

ZONING

Chapter 165

Town

Of

BROWNVILLE

**GENERAL
CODE**

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Printed August 2017

Chapter 165

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Brownville 6-12-1991 by L.L. No. 1-1991. Amendments noted where applicable.]

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. **TOPESS OR STRIPEASE 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 statutes 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]

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.

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.

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]

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.

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).

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.

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]**

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.

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]

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 (NACL) 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 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 THERMAL SYSTEMS — Systems that directly heat water or other liquids using solar radiation. [Added 10-1-2014 by L.L. No. 3-2014]

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.

§§ 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]

- 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
- Limited businesses
- 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	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
- 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	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:

- ¹Forty feet if not used for parking.
- ²Seventeen and five-tenths feet if adjacent to other site plan or special uses.
- ³Add 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
Limited businesses
Mobile home parks
New telecommunication tower
Outdoor recreation facilities
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:

- ¹Forty feet if not used for parking.
- ²Fifteen feet if adjacent to other site plan or special use.
- ³Add 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:

- ¹Forty feet if not used for parking.
- ²Fifteen feet if adjacent to other site plan or special uses.
- ³Add 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:

¹Twenty feet if not used for parking.

NOTES:

²Four and zero-tenths feet if adjacent to other site plan or special uses.

³Add 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:

¹Forty feet if not used for parking.

²Fifteen feet if adjacent to other site plan or special uses.

³Add 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

Requirement	Permitted Use	Site Plan Use	Special Use
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
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:

¹Forty feet if not used for parking.

²Fifteen feet if adjacent to other site plan or special uses.

NOTES:

³Add 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.³
 - (2) The New York State Public Health Law.
 - (3) The New York State Environmental Conservation Law.
 - (4) The Town of Brownville Sanitary Code Law.⁴
 - (5) The Town of Brownville Subdivision Control Law.⁵
 - (6) The Town of Brownville Flood Damage Prevention Law.⁶
 - (7) The Town of Brownville Ordinance Regulating Public Assemblies.⁷
 - (8) The Town of Brownville Ordinance Regulating Dumps and Junkyards.⁸
- 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:

3. Editor's Note: See Ch. 81, Fire Prevention and Building Code Enforcement.

4. Editor's Note: See Ch. 124, Part 2, Sewers.

5. Editor's Note: See Ch. 143, Subdivision of Land.

6. Editor's Note: See Ch. 85, Flood Damage Prevention.

7. Editor's Note: See Ch. 118, Public Assembly.

8. Editor's Note: See Ch. 102, Junkyards and Dumps.

- (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.
- (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.⁹ [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.¹⁰
 - (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]

9. 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).

10. 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.

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.
- (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 than 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 face. 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.

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.

- (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 NACL) 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 7:00 a.m. to 7:00 p.m.	Evening 7:00 p.m. to 10:00 p.m.	Nighttime 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 \pm two miles per hour (\pm 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

- (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).

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 Law¹¹ (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.
 - (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.

11. Editor's Note: See Ch. 124, Sewers, Part 2.

- (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

- (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.

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.

- (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 ¹² 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.

- 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

12. Editor's Note: See Ch. 124, Sewers, Part 2.

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.

- (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,¹³ 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.
- (b) Buffers. The area requirements of the given district shall be increased to provide the following buffers:

13. Editor's Note: See Ch. 102, Junkyards and Dumps.

- [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] Cul-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:

¹In 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.¹⁴
- (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.¹⁵
- (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:

14. Editor's Note: See also Ch. 124, Sewers.

15. Editor's Note: See also Ch. 134, Solid Waste.

- [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.
- [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

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.

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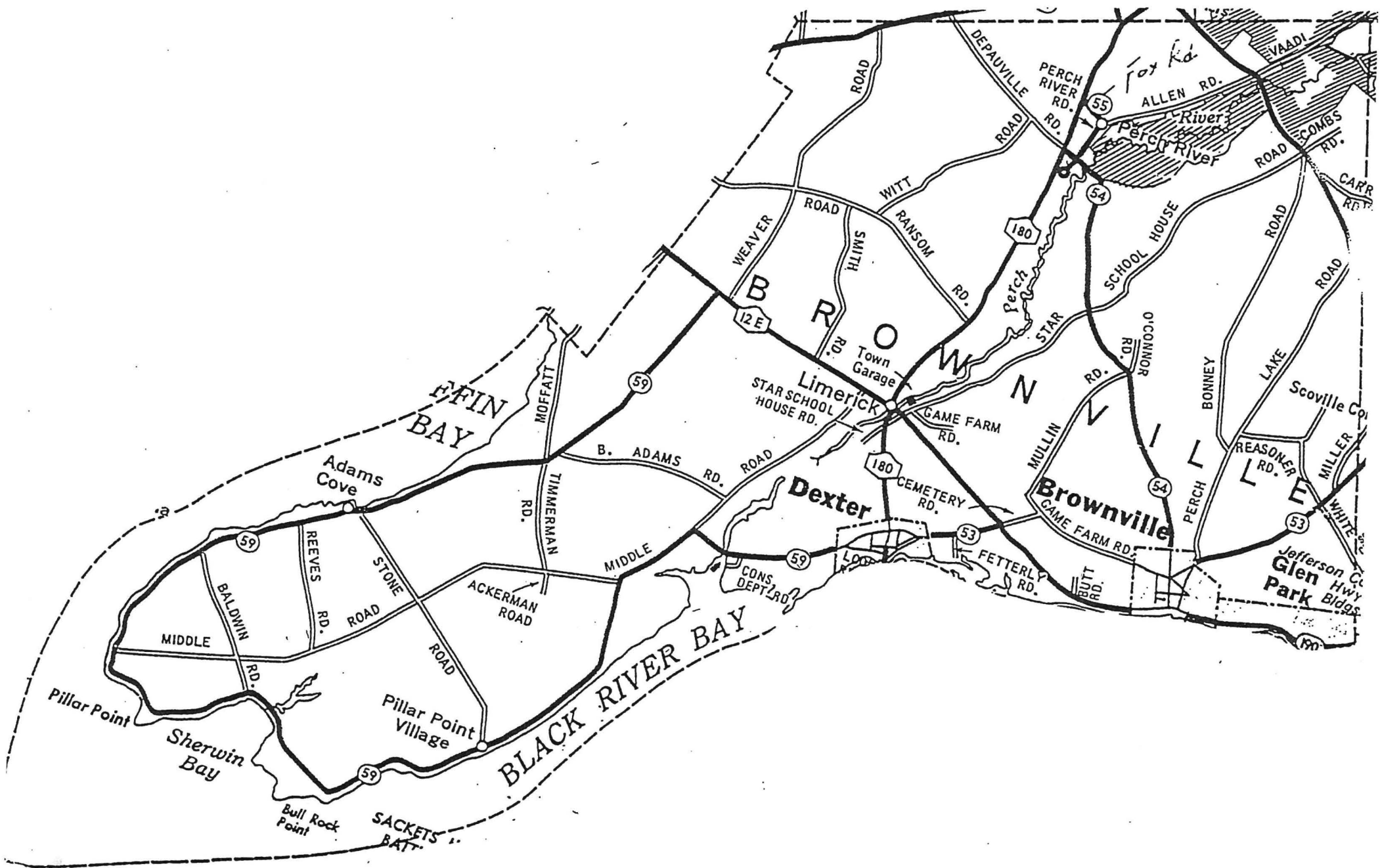
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OFFICIAL ZONING MAP

Town of Brownville, N.Y.

Adopted _____

- AR-1 Agricultural Residential
- AR-2 Agricultural Residential
- AR-3 Agricultural Residential
- RN Residential Neighborhood
- RS Residential Shoreline
- H Hamlet

