOUSING — Any structure wholly or in substantial part constructed at a manufacturing plant and designed or intended to be transported, in one or more sections, for permanent installation and occupancy as dwellings. The term includes mobile homes (single- or double-wide) and modular homes.

MANUFACTURING OR ASSEMBLY PLANT — A facility used principally for the production, fabrication or assembly of one or more commodities, components or products from raw materials or other components where the processes, labor and capital involved adds value for the sale of such commodities, components or products at retail or wholesale. A manufacturing or assembly plant may include warehouses, a trucking terminal and/or fuel storage/supply depots as accessory uses, provided that the highest standards applicable to such uses are satisfied. The term shall not include fabrication or assembly incidental to a business.

MARINA — A lot, building, structure, pier, dock or portion thereof located with shoreline frontage and access to navigable water and used for the launching, mooring, rental, sale, fueling and/or repair of watercraft and including such boat storage and such sales of bait, tackle and marine supplies as may be accessory to such marinas.

MEAN HIGH-WATER LEVEL — That point along the shoreline of Lake Ontario reached by high water, as an historical average established by chart datum of the United States Army Corps of Engineers, at a level of 248.05 feet above mean sea level at Father Point, Quebec (International Great Lakes Datum, 1955).

MEGAWATT (MW) — A unit of electrical power equal to 1,000,000 watts, which is a metric measurement of instantaneous power (not energy).**[Added 8-1-2018 by L.L. No. 1-2018]**

MEMBERSHIP CLUB — An organization formed for recreational, athletic, educational or social purposes and catering exclusively to its members and their guests, such that any merchandising, vending or other sales activity is conducted solely to benefit the club without financial gain to any member thereof.

MOBILE HOME — A type of manufactured housing which is built on a permanent chassis; transportable in one or more sections; constructed to contain the necessary plumbing, heating, electric and air-conditioning systems; and designed to be occupied and used as a dwelling (with or without a permanent foundation) when connected to the required utilities.

MOBILE HOME LOT — An area delineated within a mobile home park for the installation of an individual mobile home in accordance with an

approved site plan for such park. The term applies only with an approved site plan for such park. The term applies only to areas to be leased, with or without an existing mobile home.

MOBILE HOME PARK — Any lot under single ownership used or intended to be used to contain two or more mobile homes for occupancy as residential dwellings and including such buildings or structures as may be accessory to such mobile homes individually or accessory to the mobile home park as a whole to provide facilities and/or services solely for the residents thereof.

MOTEL — See "hotel/motel."

MOTOR VEHICLE REPAIR SHOP — A building, structure or portion thereof used principally for the purpose of repairing and servicing motor vehicles.

NET METERING AGREEMENT — An agreement with a local electric utility company that allows customers to receive a credit at the same rate they are charged for surplus electricity generated .by certain renewable energy systems.**[Added 8-1-2018 by L.L. No. 1-2018]**

NONCONFORMING — As applied to a lot, use or structure, any condition legally existing prior to the enactment of this chapter, but not in compliance with the regulations, requirements or other provisions applicable thereto.

NONPROFIT FACILITY — A building, structure or portion used principally to conduct the activities of an organization having nonprofit status under state and federal regulations.

NURSERY SCHOOL — A building, structure or portion thereof used principally for preschool education of children by one or more teachers certified pursuant to the New York State Education Law.

OFFICE, BANK OR ADMINISTRATIVE NONRETAIL USE — The use of a building or portion thereof principally for conducting business transactions of an administrative, professional or service nature and not involving the sale of products at retail or wholesale. The term includes, but is not limited to, the following uses: insurance or real estate sales; employment agencies; medical, dental or chiropractors' practice; accounting, architectural, engineering, law or surveying firms; banking or stock brokerage; and home nursing services.

OFF-STREET PARKING — Parking spaces provided on a lot outside of the road right-of-way.

PARCEL — A Tax Map parcel as established by the Jefferson County Office of Real Property Tax Services; provided, however, that an owner of such parcel may provide evidence to the Planning Board or Code Officer in the context of subdivision provision that such Tax Map parcel is actually separate lots by showing that the lots are separately described in a deed and that there was no intention of merging the two lots, which evidence may be shown, among other things, by:**[Amended 5-7-2014 by L.L. No. 2-2014]**

A. Language in the deed;

B. Request to the Assessor to combine; or

C. Request to the Office of Real Property Tax Services to combine.

PATIO — An outdoor living space adjacent to a building at ground level, often paved.

PERMITTED USE — A use by right subject only to the issuance of a zoning permit for compliance with the applicable district requirements and supplementary regulations of this chapter.

PETROLEUM — Petroleum-based oil of any kind which is liquid at 68° F. under atmospheric pressure and has been refined, re-refined or otherwise processed for the purpose of being burned as a fuel to produce heat or usable energy or which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine. Waste oil, which has been reprocessed or re-refined and which is being stored for sale or use as a fuel or lubricant, is also considered petroleum.**[Added 6-5-2002 by L.L. No. 2-2002]**

PHOTOVOLTAIC (PV) — A semiconductor-based device that converts light directly into electricity.**[Added 8-1-2018 by L.L. No. 1-2018]**

POISONOUS GASES — Any noxious gas of such nature that a small amount of the gas when mixed with air is dangerous to life.**[Added 6-5-2002 by L.L. No. 2-2002]**

PORCH — A roofed but open structure, projecting from the outside wall of the building.**[Added 6-10-1992 by L.L. No. 2-1992]**

POTENTIALLY EXPLOSIVE CHEMICAL — Any chemical substance, other than one classified as an explosive or blasting agent, which has a tendency to be unstable and which can be exploded by heat, shock or a combination thereof.**[Added 6-5-2002 by L.L. No. 2-2002]**

PRINCIPAL BUILDING OR STRUCTURE — A building or structure within which a principal use is conducted.

PRINCIPAL USE — The main or dominant use of a lot, building or structure that may be permitted, permitted subject to site plan approval or allowed upon approval of a special use permit. There shall be no more than one principal use per lot (e.g. one, one-family home per residential lot or one home occupation per lot where permitted).**[Amended 6-10-1992 by L.L. No. 2-1992]**

PUBLIC SAFETY USE — A building, structure or use operated by a government agency or special district primarily for public safety. Public safety facilities include, but are not limited to, police stations, fire stations and civil defense facilities.

PUBLIC UTILITY USE — A building or structure operated as a business regulated under the New York State Public Service Law and having the chief purpose of providing public services such as natural gas, electricity, telephone, cable television and commercial wind energy facilities.**[Amended 6-7-2017 by L.L. No. 3-2017]**

PUMP HOUSE — A small storage shed used principally for the housing and operation of pumping equipment for supplying water.

QUALIFIED SOLAR INSTALLER — A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's list of eligible installers or NAB CEP's list of certified installers may be deemed to be qualified solar installers if the Town of Brownville determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include, but not be limited to, the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.**[Added 8-1-2018 by L.L. No. 1-2018]**

RADIOACTIVE MATERIAL — Any material or combination of materials that spontaneously emits ionizing radiation and has a specific activity greater than 0.002 microcuries per gram.**[Added 6-5-2002 by L.L. No. 2-2002]**

RATED SOLAR ENERGY SYSTEM CAPACITY — Aggregate sum of the AC kW ratings of all of the inverters in the system.**[Added 8-1-2018 by L.L. No. 1-2018]**

RECREATION FACILITY, INDOOR — A building, structure or portion thereof used principally for indoor recreation, sports or leisure activity, conducted as a commercial enterprise or otherwise as a principal use. The term includes, but is not limited to, billiard parlors, bowling halls, live or motion-picture theaters, amusement or video game centers, indoor sports facilities, gymnasiums, physical fitness centers, martial arts schools and dance schools. The term does not include adult entertainment establishments, special events facilities or indoor recreation as a community facility or as an accessory use for an institutional use, membership club or nonprofit organization.

RECREATION FACILITY, OUTDOOR — A lot with or without accessory buildings, structures and other site improvements used for outdoor recreation, sports or leisure activity and conducted as a commercial enterprise or otherwise as a principal use. The term includes, but is not limited to, drive-in or open air theaters, exhibition facilities, field sports facilities, golf courses, driving ranges, miniature golf facilities, hobby clubs and water sports facilities. The term does not include special events facilities, campgrounds, marinas or outdoor recreation as a community facility or as an accessory use for an institutional use, membership club or nonprofit organization.

REPAIR SHOP, ENCLOSED — A building or structure used for the repair of motor vehicles and machinery where such repairs are conducted wholly

within a completely enclosed building.**[Added 11-8-2001 by L.L. No. 4-2001]**

RESIDENCE — Any dwelling suitable for habitation existing in the Town of Brownville on the date an application is received. For purposes of this definition, "suitable for habitation" shall mean that its primary purpose is for private occupancy and it has a connection to an on-site or off-site potable water supply and wastewater treatment/disposal system on a full-time basis. A residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.**[Added 6-7-2017 by L.L. No. 3-2017]**

RESIDENTIAL — Pertaining to the use of a one-, two- or multiple-family dwelling as a place of residence.

RESTAURANT — A commercial establishment used for the preparation, sale and consumption of food and beverages on premises or on a takeout basis. The term includes, but is not limited to, diners, delicatessens, banquet halls, fast food businesses, food concessions and snack bars. The term does not include bakeries, grocery stores or food vending machines.

RETAIL STORE — A building or portion thereof used principally to conduct a business involving the sale of merchandise or goods to the general public.

RETAIL STORE, SMALL — A retail store with less than 2,500 square feet of gross floor area.**[Added 5-3-2006 by L.L. No. 3-2006]**

RIGHT-OF-WAY LINE or ROW LINE — The dividing line between a lot and the road right-of-way, also referred to as the "street line."

SALT — Refers to chemical compound sodium chloride (NACI) or any other chemical compound used as a controlling agent for snow and ice removal.**[Added 6-5-2002 by L.L. No. 2-2002]**

SEQRA — The New York State Environmental Quality Review Act, as codified in Article 8 of the New York State Environmental Conservation Law and its implementing regulations in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Part 617 et seq. (6 NYCRR 617).**[Added 6-7-2017 by L.L. No. 3-2017]**

SETBACK — The distance from the road right-of-way or a property line to the building line or specified activity closest thereto, measured at a right angle to such right-of-way or property line.

SETBACK —

A. FRONT — The setback from the road right-of-way.

B. SIDE — The setback from either side property line.

C. REAR — The setback from the rear property line.

SHOPPING CENTER — A building or group of buildings used principally as one or more retail stores and having a combined gross leasable area (GLA)

in excess of 20,000 square feet. A shopping center may contain commonly associated businesses including, but not limited to:

A. Barbershops, beauty salons or related uses;

B. Laundromats;

C. Indoor recreation facilities;

D. Offices, banks or other administrative nonretail facilities; or

E. Restaurants.

SIGN — A device, structure or object used for the purpose of identifying or communicating information to the attention of others by visual display.

SITE — The parcel(s) of land where a wind energy facility is to be placed. The site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a wind energy facility or has entered an agreement for said facility or setback agreement shall not be considered off-site.**[Added 6-7-2017 by L.L. No. 3-2017]**

SITE PLAN — A plan which shows the layout and arrangement for a permitted site plan use or special use in accordance with the specifications under § 165-40B of this chapter.

SLAUGHTERHOUSE — A building, structure or use, the principal activity of which is the killing and butchering of animals for compensation. The term shall not include butcher shops, seasonal butchering of deer or bear carcasses or incidental slaughtering of livestock as part of an agricultural use, provided that animal remains are disposed of in a timely and sanitary manner.

SMALL WIND ENERGY CONVERSION SYSTEM (SMALL WECS) — A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 Kw and which is intended to primarily reduce consumption of utility power at that location.**[Added 6-7-2017 by L.L. No. 3-2017]**

SOIL OR MINERAL EXTRACTION USE — Any use the principal activity of which is the extraction of 500 or more yards of stone, gravel, sand, soil or other minerals from any lot within a period of 24 consecutive months for the purpose of sale. The term shall not include the incidental extraction and sale of soil or minerals as part of an agricultural use, development of a site, road construction, installation of utilities or other subdivision improvements.

SOLAR ARRAY — A group of multiple solar panels or modules linked into a single unit.**[Added 10-1-2014 by L.L. No. 3-2014]**

SOLAR-BASED ARCHITECTURAL ELEMENT — A structural/architectural element that provides protection from weather that includes awnings,

canopies, porches, or sunshades and that is constructed with the primary covering consisting of solar photovoltaic cells and may or may not include additional solar photovoltaic related equipment.**[Added 8-1-2018 by L.L. No. 1-2018]**

SOLAR COLLECTOR — A photovoltaic cell, panel, array, or other device that converts solar radiation to electricity or transfers solar energy to air, water, or another storage media.**[Added 10-1-2014 by L.L. No. 3-2014]**

SOLAR ENERGY SYSTEM — A combination of components that uses radiant energy (direct, diffuse, or reflected) from the sun to generate electricity or other forms of energy such as heat.**[Added 10-1-2014 by L.L. No. 3-2014]**

SOLAR PHOTOVOLTAIC (PV) RELATED EQUIPMENT — Various items related to photovoltaic installations, including solar photovoltaic cells, modules, panels or arrays, cables, inverters, panelboards, disconnect switches, mounting brackets, framing and foundations used for or intended to be used for collection of solar photovoltaic energy.**[Added 8-1-2018 by L.L. No. 1-2018]**

SOLAR PHOTOVOLTAIC ENERGY SYSTEM (PVS) — A power generation system that utilizes cells that convert solar radiation directly to piezoelectric power.**[Added 8-1-2018 by L.L. No. 1-2018]**

A. Solar photovoltaic energy system do not include inverterless systems with photovoltaic modules that cover less than six square feet in area (such systems may be furnished with solarpowered lights, for example, or other small solar-powered devices). This does not apply to noninterconnected systems under 100w.

SOLAR THERMAL SYSTEMS — Systems that directly heat water or other liquids using solar radiation.**[Added 10-1-2014 by L.L. No. 3-2014]**

SOLAR TRACKING SYSTEM — A solar photovoltaic energy system that is mounted in a way to track the movement of the sun across the sky to maximize energy production, either with a single-axis or dual-axis mechanism.**[Added 8-1-2018 by L.L. No. 1-2018]**

SOUND LEVEL — Also referred to as "noise level"; means the statistical sound pressure level expressed as the sound pressure level that is exceeded for a given proportion of the time over which sound is measured. "L(10)" shall mean the standard abbreviation for the sound pressure level that is exceeded for 10% of the time over which the sound is measured. "L(90)" shall mean the standard abbreviation for the sound pressure level that is exceeded for 90% of the time over which the sound is measured. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable.**[Added 6-7-2017 by L.L. No. 3-2017]**

SOUND PRESSURE LEVEL — — The quantity in decibels measured by a sound level meter satisfying the requirements of the American National Standards Specification of Sound Level Meters, S1.4-1971, according to a frequency-weighted decibel scale. "Decibels" shall mean 20 times the logarithm to the base 10 of the ratio of the root mean squared pressure

of a sound to a reference pressure of 20 micropascals. "dB" shall mean the standard abbreviation for decibels. Frequency-weighting of the sound pressure level is obtained with the standardized dynamic characteristic "fast" or "slow" and weighting A, B or C; unless indicated otherwise, the A-weighting is understood to be applicable. "dBA" shall mean the standard abbreviation for the A-weighted sound pressure level in decibels.**[Added 6-7-2017 by L.L. No. 3-2017]**

SPECIAL TOURIST FACILITY — A facility for which the principal activity is tourism and which may be specially located for such purposes along New York Route 12 or 12E frontage in the AR-3 district. A "special tourist facility" may consist of one or more of the following uses: gas stations, hotels, motels, restaurants, bars, nightclubs or similar establishments.

SPECIAL USE — A use which is not permitted in a particular district, except upon full compliance with all applicable general and specific standards set forth under § 165-41 of this chapter to ensure that such use would be compatible with the character of the surrounding area, the intent of the particular district involved and the purpose of this chapter.

STATE ENVIRONMENTAL QUALITY REVIEW or SEQR — The implementing regulations of the State Environmental Quality Review Act (New York State Environmental Conservation Law, § 8-0113) as set forth under Title 6 of the New York Compilation of Rules and Regulations (6 NYCRR 617) which provide for incorporating environmental review within the decisionmaking of any agency of any governmental unit in the State of New York. The terms "action," "agency," "applicants," "approval," "environmental assessment form" or "EAF," "environmental impact statement" or "EIS," "involved agency," "lead agency," "Type I action" and "unlisted action" shall have the meanings set forth in Section 617.2 of SEQR.

STORAGE SHED — A building accessory to a one- or two-family dwelling which is designed and principally intended for storage of personal property of the occupants at that dwelling. No trailer or motor vehicles of any type shall be used as a storage facility.**[Added 6-1-1994 by L.L. No. 2-1994; amended 3-5-1997 by L.L. No. 2-1997]**

STRUCTURE — Any assemblage of materials constructed, erected or installed on or moved onto a lot, the use of which requires a location on the ground. The term includes, but is not limited to: buildings, dwellings, sheds, swimming pools, decks, pump houses, signs, satellite dishes, platforms, stadiums, towers, freestanding antennae, tanks and any fixtures and additions or extensions to a structure. The term is not intended to include driveways, parking areas, curbs, sidewalks, fences or live vegetation.

TELECOMMUNICATION TOWER — A structure on which transmitting and/or receiving antennas are located.**[Added 10-7-1998 by L.L. No. 2-1998]**

TOTAL HEIGHT — The height of the tower and the furthest vertical extension of the WECS.**[Added 6-7-2017 by L.L. No. 3-2017]**

TRUCKING TERMINAL — A lot or a building or structure thereon used principally for the transient storage of registered and licensed trucks, truck

cabs, tractor trailers, vans or other motor vehicles used for bulk transport and including any refueling, cleaning or repairs associated therewith.

USE — The specific purpose or purposes for which a lot, building or structure is designed, arranged, occupied and/or maintained.

VARIANCE — A relief from compliance with the strict letter of this chapter as it applies to the use or development of a particular lot or a building or structure thereon, where such relief is granted by the Zoning Board of Appeals, as provided under Article IX of this chapter.

VARIANCE, AREA — A variance from the area (dimensional) requirements of this chapter.

VARIANCE, USE — A variance from the permitted use or permitted site plan use restrictions of this chapter to allow a use that is not permitted in a particular district.

WAREHOUSE — A building or structure used principally for the storage of materials, products or goods other than as an accessory use.

WHOLESALE FACILITY — A building, structure or portion thereof used principally to conduct a business involving the sale of merchandise or goods to other businesses.

WIND ENERGY CONVERSION SYSTEM (WECS) — A machine that converts the kinetic energy in the wind into a usable form (commonly know as a "wind turbine" or "windmill"). **[Added 6-7-2017 by L.L. No. 3-2017]**

WIND ENERGY FACILITY (WEF) — Any commercial wind energy facility, small wind energy conversion system, or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures. **[Added 6-7-2017 by L.L. No. 3-2017]**

WIND ENERGY FACILITY SPECIAL USE PERMIT — A permit granted pursuant to § 165-34.6 granting the holder the right to construct, maintain and operate a wind energy facility. **[Added 6-7-2017 by L.L. No. 3-2017]**

WIND MEASUREMENT TOWER — A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction. **[Added 6-7-2017 by L.L. No. 3-2017]**

YARD — An open area of a lot unoccupied by the principal buildings or structures thereon.

YARD, FRONT — The yard situated between the road right-of-way and the front building line of the principal building or structure on a lot and extending the full width of such lot. A corner lot is deemed to have two front yards.

YARD, REAR — The yard situated between the rear property line and the rear building line of the principal building or structure on a lot and extending the full width of such lot.

YARD, SIDE — The yard situated between a side property line and the side building line of the principal building or structure on a lot and extending between the front yard and the rear yard.

ZONING PERMIT — A written permission issued pursuant to the administrative procedures of this chapter, allowing the commencement or continuation of a particular land use or development activity determined to comply with all applicable provisions of this chapter.

ARTICLE III
Districts Established

§ 165-9. Enumeration of districts.

For the stated purposes of this chapter, the Town of Brownville is hereby divided into the following districts:

Agricultural and Residential-1	AR-1
Agricultural and Residential-2	AR-2
Agricultural and Residential-3	AR-3
Residential Neighborhoods	RN
Residential Shoreline	RS
Residential Shoreline-2 **[Added 3-5-1997 by L.L. No. 2-1997]**	RS-2
Hamlet	H

§ 165-10. Zoning Map.[15] [Amended 3-5-1997 by L.L. No. 2-1997]

The boundaries of the above-named districts are delineated as shown on a map entitled "Official Zoning Map - Town of Brownville, dated 1991, as amended _____, and filed in the Town Clerk's Office." Said Zoning Map and explanatory notes thereon are hereby incorporated into and made part of this chapter by reference. When a subsequent local law has been enacted to amend the Zoning Map, the enactment date of such local law shall be noted on said map, along with the amended boundaries and district boundaries. The Zoning Map thus amended shall likewise be incorporated into and made part of this chapter by reference.

§ 165-11. Determination of district boundaries.

A. Whenever a district boundary appears to follow a road, highway or stream, the center line of such road, highway or stream shall be considered the district boundary.

B. Whenever a district borders on the Lake Ontario shoreline, the mean high-water level shall be considered the waterward boundary of such district.

C. Whenever a district boundary appears to follow an individual property line or a municipal boundary line, such line shall be considered the district boundary.

D. Whenever a district boundary appears to parallel one of the features in Subsections A through C above, such boundary shall be considered as parallel to such feature.

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15. Editor's Note: The Zoning Map is on file in the Town Clerk's office.

E. Whenever a district boundary cannot be determined according to Subsections A through D above, such boundary shall be determined by using any specific dimensions provided therefor or by approximation with the scale provided on the zoning map.[16]

F. Whenever the exact boundary of a district is uncertain, the Zoning Board of Appeals shall make such determination in general accordance with the rules of this section.

§ 165-12. Lots in two districts.

Where, on the effective date of this chapter, a district boundary line divides a lot of record so that portions thereof lie within two districts, the requirements of the district encompassing the greater portion of the lot shall apply to the entire lot, except where each portion has sufficient area to conform to its respective district requirements.

§ 165-13. Limited exemption for filed subdivisions.

If the plat of a residential subdivision containing one or more streets has been duly filed in the Jefferson County Clerk's office prior to the effective date of this chapter, the lots of such subdivision may be developed in accordance with the filed plat, and any provisions of this chapter requiring larger lot area, yards or setbacks shall not apply to such lots for a period of three years from the date the plat was filed.

16. **Editor's Note: The Zoning Map is on file in the Town Clerk's office.**

ARTICLE IV
Use Regulations

§ 165-14. Provisions for all districts.

A. Intent. The intent of each district is stated therein.

B. Use regulations, generally. A schedule of use regulations is set forth under each zoning district to specify the types of uses permitted or otherwise approvable, as follows:

(1) Permitted uses and uses accessory thereto shall be permitted by issuance of a zoning permit, as provided under § 165-39 of this chapter.

(2) Site plan uses and uses accessory thereto shall be permitted by issuance of a zoning permit, as provided under Subsection B(1) above, but only after a site plan for such use has been reviewed and approved by the Planning Board as provided under § 165-40 of this chapter.

(3) Special uses and uses accessory thereto shall not be permitted unless both a special use permit and a site plan have been approved therefor as provided under §§ 165-40 and 160-41 of this chapter, respectively, and in compliance with the following:

(a) No use shall be considered for approval of a special use permit unless it is listed as a special use for the particular district involved and complies with the area requirements thereunder and all applicable supplementary regulations.

(b) Special use permit approval shall be obtained from the Planning Board, except when the special use is one of those in an AR-3 District requiring Town Board approval. In either case, final site plan approval shall be obtained from the Planning Board.

(c) An approved special use permit shall authorize one and only one special use. Such permit shall expire if, for any reason, the special use has not commenced within one year from the date of its approval or has ceased for more than one year. Such permit shall be transferable to a subsequent owner or lessee thereof, but only for the special use as previously established and in compliance with any conditions or safeguards attached to the approval.

(4) There shall be no more than one principal permitted use per lot (e.g. one one-family home per residential lot or one home occupation per lot, where permitted). **[Added 6-10-1992 by L.L. No. 2-1992]**

C. Area requirements, generally. A schedule of area requirements is set forth under each zoning district to specify the minimum lot width and depth, minimum setbacks and maximum lot coverage for all uses therein.

§ 165-15. Agricultural and Residential-1 District (AR-1).

A. Intent. The intent of this district is to promote agricultural and residential uses, in keeping with the soil conditions and rural character of the area, while protecting a potentially significant aquifer and other sensitive natural resources therein.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Agricultural and Residential-1 District (AR-1) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agricultural uses

One-family dwellings

Shared use of existing telecommunication towers

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in the Agricultural and Residential-1 District (AR-1) shall be as follows: **[Amended 11-8-2001 by L.L. No. 4-2001; 5-3-2006 by L.L. No. 3-2006]**

Community facilities

Institutional uses

Landscape nurseries

Membership clubs

Nonprofit facilities

Public safety uses

Public utility uses

Repair shop, enclosed

Accessory uses for the above uses

(3) Special uses (with Planning Board approval) in the Agricultural and Residential-1 District (AR-1) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agribusinesses

Airstrips

Animal care facilities

Commercial hog, fur, fish or fowl farms

Large solar photovoltaic energy systems. **[Added 8-1-2018 by L.L. No. 1-2018]**

Limited businesses

New telecommunication tower.

Outdoor recreation facilities

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

Accessory uses for the above uses

C. Schedule of area requirements.

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	200 ft.	200 ft.	200 ft.[3]
Minimum lot depth	400 ft.	400 ft.	400 ft[3]
Minimum front setback	40 ft.	80 ft.[1]	40 ft.[3]
Minimum side/rear setback	20 ft.	40 ft.[2]	20 ft.[3]
Maximum lot coverage	10%	10%	10%

NOTES:

[1] Forty feet if not used for parking.

[2] Twenty feet if adjacent to other site plan or special use.

[3] Add buffer, as per Article VII, § 165-41.

D. Supplementary regulations. For supplementary regulations, see Article V.

§ 165-16. Agricultural and Residential-2 District (AR-2).

A. Intent. The intent of this district is to promote agricultural and residential uses in keeping with the soil conditions and rural character of the area.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Agricultural and Residential-2 District (AR-2) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agricultural uses

One-family dwellings

Shared use of existing telecommunication towers

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in the Agricultural and Residential-2 District (AR-2) shall be as follows: **[Amended 11-8-2001 by L.L. No. 4-2001; 5-3-2006 by L.L. No. 3-2006]**

Cemeteries

Community facilities

Crematoriums

Funeral homes

Institutional uses

Landscape nurseries

Machine or welding shops

Membership clubs

Nonprofit facilities

Public safety uses

Public utility uses

Repair shop, enclosed

Accessory uses for the above uses

Retail store, small (only where there is direct access to a state highway)

(3) Special uses (with Planning Board approval) in the Agricultural and Residential-2 District (AR-2) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agribusinesses

Airstrips

Animal care facilities

Campgrounds

Commercial hog, fur, fish or fowl farms

Large solar photovoltaic energy systems. **[Added 8-1-2018 by L.L. No. 1-2018]**

Limited businesses

Mobile home parks

New telecommunication tower

Outdoor recreation facilities

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

Accessory uses for the above uses

C. Schedule of area requirements.

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	175 ft.	175 ft.	175 ft.[3]
Minimum lot depth	300 ft.	300 ft.	300 ft.[3]
Minimum front setback	40 ft.	80 ft.[1]	40 ft.[3]
Minimum side/rear setback	17.5 ft.	35 ft.[2]	17.5 ft.[3]
Maximum lot coverage	15%	15%	15%

NOTES:

[1]Forty feet if not used for parking.

[2]Seventeen and five-tenths feet if adjacent to other site plan or special uses.

[3]Add buffer, as per Article VII, § 165-41.

D. Supplementary regulations. For supplementary regulations, see Article V.

E. The minimum setback of all fences and other structures from a private road or right-of-way is 12 1/2 feet from the center line of that private road or right-of-way. **[Added 11-8-2001 by L.L. No. 3-2001]**

§ 165-17. Agricultural and Residential-3 District (AR-3).

A. Intent. The intent of this district is to promote agricultural and residential uses in keeping with the soil conditions and rural character of the area while providing opportunities for controlled economic development.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Agricultural and Residential-3 District (AR-3) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agricultural uses

One-family dwellings

Shared use of existing telecommunication towers

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in the Agricultural and Residential-3 District (AR-3) shall be as follows: **[Amended 4-2-1997 by L.L. No. 3-1997; 11-8-2001 by L.L. No. 4-2001]**

Cemeteries

Community facilities

Crematoriums

Flea market

Funeral homes

Institutional uses

Landscape nurseries

Machine or welding shops

Membership clubs

Nonprofit facilities

Public safety uses

Public utility uses

Repair shop, enclosed

Accessory uses for the above uses

Retail store, small (only where there is direct access to a state highway)

(3) Special uses (with Planning Board approval) in the Agricultural and Residential-3 District (AR-3) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agribusinesses

Agricultural processing plants

Airstrips

Animal care facilities

Boat storage facilities

Building products supply facilities

Campgrounds

Dealerships

Large solar photovoltaic energy systems. **[Added 8-1-2018 by L.L. No. 1-2018]**

Limited businesses

Mobile home parks

New telecommunication tower

Outdoor recreation facilities

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

Accessory uses for the above uses

(4) Special uses (Town Board) in the Agricultural and Residential-3 District (AR-3) shall be as follows:

Construction equipment storage yards
Fuel storage/supply depots
Junkyards
Manufacturing or assembly plants
Slaughterhouses
Soil or mineral extraction uses
Special events facilities
Special tourist facilities
Trucking terminals
Warehouse facilities
Accessory uses for the above uses

C. Schedule of area requirements.

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	150 ft.	150 ft.	150 ft.[3]
Minimum lot depth	300 ft.	300 ft.	300 ft.[3]
Minimum front setback	40 ft.	80 ft.[1]	40 ft.[3]
Minimum side/rear setback	15 ft.	30 ft.[2]	15 ft.[3]
Maximum lot coverage	15%	15%	15%

NOTES:

[1]Forty feet if not used for parking.

[2]Fifteen feet if adjacent to other site plan or special use.

[3]Add buffer, as per Article VII, § 165-41.

D. Supplementary regulations. For supplementary regulations, see Article V.

E. The minimum setback of all fences and other structures from a private road or right-of-way is 12 1/2 feet from the center line of that private road or right-of-way. **[Added 11-8-2001 by L.L. No. 3-2001]**

§ 165-18. Residential Neighborhoods District (RN).

A. Intent. The intent of this district is to promote the growth and orderly development of residential, institutional and other community uses and facilities near the existing villages in the town.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Residential Neighborhoods District (RN) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agricultural uses

One-family dwellings

Shared use of existing telecommunication tower

Two-family dwellings

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in the Residential Neighborhoods District (RN) shall be as follows: **[Amended 5-3-2006 by L.L. No. 3-2006]**

Cemeteries

Community facilities

Funeral homes

Institutional uses

Landscape nurseries

Machine or welding shops

Membership clubs

Nonprofit facilities

Nursery schools and day-care centers

Public safety uses

Public utility uses

Accessory uses for the above uses

Retail store, small (only where there is direct access to a state highway)

(3) Special uses (with Planning Board approval) in the Residential Neighborhoods District (RN) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agribusinesses

Campgrounds

Indoor recreation facilities

Limited businesses

Mobile home parks

New telecommunication tower

Outdoor recreation facilities

Accessory uses for the above uses

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

C. Schedule of area requirements.

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	150 ft.	150 ft.	150 ft.[3]
Minimum lot depth	300 ft.	300 ft.	300 ft.[3]
Minimum front setback	40 ft.	80 ft.[1]	40 ft.[3]
Minimum side/rear setback	15 ft.	30 ft.[2]	15 ft.[3]
Maximum lot coverage	20%	20%	20%

NOTES:

[1]Forty feet if not used for parking.

[2]Fifteen feet if adjacent to other site plan or special uses.

[3]Add buffer, as per Article VII, § 165-41.

D. Supplementary regulations. For supplementary regulations, see Article V.

E. The minimum setback of all fences and other structures from a private road or right-of-way is 12 1/2 feet from the center line of that private road or right-of-way. **[Added 11-8-2001 by L.L. No. 3-2001]**

§ 165-19. Residential Shoreline District (RS).

A. Intent. The intent of this district is to protect the residential character of the Pillar Point and Black River shorelines from overcrowding and incompatible uses.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Residential Shoreline District (RS) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agricultural uses

One-family dwellings

Shared use of existing telecommunication tower

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in the Residential Shoreline District (RS) shall be as follows:

Community facilities

Institutional uses

Landscape nurseries

Membership clubs

Nonprofit facilities

Public safety uses

Public utility uses

Accessory uses for the above uses

(3) Special uses (with Planning Board approval) in the Residential Shoreline District (RS) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Boat storage facilities

Limited businesses

Marinas

New telecommunication tower

Accessory uses for the above uses

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

C. Schedule of area requirements for lots of record. **[Amended 7-8-1992 by L.L. No. 5-1992; 6-1-1994 by L.L. No. 2-1994]**

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	75 ft.	75 ft.	75 ft.[3]
Minimum lot depth	150 ft.	150 ft.	150 ft.[3]
Minimum front setback	20 ft.	60 ft.[1]	20 ft.[3]
Minimum side/rear setback	4 ft.	8 ft.[2]	4 ft.[3]
Rear setback (shoreline)	7.5 ft.	15 ft.	7.5 ft.
Maximum lot coverage	35%	35%	35%

NOTES:

[1]Twenty feet if not used for parking.

[2]Four and zero-tenths feet if adjacent to other site plan or special uses.

[3]Add buffer, as per Article VII, § 165-41.

D. Schedule of area requirements for new lots. **[Amended 6-1-1994 by L.L. No. 2-1994]**

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	150 ft.	150 ft.	150 ft.[3]
Minimum lot depth	300 ft..	300 ft..	300 ft.[3]
Minimum front setback	40 ft.	80 ft.[1]	40 ft.[3]
Minimum side setback	15 ft.	30 ft.[2]	15 ft.[3]
Minimum rear setback (shoreline)	15 ft.	30 ft.[2]	15 ft.[3]
Maximum lot coverage	20%	20%	20%

NOTES:

[1]Forty feet if not used for parking.

[2]Fifteen feet if adjacent to other site plan or special uses.

[3]Add buffer, as per Article VII, § 165-41.

E. The minimum setback of all fences and other structures from a private road or right-of-way is 12 1/2 feet from the center line of that private road or right-of-way. **[Added 11-8-2001 by L.L. No. 3-2001]**

§ 165-19.1. Residential Shoreline District-2. [Added 3-5-1997 by L.L. No. 2-1997]

A. Intent. The intent of this district is to protect the relatively undeveloped properties along the waterfront area from the Village of Dexter to the Village of Brownville.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Residential Shoreline District 2 (RS-2) shall be as follows:

Agricultural uses

One-family dwelling

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in Residential Shoreline District 2 (RS-2) shall be as follows:

Community facilities

Landscape nurseries

Membership clubs

Nonprofit facilities

Public safety uses

Accessory uses for the above uses

(3) Special uses (with Planning Board approval) in the Residential Shoreline District 2 (RS-2) shall be as follows:

Boat storage facilities

Limited businesses

Accessory uses for the above uses

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

C. Schedule of area requirements for lots of record:

Requirement	Permitted Use	Site Plan Use	Special Use
Minimum lot width 150 feet	75 feet	150 feet	150 feet[3]
Minimum lot depth 150 feet	150 feet	150 feet	150 feet[3]
Minimum front setback	20 feet	60 feet[1]	40 feet[3]
Minimum side/rear setback	4 feet 4 feet	8 feet[2]	8 feet[3]
Rear setback (shoreline) 100 feet	100 feet	100 feet	100 feet
Maximum lot coverage	35%	35%	35%

NOTES:

[1] Twenty feet if not used for parking.

[2] Four feet if adjacent to other site plan or special uses.

[3] Add buffer as per Article VII, § 165-41.

D. Schedule of area requirements for new lots.

Requirement	Permitted Use	Site Plan Use	Special Use
Minimum lot width	250 feet	250 feet	250 feet[3]
Minimum lot depth	300 feet	300 feet	300 feet[3]
Minimum front setback	40 feet	80 feet[1]	80 feet[3]
Minimum side/rear setback	15 feet	30 feet[2]	30 feet[3]
Rear setback (shoreline)	100 feet	100 feet	100 feet[3]
Maximum lot coverage	20%	20%	20%

NOTES:

[1] Forty feet if not used for parking.

[2] Fifteen feet if adjacent to other site plan or special uses.

[3] Add buffer as per Article VII, § 165-41.

E. Special requirements, all lots.

(1) Any lots having a shelf dropoff to water must maintain a setback from the edge of the dropoff at least 40 feet or such additional amount as is determined necessary to maintain safety; provided, however, that lots having this feature shall not otherwise have to maintain minimum rear setbacks set forth in § 165-19C and 165-19D above.

(2) All lots shall maintain a restriction that no vegetation may be removed or cut within required setback of the shoreline or 20 feet of any side line. Such restriction may be removed or decreased on application to the Planning Board for site plan review upon a showing of exceptional circumstances.

F. The minimum setback of all fences and other structures from a private road or right-of-way is 12 1/2 feet from the center line of that private road or right-of-way. **[Added 11-8-2001 by L.L. No. 3-2001]**

§ 165-20. Hamlet District (H).

A. Intent. The intent of this district is to promote the growth and orderly development of Limerick as a rural center for uses serving the town.

B. Schedule of use regulations.

(1) Permitted uses (with a zoning permit) in the Hamlet District (H) shall be as follows: **[Amended 10-7-1998 by L.L. No. 2-1998]**

Agricultural uses

One-family dwellings

Two-family dwellings

Shared use of existing telecommunication towers

Accessory uses for the above uses

(2) Site plan uses (after Planning Board review and approval) in the Hamlet District (H) shall be as follows:

Barbershops, beauty salons or similar uses

Boarding- or rooming houses

Cemeteries

Community facilities

Funeral homes

Institutional uses

Landscape nurseries

Laundromats

Machine or welding shops

Multiple family dwelling

Offices, banks or administrative nonretail uses

Public safety uses

Public utility uses

Retail stores under 20,000 square feet gross leasable area (GLA)

Wholesale facilities

Accessory uses for the above uses

(3) Special uses (with Planning Board approval) in the Hamlet District (H) shall be as follows: **[Amended 5-5-1993 by L.L. No. 2-1993; 10-7-1998 by L.L. No. 2-1998]**

Adult entertainment establishments

Agribusinesses

Animal care facilities

Gas stations, motor vehicle repair shops or car washes

Hotels or motels

Indoor recreation facilities

Limited businesses

Mobile home parks

New telecommunication tower

Outdoor recreation facilities

Restaurants, bars or night clubs

Shopping centers

Accessory uses for the above uses

Hazardous materials storage facilities. **[Added 6-5-2002 by L.L. No. 2-2002]**

Solar energy systems **[Added 10-1-2014 by L.L. No. 3-2014]**

C. Schedule of area requirements.

	Permitted Use	Site Plan Use	Special Use
Minimum lot width	150 ft.	150 ft.	150 ft.[3]
Minimum lot depth	300 ft.	300 ft.	300 ft.[3]

	Permitted Use	Site Plan Use	Special Use
Minimum front setback	40 ft.	80 ft.[1]	40 ft.[3]
Minimum side/rear setback	15 ft.	30 ft.[2]	15 ft.[3]
Maximum lot coverage	20%	20%	20%

NOTES:

[1]Forty feet if not used for parking.

[2]Fifteen feet if adjacent to other site plan or special uses.

[3]Add buffer, as per Article VII, § 165-41.

D. Supplementary regulations. For supplementary regulations see Article V.

E. The minimum setback of all fences and other structures from a private road or right-of-way is 12 1/2 feet from the center line of that private road or right-of-way. **[Added 11-8-2001 by L.L. No. 3-2001]**

ARTICLE V
Supplementary Regulations

§ 165-21. General requirements.

A. Compliance with other applicable laws and ordinances. Other federal, state and local laws and ordinances applicable to buildings, structures and uses shall be considered supplementary regulations to the extent that any permit issued or approval granted under this chapter shall be conditioned upon compliance with such other laws and ordinances, including, but not limited to:

(1) The New York State Uniform Fire Prevention and Building Code.[17]

(2) The New York State Public Health Law.

(3) The New York State Environmental Conservation Law.

(4) The Town of Brownville Sanitary Code Law.[18]

(5) The Town of Brownville Subdivision Control Law.[19]

(6) The Town of Brownville Flood Damage Prevention Law.[20]

(7) The Town of Brownville Ordinance Regulating Public Assemblies.[21]

(8) The Town of Brownville Ordinance Regulating Dumps and Junkyards.[22]

B. Maximum number of buildings and structures.

(1) The maximum number of buildings and structures to be located on a lot shall be limited so that:

(a) The total building area does not exceed the maximum lot coverage specified for the given district.

(b) Each building or structure complies independently with the district's minimum setback requirements, all applicable supplementary regulations and, when occupied or used by a special use, the standards applicable thereto.

(2) Minor accessory structures shall not be included in the computation to total lot coverage.

C. Maximum height of buildings and structures.

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17. Editor's Note: See Ch. 81, Fire Prevention and Building Code Enforcement.

18. Editor's Note: See Ch. 124, Part 2, Sewers.

19. Editor's Note: See Ch. 143, Subdivision of Land.

20. Editor's Note: See Ch. 85, Flood Damage Prevention.

21. Editor's Note: See Ch. 118, Public Assembly.

22. Editor's Note: See Ch. 102, Junkyards and Dumps.

(1) No principal building or structure shall have an average height above surrounding grade in excess of 2 1/2 stories or 35 feet, whichever is less, except upon site plan approval by the Planning Board. Silos, flagpoles, utility poles, residential chimneys and roof-mounted radio and television antennae shall be exempt from these restrictions. **[Amended 9-21-2009 by L.L. No. 2-2009]**

(2) Any building or structure thus approved or exempted for a greater height shall be designed, constructed and anchored to withstand toppling due to high winds or soil instability, collapse due to heavy loading of ice and snow or their structural failure. As part of site plan approval for such a building or structure, the Planning Board may require setback distances from adjacent property lines up to a distance equaling its height.

(3) Boathouses shall not exceed a height of 12 feet measured from the high water level on the water side of the boathouse.[23] **[Amended 9-2-2015 by L.L. No. 1-2015]**

D. Additional setback requirements. The following additional setback requirements shall apply in all districts:

(1) A detached accessory building or structure shall have a setback of at least 10 feet from any principal building or structure. When attached to a principal building or structure, an accessory building or structure shall be deemed part thereof.

(2) A boathouse may be located on any shoreline lot without a rear setback.[24]

(3) Minor accessory structures shall be exempt from all setback requirements, except as specifically provided for signs, fences, freestanding antennae and satellite dishes or as may be otherwise determined by the Planning Board as part of a site plan approval.

E. The maximum number of principal uses. There shall be no more than one principal use per lot (e.g. one, one-family home per residential lot or one home occupation per lot where permitted). **[Added 6-10-1992 by L.L. No. 2-1992]**

F. Storage sheds. **[Added 3-5-1997 by L.L. No. 2-1997]**

(1) Storage sheds shall be required to comply with all setbacks otherwise applicable to the district in which they are located.

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23. Editor's Note: Former Subsection C(3), regarding storage sheds, amended 6-1-1994 by L.L. No. 2-1994, was repealed 3-5-1997 by L.L. No. 2-1997. That local law also redesignated former Subsection C(4) as Subsection C(3).

24. Editor's Note: Former Subsection D(2), regarding storage sheds, was repealed 3-5-1997 by L.L. No. 2-1997. That local law also redesignated former Subsections D(3) and (4) as Subsections D(2) and (3), respectively.

(2) Height of storage shed shall be limited to 10 feet. In the event that a storage shed shall be built in excess of 10 feet tall, it must be set back an additional two feet for each additional foot of height.

(3) No storage shed shall be allowed in the front yard in any zoning district, with the exception of Residential Shoreline District and Residential Shoreline District 2 wherein sheds may not be located any closer to the shoreline than the closest part of the principal structure on the lot.

G. Temporary uses and structures. Temporary permits may be issued by the Zoning Enforcement Officer for a period not exceeding six months for nonconforming uses incidental to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials and a real estate office located on a tract being offered for sale, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed upon application to the Zoning Enforcement Officer for an additional period of six months. **[Added 3-5-1997 by L.L. No. 2-1997]**

§ 165-22. Area requirements for special lots.

A. Irregularly Shaped Lots. Irregularly shaped lots shall be considered a lot which is incapable, because of its configuration, to meet the minimum frontage or depth requirements. For subdivision purposes, such irregularly shaped lots may nonetheless still be subdivided provided they meet the following criteria; **[Amended 5-5-1993 by L.L. No. 2-1993; 2-2-2005 by L.L. No. 1-2005]**

(1) The square footage of such lot shall meet the minimum square footage required in the appropriate zoning district defined as lot area.

(2) The lot shall be capable of producing a window for development when all setbacks are considered a minimum of 2,500 square feet.

(3) There shall be adequate and proper frontage on a road to provide safe vehicular access.

(4) There shall be sufficient area to provide for proper separation of wells and septic and to support a proper septic system.

(5) The width/depth ratio may deviate by up to 20% from the standard.

(6) The provisions of the subdivision shall not apply to properties in the Residential Shoreline District.

B. Lots served by public sewer and water within the Residential Neighborhoods (RN) and Hamlet (H) Districts. The minimum lot width, lot depth and side/rear setback requirements shall be reduced by 1/2. If

the lots are served by public sewer and water, such lots shall be allowed an additional 10% of lot coverage.

C. Corner lots.

(1) A corner lot shall be subject to a front setback from each of the intersecting roads or highways. In such cases, the additional front setback shall be required in lieu of a side setback.

(2) A corner lot shall also be subject to a visibility triangle at the intersection wherein no fence, hedge, shrubs, advertising or business sign or other object that would obscure visibility shall exceed 2 1/2 feet in height. Said triangle shall be formed by connecting an imaginary line between a point in each right-of-way where such point is 30 feet from the point of intersection.

D. Lots with curvilinear front lot lines.

(1) The front lot line of a cul-de-sac lot or any other lot located on the outside radius of a road or highway curve shall be a minimum of 50 feet.

(2) The rear lot line of any lot located on the inside radius of a road or highway curve may be eliminated where the convergent side lot lines intersect.

(3) The front setback for any lot with a curved front lot line shall be measured along a curved line parallel to such front lot line.

E. Through lots. The front and rear setbacks for existing vacant through lots shall be determined by the Planning Board. Where new through lots are created through subdivision approval by the Planning Board, the front and rear setbacks for such lots shall be determined by the Planning Board as part of the subdivision approval procedure.

F. Residential infill lots. The front setback for a residential infill lot shall be determined by the average setback of existing residences on the same side of the road or highway within 300 feet. However, in no event shall the setback be less than 20 feet, nor shall a setback of greater than 60 feet be required.

G. Shoreline lots. Any principal building or structure to be located on a shoreline lot shall have a shoreline setback of not less than the average shoreline setback of existing principal buildings or structures on adjacent shoreline lots located within 75 feet of the vacant lot. In no event shall the shoreline setback thus determined be less that 7 1/2 feet, nor shall a shoreline setback of more than 40 feet be required. **[Amended 7-8-1992 by L.L. No. 5-1992]**

H. Flag lots.

(1) The front lot line of a flag lot and the width of the access therefrom shall be a minimum of 50 feet. Such access width shall not be considered in determining the average lot width.

(2) The front setback distance shall be measured from that lot line of the main part of the flag lot which is closest to the road or highway providing access.

I. Access for future subdivision lots.

(1) Where new frontage lots are divided from a larger parcel by deed or subdivision, the remaining access to such parcel shall be a minimum of 50 feet in width.

(2) Where a new frontage lot thus divided is adjacent to the only access for future subdivision of the remaining parcel, the lot's side setback closest to such access shall be a minimum of 25 feet.

§ 165-23. Individual manufactured homes.

A. Location. An individual manufactured home shall be permitted as a one-family dwelling in any district.

B. Construction and installation. A manufactured home shall be subject to the following additional requirements:

(1) Gross floor area; roof requirements; age limit. **[Amended 1-3-2001 by L.L. No. 1-2001]**

(a) Each manufactured home shall have a gross floor area of at least 720 feet and a pitched roof (at least three feet of rise for every 12 feet of run) composed of material customarily used on site-built homes, such as fiberglass, painted metal roofing, shake, asphalt or tile. A mobile home may be installed without a pitched roof, provided that such roof is added within 60 days.

(b) All used mobile/manufactured homes being placed in the Town will require inspection by a certified home inspector prior to site plan approval to insure the home meets standards. The mobile/manufactured home shall also require a county inspection for certificate of occupancy. **[Amended 9-21-2009 by L.L. No. 2-2009]**

(2) Each mobile home shall have the hitch assembly and running lights removed and shall be installed with tie-down anchors to a foundation or stand, as follows:

(a) Mortared or bonded masonry blocks supported on a footer reaching below the frost line;

(b) A full concrete slab or reinforced concrete runners four feet wide extending the full length of the mobile home, at least six

inches thick and supported by at least six inches of compacted crusher run stone; or

(c) At least 10 inches of compacted crusher-run stone.

(d) All used mobile/manufactured homes being placed in the Town will require inspection by a certified home inspector prior to site plan approval to insure the home meets standards. The mobile/manufactured home shall also require a county inspection for certificate of occupancy. **[Amended 1-3-2001 by L.L. No. 1-2001; 9-21-2009 by L.L. No. 2-2009]**

(3) Within 60 days from the date of installation, a mobile home placed on a stand shall be provided with permanent fire retardant skirting of a type appearing compatible with the mobile home.

§ 165-24. Freestanding antennae and satellite dishes.

A. Location. No freestanding radio or television antenna or satellite dish shall be placed in any front yard, except when a rear or side yard placement is impractical due to inadequate yard area or poor reception. No freestanding antenna shall exceed the height of the principal building by more than 10 feet, except upon site plan approval by the Planning Board. The arc of movement of a satellite dish shall comply with the required side and rear setbacks.

B. Safety. Each freestanding antenna or dish shall be securely mounted on a concrete base adequate to support the unit and to prevent it from toppling under heavy winds.

C. Cables. All cable to the unit shall be buried underground.

§ 165-25. Home occupations.

A. A home occupation may be conducted as an accessory use for any dwelling unit, subject to the following restrictions:

(1) It shall be conducted entirely within the dwelling unit or an accessory building thereto.

(2) It shall not occupy more than 25% of the floor area of such dwelling unit or more than 50% of a structure accessory thereto.

(3) It shall be conducted only by a person or persons residing in the dwelling unit, and no more than one person not residing therein shall be employed to work on the premises.

(4) It shall not produce objectionable odors, noise, traffic or unsightly conditions. There shall be no visible indication of the home occupation being conducted, except a sign as permitted under § 165-26 of this Article.

B. The following shall not be allowed as home occupations:

(1) Kennels.

(2) Dentist's or doctor's offices.

(3) Barbershops or beauty salons.

(4) Group instruction for dance, music, art, crafts or similar activities involving more than two persons per class.

(5) Machine shops, welding shops or motor vehicle repair shops.

§ 165-26. Signs.

A. Regulations applicable to all signs.

(1) Zoning permit. No sign shall be erected on any lot in any district without a zoning permit, unless such sign is listed as an exempt sign under Subsection D of this section.

(2) Calculation of sign area. The sign shall be calculated to include any frame around the sign face. The area of a double-faced sign shall be calculated as the area of the larger fact. When individual letters, numbers, symbols or logos are to be mounted directly to the face a building or structure, the sign area shall be calculated as the area of the smallest rectangle which will encompass such letters, symbols, etc. Maximum sign area shall be the limit on area per face.

(3) Safety. All signs shall be appropriately constructed and securely supported, hung or otherwise affixed to prevent toppling or separation in high winds.

(4) Illumination.

(a) An illuminated sign shall not employ flashing or intermittent light and shall not cause glare that would hamper a motorist's sight or spill excessive light onto an adjacent residential property.

(b) All internally illuminated signs shall be constructed in compliance with the Standards for Electric Signs of Underwriters' Laboratories, Inc. (UL No. 48), and shall bear the Underwriters' Laboratories seal. If a sign does not bear such seal, it shall be inspected and certified by the New York Board of Fire Underwriters. All transformers, wires and related items shall be concealed.

(5) Movement. No sign shall contain or consist of banners, ribbons, pennants, streamers, spinners or any other oscillating, rotating or moving components.

(6) Maintenance. Each sign erected after the effective date of this chapter shall be maintained in reasonable condition so that its

appearance will not detract from visual quality in the district or the town.

(7) Nonstructural signs. Any nonstructural sign painted, pasted or otherwise affixed to the outer face of any building or structure shall comply with the regulations of this section in the same manner as a structural sign. No nonstructural sign shall be allowed on any tree, rock face or other natural feature.

(8) Off-premises signs. No off-premises signs shall be allowed, other than as provided for certain exempt signs.

(9) Removal of signs. When the use of a building, structure or lot has ceased, the property owner or their person responsible shall remove any signs left thereon, and any nonconforming sign supports therefor shall be removed within 90 days. Any conforming sign supports shall be removed if not used for a period of more than two years.

B. Freestanding signs. Except as otherwise provided under Subsection D of this section, all freestanding signs shall comply with the following:

(1) Maximum number per lot. No more than one freestanding sign shall be permitted on any lot, except a corner lot or through lot. A second freestanding sign shall be permitted on a corner lot or through lot for the sole purpose of identifying access to the site from the second road or highway serving such lot.

(2) Maximum sign area.

(a) Business or industrial uses. A freestanding sign for business or industrial use shall be permitted an area of 24 square feet, plus four square feet for each 2,500 square feet of gross floor area (GFA) on the lot, up to a maximum sign area of 40 square feet. On a corner lot or through lot, the area of the one additional sign permitted shall not exceed one-half (1/2) of the allowable area of the first sign.

(b) Other uses. The maximum area of freestanding signs for other uses shall not exceed 16 square feet.

(3) Maximum height. The height of a freestanding sign shall not exceed 20 feet above the surrounding grade.

(4) Location.

(a) No part of a freestanding sign shall be less than 10 feet from the road right-of-way.

(b) No freestanding sign shall be located such that its face would obscure the line of sight of motorists either across the visibility triangle of a corner lot or near a site's access or egress points.

(c) No freestanding sign shall obscure a scenic view unless there is no other practical location available. In such event, all reasonable effort shall be made to minimize the visual impact in terms of size, height, type of materials used and landscaping.

(d) No zoning permit shall be issued for a freestanding sign where its location has not been approved by the Planning Board as part of site plan approval.

(5) Wiring. All wiring to freestanding signs shall be buried underground.

C. Building-mounted signs. Except as otherwise provided under Subsection D of this section, all building-mounted signs shall comply with the following:

(1) Maximum sign area.

(a) Business or industrial uses. The total area of signs mounted on a building used for business or industry shall not exceed one square foot of sign area for each linear foot of the use's storefronts or building faces oriented towards a road right-of-way.

(b) Other uses. The total area of signs mounted on a building used for uses other than business or industry shall not exceed one-half (1/2) square foot of sign area for each linear foot of the use's storefronts or building faces oriented towards a road right-of-way.

(2) Maximum height. The vertical dimension of a building-mounted sign's face shall not exceed two feet, plus an additional one-half (1/2) foot for each 25 feet of setback from the road right-of-way.

(3) Roof signs. No part of a roof-mounted sign or its frame shall extend above the highest elevation of the roof.

(4) Projecting signs. No building-mounted sign shall extend more than five feet from any building or structure.

D. Exempt signs. The signs listed hereunder shall be exempt from site plan approval and zoning permit requirements. Such signs shall be on-premises, nonilluminated and in compliance with the regulations under Subsections A through C of this section, unless otherwise indicated. The singular indicates that only one sign is allowed.

(1) Historical signs, memorial signs and emblems of government agencies and/or a religious institution or nonprofit organization sign; sign area not to exceed six square feet.

(2) Flags and insignia of any government not displayed as a commercial promotion.

(3) Warning signs and directional signs for the convenience of the general public; sign area not to exceed two square feet and height not to exceed six feet above grade.

(4) A residential house number and/or name plate; sign area not to exceed two square feet.

(5) A home occupation sign; sign area not to exceed four square feet.

(6) Garage or lawn sale signs, an auction sign or similar privately owned items for-sale signs, which may be on- or off-premises and shall be removed within one week of the sale.

(7) A limited business sign; sign area not to exceed 16 square feet.

(8) Temporary "for sale" and "for rent" signs for the real estate or premises on which the sign is located; sign area not to exceed six square feet for a one- or two-family dwelling, 12 square feet for a multiple family dwelling or 24 square feet for any other use or combination of uses; and sign shall be removed within one week after the sale or rental occurs.

(9) A motor vehicle inspection station sign, gasoline pump price signs or other signs required by state or federal law; sign area not to exceed the minimum area required thereby.

(10) Directional signs for meetings, conventions or their events; sign area not to exceed 12 square feet. Signs may be on- or off-premises and shall be removed within one week after such meeting, convention or event concludes.

(11) Election posters, banners and similar signs; sign area not to exceed four square feet on any residential property or 16 square feet on any other property. Signs may be on- or off-premises, shall be limited to a period of up to 60 days prior to a primary, district or general election and shall be removed within one week thereafter.

§ 165-27. Off-street parking and loading facilities.

A. General requirements for off-street parking facilities.

(1) No parking facility shall be located within the right-of-way of a public road or highway.

(2) Each parking facility shall be constructed to all-weather standards with at least six inches of compacted crusher-run stone. Such facility shall be adequately drained and maintained free to bumps, ruts or other problems which could diminish the safety, ease or convenience of its use.

(3) The minimum separation between any parking facility and the nearest external property line or the road right-of-way shall be 10

feet, except when greater separation is required for a site plan or special use.

(4) A parking space shall measure at least nine feet by 18 feet.

(5) Each parking space shall be served by a parking aisle, except when it is part of a driveway for a one- or two-family dwelling. A required parking aisle shall have a minimum width according to parking angle, as follows:

(a) Twenty-five feet for ninety-degree parking.

(b) Twenty feet for sixty-degree parking.

(c) Eighteen feet for forty-five-degree parking.

B. Parking spaces required by type of use. Each use shall be provided with the minimum number of parking spaces specified below: **[Amended 9-21-2009 by L.L. No. 2-2009]**

Use	Parking Space
Animal care facilities	4 spaces per veterinarian, plus 1 per employee
Barbershops, beauty salons or similar uses	3 spaces per barber, beautician or other person providing cosmetic service
Doctors'/dentists' offices	5 spaces per doctor/dentist, plus 1 per employee
Funeral homes	1 space for each 3 seats[1]
Home occupations	2 spaces (or 3 with an employee living off-premises)
Hotels or motels	1 space for each sleeping room up to 20 rooms, plus 2 for each 3 additional rooms thereafter, plus 1 for each 3 seats[1] (banquet or meeting room)
Institutional uses	1 space per 200 square feet of gross floor area (offices), plus 1 for each 5 beds (medical care), plus 1 for each 3 seats[1] (public assembly), plus 1 per employee
Laundromats	2 spaces for each 3 washers
Limited businesses	3 spaces, plus 1 per employee living off-premises
Offices, banks or administrative nonretail uses	3 spaces, plus 1 space per 250 square feet of gross floor area
One-, two- or multiple-unit family dwellings	2 spaces per dwelling

Use	Parking Space
Recreation facilities, indoor or outdoor	1 space for each 2 participants, plus 1 space for each 3 spectators[1]
Restaurants, bars, night clubs or similar establishments	1 space for each 3 seats,[1] plus 1 per employee
Retail stores/shops up to 20,000 square feet of gross floor area	1 space per 150 square feet of gross floor area, plus 1 per employee
Rooming or boarding houses	1 space per sleeping room
Shopping centers	1 space per 200 square feet of gross floor area
All other uses	2 spaces for each 3 employees based on a maximum shift, plus 1 per 200 square feet gross floor area (if retail sales areas are involved), plus 1 for each 3 seats[1] (if public assembly is involved)

NOTES:

[1] Based on maximum capacity.

C. Loading facilities.

(1) Each building or structure having a gross floor area (GFA) greater than 5,000 square feet and used or intended to be used for any industrial or business use involving the receipt and/or distribution of materials by delivery trucks and/or tractor trailers shall be provided with one or more loading docks or berths.

(2) The number, size and location of such docks or berths shall be determined through site plan approval. All such facilities shall have adequate space for loading or unloading vehicles without using any portion of a public road right-of-way or blocking any internal driveway.

§ 165-28. Special wetland buffer.

A. The designated Freshwater Wetlands of Dexter Marsh and Sherwin Bay Marsh shall be subject to a special wetland buffer measuring 200 feet from their boundaries.

B. Any proposed development or land use activity that would be located within a special wetlands buffer shall be subject to prior site plan approval by the Planning Board.

§ 165-29. Fences, lighting and vegetative cover.

A. Fences. Fences may be erected on any lot in any district. With the exception of fences for an agricultural use, all fences shall be subject to a zoning permit issued for compliance with the following restrictions:

(1) No fence shall exceed six feet in height, except pursuant to site plan approval.

(2) No fence located within the minimum front setback shall exceed four feet in height, or two and one-half (2 1/2) feet in height within the visibility triangle of a corner lot. Any fence on the shoreline shall not exceed four feet in height within 20 feet of the high-water mark. **[Amended 6-1-1994 by L.L. No. 2-1994]**

B. Lighting. All outside lighting shall be located, directed or shielded in a manner that will prevent bothersome glare from spilling into an adjacent dwelling or a public road or highway.

C. Vegetative cover. The stripping of vegetative cover shall be prohibited on any lot in any district, except for a customary agricultural operation, a landscape nursery, development or grading of an individual lot, installation of subdivision improvements or public utility facilities or private gardening. Any area thus stripped of vegetative cover and not planted with crops, plants or other nursery stock shall be seeded and covered with clean straw within three weeks from the date of completion of such work. Where weather conditions or the duration of the work would make seeding impractical and thus leave bare soil exposed to erosion for longer than six weeks, such soil shall be covered with clean straw until seeded and covered again.

D. Private roads and rights-of-way. No fence shall be erected within 12 1/2 feet of the center line of a private road or right-of-way or road. Any existing fences existing within 12 1/2 feet of a private road or right-of-way shall be removed and abated no later than January 1, 2007. **[Added 11-8-2001 by L.L. No. 3-2001]**

§ 165-30. Camping, recreational vehicles or temporary dwellings. [Amended 6-10-1992 by L.L. No. 2-1992; 9-21-2009 by L.L. No. 2-2009]

A. Camping. No travel trailers, campers, motor homes or tents shall be used for overnight camping, except as follows:

(1) Tents allowed on private lot provided that occupancy is limited to personal use (property owner or others with owner's consent) and not conducted as a business; and further provided that sewage disposal and water supply facilities are either self-contained or available within an existing dwelling on the subject lot or one adjacent thereto.

(2) Campers.

(a) Residential properties.

[1] One recreational camper may be stored outside as an accessory use to a principal building existing on the same lot if owned by the real property owner or his tenant, or by an immediate family member residing on the real property. No external modifications or additions may be made to any recreational camper.

[2] One recreational camper may be occupied on any parcel of land owned by the registered recreational camper's owner or by a member of his immediate family upon evidence that the owner can meet the following conditions:

[a] Adequate potable and sanitary water supply.

[b] Adequate septic and sewage facilities for the actual use and demand.

[c] The lot area and setbacks for the applicable zone must be met.

[d] The recreational camper must remain registered, licensed, and inspected for highway use.

[e] At all times the recreational camper must remain capable of use on public highways.

[f] No recreational camper shall be located any closer to the shoreline than the closest part of the principal structure on the lot or the principal structure of any adjoining properties.

(b) Vacant properties.

[1] No external modifications or additions may be made to any recreational camper. If no principal building or structure occupies the same lot or parcel, no buildings or structures defined as accessory building or structures may be placed on that lot or parcel.

[2] One recreational camper may be located on any vacant parcel of land owned by the registered recreational camper's owner or by a member of his immediate family for no more than 30 days. After 30 days, a recreational camper permit is to be issued by the Zoning Enforcement Officer upon evidence that the owner can meet the following conditions:

[a] The recreational camper may not be located on the premises from December 1 until March 31.

[b] Adequate potable and sanitary water supply.

[c] Adequate septic and sewage facilities for the actual use and demand.

[d] The lot area and setbacks for the applicable zone must be met.

[e] The recreational camper must remain registered, licensed and inspected for highway use.

[f] At all times the recreation camper must remain capable of use on public highways.

[g] The permit shall be for April 1 through November 30 and shall be prominently displayed on the recreational camper so that it may be seen from the exterior of the vehicle.

[h] No recreational camper shall be located any closer to the shoreline than the closest part of the principal structure of any adjoining properties.

(3) Any recreational camper which as of the date of adoption of this section are not in compliance shall have 100 days from adoption to come into compliance.

(4) Campground. In a campground for which a special use permit and site plan have been approved by the Planning Board.

B. Interim dwelling. The Zoning Officer may issue a zoning permit for the temporary installation of a mobile home to be used and occupied as an interim dwelling during construction of a new site-built residence or reconstruction of an existing residence which has been destroyed or rendered uninhabitable by fire, flood or other hazard. Issuance of a zoning permit for an interim dwelling shall be subject to the following:

(1) Issuance of a zoning permit for the site-built residence shall be required prior to issuance of a zoning permit for the interim dwelling.

(2) The mobile home installation shall comply with all applicable provisions of this chapter with the following exceptions regarding § 165-23 of this Article:

(a) Removal of the hitch assembly and running lights shall not be required.

(b) Skirting shall not be required.

(3) The zoning permit for the interim dwelling shall be marked "temporary" and shall expire 24 months from date of issuance. The Zoning Officer shall revoke such permit if either of the following occurs:

(a) A building permit for the construction or reconstruction has not been issued within six months.

(b) The actual construction or reconstruction has not commenced within 12 months.

(c) The residence is constructed or reconstructed and ready for occupancy before the permit expires.

(4) The interim dwelling shall be removed within 30 days of expiration or revocation of the temporary permit.

§ 165-31. Multiple-family dwellings.

A. The minimum lot area shall contain at least 15,000 square feet per dwelling unit (7,500 square feet per unit if served by public sewer and water facilities).

B. All buildings and structures shall be located at least 50 feet from any adjacent residential property line and at least 20 feet from any other side or rear property line.

C. All internal driveways and parking areas shall be located at least 25 feet from any adjacent residential property line and provided with a suitable buffer therefrom. Parking areas shall be located at least 40 feet from the road right-of-way and at least 15 feet from any other external property line.

D. At least 25% of the lot area shall be retained in one or more outdoor recreation areas suitable for the residents of the multiple-family dwellings. Such recreation areas shall be located at least 50 feet from any adjacent residential property line and provided with a suitable buffer therefrom.

§ 165-32. Grazing animals; manure storage.

A. No horses, cows, sheep or other grazing animals shall be kept on any lot having an area of less than two acres.

B. No animal manure shall be stored within 100 feet of any adjacent residential property line.

§ 165-33. Roadside produce stands.

A roadside produce stand may be located with a setback of 20 feet from the road right-of-way, provided that such stand and any parking therefor is located at least 75 feet from any external side property line.

§ 165-34. Accessory outdoor recreation.

Any outdoor recreation activity proposed as an accessory use for a permitted site plan use shall be located at least 75 feet from any external side or rear property line and provided with a suitable buffer therefrom.

§ 165-34.1. Flea markets. [Added 4-2-1997 by L.L. No. 3-1997]

A. Flea markets shall be permitted only in the AR-3 District and only following site plan review and approval by the Town Planning Board.

B. In determining whether to grant such approval, the Planning Board shall give substantial weight to the following factors:

(1) Suitability of the use to the general neighborhood and adjacent properties.

(2) Any adverse effect upon public safety, particularly as related to possible traffic and pedestrian hazards.

(3) Any adverse effect on public health, such as vermin and litter.

(4) Any public nuisance arising from the proposed use.

(5) Any adverse effect upon the aesthetics or scenic environment of the area.

C. Any flea market facility shall be so designed, buffered and screened so that noise, odors, litter, dust or lighting glare shall not affect adjacent or nearby properties.

D. All sanitary facilities shall be built and maintained in accordance with the regulations of the New York State Departments of Health and Environmental Conservation.

E. Off-street parking facilities shall be provided in accordance with the requirements of § 165-27 of this article.

F. All signs shall be designed, built and maintained in accordance with the requirements of § 165-27 of this chapter.

G. All buildings, structures and accessory uses shall be set back a minimum of 50 feet from the front line and 100 feet from all other property lines.

§ 165-34.2. Telecommunication towers. [Added 10-7-1998 by L.L. No. 2-1998]

A. Shared use and preexisting structures.

(1) At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennas of preexisting structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other preexisting structures as an alternative to new construction.

(2) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall be responsible for all fees and costs of adapting an existing tower or structure to a new shared use.

(3) Location on existing towers or structures shall be allowed by issuance of a building permit, provided that the new facilities do not cause any nonconformities.

B. New towers.

(1) The Board shall consider a new tower only when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Board in consultation with the applicant. The report shall outline opportunities for shared use of the existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower, as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided.

(2) The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunication providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the site plan approval. The letter shall commit the new tower owner and his/her successors in interest to:

(a) Respond within 90 days to a request for information from a potential shared-use applicant.

(b) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunication providers.

(c) Allow shared use of the new tower if another telecommunication provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection planning, project administration, land cost, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. No portion of the tower itself may be used for

signage or advertising. A sign not to exceed 32 square feet shall be permissible on accessory buildings or fences.

(3) New tower design. The design of a proposed new tower shall comply with the following:

(a) Any new tower shall be designed to accommodate future shared use by other telecommunication providers.

(b) The Board may request a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower.

(c) No portion of the tower itself shall be used for signage or other advertising purposes. A sign not to exceed 32 square feet shall be permitted on accessory buildings or fences.

(4) Setbacks and lot size.

(a) The setback for towers shall be 110% of the tower's height, unless the developer can provide an engineer's report indicating a smaller debris fall zone; then a smaller setback can be provided.

(b) Guy wire anchors shall be set back from property lines the same distance as accessory structures.

(c) Minimum lot size will be determined by setback requirements.

(d) Accessory buildings shall meet the minimum setback for accessory structures in the underlying district.

(e) If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plan.

(5) Aesthetics. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:

(a) The Planning Board may require a monopole or guyed tower (if sufficient land is available to applicant) instead of a freestanding communications tower.

(b) The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the communications tower and/or to screen the tower to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

(c) The Planning Board may require the applicant to show that it has made good faith efforts to collocate on existing towers or

other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances. However, such request shall not unreasonably delay the application.

(d) Towers should be designed and sited so as to avoid, whenever possible, application of Federal Aviation Administration (FAA) lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be painted a galvanized finish or matte gray unless otherwise required by the FAA. The Board reserves the right to require lighting for safety purposes, even if not required by FAA regulations.

(e) No tower shall contain any signs or advertising devices.

(6) Accessory facilities. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

(7) Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible.

(8) Access and parking. A road and parking will be provided to assure adequate emergency and service access.

(9) Fencing. The tower or facility and any accessory structures, including guy anchors, shall be adequately enclosed by a fence, a minimum of eight feet in height, design of which shall be approved by the Board. This requirement may be waived by the Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the tower or facility.

(10) Radio-frequency effects. The Planning Board recognizes that federal law [Telecommunications Act of 1996, Public Law 104-104, Section 704 (February 8, 1996] prohibits the regulation of cellular and Personal Communications Systems (PCS) communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the Federal Communications Commission (FCC) standards for those emissions. The Planning Board may, however, impose a condition on the applicant that the communications antennas be operated only at Federal Communications Commission (FCC) designated frequencies and power levels.

C. Removal. The applicant shall submit to the Board a letter of intent committing the tower or facility owner, and his/her successors in interest, to notify the Enforcement Officer within 30 days of the discontinuance of use of the tower or facility. This letter shall be filed with the Enforcement Officer prior to issuance of a permit. obsolete or unused towers or facilities and accessory structures shall be removed from any site within four months of such notification. Failure to notify

and/or remove the obsolete or unused tower or facility in accordance with these regulations shall be a violation of this chapter.

D. Intermunicipal notification. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing tall structures or existing towers in a neighboring municipality be considered for shared use, the Board shall require that:

(1) An applicant who proposes a tower or facility shall notify, in writing, the legislative body of each municipality within the Town and each municipality that borders the town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility and a general description of the project, including but not limited to the height of the tower or facility and its capacity for future shared use.

(2) Documentation of this notification shall be submitted to the Board at the time of application.

E. Notification of landowners. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a tower or facility is proposed. Notification, in all cases, shall be made by certified mail at least 10 days prior to the public hearing or after public hearing or issuance of permit.

F. Additional submission requests.

(1) In addition to the site plan review requirements, the applicant shall be required to submit:

(a) A completed visual environmental assessment form (visual EAF addendum).

(b) A Federal Communications Commission (FCC) license.

(c) Documentation on the proposed intent and capacity of use, as well as a justification for the height of any tower or facility and justification for any vegetative clearing required.

(2) The Board may require the applicant to submit:

(a) A zone of visibility map showing locations from which the tower or facility may be seen.

(b) Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.

§ 165-34.3. Storage or handling of hazardous materials. [Added 6-5-2002 by L.L. No. 2-2002]

A. Buildings, occupancies and general exterior storage sites which, by their very nature, occupancy or use can contribute to a loss of life or create a potential environmental hazard.

B. Materials not otherwise covered in this article which are highly flammable; or which may react to cause fires or explosions; or which by their presence create or augment a fire or explosion hazard; or which, because of their toxicity, flammability or liability to explosion, render fire fighting abnormally dangerous or difficult.

C. Flammable liquids which are chemically unstable and which may spontaneously form explosive compounds or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a fire hazard.

D. Any chemical compound (example NACI) which, if allowed to permeate the ground, would contaminate the groundwater.

E. Underground storage facilities: new installations. Included in the application must be a description for any new installation to be constructed and how it will afford maximum reasonable protection available against leakage or spillage of any toxic or hazardous material.

F. Aboveground storage facilities: new installations. Included in the application must be shown the following:

(1) The design, constructions and maintenance of the tank or other storage in a manner which will prevent discharge of fluids contained to either the land or surface waters on the property.

(2) The constructions of impervious dikes surrounding the tanks or other storage facilities as required on the other appropriate protective devices. Refer to Subsection I, Additional requirements.

(3) Drainage control from the dike area.

(4) Overfill detection system.

G. Portable containers and tanks: storage. The application must show that the hazardous material will be stored on a nonpermeable chemical resistant surface compatible with the matter being stored. It should also show that the storage area is completely enclosed with an impervious berm. It should show that indoor storage will be required. In case of outdoor storage, this will be allowed only upon the written permission of the Town Engineer of the Town of Brownville and the Town Planning Board.

H. The applicant must show:

(1) That storage sites for hazardous materials must be posted with warning notices and safety information.

(2) That storage facilities and piping must be clearly labeled with the contents near points of filling and drawing and on the individual aboveground tanks or storage facilities.

(3) That any unauthorized discharge or spill of hazardous material will be reported to the state and federal authorities within two hours of detection.

(4) That upon a discharge or spill of hazardous material, the owner of the facility must take immediate steps to stop the discharge, reclaim or properly dispose of the discharge materials, restore the environment and repair any physical damage caused by the discharge.

I. Additional requirements.

(1) All storage, handling, transport and transfer of hazardous material must comply with all state and federal regulations as well as comply with generally accepted standards.

(2) No open storage whatsoever; this includes materials on motor vehicles or other means of transport.

(3) All off- and onloading of solid chemicals must occur within the storage building.

(4) Building to be designed by a New York State licensed engineer/ architect. Said design to comply with all federal, state and local regulations. Said design will be reviewed by the Town Engineer at the applicant's expense. The Town Engineer will notify the Town of his comments. The Town Engineer will not be involved in any manner except to review the completed plans submitted by the applicant.

(5) In the event of a conflict between regulations established by the federal, state or local government, the most restrictive regulation will take precedence over all other regulations.

(6) The building to be constructed will be designed so that the floor of the building will be a minimum of five feet below grade.

(7) Building will have a three-foot berm surrounding the building except for the truck entrance.

(8) A nonpermeable liner will be installed under the building floor and extend up to the top of the surrounding berm.

(9) All trucks or motor vehicles operating in conjunction with the business will comply with all federal and State of New York motor vehicle regulations.

(10) A buffer zone will be established around the perimeter of the parcel being used. The buffer shall consist of evergreen/cedar hedge-type

plants. Plants will be located approximately eight feet within the property line and planted at no greater than 10 feet on center. The buffer zone must be 1,000 feet from any residentially used property.

(11) In addition to the above requirements/regulations, hazardous material storage facilities will comply with § 165-41, Special use permit approval. See § 165-41B, General standards for all special uses.

§ 165-34.4. Open burning and recreational fires. [Added 9-21-2009 by L.L. No. 2-2009]

Setbacks for open burning and recreational fires, including fire pits, burning barrels, chimineas, etc., shall not be within the setbacks for the zoned area. Open burning and recreational fires must also comply with all applicable provisions to the New York State Fire Code, which specifies no open fires within 25 feet of any structure.

§ 165-34.5. Solar energy systems. [Added 10-1-2014 by L.L. No. 3-2014]

A. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town of Brownville, subject to the following conditions:

(1) Such system shall not extend more than five feet above the existing peak of the roof except in the RS District, for which the limit shall be three feet.

(2) Rooftop solar units must be set back at least three feet from all roof boundaries unless part of the roofing material itself.

(3) Roof structures must be engineered to support the solar collector weight in addition to other weight-bearing requirements.

(4) The applicant must submit modeling showing that reflection from the rooftop or building-mounted solar collectors will not cause undue reflection onto neighboring properties. Where appropriate, such reflection information must also be shown not to interfere with aviation.

(5) The applicant must also provide modeling showing that there will be no undue heat production as a result of such units for either the structure on which they are mounted or for neighboring properties.

(6) The solar units installed must be accessory to the structure on which they are located and be intended to provide electrical power of no more than 110% of that needed for such structure. Such units may not be used and operated as a commercial business for resale to others.

B. Ground-mounted racks and freestanding solar collectors mounted on a pole are permitted as accessory structures in all zoning districts, subject to the following conditions:

(1) All ground-mounted racks and freestanding solar collectors shall be treated as structures and subject, therefore, to all setbacks applicable to structures.

(2) Additionally, all ground-mounted racks or freestanding solar collectors must be set back a distance at least equal to the height at its highest point of such rack or free solar collectors provided that maximum height shall not exceed 20 feet at full tilt.

(3) Ground-mounted structures must be engineered to support the solar collector weight in addition to other weight-bearing requirements.

(4) No ground-mounted racks or freestanding solar collectors mounted on poles shall be located any closer to the waterfront than the line of the principal building closest to the water already on the property and set back from the road the same distance as setback for principal structure.

(5) Such solar systems must be designed to provide no more than 110% of the power needed for the structures or the uses on the property on which they are located and may not be used and operated as a commercial business or for resale to others.

(6) The applicant for such ground-mounted rack or freestanding solar collectors mounted on poles must provide modeling showing that reflection from such panels will not cause undue reflection onto neighboring properties. Where appropriate, such reflection information must also be shown not to interfere with aviation or traffic.

(7) The applicant must also provide modeling showing that there will be no undue heat production as a result of such units for either the structure on which they are mounted or for neighboring properties.

(8) The applicant must also show that ground-mounted racks and freestanding solar collectors mounted on poles will not provide an undue impact on the viewshed of neighboring properties.

C. All solar arrays, whether roof-mounted or ground-mounted racks or freestanding solar collectors on poles, must be installed according to all manufacturers' specifications and to all county and state regulations.

D. Application for residential or agricultural use shall be reviewed for compliance with this section by the Zoning Officer who may issue a permit. Applications for all other types of uses shall be referred to the Planning Board for special permit approval.

§ 165-34.6. Wind energy facilities. [Added 6-7-2017 by L.L. No. 3-2017]

A. WECS general requirements.

(1) No wind energy facility (WEF) shall be constructed, reconstructed, modified, or operated in the Town of Brownville except in compliance with this section.

(2) No WEF shall be constructed, reconstructed, modified, or operated in the Town of Brownville except with a wind energy facility special use permit approved pursuant to this section.

(3) No wind measurement tower shall be constructed, reconstructed, modified, or operated in the Town of Brownville except pursuant to a wind energy facility special use permit issued pursuant to this section.

(4) No small wind energy conversion system shall be constructed, reconstructed, modified, or operated in the Town of Brownville except pursuant to a wind energy facility special use permit issued pursuant to this section.

(5) This section shall apply to all areas of the Town of Brownville where wind energy facilities are permitted with proper review by the Town of Brownville Zoning Ordinance.

(6) Exemption. No permit or other approval shall be required under this section for mechanical, nonelectrical WECS utilized solely for agricultural operations.

(7) Notwithstanding the requirements of this section, replacement in kind or modification of a wind energy facility may occur without Town Board approval when there will be:

(a) No increase in total height;

(b) No change in the location of the WECS;

(c) No additional lighting or change in facility color; and

(d) No increase in noise produced by the WECS.

(8) The Town of Brownville Planning Board (hereinafter referred to as the "Planning Board") is hereby authorized to review and either approve, approve with condition, or disapprove applications for wind energy facilities as a special permit use.

B. Wind energy facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this section shall not be required to meet the requirements of this section; provided, however, that

(1) Any such preexisting wind energy facility which does not provide energy for a continuous period of 12 months shall meet the requirements of this section prior to recommencing production of energy.

(2) No modification or alteration to an existing wind energy facility shall be allowed without full compliance with this section.

(3) Any wind measurement tower existing on the effective date of this section shall be removed no later than 36 months after said effective date, unless a wind energy facility special use permit is issued for said wind measurement tower.

C. WECS permits. No application for a commercial wind energy facility special use permit shall be complete until the following materials are received by the Planning Board, in acceptable form, unless specifically waived by the Planning Board. Such information shall be in addition to and not instead of any information required by the Town of Brownville, under any related local law or ordinance, including but not limited to the Town of Brownville Zoning Law.

(1) Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

(2) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:

(a) Confirming that the property owner is familiar with the proposed applications; and

(b) Authorizing the submission of the application.

(3) Address, or other property identification, of each proposed WECS tower location, including Tax Map section, block and lot number.

(4) A description of the project, including the number and maximum rated capacity of each WECS.

(5) A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

(a) Property lines and physical dimensions of the site;

(b) Location, approximate dimensions and types of major existing structure and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of the proposed WECS site.

(c) Location and elevation of each proposed WECS.

(d) Location of all aboveground utility lines on the site or within one radius of the total height of the WECS tower, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.

(e) Location and size of structures above 35 feet within a five-hundred-foot radius of each proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.

(f) To demonstrate compliance with the setback requirements of this section, circles drawn around each proposed WECS tower location equal to:

[1] Four times the height of the WECS measured from ground level to the highest tip of the blade. (If alternative setbacks are adopted, this provision will be eliminated.)

[2] Five-hundred-foot perimeter.

[3] One-thousand-foot perimeter.

[4] One-thousand-five-hundred-foot perimeter.

(g) Location of each residential structure, both on the site and off the site, that is located within 2,500 feet from the nearest individual WECS tower, as well as the specific distance from the nearest individual WECS tower to each residential structure.

(h) All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.

(6) Vertical drawing of the WECS tower showing total height, turbine dimensions, tower and turbine colors, ladder, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS tower of the same type and total height.

(7) Landscaping plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.

(8) Lighting plan showing any FAA-required lighting as well as all other proposed lighting. The application should include a copy of any determination by the Federal Aviation Administration to establish required markings and/or lights for each structure that is part of the facility; but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.

(9) List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed site.

(10) Decommissioning plan. The applicant shall submit a decommissioning plan, which shall include the following information at a minimum:

(a) The anticipated life of the WECS;

(b) The estimated decommissioning costs in current dollars;

(c) How said estimate was determined;

(d) The method of ensuring that funds will be available for decommissioning and restoration;

(e) The method, such as by annual re-estimate by a licensed engineer, by which the decommissioning cost will be kept current; and

(f) The manner in which the WECS will be decommissioned and the site restored, which shall include, at a minimum, the removal of all structures and debris to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.

(11) Complaint resolution. The application will include a complaint resolution process to address complaints from nearby residents. Complaints shall be submitted to a committee to include a representative from the developer, a representative from the Town Board or Planning Board, and a representative at large. The applicant shall make every reasonable effort to resolve any complaint. There shall be a time limit for submitting a complaint limited to one year following the origination of the complaint.

(12) An application shall include, at a minimum, the following information relating to the construction/installation of a wind energy conversion facility:

(a) A construction schedule describing commencement and completion dates; and

(b) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.

(13) Complete Part I of the full EAF.

(14) Applications for wind energy facility special use permits for wind measurement towers subject to this section may be jointly submitted with the WECS application.

(15) For each proposed WECS tower, include make, model, picture and manufacturer's specifications, including noise decibels data; include manufacturer's Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment, including, but not limited to, all lubricants and coolants.

(16) If the applicant agrees in writing in the application that the proposed WECS may have significant adverse impact on the environment and submits a draft environmental impact statement (DEIS), the Planning Board shall issue a positive declaration of environmental significance.

(17) The following information must be submitted by the applicant, either with the application or, in the event of a positive declaration under SEQRA, as part of any DEIS submitted by the applicant with respect to the application for a wind energy facility special use permit. Studies conducted by a qualified consultant as to each of the following impacts or potential impacts, which study or studies shall include, at a minimum, a detailed analysis of the existing conditions, any potential adverse impacts, and the measures to be taken by the applicant to mitigate or eliminate such impacts. The impacts/issues to be addressed by the studies shall include at a minimum the following: shadow flicker, visual impact; fire protection and emergency response; noise assessment; avian and bats analysis; property values; electromagnetic interference; transportation impacts; groundwater impacts; and cultural resources.

(18) The applicant shall, prior to the receipt of a wind energy facility special use permit, provide proof that it has executed an interconnection agreement with the New York independent system operator and the applicable transmission owner.

(19) A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

(20) In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during review of the project pursuant to SEQRA. No application shall be determined to be complete until the DEIS is submitted and accepted by the Planning Board as complete.

(21) The applicant must show that it has consulted with the United States Department of Army/Fort Drum about any impacts of the project on its airfield traffic, aircraft radar and/or future trainings.

D. Standards for WECS. The following standards shall apply to all WECS:

(1) All power collection and transmission lines from the tower to any building or substation shall be located underground. Where

possible, all such lines should follow existing utility rights-of-way. Where it is not possible to follow existing utility rights-of-way, such underground lines shall be a minimum of 200 feet from any residence. For good cause shown, an applicant may request a variance from the Zoning Board of Appeals of strict adherence to these conditions; provided, however, that the Zoning Board of Appeals may impose reasonable conditions on any such variances, including additional setbacks for overhead lines.

(2) No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Code.

(3) In order to minimize any visual impacts associated with commercial wind energy facilities, no advertising signs are allowed on any part of the commercial wind energy facility, including fencing and support structures.

(4) Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground-level facilities shall be allowed as approved on the wind energy facility development plan.

(5) All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, nonreflective matte finished white or gray in color. Multiple WECSs within a WECS project shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blade.

(6) The use of guy wires is disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.

(7) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate, within three months of being notified, this interference, including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic

interference is grounds for revocation of the wind energy facility use permit for the WECS or WECSs causing the interference.

(8) All solid waste and hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all appropriate rules and regulations.

(9) WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All topsoil disturbed during construction, reconstruction or modification of WECS shall be stockpiled and returned to the site upon completion of the activity which disturbed the soil.

(10) WECSs shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species, including those that may be listed by United States Fish and Wildlife Service as threatened or endangered.

(11) Commercial wind energy facilities shall be located in a manner consistent with all applicable state and federal laws and regulations.

(12) Stormwater run-off shall be managed in a manner consistent with all applicable state and federal laws and regulations.

(13) The maximum total height of any WECS shall be 600 feet.

(14) Any substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and/or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this section and the Town's Zoning Law.

(15) Construction of the WECS shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, unless prior written approval of the Planning Board is received to allow deviation from such hours.

(16) In processing any application for a WECS or in reviewing such project under SEQRA, the Planning Board shall consider any applicable policy or guideline issued by the New York State DEC (i.e., visual impacts, noise impacts).

(17) Turbine blades shall pass no closer than 30 feet to the ground during operation of the facility.

(18) To the greatest extent possible WECSs, together with all aboveground facilities, underground cables and wires, and all permanent access roads shall be positioned along existing fence

lines, hedgerows or tree rows and/or as near the edge of any fields as possible to minimize disruption to pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition or better. During construction, the developer shall be required to act consistent with best agricultural practices to ensure the post-construction integrity of the site.

(19) Blasting; wells.

(a) The company, contractors or subcontractors responsible for siting and construction of any WECS shall inspect and videotape all residential, commercial, farm or other buildings within 1,000 feet of the wind turbine site if any blasting is to be conducted.

(b) In addition, all residential wells within 1,000 feet of a wind turbine site shall be tested for quality and quantity before any turbine is installed.

(20) The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts.

E. Required safety measures.

(1) Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

(2) Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information. The Town Planning Board may require additional signs based on safety needs.

(3) No climbing pegs or tower ladders shall be located closer than 12 feet to the ground level at the base of the structure for freestanding single-pole or guyed towers.

(4) The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.

(5) WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

(6) Existing snowmobile and/or ATV trails shall be posted by the developer to warn of potential ice throw dangers from the WECS. The WECS developer/owner shall provide periodic emergency training for fire and ambulance personnel for proper protocols in

responding to emergencies at the WECS. Such training shall take place no less frequently than annually.

F. Traffic routes.

(1) Construction of WECSs poses potential risks because of the large-size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs and for associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include: 1) minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas; 2) minimizing WECS-related traffic during times of school bus activity; 3) minimizing wear and tear on local roads; and 4) minimizing impacts on local business operations. Wind energy special use permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.

(2) The applicant is responsible for repair of all damage to Town roads occurring during the construction or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any zoning permit in an amount, determined by the Planning Board, in consultation with the Town Board, sufficient to compensate the Town for any damage to local roads.

(3) Prior to any construction, the developer will provide the Town with a list of all state, county, Town and village roads that will be subject to travel by vehicles hauling any materials or items related to the installation of WECS. Included with this list of roads will be a videotape of the road with appropriate landmarks making identification of the road unquestionable.

G. Noise standards for commercial wind energy facilities.

(1) Intent.

(a) Brownville is a quiet area, where nighttime background sound levels are routinely less than 30dB, and it is a community that values peace and quiet, which is an important part of rural life. Loud, annoying and persistent noise is disruptive to the well-being of people living in the vicinity of a WECS and is in some cases deleterious to their health. To preserve and protect peace and quiet, the Town hereby declares its intent to regulate noise in accordance with the widely recognized acoustic standards.

(b) Regulating noise requires more than preventing unnecessarily loud noise; it also recognizes that the quality and character of noise both contribute significantly to annoyance. Noises that are distinctly different from natural background sound, those

with impulsive, tonal or modulating elements, are further restricted.

(c) These regulations are intended to be used, if the need arises, for any source of loud, annoying or unhealthy noise.

(2) Noise sources. The types of sources of noise that this regulation is designed to regulate in Brownville include, but are not limited to:

(a) Mining/Quarry operations.

(b) Wind turbines.

(c) Gas, water or other types of drilling.

(d) Blasting operations.

(e) Gas turbine electric generation.

(f) Other industrial and nonindustrial sources where noise may be excessive and annoying.

(3) Exemptions to regulations. The following noises are deemed beyond the scope and intent of the Town to regulate and are not subject to this section:

(a) Any noise intended to warn the public or indicate the existence of an emergency condition, including any warning device, siren, horn or whistle used by emergency vehicles or by any governmental agency to alert the public to an emergency or warn of a danger.

(b) Any noise intended to stay within limits set by and under the jurisdiction of any state or federal act preempting local regulation.

(c) Mechanized noise from farming and agricultural operations.

(d) Noise generated by or produced in association with a religious celebration or observance, parades, or other special municipal events.

(e) Noise from gas-powered electric generators used during power outages.

(f) Construction equipment used between 7:00 a.m. and 9:00 p.m., except in emergency situations.

(g) Nonindustrial noise that is considered a part of normal personal activities, such as, but not limited to, motor vehicles, boats and yard care.

(4) Requirements.

(a) The equivalent noise level (LEQ) generated by a noise source shall not exceed the limits listed in Table 9 when measured at the property line.

Table 9

	Daytime	**Evening**	**Nighttime**
	7:00 a.m. to 7:00 p.m.	**7:00 p.m. to 10:00 p.m.**	**10:00 p.m. to 7:00 a.m.**
A-weighted (dB)	45	40	35
C-weighted (dB)	63	58	53

(b) In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (from Table 9) plus 18dB.

(c) In the event audible noise due to any operation contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in Table 9 shall be reduced by seven dB; and the standards shall be reduced by 12dB for highly impulsive noise (ANSI S12.9 Pt. 4).

(5) Predicting noise impacts. At the discretion of the Planning Board, an application shall include certification by an independent acoustical engineer as to the predicted A- and C-weighted sound levels at potentially impacted residential property lines. The firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the independent acoustical engineer shall be a member, Board-certified, of the Institute of Noise Control Engineering of the USA. The predicted noise levels shall then be reviewed by the Town's consulting engineer, or his/her agent, to establish the validity of the predicted impacts.

(6) Noise enforcement for WECSs.

(a) Enforcement shall be by measurement and not subject to the timing constraints. The Town, using the services of the Town Engineer, shall be responsible for and shall contract for any enforcement measurements. The Town's engineering contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a member, Board-certified, of the Institute of Noise Control Engineering of the USA. The following protocol may be modified, as certain situations may require, by the acoustical engineer as long as modifications are in general conformance with the procedure described below.

(b) Initially, a preliminary study shall be conducted for a period of 30 minutes. During the thirty-minute period, the equivalent level (LEQ) generated by the noise source shall be measured. The measurement location shall be on complainant's property line, nearest the noise source. Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the noise source shall operate continuously (if normal operation) during the thirty-minute measurement.

(c) If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The subject to the complaint shall fully cooperate with Town officials and their agents to ensure accurate measurements, including turning on and off as required.

(d) For both types of surveys, the microphone shall be situated between four feet and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005 and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10dB below the lowest level measured.

(e) A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.

(f) A wind screen shall be used as recommended by the sound-level meter manufacturer.

(g) An anemometer shall be used and shall have a range of at least five to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ± two miles per hour (± 0.9 meter per second).

(h) For the detailed, long-term study, a compass shall be used to measure wind direction to at least an eight-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements, shall be one dB for a Type 1 meter and two dB for a Type 2 meter. For one-third-octave-band measurements, the meter shall meet the Type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be five dB in each and every one-third-octave band.

(i) For all measurements, the surface wind speed, measured at a height of 1.5 meters, shall be less than five m/s.

(j) The report shall include a sketch of the site showing distances to the structure(s), the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one-third-octave-band noise floors, if utilized, for each sound-level meter used.

(7) Noise complaint resolution process.

(a) All complaints shall be directed to the Town Zoning Enforcement Officer, who will respond to the complainant within five business days after receipt of such complaint. The Zoning Enforcement Officer shall keep a log of any such complaints received.

(b) Any complaints which cannot be resolved during the initial response shall be subsequently directed to the Town Engineer for investigation, and any such investigation shall be undertaken with the full cooperation of the person/applicant/operator.

(c) If the complaint includes the character or quality of noise, then any subsequent investigation shall use best practices to evaluate the overall level, tonal, and/or temporal nature of the noise prompting the complaint. The noise source will be shut down as may be needed to properly assess noise impacts.

(d) Testing shall commence within 10 business days of the report of the initial investigation, but ultimately testing will be predicated upon conditions that facilitate adequate measurement of the noise source. Testing shall compare actual noise measurements at complainant's property line with and without noise source to confirm operation complies with noise limits established in Table 9. If sound levels of the noise source exceed sound levels with noise source off by more than five dB, then the noise shall be deemed out of compliance with this regulation.

H. Setback waivers.

(1) In the event a commercial wind energy facility does not meet a setback requirement or exceeds noise or other criteria established in this section as it existed at the time of the wind energy facility special use permit is granted, a waiver may be granted from such requirement by the Planning Board under the same analysis applied to an area variance.

(2) Written consent from the affected property owners shall be obtained stating that they are aware of the wind energy facility and the noise and/or setback limitations imposed by this section, and that that consent is granted to allow:

(a) Noise levels to exceed the maximum limits otherwise allowed; or

(b) Setbacks less than required; and

(3) In order to advise all subsequent owners of the burdened property, the consent in the form required for an easement shall be recorded in the County Clerk's office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this subsection; or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.

(4) Waivers granted under this section differ from waiver requests under Subsection P of this section in that no Subsection P waiver is required if a waiver is given under this section, and an Subsection P waiver must be sought rather than a waiver under this subsection if the adjoining property owner will not grant an easement pursuant to this subsection.

I. Setback requirements for WECSs.

(1) The following minimum requirements shall apply to any tower, turbine, windmill, building housing mechanical components or electrical substation that is part of any commercial wind energy facility, unless a variance has been granted by the Zoning Board of Appeals. The following minimum standards do not apply to the transmission or collection system components of such WECS, except for electrical substations.

(2) Each WECS shall be set back from site boundaries, measured from the center of the applicable component part of the WECS, the following minimum distances:

(a) Two and five-tenths times the height of the tower to the highest point with the blade in the fully upright position or 1,500 feet, whichever is more.

(b) Two and five-tenths times the height of the tower from any residence on a participating property or 1,500 feet, whichever is more.

(c) Two and five-tenths times the height of the tower from any right-of-way of any Town, county or New York State highway,

village boundary, church or school or 1,500 feet, whichever is more.

(3) The Planning Board reserves the right, where circumstances dictate, to impose higher setbacks if necessary to achieve compliance with noise levels.

(4) The foregoing notwithstanding, setbacks shall be double the otherwise required setback from any wildlife management area as designated by New York State in or near the Town of Brownville, including, but not limited to, the Perch River Wildlife Management Area, the Ashland Flats Wildlife Management Area, the French Creek Wildlife Management Area, the Point Peninsula Wildlife Management Area and the Chaumont Barrens.

J. Issuance of Wind Energy Special Use Permits for WECSs.

(1) Upon completion of the review process, the Planning Board shall, upon consideration of the standards in this section and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.

(2) The decision of the Planning Board shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

(3) If any permit is approved, and the commercial wind energy facility is not substantially commenced within one year of issuance of the wind energy facility special use permit, the wind energy facility special use permit shall expire.

K. Abatement.

(1) If any WECS remains nonfunctional or inoperative for a continuous period of one year, the applicant agrees that, without any further action by the Planning Board, the applicant shall decommission and remove said system at its own expense. Removal of the system shall include, at a minimum, the removal of the entire aboveground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Planning Board that it has been making good-faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.

(2) Decommissioning bond or fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town of Brownville, in a form approved by the Town Attorney, for the removal of nonfunctional towers and appurtenant facilities, in an amount to be determined by the Town Board, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the

financial security shall be borne by the applicant. All decommissioning funding requirements shall be met prior to commencement of construction.

L. Limitations on Approvals; Easements on Town Property.

(1) Nothing in this section shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the commercial wind energy facility. Nothing in this section shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any commercial wind energy facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

(2) Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

M. Permit revocation.

(1) Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Planning Board. The applicant shall have 90 days after written notice from the Town Planning Board to cure any deficiency. The Planning Board may extend the ninety-day cure for good cause shown.

N. Wind measurement towers. As a wind site assessment is typically conducted to determine the wind speeds and the feasibility of using particular sites, installation of wind measurement towers, also known as "anemometer ("Met") towers," shall be permitted in accordance with this subsection.

(1) Applications for wind measurement towers. An application for wind measurement towers shall include:

(a) Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

(b) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:

[1] Confirming that the property owner is familiar with the proposed applications; and

[2] Authorizing the submission of the application.

(c) Address of each proposed tower location, including Tax Map section, block and lot number.

(d) Proposed development plan and map.

(e) Decommissioning plan, including a security bond for removal.

(2) Standards for wind measurement towers.

(a) The distance between a wind measurement tower and the property line shall be at least 1.5 times the total height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

(b) Wind energy facility special use permits for wind measurement towers may be issued for a period of up to 26 months. Permits may be renewed if the facility is in compliance with the conditions of the special use permit.

(c) Anchor points for any guy wires for a wind measurement tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three feet to eight feet above the ground.

(d) The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind farm projects shall be adhered to both inside and outside of agricultural districts.

O. Small wind energy conversion systems. The purpose of this subsection is to provide standards for small wind energy conversion systems designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of this subsection is to encourage the development of small wind energy conversion systems and to protect the public health, safety, and community welfare.

(1) Application requirements for small WECS. Applications for small wind energy conversion systems shall include:

(a) Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

(b) Name, address, telephone number of the property owner. If the property owner is not the applicant, the applicant shall include a letter or other written permission signed by the property owner:

[1] Confirming that the property owner is familiar with the proposed applications; and

[2] Authorizing the submission of the application.

(c) Address of each proposed tower location, including Tax Map section, block and lot number.

(d) Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

(e) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Building Code of the State of New York.

(f) Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.

(g) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.

(h) A visual analysis of the small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

(2) Development standards for small WECS. All small wind energy conversion systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this section that are not in conflict with the requirements contained in this subsection.

(a) A system shall be located on a lot a minimum of one acre in size; however, this requirement can be met by multiple owners submitting a joint application.

(b) Small wind energy conversion systems shall be used primarily to reduce the on-site consumption of electricity.

(c) Tower heights may be allowed as follows:

[1] Maximum of 200 feet.

[2] The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

(d) The maximum turbine power output is limited to 100 KW.

(e) The system's tower and blades shall be painted a nonreflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate nonreflective surfaces to minimize any visual disruption.

(f) The system shall be designed and located in such a manner as to minimize adverse visual impacts from public viewing areas.

(g) Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

(h) All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, tower and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

(i) The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

(j) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

(k) Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

[1] Tower-climbing apparatus located no closer than 12 feet to the ground.

[2] A locked anti-climb device installed on the tower.

[3] A locked, protective fence at least six feet in height that encloses the tower.

[4] A locked entrance to the interior of the tower in which a climbing device is located.

(l) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three feet to eight feet above the ground.

(m) Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be regraded and revegetated to the pre-existing natural condition after completion of installation.

(n) To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a radius of 250 feet. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

(o) All small wind energy conversion system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.

(p) All small wind energy conversion systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

(3) Standards for small WECS. Small wind energy conversion systems shall comply with the following standards:

(a) Setback requirements. A small WECS shall not be located closer to a property line than 1 1/2 times the total height of the WECS.

(b) Noise. Except during short-term events, including utility outages and severe wind storms, a small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient noise levels (exclusive of the development proposed) by more than five dBA at the nearest property line to any proposed small WECS. Sites can include more than one piece of property and the requirement shall apply to the combined properties. In the event the ambient sound pressure level exceeds 50 dBA, independent certification shall be provided before and after construction demonstrating compliance with this requirement.

(4) Abandonment of use of small WECS.

(a) A small WECS which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this subsection or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the special use permit by the Town Planning Board.

(b) All small WECS shall be maintained in good condition and in accordance with all requirements of this section.

P. Waivers.

(1) The Town Planning Board may, after a public hearing (which may be combined with other public hearings on wind energy facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this section if, in the opinion of the Town Planning Board, the grant of said waiver is in the best interests of the Town of Brownville. The Planning Board may consider as reasonable factors in evaluating the request, which may include, when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties, the benefit to the applicant, feasible alternative, and the scope of the request.

(2) The Planning Board may attach such conditions as it deems appropriate to waiver approval as it deems necessary to minimize the impact of the waiver.

Q. Miscellaneous regulations for wind energy facilities.

(1) Application fees shall be nonrefundable and will be established from time to time by the Town Board by resolution for:

(a) Commercial wind energy facilities.

(b) Wind measurement towers.

(c) Small wind energy conversion systems.

(d) Wind measurement tower renewals.

(2) Wind energy facility special use permits. The Town believes the review of permits requires specific expertise for those facilities. Accordingly, the Board may require the developer to post a fund to cover administrative costs, plus the amount charged to the Town by the outside consultant and/or attorney hired by the Town of Brownville to review the plans and inspect work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.

(3) Nothing in this section shall be read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

(4) Inspections.

(a) Wind energy facilities shall not begin operation until all approvals required under this section are obtained and all required certifications are provided.

(b) Following the issuance of any approval required under this section, the Zoning Enforcement Officer shall have the right to enter onto the site upon which a wind energy facility has been placed, at reasonable times, in order to inspect such facility and its compliance with this section.

(c) After undertaking such inspection, the Zoning Enforcement Officer shall provide notice of any noncompliance with the terms of this section or the conditions of approval of any permit issued hereunder, and shall provide the owner or applicant with a reasonable time frame to cure such violation, such time frame to be determined based upon the seriousness of the violation, its impact upon public safety, and the impact of the violation upon residents of the Town.

(5) Construction-related damage from WECSs. The owner of every wind energy facility constructed pursuant to this section shall, to the extent practicable, repair or replace all real or personal property, public or private, damaged during the construction of such facility.

(6) Enforcement; penalties and remedies for violations for WEFs.

(a) The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce and implement this section.

(b) Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy facility in violation of this section or in noncompliance with the terms and conditions of any permit issued pursuant to this section, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $350 or to imprisonment for a period of not more than six months, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of $350 for each violation, and each week said violation continues shall be deemed a separate violation.

(c) In case of any violation or threatened violation of any of the provisions of this section, including the terms and conditions imposed by any permit issued pursuant to this section, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

(7) Certification. Prior to operation of any approved and constructed wind energy facility, the applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval (where applicable).

§ 165-34.7. Large solar photovoltaic energy systems. [Added 8-1-2018 by L.L. No. 1-2018]

A. The provisions of this section shall override any requirements otherwise applicable to special use in §§ 165-15, 165-16, and 165-17.

B. Large solar photovoltaic energy systems may be allowed as a second principal use on a lot, or on a lot as the only principal use, The prohibition against two principal uses on a lot shall not apply to the systems.

C. It is recognized that such projects may encompass more than one property. In the event that any project encompasses more than one property, then setback requirements shall not be required from property lines of a property participating in the project.

D. Such systems shall be set back a minimum distance of 100 feet from any roadway or 50 feet from any side or rear line. If the solar panels face the roadway or side or rear lines, the setback distance shall be doubled.

E. The maximum height shall be 20 feet when tilted. to full extension.

F. Proximity to radio, television and telephone systems. These solar systems shall not be installed in any location where the solar system operation or similar solar systems operations have been demonstrated to interfere with existing fixed broadcast, retransmission, or reception antennae for radio, television or wireless phone, unless such interference can be mitigated.

G. View sheds and screening. Ground-mounted systems shall be installed in a location and position that would minimize visibility from neighboring properties. A screening plan, to be reviewed and accepted by the appropriate board, shall be required as part of the site plan review or special use permit review. For purposes of this section, consideration shall be given to any relevant portions of the current, amended and/or future officially recognized Town Code. In addition, adequate measures shall be taken to screen through landscaping, grading or other means to reasonably mitigate the view of the solar panels and other equipment of the solar systems from roadways and neighboring residential properties.

H. FAA requirements. If the proposed site is near an airport, seaplane base, or established flight zone, such solar system must meet all Federal Aviation Administration requirements.

I. Security fence. The Planning Board may consider whether and where security fencing is required.

J. Emergency shutdown/safety. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any portion of the solar system need immediate repair or attention. This telephone number should be clearly visible on signs located on the security fence, if any, placed periodically around the perimeter.

K. Lightning protection. All solar systems shall have adequate lightning protection via internal lightning arrestors, surge protectors or adequate grounding.

L. Utility notification and approval. No solar system shall be constructed until evidence has been given to the Town Board .that the utility company that operates the electrical grid where the installation is to be located has been informed of the construction of the solar system and has agreed to an interconnection.

M. Lighting. No solar system under this provision shall be continually artificially lighted. Lighting shall be limited to lights as needed by solar array personnel while present at the site. Lighting to be arranged and angled to not spill onto adjacent properties.

N. Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of

constructing any roadways necessary to access the solar energy systems, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency.

O. Collection and transmission lines shall be buried. The same·may be allowed overhead but only under exceptional circumstances with special exception from the Planning Board.

P. Prior to issuing approval, the applicant shall also .submit proof to the Planning Board that it has been in touch with local fire departments, shared information with respect to operation and maintenance of the facility's safety features and other information important for fire protection,

Q. Notice of decommissioning.

(1) The applicant shall also submit to the Town Board (with a copy to the Planning Board) a letter of intent committing the owner, and its successors-in-interest, to notify the Code Officer within 30 days of the discontinuance of the use of the solar system. This letter of intent shall be filed with the Office of Planning and Development prior to the issuance of a building permit.

(2) Should the solar system be nonoperational for a continuous period of six months or greater, the owner shall submit a letter to the Office of Planning and Development indicating when it is expected to resume operations or whether .the decommissioning of the site, in accordance with the decommissioning and removal plan, shall commence. If the owner plans to continue operations, it shall have up to six months more to begin operations. A further six-month extension may be granted by the Planning Board for good cause shown. If operations do not commence within said six months or any extended period, decommissioning of the site, in accordance with the decommissioning and removal plan, shall immediately commence.

R. Decommissioning and removal plan.

(1) The applicant shall submit a decommissioning and removal plan (DRP) to the Planning Board. The decommissioning and removal plan shall include specific plans on how the owner plans to remove the obsolete or unused solar panel arrays and accessory structures and return the property to a state acceptable to the Planning Board within a specific time period after the cessation of operations. This plan shall be approve by the Planning Board and prior to the granting of the special use permit.

(2) Failure to conform to the decommissioning and removal plan in the time period provided shall be a violation of this section and the cost to complete the plan shall be placed as a lien on the property owner's tax bill.

S. Reclamation bond. A reclamation bond, for a term and in an amount to be determined during special use permit review, shall be filed with the Town Clerk to cover the costs of reclamation of the site. The amount shall be commensurate with the decommissioning and removal plan submitted by the applicant.

ARTICLE VI
Nonconforming Uses

§ 165-35. Nonconforming lots of record.

A. Special area requirements. Any nonconforming lot of record held under separate ownership prior to the enactment of this chapter may be developed and used for any permitted use or permitted site plan use listed for the particular district involved without requiring variance, provided that:

(1) In the Residential Shoreline (RS) District, a lot of record shall be subject to the special area requirements established therein.

(2) In any district, other than a Residential Shoreline (RS) District, a nonconforming lot of record shall be subject to the following special area requirements: **[Amended 7-8-1992 by L.L. No. 5-1992]**

(a) A lot width of at least 80% of the amount required for a conforming lot.

(b) A lot depth of at least twice the minimum lot width allowed according to Subsection A(2)(a) above.

(c) A minimum front setback of 40 feet subject to the provisions of Article V, § 165-21E.

(d) Side and rear setbacks at least two-thirds (2/3) of the amount required for a conforming lot.

(3) Except as provided under Subsections A(1) and A(2) above, the lot complies fully with the applicable provisions of this chapter.

B. Transfer of land. A lot shall not be considered nonconforming if it can be made conforming by the transfer of land from an adjoining lot held by the same owner, provided that such adjoining lot would not be rendered nonconforming by such transfer.

C. For the purposes of this chapter, a land contract executed prior to the enactment of this chapter shall be deemed a lot of record.

§ 165-36. Nonconforming uses.

A. Preexisting status. Any legally established use of land or the buildings or structures thereon which preexisted the enactment of this chapter and have been made nonconforming thereby may be continued on the premises and to the extent it preexisted, subject to the restrictions of this section.

B. Restrictions. A nonconforming use shall be subject to the following restrictions:

(1) It shall not be expanded, extended or otherwise increased so as to occupy a greater area of land than occupied as of the enactment of this chapter or a greater portion of any building or structure than was manifestly designed and intended for such use prior to such enactment.

(2) It shall not be extended to replace a conforming use.

(3) If discontinued for any reason for a period of more than one year, it shall not be reestablished, and, thereafter, only conforming uses of such land, building and/or structures shall be allowed.

(4) If replaced by a conforming use, its preexisting, nonconforming status shall be nullified.

C. Effect on activities conducted. Notwithstanding the physical restrictions imposed under Subsection B above, nothing in this chapter shall prevent, limit or otherwise effect the economic, social or other activities legally conducted by or characterizing a nonconforming use.

§ 165-37. Nonconforming structures.

A. Preexisting status. Any legally established structure which preexisted the enactment of this chapter and has thereby been rendered nonconforming with respect to the setback, height or lot coverage restrictions of the particular district involved, or with respect to supplementary regulations under Article VI, may be used or occupied by permitted uses or permitted site plan uses, subject to the restrictions under Subsection B of this section.

B. Restrictions.

(1) A nonconforming structure shall not be expanded, extended or otherwise enlarged so as to increase the extent of its nonconformity.

(2) If a nonconforming structure is relocated on the same lot or to another lot, such structure shall then be subject to all area requirements or special area requirements applying to such lot and all supplementary regulations, with the exception of the limitation on maximum height.

C. Repair, restoration or reconstruction. Nothing under this chapter shall prevent the restoration, reconstruction or replacement in kind of a nonconforming structure destroyed by fire, flood or other natural hazard, provided that such restoration, reconstruction or replacement is undertaken within one year from the date of its destruction.

ARTICLE VII
Administration and Site Plan Approval

§ 165-38. Authorizations.

A. Zoning Officer. The Town Board shall appoint a Zoning Officer for the purpose of administering and enforcing this chapter. The Zoning Officer is hereby given the following administrative powers and duties, among others:

(1) To provide information and assistance to applicants and other interested parties regarding the regulations, requirements, standards and procedures of this chapter.

(2) To issue, deny or hold zoning permits according to the procedures and requirements set forth under § 165-39 of this Article.

(3) To assist the Planning Board and the Town Board regarding the initial review of applications for special use permit provided and/or site plan approvals as provide under this Article.

(4) To provide monthly reports to the Planning Board concerning the issuance of zoning permits and certificates of compliance.

(5) To assist in any enforcement actions or proceedings as set forth under Article VIII of this chapter.

B. Planning Board. In addition to the general powers and duties provided under Town Law, the Planning Board shall hereby be specifically authorized as follows:

(1) For the purpose of carrying out the site plan approval provisions of this Article:

(a) To review and approve, approve with modifications or conditions or disapprove preliminary and/or final site plans according to the procedures and review considerations set forth, respectively, under Subsections A and C of § 165-40 this Article.

(b) To determine, as part of such review, whether a site plan has been prepared according to the specifications set forth under Subsection B in § 165-40 of this Article.

(c) To waive any such specification upon finding that it is unnecessary or inappropriate for the review.

(d) To act as liaison with other agencies involved with the proposed use or development activity.

(e) To serve as lead agency for the environmental review of actions involving permitted site plan uses, except when a nontown agency has been so designated pursuant to SEQR.

(2) For the purpose of carrying out the special use permit approval provisions of this Article:

(a) To review all applications for special use permit approval and, with the exception of those subject to Town Board approval, to approve, approve with modifications or conditions or deny such applications according to the procedures and standards set forth under § 165-41 of this Article.

(b) To act as liaison with any other agencies that are involved with the proposed use or development activity.

(c) To serve as lead agency for environmental review of actions involving special uses, except when a nontown agency has been so designated pursuant to SEQR.

(d) To prepare written recommendations to the Town Board for each special use permit requiring Town Board approval.

(e) To attach safeguards and conditions to its approval of any special use to assure that the applicable standards will be upheld, that the character of the surrounding area will be preserved and that the intent of the district and the purpose of this chapter will be achieved.

§ 165-39. Permit for a permitted use.

A. Procedures.

(1) Application requirements.

(a) Application form. Each application for a zoning permit for a permitted use shall be made, in writing, on such forms as may be prescribed from time to time by the Town Board and made available from the Town Clerk's office.

(b) Plot plan. Three copies of a plot plan for the lot and the proposed buildings, structures and/or uses thereon shall be submitted with the application form. Such plot plan shall be prepared according to the specifications under Subsection B of this section.

(c) Other supporting materials. One copy of any drawings, specifications, photographs or other supporting materials necessary for determining compliance shall accompany the application form.

(d) Fee. A zoning permit application fee shall be submitted with the application in the amount specified from time to time by resolution of the Town Board.

(2) Filing. The complete zoning permit application shall be filed in the Town Clerk's office.

(3) Compliance review. After receiving a complete zoning permit application, the Zoning Officer shall commence a thorough review to determine if the lot and the buildings, structures and/or uses proposed thereon comply with the applicable regulations of this chapter. Such review shall be completed in the shortest time period necessary, generally not exceeding five working days.

(4) Administrative action. Upon completing the compliance review, the Zoning Officer shall take one of the following administrative actions:

(a) Issue the zoning permit when full compliance has been determined;

(b) Issue a denial of zoning permit when noncompliance has been determined for any reason other than a pending action, as provided under Subsection A(4)(c) below; or

(c) Issue notice that the zoning permit must be held pending when full compliance has been determined with the exception of required approval by the Town Board and/or the Planning Board.

B. Specifications for preparing plot plans. A plot plan shall be prepared to a suitable scale and shall accurately and legibly show the following information:

(1) A title block labeling the drawing as a plot plan and indicating:

(a) The name of the property owner(s), applicant(s) (if other than the owner) and plan preparer. (If the construction, reconstruction, installation, placement, addition, extension or other exterior alteration of a structure would have a cost value of at least $25,000 or would increase the square footage of an existing structure by more than 25%, then the plot plan shall contain the seal and signature of a professional engineer, licensed land surveyor, registered architect or registered landscape architect licensed according to the New York State Education Law.)

(b) Dates of plan preparation and revisions thereto.

(c) The scale of the plan.

(2) North arrow.

(3) Location and dimensions of all property lines bounding the subject property and the area encompassed thereby.

(4) Location, name and right-of-way width of any public road adjoining or private road serving the property.

(5) Location and identification of any shoreline, stream or wetland on or adjacent to the property.

(6) Location, width and purpose of any easement and notes regarding any deed restriction or reservation which may affect the location of buildings, structures or uses.

(7) Location, dimensions, height and use of all existing and proposed buildings and structures on the property and their setback distances from the property lines.

(8) If applicable, the location, dimensions, setbacks and design details for the installation or replacement of a septic system, in compliance with the Town of Brownville Sanitary Code Law[25] (shown on the same or a separate plan).

C. Expiration. A zoning permit shall expire within one year, unless the building activity or use involved has commenced.

§ 165-40. Permit for a permitted site plan use; fee.

A. Procedures.

(1) Sketch plan conference. An applicant may request a sketch plan conference with the Planning Board prior to preparing an application of site plan approval. Prior to such conference, the applicant shall cause to be prepared a sketch plan showing the proposed layout and arrangement of the permitted site plan use according to the specifications under Subsection B of this section. The applicant shall contact the Chairman of the Planning Board to arrange the conference at the next regular meeting of the Planning Board or as may otherwise be mutually convenient. The applicant shall bring at least three copies of the sketch plan to facilitate review and discussion. The Planning Board shall not hold the conference unless the applicant or a representative thereof is in attendance. During the conference, the Planning Board shall:

(a) Discuss general compliance with the regulations and requirements of this chapter to avoid the Planning Board having to delay or dismiss the application after the Zoning Officer's formal compliance review.

(b) Conduct an initial review of the sketch plan to determine whether a short or full environmental assessment form (EAF) will be required.

(c) Discuss the specifications for preparing site plans as set forth under Subsection B of this section and identify any such specifications which it will consider waiving during the detailed site plan review.

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25. Editor's Note: See Ch. 124, Sewers, Part 2.

(d) Identify other agencies to which the application for site plan approval would be referred pursuant to SEQR, the General Municipal Law or otherwise.

(e) Discuss the site plan review considerations as set forth under Subsection C of this section in relation to any problems or issues which may be of particular concern to the Planning Board during site plan review.

(2) Application requirements. Each application for a site plan approval shall constitute an application for a zoning permit.

(a) Application forms. The application for site plan approval shall be made in writing on such form as prescribed from time to time by the Planning Board and made available from the Town Clerk's office.

(b) Environmental assessment form (EAF). Three copies of a completed short or full environmental assessment form shall be submitted with the application form, if required pursuant to SEQR.

(c) Preliminary site plan. Three copies of a preliminary site plan shall be submitted with the application form. Such preliminary site plan shall have been prepared according to all of the specifications set forth under Subsection B of this section, with the following exceptions:

[1] Any specifications that the Planning Board has indicated, pursuant to a sketch plan conference, it would consider waiving.

[2] Final grading and drainage plan, detailed construction specifications, detailed planting schedule and final engineering plans.

(d) Supporting materials. Three copies of any drawings, written descriptions or specifications, photographs or other supporting materials necessary for the detailed review of the preliminary site plan shall be submitted with the application.

(e) Referral copies. One additional copy of the application, environmental assessment form, preliminary site plan and supporting materials shall be submitted for each referral required by law or as otherwise specified by the Planning Board.

(f) Fee. A preliminary site plan approval application fee shall be submitted with the application in the amount specified from time to time by resolution of the Town Board.

(3) Filing. The application for preliminary site plan approval shall be filed in the Town Clerk's office.

(4) Compliance review. When an application for site plan approval has been filed, the Zoning Officer shall commence a thorough review of the application as provided under § 165-39C. Such review shall be completed in the shortest time period necessary, generally not exceeding five working days.

(5) Administrative action. Upon completing the compliance review, the Zoning Officer shall take one of the following administrative actions:

(a) Issue notice that the zoning permit must be held pending when full compliance has been determined with the exception for site plan approval by the Planning Board; or

(b) Issue a denial of zoning permit when noncompliance has been determined for any reason other than the required site plan approval; and

(c) Provide a copy of such notice or denial to the Planning Board.

(6) Initial review.

(a) When an application for preliminary site plan approval has been submitted without a prior sketch plan conference, the Planning Board shall conduct an initial review of the site plan pursuant to SEQR to determine whether an environmental assessment form is required and, if so, whether an acceptable environmental assessment form has been submitted.

(b) The Planning Board shall review the copy of the held-pending notice or denial of zoning permit provided by the Zoning Officer. Where a denial of zoning permit was issued, the Planning Board may postpone review if the applicant is willing to modify the preliminary site plan to comply with the zoning law, except pending site plan approval.

(c) The Planning Board shall review the preliminary site plan to determine whether it satisfies the application requirements.

(7) Official submission date. When the Planning Board's initial review has determined that the application satisfies the requirements applicable thereto and, with the exception of site plan approval, is in full compliance with this chapter, it shall accept the application. Such acceptance shall establish the application's official submission date. If the application fails to satisfy the application requirements or has been issued a denial of zoning permit, the Planning Board shall either:

(a) Postpone the matter of acceptance, if the applicant is willing to modify and resubmit the environmental assessment form and/or preliminary site plan in an acceptable manner; or

(b) Dismiss the application without prejudice.

(8) Referrals. As of establishing the official submission date, the Planning Board shall authorize the referral of one copy of the application to each of the following:

(a) The Jefferson County Planning Board, if required by § 239-m of the General Municipal Law.

(b) Other involved agencies, if required for lead-agency designation or opted by the Planning Board for coordinated review pursuant to SEQR.

(c) The St. Lawrence-Eastern Ontario Commission, if the application involves a project pursuant to Article 37 of the Executive Law.

(d) Any consulting engineer, architect or attorney of the town, when deemed necessary and appropriate for review of the site plan.

(9) Detailed review.

(a) Environmental review. When an environmental assessment form is required as part of the application, the Planning Board shall follow the environmental review procedures of SEQR. If the Planning Board or another involved agency designated as the lead agency determines that a draft environmental impact statement (DEIS) will be required, the Planning Board shall request that the applicant waive the time limit for the Planning Board to either render its decision or hold a public hearing. Such waiver shall provide adequate time for the full satisfaction of the further environmental review provisions of SEQR. If the Planning Board or another involved agency designated as the lead agency determines that the action would not involve any significant environmental impacts, or if the action is not subject to environmental review, the Planning Board shall proceed within the normal time limits.

(b) Site plan review. Concurrently with the environmental review, the Planning Board shall review the site plan according to the review considerations set forth under Subsection C of this section. The Planning Board, pursuant to the site plan review, shall:

[1] Formally waive any specifications it has deemed unnecessary or inappropriate for the review.

[2] Advise the applicant regarding any problems or issues determined during site plan review.

[3] Determine whether a public hearing shall be required and, if so, set the date, time and place thereof and provide for the publication of notice therefor.

[4] Determine whether additional information shall be required, including, but not limited to, soil or water test results, traffic studies and market feasibility analysis.

(10) Public hearing. When it has required a public hearing of the application, the Planning Board shall hold such hearing within 45 days of the official submission date, except upon a waiver of the time limit by the applicant. A public notice shall be published at least once in a newspaper of general circulation within the Town at least five days prior to the public hearing date. Said notice shall state the date, time and place of the public hearing and the nature of the site plan approval requested. If the public hearing is set to coincide with a draft-environmental-impact-statement public hearing pursuant to SEQR, the notice shall so state and shall be published at least 14 days prior to the hearing.

(11) Decision. The Planning Board shall render its decision to approve, approve with modifications or disapprove the application for preliminary site plan approval within 45 days of the official submission date or, if a public hearing was required, within 45 days from the close of such hearing. Such time limits may be waived by mutual consent of the applicant and the Planning Board. The Planning Board's decision and the reasons therefor shall be clearly stated, in writing. In no event, however, shall the application be approved until the following prerequisites have been satisfied:

(a) When the application has been referred to the Jefferson County Planning Board, its comments have been received or its thirty-day review has expired.

(b) When required pursuant to SEQR, the Planning Board has prepared the necessary findings and conclusions.

(c) When the decision would be approval with modifications or conditions, such modifications or conditions are clearly stated in writing and, if appropriate, indicated on a copy of the site plan.

(12) Grant of preliminary and final site plan approval. In cases where a preliminary site plan involves minor changes to an existing permitted site plan use or otherwise is in final form, the Planning Board may grant preliminary and final approval at the same time.

(13) Filing and notification. The decision of the Planning Board shall be filed in the Town Clerk's Office within 24 hours. Written notice of such decision shall be mailed to the applicant within five days of the decision.

(14) Final site plan approval.

(a) Preliminary site plan approval shall expire if the final site plan is not submitted within six months.

(b) At least five copies of the final site plan shall be submitted to the Planning Board. The Planning Board may refer a copy of such plan to any consulting engineer, architect or other professional retained by the Town for the purpose of reviewing final site plans. Within 45 days of receiving the final site plan, the Planning Board shall render its decision to approve, approve with modifications or conditions or disapprove such site plan. Notification and filing of such decision shall be as provided for the preliminary site plan.

(15) Approved final site plans. Three copies of the approved final site plan shall be signed by the Planning Board Chairman or, in the Chairman's absence, another authorized member of the Planning Board. Such plan shall not be signed until any modifications or conditions required as part for the approval have been incorporated on the original drawing of the site plan and are thus reflected in the copies made therefrom. The date of the approval and the date of the signature, if different from the date of approval, shall also be noted on the copies of the approved plan. One of the signed copies shall be filed with the application and decision thereon. One copy shall be provided to the Zoning Officer to remove the held-pending status from the zoning permit. The third copy shall be returned for the applicant's own records.

B. Specifications for preparing sketch plans. A sketch plan shall be prepared to the specifications for preparing plot plans (see § 165-39B) with the following exceptions:

(1) The title block shall label the plan as a sketch plan.

(2) A location inset map shall be provided to indicate the site location and surrounding roads at a scale of one inch equals 2,000 feet.

(3) The approximate location and type of existing wooded areas, exposed or outcropping bedrock and other natural features shall be shown, in addition to shorelines, streams and wetlands.

(4) The location, size and use of existing and proposed buildings and structures shall be indicated with approximate dimensions and setbacks.

(5) The general layout of existing and proposed parking areas, loading areas, driveways and points of access and egress shall be shown with approximate dimensions, anticipated type of material and number of parking spaces.

(6) The general drainage pattern for the lot shall be indicated by arrows. The approximate boundaries of flood hazard areas, if any, shall be shown. Probable areas of cut and fill shall be noted. The approximate location of existing dams, impoundments, retention or detention ponds and other major drainage improvements shall be indicated.

(7) The general location of any existing or proposed individual sewage treatment system, well or public utility facility serving the lot shall be indicated.

C. Specifications for preparing site plans. Each site plan shall be so labeled and prepared to a suitable scale to accurately and legibly show the information specified hereunder, in addition to the information required for a sketch plan according to Subsection A of this section. Whenever possible, the physical location, arrangement, size, type of construction, setbacks and use of structures shall be shown graphically on the site plan. Engineering and design details, construction specifications, grading and drainage plans, landscaping plans, planting schedules and written descriptions may be prepared as separate attachments. Attached plans shall have the same scale as the site plan whenever practical. Detailed specifications include:

(1) The seal and signature of a land surveyor, professional engineer, architect or landscape architect licensed or registered in accordance with the New York State Education Law.

(2) The bearings and exact distances of the site's existing and proposed property lines, the location of adjacent properties and the ownership thereof, according to the latest tax records.

(3) The location, width and purpose of all existing and proposed easements across, reservations from or areas dedicated to public use within or adjoining the property.

(4) Notation on the site plan or an attachment thereto describing any existing or proposed deed restrictions or covenants applicable to the property.

(5) The location of existing hydrologic features and existing and proposed contours at a five-foot intervals, unless shown on a separate grading and drainage plan.

(6) The location, design and construction materials of all parking and loading areas and the access and egress drives therefor.

(7) Provisions for pedestrian access, including the locations, width and construction materials for private or public sidewalks.

(8) The location and description of outdoor storage, if any.

(9) The location, design and construction materials of all drains, culverts, retaining walls and fences.

(10) A description of the method of sewage disposal and the location, design and construction materials of proposed sewage disposal facilities to be installed.

(11) A description of the method of securing public water and the location, design and construction materials of proposed water supply facilities to be installed.

(12) The location of fire lanes and other emergency zones, including the location of fire hydrants.

(13) The location, design and construction materials of all energy distribution or fuel storage facilities, including electrical, gas, oil, coal and solar energy.

(14) The location, dimensions, area, height, design and construction materials of all proposed signs.

(15) The location and treatment of all buffer areas, including indication of existing and proposed vegetative cover.

(16) The location and design of outdoor lighting facilities.

(17) A designation of the amount of existing and proposed gross floor area intended for retail sales and services, office uses and other similar commercial or industrial activities.

(18) A description of the number and type of dwelling units involved with respect to multiple-family dwellings or any dwelling unit existing or proposed in conjunction with another permitted site plan use or special use.

(19) A general landscaping plan and planting schedule.

(20) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any federal, state or county permits or approvals required for the project's execution and the status of such permits or approvals.

D. Site plan review considerations. The Planning Board shall review each site plan in accordance with the review considerations provided hereunder, as appropriate.

(1) General considerations.

(a) Consistency with any federal, state or county permits required.

(b) Compatibility with existing deed restrictions, covenants, easements, reservations or other legal restrictions affecting the site.

(c) Appropriateness of measures to avoid or mitigate any potential environmental impacts identified.

(d) General consistency with the Town of Brownville Comprehensive Plan.

(e) Sensitivity to the age and mobility of the population for which the development or use is intended.

(2) Development suitability considerations.

(a) Extent of limitations imposed by existing natural conditions on the site, including, but not limited to, the following:

[1] Depth of bedrock;

[2] Steepness of slopes;

[3] Soil stability;

[4] Load-bearing capacity;

[5] Soil erodibility and percolation rate;

[6] Depth to the water table;

[7] Quantity and quality of available groundwater;

[8] Surface ponding;

[9] Drainage patterns;

[10] Streams and other water bodies;

[11] Flood hazards;

[12] Maturity of wooded areas;

[13] Existence of rare or endangered species; and

[14] Proximity to sensitive fish or wildlife habitats.

(b) Extent of limitations imposed by existing development conditions, including, but not limited to, the following:

[1] Capacity of public roads or highways serving the site and their present traffic volumes;

[2] Existing speed limits and traffic control devices;

[3] Proximity to an existing intersection or deceleration lane;

[4] Location of existing buildings, structures, driveways, parking and loading facilities, sidewalks, public utilities, drainage improvements, public sewers, water mains, individual sewage disposal systems, wells and other improvements on or within close proximity to the site; and

[5] Character of existing land uses in the surrounding area.

(3) Considerations for vehicular and pedestrian safety.

(a) Adequacy, suitability and safety of proposed vehicular access and circulation, including, but not limited to, width, grade, alignment, visibility and facility of use for proposed curb cuts, access and egress drives, parking aisles, emergency access lanes and other internal roadways in relation to existing development conditions.

(b) Adequacy and suitability of proposed parking and loading facilities, including, but not limited to, number, size and orientation of required spaces and their ease of use; parking for handicapped persons; use of loading facilities without hindrance to vehicular circulation; and provisions for snow storage and/or removal.

(c) Adequacy and suitability of provisions for pedestrian safety, including, but not limited to, public and private sidewalks, measures to ensure pedestrian visibility and on-site warning or speed limit signs.

(4) Considerations for buildings and structures.

(a) Appropriateness of the arrangement of proposed buildings and structures in terms of height, bulk, setback or spacing, lot coverage or density and function, according to types of uses and the areas occupied thereby.

(b) Compatibility of proposed buildings and structures with existing natural and development conditions in terms of architectural features, historical significance and visual impact.

(5) Grading and drainage considerations.

(a) Adequacy and appropriateness of the proposed grading plan in terms of extent of cut and fill, overall drainage pattern, measures for erosion and sedimentation control and techniques for preserving existing trees to be retained as part of site landscaping.

(b) Adequacy and appropriateness of proposed drainage improvements for retention, detention and/or conveyance of stormwater runoff, including, but not limited to, impoundments, weirs, ditches, channels, culverts, storm sewers and catch basins.

(c) Adequacy and suitability of measures for prevention of damages from flooding and/or erosion.

(6) Landscaping, screening and lighting considerations.

(a) Adequacy and suitability of overall landscaping plan and planting schedule in terms of aesthetic treatment of the site, provision of vegetative buffers for screening of parking,

loading and outside storage or display areas from adjacent residential properties and characteristics of the existing and proposed plant species involved.

(b) Suitability of any fences or walls proposed for screening or security in terms of height, stability, durability, appearance and safety.

(c) Adequacy and appropriateness of proposed exterior lighting for security, vehicular and pedestrian safety, and site exposure, without objectionable, hazardous or unnecessary glare, flashing, pulsation or other movements.

(7) Sewage, water supply and solid waste considerations.

(a) Adequacy of the sewage disposal system in terms of compliance with the Town of Brownville Sanitary Code Law [26] and applicable regulations of the New York State Departments of Health and Environmental Conservation.

(b) Adequacy and suitability of the potable water supply in relation to the type of uses involved and the anticipated quantity of water to be used.

(c) Adequacy and appropriateness of provisions for the temporary storage and proper disposal of solid wastes generated by the uses involved.

(8) Considerations for other improvements.

(a) Appropriateness of proposed signage in terms of the sign regulations under Article V of this chapter.

(b) Adequacy of recreation areas, if required, and the suitability of facilities to be provided therein.

(c) Suitability of proposed energy supply and manner of connection to existing energy distribution facilities.

(9) Timing, financing and economic impact considerations.

(a) Adequacy for overall financing strategy in terms of market feasibility, timetable, phasing and financial resources committed or anticipated.

(b) Appropriateness of development in terms of the fiscal and general economic impact on the town.

§ 165-41. Special use permit approval.

26. Editor's Note: See Ch. 124, Sewers, Part 2.

A. Procedures. The procedures for special use permit approval shall consist of the site plan approval procedures as set forth under § 165-40 of this Article, with the following additions:

(1) Sketch plan conference. During the sketch plan conference, the Planning Board shall discuss the nature of the special use and the standards applicable thereto.

(2) Application requirements. The application for the special use permit approval shall be included on the same form with the application for preliminary site plan approval. A written statement clearly describing the proposed special use shall be a required supporting material. A separate special use permit application fee shall be submitted with the application in the amount specified from time to time by resolution of the Town Board.

(3) Filing, compliance review, administrative action, initial review and official submission date. These procedures shall be the same as provided under Subsection A(3) through (7), respectively, under § 165-40.

(4) Referrals. The referrals shall be the same as provided under § 165-40A(8), except that, when Town Board approval is required for the special use permit, the referrals shall include one copy for the Town Board as notice of a pending application.

(5) Detailed review. The detailed review shall be the same as for site plan approval, except as follows:

(a) The Planning Board shall also review the proposed special use for compliance with the general and specific standards applicable to such use.

(b) When the special use requires Town Board approval, the Planning Board shall complete its review and provide written recommendations to the Town Board within 45 days of the official submission date or, if a draft environmental impact statement has been required, within 45 days of its date of acceptance.

(c) When the special use permit is subject to Planning Board approval, the Planning Board shall complete its review within the same time limits as provided for preliminary site plan approval.

(6) Public hearing. A single public hearing on the application for special use permit approval and preliminary site plan approval shall be required before the Planning Board or, when Town Board approval of the special use permit is required, before a joint meeting of the Town Board and Planning Board. The Board with the special use permit approval authority shall fix the date, time and place of such hearing. For special use permit approval by the

Planning Board, the hearing shall be held within 45 days of the official submission date. For special use permit approval by the Town Board, the hearing shall be held within 90 days of the official submission date. Such hearing shall be advertised as provided for a hearing on a preliminary site plan.

(7) Decision. Within 45 days from the close of the public hearing, the Board having the authority to approve the special use permit shall render its decision. Such decision shall be subject to the same prerequisites as those for site plan approval, except for the approval with modifications. In addition, a decision to approve shall require a written statement of findings that all standards applicable to the special use have been met. The reasons for any conditions or safeguards to be attached to such approval shall be included in such findings. The Planning Board shall render its decision on the preliminary site plan within 45 days of the Town Board's or its own decision on a special use permit. Such decision shall take into account the manner in which the approved special use permit and any conditions or safeguards attached thereto have been reflected in the site plan.

(8) Grant of preliminary and final site plan approval, notification and filing, final site plan approval and approved final site plans shall be as provided under § 165-40.

B. General standards for all special uses.

(1) A special use shall not hinder the orderly, economic and harmonious development of the surrounding district nor impair the value of property therein by reason of its traffic generation, access location, internal circulation, location and size of structures or outdoor uses, intensity or scale of activities in relation to the size of the site, safety for pedestrians, drainage, solid or sanitary waste disposal, water supply needs, effect on water or air quality, demand for public services, effect on historic or archaeological features or aesthetic treatment.

(2) A special use shall be compatible with the character of the surrounding district and shall not have significant deleterious effects on the natural, social or economic resources of such district by reason of noise, odors, fumes, smoke, dust, hazardous or volatile substances, vibrations, glare, traffic congestion, unsightliness, litter, alteration of drainage patterns or stream flows, excessive stripping of vegetation, blasting, radio or television reception interference, or other activities detrimental to neighborhood character or protection of natural resources.

(3) A special use shall be subject to compliance with applicable federal, state and local regulations, including all permits and/or approvals required thereby. Evidence of such compliance may be required

either prior to the special use permit approval or as a condition thereof, depending upon the particular special use.

C. Standards for particular special uses.

(1) Adult entertainment establishments.

(a) Location.. Adult entertainment establishments are permitted as special uses in Hamlet (H) Districts only. No such use shall be located within 500 feet of any existing residential dwelling on adjacent property or within 1,000 feet of any institutional use, community facility, property on which a substantial number of minors regularly travel or congregate or other adult entertainment establishment.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Twenty feet from the road right-of-way.

[2] Fifty feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Twenty-five feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. All doors, windows and other building entries or openings shall be located, covered or screened to prevent a view from the exterior of an establishment into its interior.

(2) Agribusinesses.

(a) Location. Agribusinesses are permitted as special uses in Agricultural and Residential-1 (AR-1), Agricultural and Residential-2 (AR-2), Agricultural and Residential-3 (AR-3), Residential Neighborhoods (RN) and Hamlet (H) Districts.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. The outside accessory storage of fertilizers, insecticides, herbicides, propane or other fuel and any other chemical products for agricultural uses shall be allowed only where environmental safeguards and aesthetic considerations are deemed suitable.

(3) Agricultural processing plants.

(a) Location. Agricultural processing plants are permitted as special uses in Agricultural and Residential-3 (AR-3) Districts only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] One hundred fifty feet from road rights-of-way (75 feet if opposite from a site plan or special use).

[2] Four hundred feet from side lot lines (200 feet if adjacent to a site plan or special use).

[3] Two hundred feet from rear lot lines (100 feet if adjacent to a site plan or special use).

(c) Other conditions. Processing operations and disposal of waste products therefrom shall be conducted in a sanitary and environmentally safe manner.

(4) Airstrips.

(a) Location. Airstrips are permitted as special uses in Agricultural and Residential-1 (AR-1), Agricultural and Residential-2 (AR-2) and Agricultural and Residential-3 (AR-3) Districts. No such use shall be located within a documented flight path, feeding area or resting area of migratory waterfowl.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Two hundred feet from road rights-of-way.

[2] Five hundred feet from side lot lines.

[3] Two hundred fifty feet from rear lot lines.

(c) Other conditions. The area for the airstrip shall have adequate size, appropriate configuration and proper visibility to be used for in accordance with all Federal Aviation Administration (FAA) standards applicable thereto.

(5) Animal care facilities.

(a) Location. Animal care facilities are permitted as special uses in Agricultural and Residential-1 (AR-1), Agricultural and Residential-2 (AR-2), Agricultural and Residential-3 (AR-3) and Hamlet (H) Districts. No animal care facility shall be located with outdoor kennels or dog runs within 500 feet of any external property line or road right-of-way.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. All animal and medical wastes shall be disposed of in a sanitary and environmentally safe manner.

(6) Boat storage facilities.

(a) Location. Boat storage facilities are permitted as special uses in Agricultural and Residential-1 (AR-1), Agricultural and Residential-2 (AR-2), Agricultural and Residential-3 (AR-3), Residential Shoreline (RS) and Residential Shoreline-2 (RS-2) Districts. No boat storage facility shall be located within 1,000 feet of another such facility. **[Amended 3-5-1997 by L.L. No. 2-1997]**

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(7) Building products supply facilities.

(a) Location. Building products supply facilities are permitted as special uses in the Agricultural and Residential-3 (AR-3) District only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Fifty feet from road rights-of-way (25 feet if opposite from a site plan or special use).

[2] Two hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] One hundred feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(8) Campgrounds.

(a) Location. Campgrounds are permitted as special uses in Agricultural and Residential-2 (AR-2), Agricultural and Residential-3 (AR-3) and Residential Neighborhoods (RN) Districts.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] One hundred fifty feet from road rights-of-way (75 feet if opposite from a site plan or special use).

[2] Four hundred feet from side lot lines (200 feet if adjacent to a site plan or special use).

[3] Two hundred feet from rear lot lines (100 feet if adjacent to a site plan or special use).

(c) Access and circulation. Each campground shall have adequate access to a paved, dedicated public highway. All entrance roads shall be suitably improved with gravel or crushed stone and at least 24 feet wide. Each campsite, other than those specifically intended for remote or walk-in tent camping, shall be serviced from interior roadways having a width of at least 15 feet, suitably improved and providing clear access to the campsite. Where the campground terrain allows, pull-through sites shall be provided. The campground owner shall be responsible for maintaining all internal roads, driveways and parking areas.

(d) Campsites. Each campsite shall have an area of at least 2,500 square feet. All campsites shall be generally level (not to exceed an eight-percent slope), well-drained, free from flood hazard and clear of dense brush. Each campsite shall be identified with a site number marker and provided with means of identifying the limits of the site.

(e) Services. Adequate sewer, water and other utilities shall be provided in accordance with applicable state and local regulations. All campgrounds shall provide rest rooms containing at least one toilet, lavatory and shower for each sex for each 10 campsites. At least one public telephone shall be provided in the campground. Refuse shall be disposed of in a sanitary and environmentally safe manner. There shall be no exposed garbage, junk or other wastes. One refuse container shall be provided for each two campsites.

(f) Recreation area. At least 15% of the total area of the campground, not including required setbacks, shall be dedicated as a recreation area, suitably improved and fully maintained as such by the campground owner.

(g) Records. The owner or manager of a campground shall maintain an office in the immediate vicinity of such campground and shall maintain accurate records of the names and home addresses of the campground visitors and the make, description and license number of their motor vehicles, travel trailers and other recreational vehicles. These records shall be available to the Town Zoning Officer and any other law enforcement official.

(h) Other conditions. Mobile homes shall not be allowed in any campground.

(9) Commercial hog, fowl, fish or fur farms.

(a) Location. Commercial hog, fowl, fish or fur farms are permitted as special uses in Agricultural and Residential-1 (AR-1), Agricultural and Residential-2 (AR-2) and Agricultural and Residential-3 (AR-3) Districts.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Two hundred feet from road rights-of-way (100 feet if opposite from a site plan or special use).

[2] Five hundred feet from side lot lines (300 feet if adjacent to a site plan or special use).

[3] Two hundred fifty feet from rear lot lines (125 feet if adjacent to a site plan or special use).

(c) Other conditions. All buildings, structures, impoundments and other areas used or intended to be used to shelter, pen, cage, contain, breed, feed or otherwise raise hogs, fowl, fish or valuable furbearers for commercial purpose shall be designed, constructed and maintained to prevent escape. The raising of furbearers shall be limited to those species allowed by applicable federal and state regulations. The use shall be conducted in a manner which will prevent disease, infestation or other threats to public health or safety. All excrement or other animal, fowl or fish wastes shall be stored, treated to minimize odors and disposed of in a healthful and environmentally safe manner.

(10) Construction equipment storage yards.

(a) Location. Construction equipment storage yards are permitted as special uses in Agricultural and Residential-3 (AR-3) Districts only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Fifty feet from road rights-of-way (25 feet if opposite from a site plan or special use).

[2] Two hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] One hundred feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. Security fencing, if installed, shall not exceed eight feet in height, or four feet if located closer than 40 feet to the road right-of-way. The operation of construction equipment shall be limited to the period from 6:30 a.m. to 9:30 p.m.

(11) Dealerships for new or used motor vehicles, mobile homes, boats or farm machinery or equipment.

(a) Location. Dealerships for new or used motor vehicles, mobile homes, boats or farm machinery or equipment are permitted as special uses in Agricultural and Residential-3 (AR-3) and Hamlet (H) Districts.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. The outdoor storage or display of trailers, motor homes, mobile homes or other manufactured homes shall comply with the district setback requirements. Except when used for farm machinery or equipment, outdoor storage or display areas shall be provided with an all-weather surface, such as crusher run, gravel or other suitable material, compacted to a depth adequate to minimize settling, ruts or other problems regarding movement of the items stored or displayed. The outside storage of parts, scrap or items unsuitable for sale shall be prohibited. The repair of motor vehicles or other items stored or displayed may be conducted as an accessory use, provided that such repair meets the standards under Subsection C(13) below.

(12) Fuel storage/supply depots.

(a) Location. Fuel storage/supply depots are permitted as special uses in Agricultural and Residential-3 (AR-3) Districts only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Two hundred feet from road rights-of-way (100 feet if opposite from a site plan or special use).

[2] Five hundred feet from side lot lines (300 feet if adjacent to a site plan or special use).

[3] Two hundred fifty feet from rear lot lines (125 feet if adjacent to a site plan or special use).

(c) Other conditions. The location, layout, safety devices or measures and operation of a fuel supply facilities shall comply with all applicable standards of the Fire Prevention Code of the National Board of Fire Underwriters.

(13) Gasoline stations, motor vehicle repair shops or car washes.

(a) Location. Gasoline stations, motor vehicle repair shops or car washes are permitted as a special use in the Hamlet (H) District only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Twenty feet from road rights-of-way.

[2] Fifty feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Twenty-five feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. The proposed location of a car wash must be demonstrated to have an adequate water supply for the demand of such use, without significant depletion of the supply for existing uses or future uses permitted in the surrounding area. All fuel storage tanks shall be buried and located at least 50 feet from the right-of-way and any other external property line. All fuel pumps shall be located at least 50 feet from any external side or rear property line and at least 40 feet from the road right-of-way. No outdoor repair work shall be permitted within a required front, side or rear buffer. Any vehicles remaining on the premises for more than 48 hours while awaiting repair shall be stored within a building or parked in an area suitably screened from view from the road right-of-way and any adjoining residential properties.

(14) Hotels or motels.

(a) Location. A hotel or motel is permitted as a special use in the Hamlet (H) District only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Twenty feet from road rights-of-way.

[2] Fifty feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Twenty-five feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. No individual hotel or motel sleeping unit shall have a floor area of less than 150 square feet, exclusive of bathroom facilities. Any swimming pool, playground equipment or other recreation facilities accessory to the hotel or motel shall comply with the buffer requirements set forth under Subsection C(14)(b) above and shall be enclosed with safety fencing.

(15) Indoor recreation facilities.

(a) Location. Indoor recreation facilities are permitted as special uses in Residential Neighborhood (RN) and Hamlet (H) Districts only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(16) Junkyards. Junkyards are permitted as special uses in the Agricultural and Residential (AR-3) District only. When the Town Board approves a license to operate a junkyard pursuant to the Town of Brownville Ordinance Regulating Dumps and Junkyards,[27] such approval shall satisfy the special use permit approval required under this chapter. Buffers and other conditions shall be as determined through the license approval procedures.

(17) Limited businesses.

(a) Location. Limited businesses are permitted as special uses in all districts. A limited business shall only be located on property with an existing residential or agricultural use.

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27. Editor's Note: See Ch. 102, Junkyards and Dumps.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Twenty feet from road rights-of-way.

[2] Fifty feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Twenty-five feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Floor area limitation. Maximum gross floor area for a limited business shall not exceed the following:

[1] In a detached building: 1,000 square feet or 50% of the total gross floor area of any one-family dwelling on the lot, whichever is less.

[2] Within a one-family dwelling: 750 square feet or 25% of the total gross floor area of such dwelling, whichever is less.

(d) Approvable types of limited businesses.

[1] Antique shops or handicraft shops.

[2] Barbershops (limited to two barbers).

[3] Beauty salons (limited to two beauticians).

[4] Group instruction classes (limited to eight persons per class and three classes per week).

[5] Bed-and-breakfasts (limited to five bedrooms).

[6] Doctor's or dentist's offices (limited to two examination rooms).

[7] Offices of a certified public accountant.

[8] Real estate sales offices.

[9] Machine shops (limited to operation between 7:00 a.m. and 9:00 p.m.).

[10] Welding shops (limited to operation as provided for machine shops).

(e) Other conditions. A limited business shall be subject to the following additional limitations:

[1] No more than three persons who reside off-premises shall be employed to work on-premises.

[2] No outdoor storage of materials shall be allowed.

[3] No more than one limited business shall be allowed on any lot.

(18) Manufacturing or assembly plants.

(a) Location. Manufacturing or assembly plants are permitted as special uses in the Agricultural and Residential-3 (AR-3) District only. No manufacturing or assembly plant shall be located within 1,000 feet of any existing institutional use, community facility or other place of public assembly.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Two hundred feet from road rights-of-way (100 feet if opposite from a site plan or special use).

[2] Five hundred feet from side lot lines (300 feet if adjacent to a site plan or special use).

[3] Two hundred fifty feet from rear lot lines (125 feet if adjacent to a site plan or special use).

(c) Other conditions. Security fencing with a maximum height of eight feet may be installed within the side and rear setbacks. Within the front setback, such fencing shall be limited to four feet in height or three feet for visibility at an intersection. Adequate provisions for control of noise, smoke, odors, fumes, dust, vibrations and glare shall be required. A manufacturing or assembly plant shall comply with all local, state and federal regulations as may be applicable to sewage treatment, water supply, pollution control, fire prevention and safety.

(19) Marinas.

(a) Location. Marinas are permitted as special uses in the Residential Shoreline (RS) District only.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Twenty feet from road rights-of-way.

[2] Fifty feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Twenty-five feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. All docks shall be located at least 25 feet from the lines formed by extending the side property lines into the water. Pump-out facilities for marine holding tanks, fuel tanks and fuel pumps shall be located at least 75 feet from any

adjacent residential property line and at least 50 feet from any other external property lines. Fuel tanks shall be buried.

(20) Mobile home parks.

(a) Location. Mobile home parks are permitted as special uses in Agricultural and Residential-2 (AR-2), Agricultural and Residential-3 (AR-3), Residential Neighborhood (RN) and Hamlet (H) Districts.

(b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

[1] Fifty feet from road rights-of-way (25 feet if opposite from a site plan or special use).

[2] Two hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] One hundred feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Site conditions. A proposed mobile home park site shall have level to gently rolling topography over an area of sufficient size to allow development of the park, in compliance with all of the standards and supplementary regulations applicable thereto, without significant alteration or disturbance of natural features, such as stands of mature trees, stream courses, wetlands or bedrock outcroppings. Such mobile home park site shall be essentially free from adverse, unsafe or unhealthful conditions, including, but not limited to, flooding, ponding, soils with poor load-bearing capacity or high instability, breeding areas for insects or rodents, smoke, noise, odors, glare or toxic or volatile substances.

(d) Access. Each mobile home park shall provide means of safe legal access from one or more public roads as follows:

[1] Each access road shall meet the public road at right angles, with compatible grades and safe line-of-sight distances.

[2] Each entrance shall be located at least 150 feet from any public road intersection (except when directly opposite from a T-intersection) and at least 150 feet from any other such entrance.

[3] At least one common entrance and access road shall be provided to serve the mobile home park.

[4] At least two independent entrances and access roads shall be provided to serve a mobile home park having 20 or more mobile home lots.

(e) Internal roads. Internal roads shall be designed, constructed and maintained so that each mobile home lot shall be provided with safe and convenient means of year-round vehicular circulation at a speed up to, but not exceeding, 15 miles per hour. All internal roads shall meet the following standards:

[1] A uniform gridiron road pattern shall be avoided whenever possible. Curvilinear roads, culs-de-sac and other arrangements for clustering, open space and aesthetic treatment shall be favored.

[2] Culs-de-sac with an outside radius of at least 90 feet shall be used for dead-end roads.

[3] Each road shall be centered within a right-of-way or reservation of at least 50 feet.

[4] A twenty-four-foot wide road base of crusher run or comparable stone shall be installed and compacted to a thickness of at least 12 inches.

[5] The center 18 feet of the road base shall be paved to a thickness of at least two inches.

[6] All internal roads shall be owned and maintained by the owner of the mobile home park.

(f) Mobile home lot size. Each mobile home park shall be divided into mobile home lots which satisfy, exclusive of internal roads and open space or common areas, the following standards:

Lot Specification	**Requirement**
Minimum area	10,000 square feet[1]
Minimum width	100 feet[1]
Minimum depth	100 feet[1]

NOTES:

[1]In cases of mobile home parks proposing 10 or more mobile home lots, exceptions may be granted for clustering or other innovative designs to increase open space, expand recreation facilities or protect natural resources. However, such exception shall not allow any mobile home lot with an area of less than 7,500 square feet or a width of less than 75 feet. In no event shall such an exception provide for a greater overall density than would have been allowed under a conventional gridiron pattern.

(g) Mobile home setbacks and spacing. Each mobile home, including any expansion, extension or other addition thereto

and any detached accessory structures therefor, shall be subject to the following standards:

[1] Minimum setback of 20 feet from the front or corner lot lines (edge of the internal road right-of-way or reservation serving the lot).

[2] Minimum of 10 feet from side or rear lot lines.

[3] Minimum spacing of 30 feet between a mobile home and any other mobile home or accessory structure of the mobile home park.

(h) Mobile home stands. Each mobile home shall be installed on a mobile home lot in accordance with the requirements under Article V, § 165-23 of this chapter.

(i) Other setback requirements. No internal roadway, parking lot, recreation area or storage facility for fuels, supplies or equipment or other common facilities for the mobile home park shall be located within 75 feet of any external property line of the mobile home park.

(j) Parking. Each mobile home lot shall be provided with parking spaces as required for a one-family dwelling. Such parking spaces shall be constructed of crushed stone compacted to a thickness of eight inches or two inches of pavement over crushed stone compacted to a thickness of four inches.

(k) Recreation areas and open space. A variety of centrally located, readily accessible and easily used open spaces shall be provided in all mobile home parks. Such open space shall have a total area equal to at least 15% of the gross land area of the park and shall be maintained by the park owner. Part or all of such open space may be required for the development of recreation areas or facilities.

(l) Walkways. A four-foot-wide hard-surfaced pedestrian walkway may be required along and at least five feet from each access road from the entrance at the public road to either the first mobile home lot or such other locations in the mobile home park as the Planning Board may require for pedestrian safety.

(m) Water supply. An adequate supply of potable water shall be provided for all mobile homes and service buildings, subject to approval of the authority having jurisdiction therefor.

(n) Sewage. An approved sewage system shall be provided to convey, dispose and treat sewage from all of the mobile homes, service buildings and other facilities capable of generating sewage. Such system shall be designed, constructed and

maintained in compliance with all applicable state and local regulations.[28]

(o) Garbage and refuse. Each mobile home lot shall be supplied with at least two garbage containers made of a durable material, having a capacity of at least 20 gallons and provided with tightly fitting covers. All such containers 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 at an approved refuse disposal facility. Exterior mobile park areas shall be maintained free from organic and inorganic material that might pose a health, accident or fire hazard or constitute an unsightly condition.[29]

(p) Fuel supply and storage. All fuel supply systems provided for mobile homes, service buildings and other structures shall be installed and maintained in compliance with applicable state regulations and the following specific requirements:

[1] Individual fuel storage tanks. Any individual storage tank for fuel oil or liquefied petroleum gas shall be placed at the rear of a mobile home at least five feet from any of its exits. Such tank shall have an accessible outside shut off, well supported and protected piping and, if installed above the ground, noncombustible supports. Burying of fuel oil storage tanks shall be favored. Liquefied petroleum gas tanks shall have a capacity of at least 100 pounds.

[2] Central fuel supply systems. Piped fuel supplied through a central distribution system shall be favored. When used, such system shall be installed and maintained according to accepted engineering practices. It shall have safety devices to relieve excessive pressures and shall be protected from accidental damage. Each mobile home lot provided with piped natural gas shall have an approved shutoff valve and cap to prevent accidental gas release.

[3] Proof shall be required from the utility company supplying the natural gas that necessary easements for and proper connection to their gas supply system have been or will be provided.

(q) Electrical service.

[1] Every mobile home park shall contain an electrical system installed and maintained according to requirements and specifications of the local electric power company. All wiring fixtures shall have the approval of the New York Board of Fire Underwriters.

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28. Editor's Note: See also Ch. 124, Sewers.

29. Editor's Note: See also Ch. 134, Solid Waste.

[2] All electrical distribution lines shall be buried. Adequate lighting shall be provided to illuminate internal roads and walkways for the safe movement of vehicles and pedestrians at night. A minimum illumination of 0.3 footcandles shall be provided.

[3] Each mobile home stand shall be supplied with an electrical service of at least 100 amperes.

(r) Telephone service. When telephone service is provided to the mobile lots, the distribution lines shall be buried.

(s) Service buildings. Any service building provided to house sanitation facilities, laundromats or maintenance equipment shall be well lighted, properly maintained and kept free of any condition that would constitute a nuisance or pose a threat to public health or safety.

(t) Fire protection and control. Every mobile home park shall be equipped at all times with fire extinguishing equipment kept in good working order. Said equipment shall be of such type, size and number and so located within the mobile home park as to satisfy applicable specifications of the fire district in which the park is situated.

(21) Outdoor recreation facilities.

(a) Location. Outdoor recreation facilities are permitted as special uses in all districts.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers.

[1] Fifty feet from road rights-of-way (25 feet if opposite from a site plan or special use).

[2] Two hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] One hundred feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Conditions for certain facilities.

[1] Golf course, driving range or miniature golf. Any restaurant or bar accessory to a golf course shall comply with the parking requirements and special use standards applicable thereto.

[2] Outdoor drive-in or open air theaters. The screen, stage or other area for actors or players shall be located at least 150 feet from any road right-of-way and oriented such to prevent motorist views of movies or performances.

[3] Exhibition facilities, field sport facilities, hobby club or water sports facilities. Specific types of activities, capacity for participants and spectators and hours of operation shall be considered in determining the compatibility of the facility with the surrounding neighborhood.

[4] Any outdoor recreation facility involving the public assembly of 500 or more persons shall be treated as a special events facility, subject to the standards and conditions provided therefor.

(d) Other conditions (all facilities).

[1] The facility shall be designed and intended for use by less than 500 persons at any given time.

[2] Access drives shall be adequate to accommodate vehicles queued for admission without traffic backup into the road right-of-way.

[3] Sanitary facilities, sewage disposal and water supply shall be adequate and in compliance with applicable state and local regulations.

(22) Restaurant, bar, nightclub or related establishments.

(a) Location. A restaurant, bar, nightclub or related establishment is permitted in a Hamlet (H) District or as a special tourist facility in an Agricultural and Residential-3 (AR-3) District.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers.

[1] Twenty feet from road rights-of-way.

[2] Fifty feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Twenty-five feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. Suitable outdoor trash containers shall be required if any fast-food, takeout or outside, self-service eating is involved. Hours of operation shall be considered regarding potential impacts of noise, traffic, litter, smoke and/or odors on the surrounding neighborhood.

(23) Shopping centers.

(a) Location. Shopping centers are permitted as special uses in the Hamlet (H) District only.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. All driveways and parking areas shall be paved and marked with striping to delineate traffic controls and individual parking spaces.

(24) Slaughterhouses.

(a) Location. Slaughterhouses are permitted as special uses in the Agricultural and Residential (AR-3) District only. The use shall not be located within 500 feet of any existing institutional use, community facility or other place of public assembly.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers:

[1] Two hundred feet from road rights-of-way (100 feet if opposite from a site plan or special use).

[2] Five hundred feet from side lot lines (300 feet if adjacent to a site plan or special use).

[3] Two hundred fifty feet from rear lot lines (125 feet if adjacent to a site plan or special use).

(c) Other conditions. No slaughtering activity shall be conducted outdoors. Feed lots associated with a slaughterhouse shall be located at least 250 feet from any stream course, water body or freshwater wetland. Adequate measures for treatment of odors and flies or other infestation shall be required.

(25) Soil or mineral extraction uses.

(a) Location. Soil or mineral extraction uses are permitted as special uses in the Agricultural and Residential-3 (AR-3) District only. No soil or mineral extraction use shall be located within 500 feet of an existing institutional use, community facility or other place of public assembly.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers:

[1] One hundred fifty feet from road rights-of-way (75 feet if opposite from a site plan or special use).

[2] Four hundred feet from side lot lines (200 feet if adjacent to a site plan or special use).

[3] Two hundred feet from rear lot lines (100 feet if adjacent to a site plan or special use).

(c) Other conditions.

[1] No blasting shall be undertaken, except by a licensed and insured blaster. The Town Board shall set appropriate conditions for blasting with respect to noise, dust, vibrations, shock and/or other impacts.

[2] Excavation below grade level shall comply with the following provisions:

[a] Excavation walls shall have a slope appropriate for the material involved. Shoring may be required for excavations deeper than six feet to prevent slumping or collapse.

[b] Plans shall be required to identify restoration or reclamation treatment of the site. If a mining and reclamation plan is required by the New York State Department of Environmental Conservation, such plan shall also be submitted for review by the Planning Board.

[c] Fencing and/or barricades may be required to prevent unauthorized entry and to ensure public safety.

[d] Means of controlling the airborne or waterborne spread of dust or particles shall be required to prevent environmental hazard or nuisance to surrounding landowners.

(26) Special events facilities.

(a) Location. Special event facilities are permitted as special uses in the Agricultural and Residential-3 (AR-3) District only. No special events facility shall be located within 500 feet of an existing institutional use, community facility or other place of public assembly.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers:

[1] Two hundred feet from road rights-of-way (100 feet if opposite from a site plan or special use).

[2] Five hundred feet from side lot lines (300 feet if adjacent to a site plan or special use).

[3] Two hundred fifty feet from rear lot lines (125 feet if adjacent to a site plan or special use).

(c) Other conditions.

[1] Arenas, racetracks, rock concert sites, rodeos, sports stadiums and other recreation facilities designed or intended for use by 500 or more persons shall have at least two access driveways from one or more principal highways.

[2] Shooting sports facilities shall provide for all target shooting or the firearms discharges to be directed away from the road right-of-way and any adjacent developed lots. Construction of a berm, barrier or other target backdrop shall be required, except where the lot's natural terrain or vegetation is adequate to prevent bullets or slugs carrying beyond the immediate vicinity of the facility. Measures to prevent unauthorized entry to the target area shall be required.

(27) Special tourist facilities.

(a) Location. Special tourist facilities are permitted as special uses in the Agricultural and Residential-3 (AR-3) Districts along New York Route 12 or 12E within the first 300 feet from the right-of-way.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers:

[1] Thirty-five feet from road rights-of-way (20 feet if opposite from a site plan or special use).

[2] One hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] Fifty feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions.

[1] The conditions for special tourist facility consisting of a single gasoline station, hotel, motel, restaurant, bar, nightclub or related establishment shall be as separately listed for such special use under this section.

[2] Where the facilities will consist of two or more different uses, the Town Board shall determine the appropriate conditions, upon recommendation from the Planning Board.

(28) Trucking terminals.

(a) Location. Trucking terminals are permitted as special uses in the Agricultural and Residential-3 (AR-3) District only. No trucking terminal shall be located within 500 feet of an existing

institutional use, community facility or other place of public assembly.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers:

[1] One hundred feet from road rights-of-way (50 feet if opposite from a site plan or special use).

[2] Three hundred feet from side lot lines (100 feet if adjacent to a site plan or special use).

[3] One hundred fifty feet from rear lot lines (75 feet if adjacent to a site plan or special use).

(c) Other conditions. Fuel storage tanks shall be buried. Installation, maintenance and use of such tanks shall comply with all applicable state and local regulations.

(29) Warehouse facilities.

(a) Location. Warehouse facilities are permitted as special uses in Hamlet (H) and Agricultural and Residential-3 (AR-3) Districts only.

(b) Buffers. The given district's area requirements shall be increased to provide the following buffers.

[1] Fifty feet from road rights-of-way (25 feet if opposite from a site plan or special use).

[2] Two hundred feet from side lot lines (zero feet if adjacent to a site plan or special use).

[3] One hundred feet from rear lot lines (zero feet if adjacent to a site plan or special use).

(c) Other conditions. The storage of flammable liquids, solvents, fuels or noxious chemicals shall be prohibited. Hours of operation, type of products stored, fire prevention measures and security requirements may be considered with respect to the compatibility of a proposed warehouse facility with the surrounding neighborhood.

ARTICLE VIII
Enforcement

§ 165-42. Authorization.

The Zoning Officer shall hereby be authorized to enforce this chapter in accordance with the powers and duties hereunder.

A. Revocation of zoning permits. The Zoning Officer may revoke previously issued zoning permits in the following instances:

(1) Where the zoning permit was issued based upon false, misleading or insufficient information provided by the applicant;

(2) Where the zoning permit was issued in error and should not have been issued previously due to noncompliance; or

(3) Where the zoning permit was properly issued, but the applicant has since undertaken changes to the subject lot, the buildings or structures thereon or the uses thereof in a manner contrary to such permit or otherwise in violation of this chapter.

B. Right of entry. The Zoning Officer may enter upon any lot and into any building or structure thereon for the express purpose of enforcing this chapter. Any person who shall apply for a zoning permit or who shall be undertaking work or using a lot or a building or structure thereon, pursuant to a zoning permit, shall be deemed to have consented to inspection of the premises by the Zoning Officer at reasonable times, with reasonable notice for cause. No person shall refuse such entry without due cause. Such right of entry shall be subject to the following conditions:

(1) Its use shall be limited to conducting compliance inspections and investigations of violations.

(2) Its use shall require that at least 24 hours' prior notice of the intended entry be provided to the property owner or tenant thereof, as appropriate.

(3) Proper identification shall be displayed prior to entry.

(4) Proper discretion shall be exercised with respect to the privacy and convenience of the owner or tenants.

C. Inspection and certification of compliance. The Zoning Officer shall be responsible for inspecting and certifying the compliance of the development activities and/or uses undertaken pursuant to each zoning permit issued.

D. Investigation and remedy of violations. The Zoning Officer shall be responsible for investigating known or probable violations of this chapter and for undertaking actions to remedy actual violations.

§ 165-43. Inspection; compliance certificate.

No new building or structure and no new addition, expansion or extension to an existing building or structure shall be used or occupied and no new use of land or the buildings or structures thereon shall be continued, unless and until the Zoning Officer has inspected the premises and issued a compliance certificate therefor, in accordance with the issued zoning permit.

§ 165-44. Investigation; remedy of violations.

A. Reasonable grounds. When there exist reasonable grounds to believe that a development activity or use is being undertaken in violation of this chapter, the Zoning Officer shall investigate the premises involved. Reasonable grounds shall consist of a formal written or verbal complaint or direct observation by the Zoning Officer or another Town official.

B. Notice and order. Where investigation has determined that a violation of this chapter exists, the Zoning Officer shall promptly provide written notice and order to the property owner or owner's agent, or both. Such notice and order shall cite the development activity or use involved and the specific provision being violated thereby. Such notice and order shall order the cessation or correction of such violation within a minimum reasonable time period.

C. Other remedies. Where a person has been given a notice and order but fails to cease or correct the activity cited as a violation, the Zoning Officer shall consult with the Town Board for instructions regarding remedies, which may include the following:

   (1) Initiating proceedings before the Town Justice whereby civil or criminal penalties may be imposed;

   (2) Seeking an injunction against said activity where it poses an immediate threat to the public health, safety or general welfare of any inhabitant of the town; and/or

   (3) Undertaking such other lawful remedy as instructed by the Town Board.

§ 165-45. Penalties for offenses.

Any person found guilty of violating any provision of this chapter shall be deemed to have committed an offense punishable by a fine not exceeding $350 or imprisonment for a period not exceeding six months, or both. Each week of continued violation shall constitute a separate violation.

ARTICLE IX
Appeals

§ 165-46. Establishment of Zoning Board of Appeals.

A. The Town Board shall appoint a Zoning Board of Appeals consisting of seven members, who shall serve initial terms staggered as follows: two members for five years, two members for four years, one member for three years, one member for two years and one member for one year. Upon expiration of each member's initial term, reappointment of that member or appointment of a replacement for that member shall be for a term of five years. Each year the Town Board shall appoint a member of the Zoning Board of Appeals to serve a one-year term as Chairman. The Chairman shall appoint a member to serve in the capacity of Secretary to the Board, unless the Town Clerk or other employee of the Town is authorized for this purpose.

B. To the extent that the number of appointed members and their initial terms specified under Subsection A above conflict with the provisions under § 267 of the Town Law, this chapter hereby supersedes said provisions.

§ 165-47. Power and duties of Zoning Board of Appeals.

A. Adoption of bylaws. The Zoning Board of Appeals may adopt bylaws incorporating such rules and regulations as it may deem necessary for the conduct of its affairs, in accordance with the provisions of this Article and § 267 of Town Law, including the fixing of a reasonable time for the hearing of appeals.

B. Interpretation. The Zoning Board of Appeals shall have the power to interpret the provisions of this chapter.

C. Review of determinations by the Zoning Officer. The Zoning Board of Appeals shall have the power to hear and decide any appeal from and review any order, decision or determination made by the Zoning Officer, pursuant to this chapter. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as it deems appropriate. To this end, the Zoning Board of Appeals may act with all of the power of the Zoning Officer.

D. Granting of relief by variance. In passing upon appeals, the Zoning Board of Appeals shall have the power to vary or modify the application of any regulation, requirement or other provision of this chapter where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this chapter. In deciding upon variances, the Zoning Board of Appeals shall consider the tests for granting variances as set forth under § 165-50 of this Article.

E. Other powers and duties. In addition, the Zoning Board of Appeals shall have all other powers and duties as expressly stated under § 267 of Town Law.

§ 165-48. Basis for appeal.

Any person aggrieved by an order, requirement, determination or decision of the Zoning Officer may appeal to the Zoning Board of Appeals within such reasonable time limit established by the general rule of such Board. An aggrieved person may be an applicant or other landowner or long-term lessee within the town.

§ 165-49. Procedures; fees.

A. Application requirements.

(1) Application form. Each application for appeal shall be in writing on the form prescribed by the Zoning Board of Appeals. Such application shall include a copy of the order, requirement, determination or decision of the Zoning Officer from which the appeal is taken. Where any variance is sought, the specific provisions involved shall be cited.

(2) Plans. Three copies of the plot plan or preliminary site plan for which the zoning permit was denied, or to which the order, requirement, determination or decision applied, shall be submitted with the application. An appeal requesting a use variance shall require a preliminary site plan prepared according to the applicable specifications under § 165-40C of this chapter.

(3) Environmental assessment form (EAF). Three copies of a completed short or full environmental assessment form shall be submitted with the application form, if a use variance is involved.

(4) Other supporting materials. Three copies of any drawings, manufacturer's specifications, photographs or other supporting materials necessary to justify the appeal shall be submitted with the application.

(5) Denial of permit form. One copy of the denial of permit form shall be submitted with the application.

(6) Fee. An application fee shall be submitted with the application in the amount specified from time to time by resolution of the Town Board.

B. Filing. The application for appeal or variance shall be filed in the Town Clerk's office.

C. Initial review. The Zoning Board of Appeals shall conduct an initial review to determine if the application and any environmental assessment form required to be submitted therewith are complete.

D. Referrals. Upon verifying that the application is complete, the Zoning Board of Appeals shall refer one copy of the application to each of the following:

(1) The Jefferson County Planning Board, if required pursuant to § 239-m of the General Municipal Law.

(2) Other involved agencies, if required for lead agency designation or opted for coordinated review pursuant to SEQR.

(3) The Planning Board and/or Town Board, if a use variance is requested.

E. Public hearing. The Zoning Board shall establish the date, time and place for a public hearing of the application and shall authorize the Town Clerk to publish a notice at least once in a newspaper of general circulation within the Town at least five days prior to the date of the public hearing. Such notice shall state the date, time and place of the hearing and the nature of the appeal or variance requested. If such hearing is to be held in concert with a SEQR public hearing, the notice shall so state and shall be published at least 14 days prior to the hearing.

F. Town Board or Planning Board recommendation. When an application for an appeal has been referred to the Town Board or Planning Board, that Board shall provide its written recommendations to the Zoning Board of Appeals within 30 days. A failure to provide such recommendation shall not be construed as either favorable or unfavorable to the appeal.

G. Decision. Within 60 days from the closing of the public hearing, the Zoning Board of Appeals shall render its decision. However, the following prerequisites for such shall have been satisfied:

(1) If applicable, the Zoning Board of Appeals has received comments from the Jefferson County Planning Board or the 30 days allotted therefor have expired.

(2) If applicable, all environmental review requirements under SEQR have been satisfied.

(3) The Zoning Board of Appeals has prepared findings of fact to support its decision on the appeal, including the basis for any variance involved according to the tests provided under § 165-50 of this Article.

H. Filing and notification. The decision of the Zoning Board of Appeals shall be filed in the Town Clerk's office within 24 hours. Written notice of such decision shall be mailed to the applicant within five working days.

§ 165-50. Tests and considerations for granting variances.

A. Use variance. The granting of a use variance shall be based upon findings by the Zoning Board of Appeals as follows:

(1) Each of the following tests have been met:

(a) It has been proven in quantitative monetary terms that the property cannot yield a reasonable return from any of the uses to which it is restricted.

(b) The conditions or circumstances to which the hardship is attributed are unique to the property in question and not generally applicable throughout the particular district involved.

(c) The requested variance will not change the essential character of the neighborhood or district, nor will it violate the general purpose of this chapter.

(2) The following have been duly considered:

(a) Whether the hardship claimed is self-created.

(b) Whether the requested variance, if granted, would provide the minimum relief necessary to avoid the unnecessary hardship.

B. Area variance. The granting of an area variance shall be based upon findings by the Zoning Board of Appeals as follows:

(1) The use is permitted in the district.

(2) The following have been duly considered:

(a) Whether practical difficulties peculiar to the site exist which are not general to the district and are not created by actions of the applicant.

(b) Whether other means of resolving the practical difficulty are not feasible such that a variance is necessary to provide minimum relief.

(c) Whether the variance can be granted without causing detrimental changes to the neighborhood.

Disposition List

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

Local Law Number	Adoption Date	Subject	Disposition
1-1996	8-7-1996	Adoption of Code	Ch. 1, Art. I
1-1997	2-5-1997	Subdivision of land amendment	Ch. 143
2-1997	3-5-1997	Zoning amendment	Ch. 165
3-1997	4-2-1997	Zoning amendment	Ch. 165
1-1998	7-1-1998	Telecommunications moratorium	NCM
2-1998	10-7-1998	Zoning amendment	Ch. 165
1-2000	12-6-2000	Zoning amendment	Ch. 165
1-2001	1-3-2001	Zoning amendment	Ch. 165
2-2001	8-1-2001	Water District No. 1 rules and regulations	Superseded by L.L. No. 2-2003
3-2001	11-8-2001	Zoning amendment	Ch. 165
4-2001	11-8-2001	Zoning amendment	Ch. 165
1-2002	3-6-2002	Moratorium on development of salt storage facilities	NCM
2-2002	6-5-2002	Zoning amendment	Ch. 165
3-2002	8-7-2002	Board of Assessment Review meeting	Repealed by L.L. No. 1-2009
1-2003	3-5-2003	Water District No. 1 rules and regulations	Superseded by L.L. No. 2-2003
2-2003	7-2-2003	Water District No. 1 rules and regulations	Ch. 159, Art. I
1-2004	1-7-2004	Water district amendment	Ch. 159
2-2004	11-3-2004	Zoning amendment	Ch. 165
3-2004	11-3-2004	Dogs	Superseded by L.L. No. 2-2010
1-2005	2-2-2005	Zoning amendment	Ch. 165
2-2005	8-3-2005	Subdivision of land amendment	Ch. 143

Local Law Number	Adoption Date	Subject	Disposition
3-2005	9-7-2005	Moratorium on outdoor furnaces	NCM
4-2005	10-5-2005	Furnaces, outdoor	Ch. 88
5-2005	11-2-2005	Senior citizens tax exemption	Ch. 147, Art. IV
6-2005	12-30-2005	Unsafe buildings	Ch. 58
1-2006	1-4-2006	Outdoor burning	Ch. 59
2-2006	2-1-2006	Water District No. 1 rules and regulations amendment	Ch. 159, Art. I
3-2006	5-3-2006	Zoning amendment	Ch. 165
1-2009	7-1-2009	Board of Assessment Review meeting amendment	Repealed by L.L. No. 1-2017
2-2009	9-21-2009	Outdoor furnaces amendment; zoning amendment	Ch. 88; Ch. 165
1-2010	10-6-2010	Outdoor furnaces amendment	Ch. 88
2-2010	11-3-2010	Dog licensing and control	Superseded by L.L. No. 2-2017; Ch. 75 (reference only)
1-2011	5-4-2011	Moratorium on wind generating facilities	NCM
1-2012	12-7-2011	Fire District	Ch. 18
2-2012	10-3-2012	2013 tax levy limit override	NCM
1-2014	2-5-2014	Cemeteries	Ch. 63
2-2014	5-7-2014	Zoning amendment	Ch. 165
3-2014	10-1-2014	Zoning amendment	Ch. 165
1-2015	9-2-2015	Zoning amendment	Ch. 165
1-2016	10-5-2016	2017 tax levy limit override	NCM
1-2017	2-1-2017	Board of Assessment Review meeting amendment	Ch. 6, Art. II
2-2017	2-1-2017	Dog licensing and control	Ch. 47, Art. II
3-2017	6-7-2017	Zoning amendment	Ch. 165
4-2017	12-6-2017	Taxation: Solar, Wind and Farm Waste Energy Systems	Ch. 147, Art. V
1-2018	8-1-2018	Zoning Amendment	Ch. 165