Local law No. 4 2009

Town of Big Flats, NY

A local law to amend the Town of Big Flats Zoning Law as provided in Section 17.68 of the Town of Big Flats Town Code.

Be it enacted by the Town Board of the Town of Big Flats as follows:

Section 1: Title

This local law shall be entitled and known as "Town of Big Flats Sign Law Zoning Amendment".

Section 2: BFZL

TITLE 17

ZONING

Chapters:

17.04 Introductory Provisions and Definitions
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Chapter 17.04

INTRODUCTORY PROVISIONS AND DEFINITIONS*

Sections:

17.04.010 Short title.
17.04.020 Authority.
17.04.030 Purpose.
17.04.040 Interpretation, separability and conflict.
17.04.050 Definitions.
17.04.060 Application of requirements.
17.04.070 General requirements.

* Prior history: LL No. 2, 1997, LL No. 1, 1999, LL No. 3, 2002 and LL No. 2, 2003.

17.04.010 Short title.

This title shall be known as the "Zoning Law of the town of Big Flats, N.Y.," and may also be referenced as "BFZL". (LL No. 2, 2003 (part))

17.04.020 Authority.

Pursuant to the Municipal Home Rule Law of the Consolidated Laws of New York State, the town board in the county of Chemung, state of New York, resolves, enacts and publishes the following provisions. (LL No. 2, 2003 (part))

17.04.030 Purpose.

The zoning requirements and districts set forth and the districts identified upon the zoning map of the town are made to promote public health, safety and general welfare for the residents of the town; and specifically:

A. To encourage the most appropriate use of land in the community in order to conserve and protect the value of property;

B. To eliminate the spread of strip business development and provide for more adequate and suitably located commercial facilities and consequently eliminate road-side hazards and add to community attractiveness;

C. To create a suitable system of open spaces and recreation areas, and to protect and enhance existing wooded areas, scenic areas, farmland and waterways;

D. To protect groundwater resources which serve as public and private sources of water supply;

E. To regulate development densities in order to assure access to light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, to lessen congestion on roads, to provide efficient municipal utility services, and to accommodate solar energy systems and equipment and access to sunlight necessary thereto;

F. To improve transportation facilities and traffic circulation, and to provide adequate off-road parking and loading facilities;

G. To assure privacy for residents and freedom from public nuisances and things harmful to the health, safety and general welfare of the public;

H. To protect the community against unsightly, obtrusive and nuisance land uses and operations;

I. To enhance the aesthetic aspects throughout the entire town and maintain its natural beauty; and

J. To provide an opportunity for occupancy of housing or uses of land to all people regardless of race, creed, sex, color, national origin, age, disability or marital status.

This title has been made with reasonable consideration for the character of each district and a district's suitability for particular uses, and with a view to conserving and protecting the value of the property, to encourage the most appropriate uses of the land throughout the town.

These purposes are achieved through this title by regulating and restricting the height, number of stories and size of *building*s and other structures; restricting the density of population; regulating the size of yards and other open spaces; regulating and restricting the location and use of a *building* structure and lot for trade, industry, residential or other purposes; creating districts for such purposes and establishing their boundaries; continuing a zoning board of appeals to determine and vary the application of various provisions of this title in harmony with its general purposes and intent and in accordance with general and specific rules in this chapter contained; and providing for the enforcement of this title. (LL No. 2, 2003 (part))

17.04.040 Interpretation, separability and conflict.

A. The following rules of construction of language shall apply to the text of this title. 1. Words used in the present tense include the future tense.

2. Words used in the singular include the plural, and words used in the plural include the singular.

3. Words used in the masculine form shall also include the feminine.

4. The word "person" includes an individual, partnership, association, firm or corporation.

5. The word "shall" is mandatory; the word "may" is permissive.

6. The words "used" or "occupied" as applied to any lot or *building* shall be construed to include the words "intended, arranged or designed to be used or occupied".

7. A *building* or structure includes any part thereof.

8. The phrases, "to erect," "to construct" and "to build" each has the same meaning and includes to excavate for a *building* and to relocate a *building* by moving it from one location to another.

9. Other words not defined above or in Section 17.04.050 shall be as defined in the New York State Uniform Fire Prevention and Building Code or as used in their common meaning.

10. The term "NYS" means New York State.

B. If any section, subsection, paragraph, subdivision, sentence, clause or provision of this title shall be held invalid, such invalidity shall apply only to the section, subsection, paragraph, subdivision, sentence, clause or provision adjudicated invalid, and the remainder of this title shall remain valid and in full force and effect.

C. This title shall be interpreted in such a way wherever possible so that the meaning of the words, phrases and subsections in this title shall make them consistent, valid and legal in effect.

D. Whenever the requirements of this title are at variance with the requirements of other lawfully adopted laws, rules, requirement or ordinances of the town, the one of these with the most restrictive provisions or those imposing the higher requirement shall govern.

E. Any reference in this title to other laws, rules or regulation shall be interpreted to include any future amendments to those laws, rules or regulation. (LL No. 2, 2003 (part))

17.04.050 Definitions.

The following words or phrases as used in this title are defined as follows:

Agri-business means, for sale, gain or commercial purpose as a principal use, the: (a) processing of agricultural products from agricultural plant and agricultural animal uses into modified forms of such agricultural products, and/or (b) packaging of such modified agricultural product, and/or (c) storage of agricultural plant products in silo, grain elevator or similar structure not part of an agricultural plant use. Examples of such modified agricultural projects are foodstuff, fertilizer and fuels. The term agri-business does not include factory farm, feedlot and slaughterhouse.

Agricultural animal means the: (a) raising and gathering of agricultural animals products for sale, gain, or commercial purpose as a principal use, (b) incidental storage of feed for agriculture animal products raised on the same lot with such storage, and (c) the place of sale of those agricultural animals products raised on the same lot with such place of sale. As used in this definition, agricultural animals products consist of livestock, poultry, dairy cows, fur-bearing animals and bees, for sale, gain or commercial purposes. The term agricultural animal does not include agri-business, commercial stable, factory farm, feedlot, kennel, and slaughterhouse.

Agricultural plant means the: (a) raising and harvesting of agricultural plant products for sale, gain, or commercial purpose as a principal use, and (b) storage and/or place of sale of those agricultural plant products raised on the same lot with such storage and/or place of sale and additionally of agricultural plant products raised on another lot devoted to agricultural plant use. As used in this definition, agricultural plant products consist of whole plants and plant parts, but excluding cut tree wood. Examples of whole plants are vegetable-bearing plants, fruit-bearing plants, herb-bearing plants, flowering plants, bushes and trees. Example of plant parts are, vegetables, fruits, herbs, cut flowers, cut twigs, cut evergreen trees and tree sap. As used in this definition, whole plants exclude invasive and rampant plants described in Section 17.36.200.

Airport means any lot designed to be used and/or operated either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary *building*s.

Alteration means any change, rearrangement, modification, addition or enlargement to a structure, use or lot other than repairs.

Alternative dwelling park means a contiguous parcel of land under single ownership on which two or more mobile homes or homes of any other styles of construction having less than one thousand two hundred (1,200) square feet and/or having any one overall exterior dimension of less than twenty (20) feet are located.

Amusement center means a continuous commercial use in which six or more mechanical, electrical or electronic machines or devices used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin or token for their operation or use of which a charge is made.

Antenna means a structure being a device: (a) mounted on a supporting structure or on a vehicle continuously maintained at a location for a period of more than one week, and (b) used for receiving or transmitting electro-magnetic signals for telephone, television, radio and/or other communication devices from and/or to orbiting space satellites and/or ground communications systems.

Antenna array means a collective assembly of antennae.

Antenna, Co-Location. Co-location antenna means the construction or installation of an antenna on an existing tower or on a lot containing an existing wireless telecommunications facility use.

Applicant means owner of a lot on which a development is proposed, and the developer of such parcel.

Aquifer means an area consisting of saturated, permeable geologic material capable of yielding water to wells and springs.

Assisted living facility means a facility with a principal use of assisted living care as defined and regulated by NYS. (Compare convalescent home and nursing home.)

Attic means that space of *building* which is between the top of the uppermost floor construction and the underside of the roof. (See Story.)

Auction facility means a lot or structure dedicated to periodic auction of goods and/or services.

Auto Salvage Yard. See Salvage yard.

Bar means a business establishment licensed by the state of New York to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the lot, regardless of whether food or entertainment are provided as accessory use.

Barrier means a structure and/or plant materials that obstruct visual and/or noise impact on use from another use and which is located in a buffer yard. A barrier is not considered a fence for the purposes of the regulations set forth in Section 17.36.060.

Basement means any space of a *building* which is partly below finished grade, but having more than one-half of its height measured from floor to ceiling above average finished grade. (See Cellar.)

Bed and breakfast means a *building* consisting of a one-unit dwelling in which at least one, but not more than four, sleeping rooms are provided as an accessory use by the resident-owner for compensation from and for the accommodation of transient guests with no more than two meals served daily and the entire service included in one stated price.

Billboard. See Sign, Off-Lot.

Boarding house means a *building*, other than a hotel/motel or bed and breakfast, containing a general kitchen and a general dining room, in which at least three, but no more than six, sleeping rooms are offered for rent, with or without meals to nontransient guests. A lodging house, or rooming house shall be deemed a boarding house.

Buffer means an area of land forming a physical separation between two uses and consisting of the required setback and any buffer yard.

Buffer yard means an area of a buffer lying between a lot line or transition yard and the required setback that is landscaped in accordance with Section 17.36.200 and having the same width as the required setback.

Building means any structure which is affixed to or set upon the land, has one or more floors and a roof, and is intended for occupancy or storage.

Building area means the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings including open or enclosed porches, attached carport or garage but exclusive of terraces, and uncovered steps. Such horizontal area of each building is the area within and circumscribed by the exterior faces of the outer walls and/or architectural elements of the building.

Building, Accessory. Accessory *building* means an accessory structure that is a *building*.

Building group means a group of two or more principal *building*s and any accessory *building*s occupying a lot in one ownership and having any yard in common.

Building height. (See Structure height.)

Building, Principal. Principal *building* is a *building* where the principal uses of the lot are conducted and situated.

Building, Semi-Detached. Semi-detached *building* means a *building* attached by a party wall to another *building* normally of the same type on another lot, but having one side yard. Bulk is a term to describe the size, volume, area and shape of a structure and the physical relationship of their exterior

walls or their location to lot lines, other *building*s and structures, or other walls of the same *building*; and of all open spaces required in connection with a structure, or lot.

Bulk storage means materials stored in large quantities which are dispensed in smaller units for use or consumption as regulated in Chapter 17.24.

Car wash means a *building*, lot or portions thereof where vehicles are washed either by the patron or others using machinery and mechanical devices specifically designed for this purpose.

Cellar means that space of a *building* that is considered nonhabitable and is partly or entirely below average finished grade, which has more than half its height, measured from the floor to ceiling, below the average established curb level or finished grade of the ground adjoining the *building*. (See Basement.)

Church. See Place of worship.

Clear vision zone means a volumetric zone at an intersection, of any combination of roads, drives, internal drives and driveways permitting a visual line of sight and defined by a geometric sector of certain radius in a base plane in feet above finished grade and by a zone height extending a certain number of feet above the base plane.

Club, Membership. Membership club means an organization catering exclusively to members and their guests, and lot and/or *building* for social, educational, service, recreational or athletic purposes, which are not conducted primarily for gain, providing there are no vending stands, merchandising, or commercial activities except as when limited to the use of the membership or guests for the club purposes.

Code enforcement officer (CEO) means an official designated by the town board for the purpose of enforcing codes, laws, ordinances, rules, regulations and conditions set by resolution of the town board, town planning board or town zoning board of appeals.

Co-locator means a company, person or entity that owns or operates a co-location antenna.

Commercial vehicle means any vehicle with a net vehicle weight of five tons or more and/or more than four axles, or trailer longer than eighteen (18) feet used or designed to be used for the commercial transportation of persons, goods, wares or merchandise.

Concentrated animal feeding operation. See Factory farm.

Condominium means a *building* or *building* group, in which residential dwelling units, commercial or industrial units are owned individually with common areas and facilities owned jointly by all the owners of individual space within the *building* or *building* group.

Consulted agencies means each government agency having decision-making authority applicable to a proposed development and private consultant designated by such governmental agency.

Contractor's equipment yard means any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery, or vehicles, or parts thereof, and/or *building* materials, soil and/or stone stockpiles.

Convalescent home means a *building* used for accommodation and care of persons receiving non-skilled, long-term care, meeting the New York State Department of Social Services (NYSDSS) definition of a proprietary facility. (See also Nursing home.)

Convenience mart means a retail use that combines two principal uses on a single lot; the sale of motor vehicle fuel and accessory substances, as well as the sale of groceries.

Cottage industry means a business conducted as an accessory use, which is clearly incidental to or secondary to a residential use of a dwelling unit and which: (a) does not change the character of the residential use; (b) is carried out wholly within the enclosed walls of the dwelling unit and/or an accessory structure located on the same lot as the dwelling unit; and (c) is operated by a resident of the dwelling unit; and with up to three employees who do not reside in the dwelling unit.

Coverage means that lot area or percentage of lot area covered by *building*s, including accessory structures, and all other impervious surfaces.

Day care center means a place, person, association, corporation, institution, or agency which provides day care for children as defined and licensed by NYSDSS pursuant to the NYS Social Services Law and related rules and regulations. The name, description, or form of the entity which operates a day care center shall not affect its status as a day care center.

The term day care center shall not refer to care provided in:

1. A day camp as defined in the State Sanitary Code (10 NYCRR Chapter I);
2. An after school program operated by a private school or religious organization; or
3. A facility operated by a public school district or providing day services under an operating certificate issued by the department of mental health.

Day care of adults shall be as defined and licensed by the NYSDSS pursuant to the NYS Social Services Law and related rules and regulations.

Day care of children shall be as defined and licensed by the New York State Department of Social Services (NYSDSS), pursuant to the NYS Social Services Law and related rules and regulations. The term day care of children includes services provided with or without compensation or payment.

Day Care, Family Home. Family home day care means day care provided as an accessory use in the care givers' residence in accordance with NYSDSS rules and regulations.

Day Care, Group Family Home. Group family home day care means day care provided as an accessory use in the care givers' residence in accordance with NYSDSS rules and regulations.

Density means the minimum lot area per permitted principal use. (See Bulk and density control schedule.)

Design engineer means an engineer, architect, designer or surveyor licensed to practice in the state of New York.

Developer means any entity or person to undertake a proposed development.

Development means any man-made changes to improved or unimproved real estate, including, but not limited to, the construction or reconstruction of *building*s, structures and/or impervious surfaces, the construction of tanks or other storage facilities, pumps, pumping stations, waste treatment or disposal facilities, and/or the excavation, dredging, filling, mining, or grading for purposes of development.

District means a portion of the land area of the town: (a) mapped on the zoning map of the town of Big Flats pursuant to Section 17.08.020 and designated as a use district with specified permitted uses pursuant to Sections 17.08.040 and 17.12.010; (b) established as a planned multiple residential district (PMRD) pursuant to Chapter 17.20; or (c) established as an overlay district pursuant to Chapter 17.24.

Drive means an improved way that provides or is designed to provide vehicular access between a road and a parking area and/or an internal drive.

Drive, Internal. Internal drive means an improved way that provides or is designed to provide vehicular access between a drive and one or more uses on the same lot.

Drive-through use means an accessory use for a business use that provides service to a person in a motor vehicle alongside a service window, booth, receptacle or other like arrangement on the exterior of a principal or accessory structure for the business use.

Driveway means an improved way on a lot containing a one-unit dwelling and/or two-unit dwelling and providing or designed to provide vehicular access between the residential use and a road and/or drive or internal drive.

Dump. See Solid waste disposal facility.

Dwelling, In-Ground. In-ground dwelling means a dwelling unit that is constructed principally below the average finished grade elevation of the lot on which it is located and with at least one wall open for a height of at least six feet and/or provide for special light and ventilation design.

Dwelling, Multi-Unit. Multi-unit dwelling means a *building* consisting of three or more dwelling units.

Dwelling, One-Unit. One-unit dwelling means a *building* consisting of one dwelling unit that is:

1. Detached having two side yards; or
2. Semi-detached having only one side yard and one common party wall.

Dwelling, Two-Unit. Two-unit dwelling means a *building* consisting of two dwelling units.

Dwelling unit means one or more rooms, connected together, with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household. This shall include a mobile home, house trailer and factory manufactured home provided they meet the requirements of this title and the NYS Uniform Fire Prevention and Building Code. It shall not include a hotel/motel or a boarding house.

Easement means a recorded right-of-way or right of use held by a person or entity from an owner of a lot.

Factory farm means a feedlot confirming more than three hundred (300) agricultural animals.

Factory manufactured home means a dwelling unit constructed off-site, consisting of one or more segments and designed to be affixed to and supported by a foundation, as part of the real estate, and the one or more segments having each horizontal overall exterior dimension of at least twenty (20) feet.

Family means a household consisting of a single housekeeping unit occupied by one or more persons. (See the NYS Uniform Fire Prevention and Building Code.)

Farm Market. A permanent structure, operated on a seasonal or year-round basis, that allows for agricultural producers to retail agricultural plant products and agriculture-related items directly to consumer and enhance income through value-added products, services, and activities.

Feedlot means a lot on which agricultural animals have been, are or will be stabled or confined and fed or maintained within a ground surface area not more than twenty-five (25) times the ground surface area occupied by the agricultural animals for further growth thereof for a total of forty-five (45) days or more in any twelve (12) month period, and the animal confinements areas do not sustain crops, vegetation, forage growth, or post harvest residues in the normal growing season. Two or more

feedlots under a common ownership shall be treated as a single feedlot if the lots on which they are located adjoin each other, or if they use a common area or system for the disposal of wastes.

Fence means a structure, constructed of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials, erected in the minimum setback or buffer yard.

Finished grade means the elevation at which the finished surface of the surrounding lot intersects the walls or supports of a *building* or structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of a *building* and structure, shall be the mean elevation of all finished grade elevations around the periphery of the *building*.

Flea market means a lot or parcel with outdoor stalls, booths, or selling spaces used for the display or sale of used or new goods, wares, merchandise, antiques, collectibles and arts and crafts.

Floor area means the aggregate sum of the gross horizontal area of the floor or several floors of the *building* or *building* group. The floor area of a *building* or *building* group shall include:

1. Basement space;
2. Elevator shafts and stairwells at each floor;
3. Floor space for mechanical equipment, with structural headroom of seven feet six inches or more;
4. Penthouses;
5. Attic space (whether or not a floor has actually been laid) providing structural headroom of seven feet six inches or more for at least fifty (50) percent of the area;
6. Interior balconies and mezzanines;
7. Enclosed porch or attached garage;
8. Accessory use, exclusive of space for parking lots.

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

1. Cellar space, except that cellar space used for retail shall be included for the purposes of calculating requirements for accessory off-road parking spaces and accessory off-road loading berths;
2. Elevator and stair bulkheads, accessory water tanks, and cooling towers;
3. Floor space used for mechanical equipment, with structural headroom of less than seven feet six inches;
4. Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches for fifty (50) percent of the area;
5. Uncovered steps and/or exterior fire escapes;
6. Terraces, breeze ways, open porches, and outside balconies and open spaces;
7. Accessory off-road parking spaces;
8. Accessory off-road loading berths.

Footprint means the perimeter of a structure at ground level as depicted on a scaled drawing.

Health care clinic means a place where medical, dental, vision, nutrition, physical therapy, chiropractic and other similar health care services are furnished to persons on an out-patient basis by three or more physicians or professional health care providers who have common offices in a *building* which may also offer laboratory/testing facilities, medical or surgical procedures, and similar health care services.

Heliport means any lot or other facility used or designed to be used, either publicly or privately, by any person for the landing and taking off of helicopters, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary *building*s.

Home occupation means an occupation or profession conducted as an accessory use, clearly incidental and secondary to the residential use of a dwelling unit and which does not change the character of the dwelling unit, and which is carried on wholly within the enclosed walls of the dwelling unit by only a resident of the dwelling unit.

Hospital means an institution for the care and treatment of sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury who may require bed care. (See the NYS Public Health Law.)

Hotel/motel means a *building*, or any part thereof, which contains living and sleeping accommodations for transient occupancy, which may have a common exterior entrance or entrances and which may or may not include dining and/or meeting facilities. This term shall not include a bed and breakfast, or boarding house.

House trailer means a transportable, factory-built structure designed to be used as a year-round dwelling unit and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Requirements Act of 1974, which became effective June 15, 1976.

Improvements means constructed or installed facilities, other than *building*s including but not limited to: drives or internal drives, utilities, parking areas, roads, the entire storm water management system and components, domestic and fire protection water supply, and public sewer, except those portions thereof that are the responsibility of the town of Big Flats water district, Chemung County department of public works, and Chemung County Sewer District No. 1, and other similar facilities needed to support the principal or accessory use.

Industrial use means any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, painting, coating, resource recovery, storage or processing of materials or products.

Kennel means any lot or structure used or maintained for the boarding, breeding, sale, letting for hire or the commercial training of dogs, cats and/or other domestic animals kept as pets.

Kindergarten means any place operated on a regular basis for the purpose of providing state-certified instruction for children at least five years of age by December 1st of the entry year and less than six years of age by the same date.

Large tree means a live deciduous tree that is a minimum of twelve (12) inches diameter breast height (dbh).

Lawn and garden sales means the use of a lot or structure or any part thereof for the display, sale, lease and/or repair of equipment and/or new or used vehicles not licensed for use on a public road and for the display and sale of materials, each of which is designed and intended for: (a) establishing and maintaining a lawn and/or garden; and/or (b) residential small scale snow removal.

Lot means a measured unit of contiguous land, whether improved or unimproved, having fixed boundaries and designated on a plat or survey devoted to a specific use or occupied by a *building* or a *building* group, united by a common interest, use or ownership, which abuts and is accessible from a road or drive, and that is not divided by any watercourse, existing road or public right-of-way.

Lot area means the total area within the lot lines excluding any area within a right-of-way and any area within twenty-five (25) feet of the centerline of a private road.

Lot, Corner. Corner lot means a lot situated at the junction of and adjacent to two or more intersecting roads when the interior angle or intersection does not exceed one hundred thirty-five (135) degrees.

Lot, Coverage. See Coverage.

Lot depth means the mean distance from the front lot line to rear lot line.

Lot line means the lines bounding a lot.

Lot Line, Front. Front lot line means a lot line which is coincident with the right-of-way boundary line of a road, other than a private road, or which is measured twenty-five (25) feet from the centerline of a private road.

Lot, Through. Through lot means a lot which faces on two roads at opposite ends of the lot and which is not a corner lot.

Lot width means the width of a lot measured along the minimum front yard setback.

Mall means a *building* or *building* group containing a combination of three or more separate business and/or industrial uses.

Mini-storage facility means a *building* or *building* group designed and constructed with individual partitions or compartments for the storage of property. This definition shall not include the wholesale storage, warehouse/distribution center, truck terminals, and/or other transfer facilities for goods, wares or merchandise.

Mobile home means a dwelling unit bearing a seal issued by the Federal Department of Housing and Urban Development that is manufactured as a moveable dwelling unit, which is designed to be transported on a single permanent chassis and to be installed on a site with or without a permanent foundation when connected to utilities. This definition does not include a recreation vehicle that may be registered by a Department of Motor Vehicles.

Monopole means a freestanding tower consisting of a single pole designed to support an antenna.

Night club means a place of entertainment whose principal use is provision of music and space for dancing by patrons on a lot, regardless of whether alcoholic beverage, food or other entertainment are provided as accessory use.

Notice of compliance means a notice issued by the CEO upon completion of construction, alteration or change in occupancy classification pursuant to the NYS Uniform Fire Prevention and Building Code of a *building* and/or lot. The notice shall acknowledge satisfactory compliance with the requirements of this law, any conditions of approval attached to such use by an authorized board of the town, and any adjustments thereto granted by the zoning board of appeals. The notice is a permit to use the structure and/or lot in accordance with the approval.

Nursery school/pre-kindergarten means a private school organized for the purpose of educating three or more children less than seven years of age for less than three hours per day (although two sessions may be held daily), and shall be registered and certified by the NYS Education Department. (See also Day care center.)

Nursing home means a facility with a principal use of nursing care as defined and regulated by NYS. (Compare assisted living facility and convalescent home.)

Office, General Business. General business office means a business, office or agency providing service to the general public or other offices and agencies, such as insurance brokers, real estate agents, computer programming, consulting organizations, or similar service businesses.

Office, Professional. Professional office means an office principally occupied by a professional licensed by the state of New York such as a lawyer, engineer, architect, accountant, physician, chiropractor, therapist, dentist or similar occupation.

Outdoor lighting means outdoor electrically powered illuminating device, lamps, light or reflective surface used or designed to be used for illumination of a structure, sign, improvement and/or lot.

Parcel. See Lot.

Parking area means an area for the parking and/or storage of motor vehicles.

Parking lot means any lot where principal or accessory use is a parking area.

Permit, Building. Building permit is a permit issued by the town CEO in conformance with this title, the New York State Uniform Fire Prevention and Building Code and/or any other *building* code requirements adopted by the town.

Personal service establishment means a non-retail use providing service related to an individuals' care and upkeep need, such as manicurist, barber shop or beauty parlor, and the upkeep of personal attire, such as tailor, seamstress, or shoe repair. This definition shall not include facilities used for appliance, vehicle, small engine repair or similar use.

Place of worship means a *building* or lot used predominantly for public worship by members or representatives of a religious sect, group, or organization as recognized by state statute and any other use must be de minimis.

Plant nursery. See Agricultural plant.

Plaza. See Mall.

Recreational vehicle (RV) means a motorized vehicle or trailer that can be registered by the NYS Department of Motor Vehicles, which is designed to be primarily used for temporary living or sleeping purposes while traveling and which is customarily standing on wheels or removable rigid supports.

Restaurant, Fast Food. Fast food restaurant means an establishment where food and/or beverages are sold in a form ready for consumption and where, by design, packaging and sales techniques, significant revenue is derived from food sales where consumption takes place off-lot.

Restaurant, Standard. Standard restaurant means any establishment whose principal use is preparation and sale of food for consumption by patrons on the lot. This term does not include a public park snack bar.

Retail means a business or commercial use or activity involving primarily the sale or exchange of goods, wares and merchandise or stock-in-trade to the public which may include some fabrication on-site of goods or merchandise that are sold on the lot containing such use or activity.

Right-of-way means property under public control, ownership, or easement, by deed or by operation of law, and used or intended to be used for travel by persons and/or vehicles.

Road means an existing public or private way which has been improved to afford vehicular access to a lot.

Road, Local. Local road means a road designed primarily to provide vehicular access only to a lot which abuts it.

Road, Marginal Access. Marginal access road means a local road that is parallel and adjacent to a primary road, that is connected to the primary road by another short local road.

Road, Primary. Primary road means a state, county or town road which serves or is designed to serve heavy flows of vehicular traffic and which is used primarily as a route for vehicular traffic between communities and/or other heavy traffic areas.

Road, Private. Private road means an improved way that is used or designed to be used to provide access to lots which abut it, that is built to town specifications, and remains in the ownership of and is maintained by the developer or development association, and is not dedicated to the town.

Road, Secondary. Secondary road means a town road which serves or is designed to serve as a vehicular traffic way within a neighborhood or as a feeder to a primary road.

Road, Town. Town road means a road that is controlled, maintained, and owned by the town by deed or by operation of law.

Roadside Stand. A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced agricultural plant products as well as locally produced agricultural plant products. Operation is located on an agricultural site or adjacent farm residence as an accessory use to the principal use of the lot(s). Food franchises are prohibited.

Salvage yard means a lot with or without a *building* used or occupied for the storage, sale, or salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange, purchase and/or sale of materials, and including scrap metals or other scrap, used or salvaged *building* materials, or the dismantling or demolition of automobiles or other vehicles, tires, machinery or parts thereof. This term shall not include the storage, uses or salvage of agricultural machinery in agricultural plant, agricultural animal, agri-business and feedlot uses.

School, Private. Private school means an elementary or secondary school facility operated by a person, firm, corporation, or organization (other than a public school district), giving academic in-

struction in the ten (10) common learning areas of arithmetic, reading, spelling, writing, the English language, geography, history, civics, hygiene and physical training, registered and/or certified under the requirement of the Commissioner of the NYS Department of Education or chartered by the Regents of the University of the state of New York.

Setback means a line generally parallel to a lot line and spaced equidistant therefrom by a distance specified in Section 17.16.020 or a line generally parallel to an edge of a drive or internal drive and spaced equidistant therefrom by a distance specified in Chapter 17.20.

Sign means any letter, number, mark, symbol, figure, picture, exemplary device and/or banner (each and/or all hereafter referred to as "symbol") used or designed to be used to express, advertise or display an idea, instruction, product, commodity, business, service and/or entertainment. The term includes any structural or surface area where the symbol is displayed or attached.

Sign area means the area within the fewest and shortest straight lines that can be drawn around the outside perimeter of a sign including all decorations and lights but excluding the supports if they are not used for advertising purposes. Each separate face of a sign shall be counted as part of the sign area, except that any neon tube, string of lights, or similar device shall be considered as a two dimension structure and deemed to have minimum width dimension of six inches.

Sign, Accessory. Accessory sign means a sign, other than an identification sign, that advertises goods or services available upon the lot where such sign is located.

Sign, Flashing. Flashing sign means an illuminated sign which is not stationary or constant in intensity and/or color. An Electronically Activated Changeable Sign shall not be considered a Flashing Sign when used in compliance with 17.52.020(B)(18)(b). Flashing Signs are prohibited in the Town of Big Flats as per 17.52.030(A)(8).

Sign, Illuminated. Illuminated sign means a sign that incorporates any artificial lighting produced by electrical, technical, thermal or chemical means or uses light reflective materials to draw attention to or light the sign.

Sign, Off-Lot. Off-lot sign means a sign which directs attention to, advertises or expresses an idea, product, business activity, service, or entertainment which is not conducted, sold, or offered upon the lot where such sign is located.

Sign, Identification. Identification sign means a sign containing the name of and/or directing attention to a particular business, profession or other principal use on a lot, as well as any and all accessory use(s) that exist on a lot. A "For Sale" sign or "Lease" sign relating to the lot on which it is displayed shall be deemed an identification sign when a *building* and/or lot is unoccupied or vacant and offered for sale or lease.

Sign, Temporary. Temporary Sign means a sign displayed for a limted period of time. Such signs are typically constructed of, but not limited to light materials and whose duration is limited by its construction functionality.

Single ownership means possession of a lot under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than ten (10) years, regardless of any division of such lot into separate parcels for the purpose of financing or tax purposes.

Site plan means a map, plan and supporting information required pursuant to Chapter 17.32 for use specified in Section 17.12.010.

Slaughterhouse means a lot on which or a *building* in which agricultural animals are slaughtered for sale, gain or commercial purpose.

Solar collector means a device or structure, or combination of devices or structures, including supports, which transform direct solar energy into thermal, chemical or electrical energy, and that contribute to a structure's on-site energy supply.

Solar Collector, Detached. Detached solar collector means a solar collector physically detached from the structure for which solar energy is to be supplied.

Solar energy system means a complete design or assembly consisting of a solar collector, an energy storage facility (where used) and components for the distribution of transformed energy provided that the system is independent of any conventional energy system. Passive solar energy systems may be included in this definition except when they function primarily as a structural and recreational feature.

Solar reflector means a device used or designed to be used to increase the solar radiation received by the solar collector.

Solid waste disposal facility means any facility as defined, permitted and regulated by New York State Department of Environmental Conservation (NYSDEC).

Specialized repair means a *building* or lot used primarily for the indoor repair of highly technical specialized equipment, such as: electronic equipment, electrical systems, computer systems and circuits and other similar operation and support systems. This definition does not include a principal or accessory uses that involve mechanical and body repair, painting or refinishing of motor vehicles, small engines, appliances or similar products.

Stable, Commercial. Commercial stable means any lot or structure used or maintained for the boarding, breeding, sale, training, riding, or driving of horses, mules or donkeys for compensation or incidental to the operation of any club, association or similar organization.

Stable, Private. Private stable means an accessory structure to a residential use in which horses, mules or donkeys are kept for private accessory use and not for remuneration.

Steep slope means any geographic area of the town having natural topography with slopes of a ratio of fifteen (15) percent, one and one-half feet rise in ten (10) feet horizontal distance, or greater.

Storage facility means a *building* or *building* group designed and constructed for the common, long-term and/or seasonal interior storage of individual or business property. This definition does not include a warehouse/distribution center, truck terminal or other transfer facility for goods, wares or merchandise.

Story means a portion of a *building* which is between one floor and the next higher floor level or roof.

Structure means a static construction of *building* materials, composed of one or more parts, including but not limited to a *building*, heating-ventilating-air conditioning (HVAC) system, stadium, platform, tower, antenna, shed, display stand, storage bin, sign, fence, reviewing stand and gasoline/fuel pump.

Structure, Accessory. Accessory structure means a structure detached from, on the same lot with and subordinate to a principal structure and used for purposes customarily incidental to those of the principal structure. Accessory structure includes, but is not limited to, portable, removable or permanent enclosure, shade structure, carport, garage and storage shed.

Structure height means the vertical distance measured from the mean finished grade to the highest point of a roof or otherwise to the top of a structure.

Structure, Principal. Principal structure means a structure where the principal uses of a lot are conducted. Such structure includes any open or enclosed porch, carport, garage or similar structure attached to such structure.

Temporary means a type of period of time allowed by law or determined to be appropriate for the facts and circumstances relating to a condition or situation under consideration for permit or approval by a town official or an authorized board of the town.

Tower means a structure other than a *building* vertically projecting up from ground upon which it is positioned and designed to support an antenna or other structure that is not a *building*.

Townhouse means a *building* consisting of three or more attached one-unit dwellings each having separate entrances and common vertical party walls. (See also Building, Semi-Detached.)

Transient guest means any person who shares a dwelling unit on a nonpermanent basis for not more than thirty (30) days. (See the New York State Sanitary Code.)

Transition yard means an area of land forming a physical separation between a district boundary and a yard setback or buffer yard.

Travel Trailer. See Recreational vehicle.

Truck terminal means a *building* or lot, part of a *building* or lot, used for the short-term storage, transfer and/or transit of goods, wares and merchandise for the owner or others by truck or rail transport.

Use means an activity on a lot.

Use, Accessory. Accessory use means a use which is controlled by the person exercising a principal use, incidental to and customarily associated with the principal use and located on the same lot as the principal use.

Use, Adult. Adult use means a public or private business or establishment or any part thereof, which excludes persons under eighteen (18) years of age and which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portions of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental and/or display of materials, products, entertainment or services which are of a sexually explicit nature.

Use, Extractive. Extractive use means the removal and sale of any soil, gravel or earth product from a property. Grading in preparation for site construction under approved plans, where earth material is moved on-site or removed off-site incidental to construction activities, shall not be deemed an extractive uses.

Use, Nonconforming. Nonconforming use means the use of structure or lot, legally existing at the time of enactment of this title, which does not conform to the zoning requirements of the district in which it is situated.

Use, Principal. Principal use means a main or primary use of a lot or structure.

Vehicle filling station means a lot, including any structure thereon or any part thereof, that is used primarily for the sale of fuel, oil and other petroleum products for motor vehicles on-site, and may include accessory uses for the sale of motor vehicle accessories, facilities for lubricating, washing, and motor vehicle repair, but shall not include auto body work, welding or painting.

Vehicle rental means a lot and/or a structure or any part thereof used for the rental and for the display for rental of only passenger automobiles (including minivans and sport utility vehicles).

Vehicle repair means a lot including any structure thereon or any part thereof, that may have as a principal use a vehicle filling station, and may also include welding, painting, and vehicular body and/or engine work and the accessory sale of related vehicle parts, maintenance products, and accessories. A salvage yard is not to be considered as meeting this definition.

Vehicle Sales and/or Repair, Heavy Equipment. Heavy equipment vehicle sales and/or repair means a lot and/or structure or any part thereof used for the display, sale, lease or repair of new or used tractor trailers, heavy construction equipment, and large scale agricultural equipment.

Vehicle sales/lease means a lot and/or a structure or any part thereof used for the sale and/or lease, and for the display for sale and/or lease, of new or used automobiles (including minivans and sport utility vehicles), trucks (five tons GVW or less) or trailers (eighteen (18) feet in length or less), motorcycles, recreational vehicles, snowmobiles, boats, and light industrial vehicles.

Veterinary hospital means a lot and/or structure thereon or any part thereof used for the treatment and/or examination of animals' illness including facilities for boarding animals receiving examination or treatment. This definition is deemed to include animal hospital or clinic.

Warehouse/distribution center means a lot and/or structure thereon or any part thereof used for short term or temporary storage of goods, wares, and/or merchandise, whether for the owner of the warehouse/distribution center or for others, prior to shipment thereof to a wholesale and/or retail business, whether it is in public or private ownership, or to a not-for-profit organization.

Watercourse means any river, stream or naturally occurring channel of water or any manmade culvert which flows directly into one of the aforementioned.

Wholesale business means a business or establishment which is engaged in selling primarily to retailers or jobbers rather than directly to the public.

Wireless telecommunication means any personal wireless service as defined in the Federal Telecommunications Act of 1996 which includes Federal Communication Commission (FCC) licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services.

Wireless telecommunication facility (WTF) means an unstaffed facility for transmission and/or reception of wireless telecommunication and comprising an antenna or antenna array plus connection cables on a tower or support structure to achieve necessary elevation for such transmission and/or reception and associated operating equipment.

Yard, Front. Front yard means an open area bounded by: (1) a front lot line; (2) a front yard setback, and (3) either: (a) two side lot lines, or (b) a side lot line and another front lot line, or (c) two other front lot lines.

Yard, Rear. Rear yard means an open area bounded by: (1) a rear lot line; (2) a rear yard setback related to the rear lot line; and (3) two side yard setbacks.

Yard, Side. Side yard means an open area bounded by: (1) a side lot line; (2) a side yard setback related to the side lot line; (3) a front yard setback; and (4) either: (a) rear lot line, or (b) another side lot line, or (c) another front yard setback. (LL No. 2, 2004 § 2: LL No. 2, 2003 (part), (LL No. 4, 2009 (part)))

17.04.060 Application of requirements.

No *building* or lot shall hereafter be used or occupied, and no *building* or structure or part thereof shall be erected, constructed, altered or reconstructed unless in conformity with the requirement in this chapter specified for the district in which it is located, except as hereinafter provided. (LL No. 2, 2003 (part))

17.04.070 General requirements.

A. No structure shall hereafter be erected, constructed, altered or reconstructed except in conformance with the requirements and procedures and requirement of this title.

B. No part of a required yard or other open space around any structure required for the purpose of complying with the provisions of this title shall be included as part of a yard or other open space required for another structure.

C. No lot shall be reduced in size so that its area or any of its dimensions or open spaces would be smaller than required by this title.

D. No structure or lot shall be used for any uses other than those uses permitted for the district as set forth in Section 17.12.010.

E. This title shall be interpreted and applied so that it provides the minimum requirements for the promotion of the public health, safety and general welfare.

F. A use not specifically permitted shall be deemed to be prohibited.

G. Regardless of any other provisions of this title, any use that is noxious or offensive and constitutes a public nuisance by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health or safety is prohibited.

H. Approval of a use under this title shall not abrogate an applicant's responsibility to obtain all other required local, county, state or federal permits or approvals as appropriate. (LL No. 2, 2003 (part))

Chapter 17.08

DISTRICTS ESTABLISHED*

Sections:

17.08.010 Districts.
17.08.020 Zoning map.
17.08.030 Interpretation of district boundaries.
17.08.040 Use districts.

* Prior history: LL No. 2, 1997 and LL No. 1, 1999.

17.08.010 Districts.

In order to fulfill the purpose of this zoning law, the law establishes the following districts:

RU - Rural;
R1 - Residential - moderate density;
R2 - Residential - high density;
TC - Town center;
TC2 - Town center 2;
BN - Business neighborhood;
BN2 - Business neighborhood 2;
BNR - Business non-retail;
BR - Business regional;
ABD - Airport business development;
CL - Commercial or light industrial;
I - Industrial;
C - Conservation;
RCD - Recreation conservation district.

(LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.08.020 Zoning map.

The location and boundaries of the districts are established on a map designated "Zoning Map of the town of Big Flats" which map is kept on file and will be available for public viewing in the office of the town clerk, and such map is declared to be part of this zoning law. (LL No. 2, 2003 (part))

17.08.030 Interpretation of district boundaries.

Where uncertainty exists with respect to the boundary of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

A. Centerline and Right-of-Way Lines. Where district boundaries are indicated as approximately following the centerline or right-of-way lines of a road, public utility easement or watercourse, the boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way of such road, public utility easement or watercourse is moved not more than twenty (20) feet.

B. Lot or Boundary Lines. Where district boundaries are indicated as approximately following the town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

C. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, property lines, lot lines, right-of-way lines or projections thereof, the boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map or as shall be determined by use of the scale shown on the zoning map.

D. In the event of a questionable district boundary, the questionable boundary shall be referred to the zoning board of appeals, and they shall, to the best of their ability, establish the exact boundary.

E. Precise district boundary determinations made by the zoning board of appeals in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the zoning map by the town board.

F. Lots Divided by District Lines. Where a lot is divided by a district boundary line, the requirement for each respective district shall apply except:

1. In all cases where a lot in one ownership, other than a through lot, is divided by a district boundary so that fifty (50) percent or more of such lot lies in the less restricted district, the requirement prescribed for such less restricted district shall apply to the more restricted portion of the lot for a distance of thirty (30) feet from the district boundary. For purposes of this title, the more restricted district shall be deemed that district that prohibits a particular intended use of a lot or that sets a higher standard with respect to setback, coverage, yards, screening, landscaping and/or similar requirements.

2. In all cases where a district boundary line is located not farther than fifteen (15) feet away from a lot line of record, the requirement applicable to the greater part of the lot shall apply to the entire lot.

G. Buildings Divided by District Lines. Where a strict boundary line divides a *building* existing on the effective date of the local law codified in this title, so that fifty (50) percent or more of such *building* lies within the less restricted district, the requirement prescribed by this title for such less restricted district (as defined in subsection F of this section) shall apply to the entire *building*. Such provisions shall apply only if, and as long as, the *building* is in single ownership and its structural characteristics prevent its uses in conformity with the requirements of each district. (LL No. 2, 2003 (part))

17.08.040 Use districts.

A. Rural (RU) Intent. This district delineates those existing substantially undeveloped areas of the town that exhibit a rural character due to the lack of public services to support development, such as road networks, water service and sewer service, and where serious limitations to development are significant factors, such as steep slopes, bed rock exposed or at shallow depth, poor drainage soils, wetlands and other natural features militating against denser development. This district serves to conserve these areas for less intensive, low density residential use and, where appropriate in conformance with the natural and manmade limitations existing in these areas, for certain general and/or business uses.

B. Residential Moderate Density (R1) Intent. This district delineates those areas where predominantly single-unit dwelling, moderate density residential development has or is likely to occur and to protect the integrity of these residential areas by prohibiting the intrusion of any use that is not compatible with this predominant type and intensity of use.

C. Residential High Density (R2) Intent. This district delineates those older developed residential areas where predominantly single-unit dwelling, moderate to high density residential development has occurred and allow similar additional in-fill residential development to occur at the same density, while protecting the integrity of these residential areas by prohibiting the intrusion of any use that is not compatible with this predominant type and intensity of use.

D. Town Center (TC) Intent. This district designates the older, developed "hamlet" area in the town as a specific district that can and should support the variety of smaller business use, services and residential use that have evolved in this area. It is the town's intent to promote and preserve this area as a small community center where residential and business uses can co-exist through the use of development guidelines and requirements to ensure their compatibility, and through this district designation and guidelines to preserve the unique character of this area.

E. Town Center 2 (TC2) Intent. Town Center Residential Subdistrict, primarily intended to support mixed-use (residential/nonresidential) projects that contain active business uses within walking distance of residents and other activity centers of the hamlet. The district also accommodates lower intensity office development compatible with the residential character of the TC-2 District.

F. Business Neighborhood (BN) Intent. This district establishes areas within the town where limited business development of a low-profile scale and character consistent with the adjacent residential use can occur. The town has determined that to be consistent with the adjacent residential use, such business development shall include uses that meet the following objectives:

1. With the exception of regulated signs and parking areas, there shall be no major exterior accessory use or appurtenance.

2. A *building* shall be designed to be at a scale consistent with the adjacent residential use; no more than two stories and of an individual size and mass that is consistent with the adjacent residential areas.

3. The development shall not create noise, dust or other such conditions that would adversely impact on the adjacent residential use.

4. The development shall be designed to serve the needs of residential neighborhoods of the town.

To meet these objectives, the town has located this business zoning designation on a primary road. The town finds that the introduction of numerous drive access points on a road may conflict with the safe and efficient movement of traffic. It is the town's intent to limit the number of curb cuts or drive accesses on roads.

G. Business Neighborhood 2 (BN2) Intent. The purpose of this district is to delineate an area in the town that is very unique and different in its geographic setting and neighborhood surroundings from those of the BN districts, all of which are along two-lane state highways. This BN2 district abuts, extends along, and is accessible to NYS Route 17, a four-lane limited access highway. It is substantially undeveloped, whereas the BN districts are substantially developed. This BN2 district is located along Daniel Zenker Drive which is a primary road that provides vehicle access to regional

destinations such as the Elmira-Corning Regional Airport and Airport Corporate Park and abuts the ABD district immediately to the east of Hibbard Road. The location of this district in the town and its proximity to, and direct access from, a limited access NYS highway warrant a broader variety of permitted principal uses than those assigned to the BN district. However, its proximity to residential uses also warrants the exclusion of certain principal uses that are currently permitted in the ABD and other districts in the town. Therefore, this new district is created to accommodate certain of the principal uses that may be compatible with the surrounding residential uses while recognizing the uniqueness of the district's location with regard to the ABD district and NYS Route 17 (soon to be Interstate 86).

H. Business Non-Retail (BNR) Intent. This district delineates that area that is either situated between the two primary road networks and active rail lines; is located in the major flight path for the regional airport facility; or is located to act as a buffer between incompatible types of use. Due to its location, these areas are not well suited to low density, single-unit dwelling residential development, and cannot support a more intensive business development due to the lack of adequate access and services. The town's intent in establishing this district is to provide for and accommodate certain low intensity, non-retail business use that by their nature will be compatible with the lack of services. The district may also support certain higher density residential use outside of the direct airport flight paths and where some form of public water and sewer service can be provided. This district also encompasses certain prime agricultural lands that are currently in farming operations. It is the town's intent to preserve and support the continuation of these viable agricultural operations as permitted land use within this district, and to protect and preserve those natural features that exist, such as wetlands, ponds and recreational opportunities.

I. Business Regional (BR) Intent. This district delineates that area in the town that has by the nature of the existing business development and availability of transportation network, water and sewer service become a major regional business center. The extent of existing development, availability of services, substantial investment provided in service upgrades and the extent of vacant land, leads the town to seek to preserve this area for additional major retail business development that is consistent with and supports existing development patterns. The town will ensure that the transportation network and other services will continue to accommodate additional major business development through establishing minimum requirements for all business uses that will include limiting the number of future access points to the road network and the careful consideration of the potential use of joint access drive and marginal access road, as appropriate.

J. Airport Business Development (ABD) Intent. The town has the advantage of having the regional commercial airport located in its approximate center. This facility is an asset to both the town and county and should be preserved and protected from inappropriate or nonconforming type of land use. Accordingly, this district encompasses all of the airport property, much of the lands that are located within the flight and glide paths and other such adjoining lands that can either be impacted by or impact on the airport operation. These areas reserved for industrial and business use that supports airport operations and provides traveler services, as well as other use that may be considered accessory to and compatible with this overall airport use. The ABD district is provided with requirements to assure and establish the intended compatibility and intensity of development. This district also encompasses areas of prime agricultural soils that are currently being utilized for active agricultural op-

erations. This agricultural use is also considered to be compatible with the airport use and district designation.

K. Commercial Light Industrial (CL) Intent. This district delineates those areas of the town that by their location along and adjoining major primary roads that can support a range of business uses which cater to the essential traveler services, and to make provision for certain industrial use that by their nature require direct access to and support of such road network and/or that may be compatible with such uses.

L. Industrial (I) Intent. This district delineates those areas in the town that are now utilized for and appropriately suited for industrial use, and to preserve these areas for such use and related use that will not create a detrimental or significant adverse impact on the environment and the welfare of the community.

M. Conservation (C) Intent. This district delineates those open, public-owned and/or environmentally sensitive land and water areas of the town that because of their current use, critical relationship to the Chemung River, or extreme environmental sensitivity, should be preserved and utilized only for less intensive and carefully considered development that is compatible with the sensitive nature of such lands; and to ensure that the existing character, nature and benefits derived from such lands are preserved and retained.

N. Recreation Conservation District (RCD) Intent. In accordance with the comprehensive plan, this district delineates certain open areas of value to the public within the town represented in their natural, undeveloped or unbuilt condition. It is recognized by the town that the principal use of certain open areas is and ought to be the development, management, and utilization of the natural resource base possessed by these areas. In order that this value be maintained and this use encouraged, a zoning district is established to regulate the location of *building*s and structures and the use of parcels and lots, in order to protect and enhance the natural resources, natural amenities, natural habitats of wildlife, watershed areas, agricultural capabilities, public recreation areas, and the public health, safety and welfare by reducing the hardship and financial burdens imposed upon the town by the wanton destruction of resource, the improper and wasteful use of open land and wooded areas. It is further the intent of this district to permit compatible uses, *building*s, and structures only at a low density and low impact as an added guarantee of compatibility with surrounding land uses. (LL No. 1, 2008 (part): LL No. 8, 2007 § 1 (part); LL No. 2, 2003 (part))

Chapter 17.12

DISTRICT USE REQUIREMENTS*

Sections:

17.12.010 Use requirement table.
17.12.020 Activities prohibited in all districts.
17.12.030 Exceptions in all districts.

* Prior history: LL No. 2, 1997 and LL No. 1, 1997.

17.12.010 Use requirement table.

The use requirement table for uses permitted in each district is as follows:

USE	DISTRICT													
Residential -- As Principal Use	RU	R1	R2	TC	TC-2	BN	BN2	BNR	BR	ABD	CL	I	C	RCD
Alternative dwelling park	S													
Assisted living facility, convalescent home or nursing home	S			S	S			S						
Boarding house				S										
Dwelling, multi-unit	S/F	F3		S/F	S/F			S/F3						
Dwelling, one-unit	P/F	P/F	P	P/F	S/F			F						
Dwelling, two-unit	P/F	P/F	P	P/F	P/F			F						
Dwelling with a business				S	P/F									
Seasonal dwelling or hunting cabin	P												S	
General -- As Principal Use														
Airport or heliport	X									S				
Campground	S												S	
Club, membership	S			S	S	S	S	S						
Club, rod and gun	S													
Cultural, museum, library or art center	S			S	S	S	S	S	S					
Day care center or nursery school	S			S		S	S	S	S	S	S	S		
Farm market				S		S	S		S		S	S	S	
General -- As Principal Use (continued)	RU	R1	R2	TC	TC-2	BN	BN2	BNR	BR	ABD	CL	I	C	RCD
Government	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Nature center	S												S	S
Place of worship	S	S	S	S	S	S	S	S	S	S	S	S		
Private school	S	S	S	S	S		S	S			S			

USE	DISTRICT													
Public utility building, e.g., electric, switch or pump station	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Stable, private	P												P	
Wind energy conversion system	S												S	
Zoo	S												S	
Business -- As Principal Use														
Adult use											X	X		
Agricultural animal*	S												S	
Agricultural plant*	S						S	S		S			S	
Agri-business*	S												S	
Amusement center or indoor recreation				S					S					
Antenna	S			S		S	S	S	S	S	S	S	S	
Antique and craft shop				S	S	S	S		S					
Art gallery				S		S	S	S	S					
Bank, financial institution				S		S	S		S	S				
Bar or night club				S		S			S					
Barber or beauty shop				S	S	S	S	S	S					
Car wash				S		S5			S		S			
Catering				S	S	S	S		S		S			
Convenience mart				S		S	S		S					
Crematory											S			
Dry cleaning, laundry -- not self-service						S	S		S		S			
Dry cleaning, laundry -- self-service				S		S	S		S		S			
Factory farm														
Feedlot	X												X	

USE	DISTRICT													
Business -- As Principal Use (continued)	RU	R1	R2	TC	TC-2	BN	BN2	BNR	BR	ABD	CL	I	C	RCD
Fitness center, health club or gym	S			S	S	S	S	S	S	S				
Flea market or auction facility	X										X	X		
Funeral service				S	S	S	S				S			
Golf or ski facility	S							S					S	S
Hotel/motel or conference center							S		S	S				
Kennel	S													
Lawn and garden sales				S2	S2	S2	S2		S					
Medical clinic				S	S		S	S	S					
Mini storage	S					S	S	S			S			
Motor vehicle filling station				S					S		S			
Office, general business				S	S	S	S	S	S	S	S	S		
Office, professional				S	S	S	S	S	S	S				
Outdoor recreation or amusement park	S							S						S
Parking lot					S		S			S	S			
Personal service establishment				S		S	S	S	S					
Pharmacy				S	S	S	S	S						
Photographic studio				S	S	S	S	S	S					
Printing and publishing											S	S		
Restaurant, fast food				S		S			S					
Restaurant, standard				S	S	S			S	S				
Retail other than that listed in this table				S		S			S					
Specialized repair						S	S	S	S	S				

USE	DISTRICT													
Stable, commercial	S												S	
Storage facility	S					S	S	S			S			
Theater, drive-in									S					
Theater, single or multiplex									S					
Business -- As Principal Use (continued)	RU	R1	R2	TC	TC-2	BN	BN2	BNR	BR	ABD	CL	I	C	RCD
Tower	S													
Vehicle rental									S	S	S			
Vehicle repair				X					X	X	X			
Vehicle sales/lease									X		X			
Vehicle sales and/or repair, heavy equipment											X	X		
Veterinary hospital	S					S	S	S						
Wireless communication facility	S			S4			S4	S4	S	S	S	S	S	
Industrial -- As Principal Use														
Extractive use, soil mining								X1	X1	X1		S		X1
Fuel storage terminal												X		
Manufacture, fabrication, assembly and other material handling										S	S	S		
Research facility							S	S		S	S	S		
Truck terminal											S	S		
Warehouse/ distribution						S	S				S	S		
Accessory to a Principal Use Listed in this Table														
Accessory use other than those listed below	P/S	P/S	P/S	P/S		P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	
Antenna	P/S	P/S	P/S	P/S		P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	

USE	DISTRICT													
Bed and breakfast	S	S		S	S									
Cottage industry	S													
Day care, family home	P	P	P	P	S									
Day care, group family home	P	P	P	P										
Drive-through use				S		S	S		S	S				
Home occupation	P	P	P	P				P						
Wind Energy conversion system	S						S	S	S	S	S	S	S	S
Accessory to a Principal Use Listed in this Table (continued)	RU	R1	R2	TC	TC-2	BN	BN2	BNR	BR	ABD	CL	I	C	RCD
Mobile home, as temporary secondary dwelling on a lot with an existing one-unit dwelling as a principal use	S	S	S	S										
Roadside stand	P			P		P	P	P	P	P	P	P	P	

KEY

Districts:

RU	-	Rural
R1	-	Residential - Moderate Density
R2	-	Residential - High Density
TC	-	Town Center
TC-2	-	Town Center 2
BN	-	Business Neighborhood
BN2	-	Business Neighborhood 2
BNR	-	Business Non-Retail
BR	-	Business Regional
ABD	-	Airport Business Development
CL	-	Commercial Light Industrial
I	-	Industrial
C	-	Conservation
RCD	-	Recreation Conservation District

Use Designations:

P	-	Permitted as of right.
S	-	Permitted under site plan approval.
P/S	-	Permitted as of right where associated with principal use that is permitted as of right or permitted under site plan approval where associated with a principal use that is permitted under site plan approval.
X	-	Permitted under site plan approval and upon grant of a special permit by the Town Board.
F	-	Permitted under approval of a floating zone.
Blank	-	Not permitted in district.
*	-	Such agricultural uses proposed or existing in a Certified Agricultural District created in accordance with the applicable provisions of the NYS Agricultural and Markets Law shall be exempt from regulations under the provisions of this section as provided under Agricultural and Markets Law Section 305-a.

NOTES:

1. As site preparation only, to make site suitable for future development.
2. Accessory use accompanying this principal use excluding vehicle sales/lease.
3. Only in SHRMRD.
4. Wireless telecommunication facility is only permitted in this district when the antenna is constructed or installed on a *building* in compliance with the requirements of Section 17.36.180(B)(4).
5. Permitted only with connection to public water supply as sole source of water.

(LL No. 8, 2007 §§ 1 (part), 2, 3; LL No. 2, 2004 § 3: LL No. 2, 2003 (part))

17.12.020 Activities prohibited in all districts.

A. No effluent or matter of any kind shall be discharged into any watercourse or body of surface water which:

1. Violates established watercourse requirements of the NYS Department of Environmental Conservation or otherwise causes odors or fumes or which is poisonous or injurious to human, plant or animal life; or

2. Causes an increase in projected flood heights.

B. The practice of soil stripping shall be limited to incidental filling of areas within the town to bring them up to grade, except insofar as is necessary for typical agricultural practices or incidental to excavation for cellar and other structure.

C. Unless conducted under proper and adequate requirements, no use shall be permitted which will produce corrosive, toxic or noxious fumes, gas, materials, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, odors, dust, waste, noise or vibration, or other objectionable features so as to be detrimental to the public health, public safety or general welfare.

D. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way.

E. No new development of a use requiring site plan approval shall occur or be allowed until such site plan approval has been granted, except that the planning board may authorize specific limited site

preparation as that board finds necessary to facilitate its thorough site plan review upon which that board shall render a decision on the question of site plan approval. The CEO may give written authorization or permit for excavation specifically limited to performing environmental audit of land, testing of soils to determine any condition thereof and testing for potential, character and volume of underground water to determine its quality. (LL No. 2, 2003 (part))

17.12.030 Exceptions in all districts.

A. Public Properties. Nothing in this title shall restrict construction or use in the exercise of governmental use of a governmental *building* or lot.

B. Public utilities. Nothing in this title shall restrict the construction or use, of underground or overhead distribution facilities of public utilities operating under the laws of the state of New York. Other facilities may be constructed subject to a site plan approval. (LL No. 2, 2003 (part))

Chapter 17.16

BULK AND DENSITY CONTROL REQUIREMENTS*

Sections:

17.16.010 Intent.
17.16.020 Bulk and density control schedule.
17.16.030 Yard requirements.
17.16.040 Projection into yard.
17.16.050 Compliance with density.
17.16.060 Distance between principal structures on same lot.
17.16.070 General exception to structure height requirements.
17.16.080 Through lot.
17.16.090 Transition yard requirements.
17.16.100 Special requirements relating to yards in RU district.

* Prior history: LL No. 2, 1997 and LL No. 1, 1999.

17.16.010 Intent.

This chapter is established in the interest of promoting public health, safety and welfare by providing open space for: the access of light and air circulation, preventing conflagration, facilitating firefighting, meeting current and future septic disposal needs, protecting water supplies and environmentally sensitive areas, providing noncongested traffic movements, and protecting views. (LL No. 2, 2003 (part))

17.16.020 Bulk and density control schedule.

The bulk and density control schedule of required conditions for each district is as follows:

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
RU										
ONE-UNIT DWELLING BED & BREAKFAST	3 ACRES (See Note 1)		200	50	30	60	10	35	2	1,200 with no overall exterior dimen-sion less than 20 feet (See Note 2)
TWO-UNIT DWELLING	5 ACRES (See Note 1) 2.5 ACRES/ D.U.		200	50	30	60	10	35	2	1,200 with no overall exterior dimen-sion less than 20 feet (See Note 2)
MULTI-UNIT DWELLING	8 ACRES		400	50	100	120	10	35	3	EFF. 350 1

Error! No

	2 ACRES/ D.U.							(See Note 4)	(See Note 4)	BDRM 430 2 BDRM 510 3 BDRM 590 ADDT'L BDRM @ 80
AGRICULTURE - CROPS ONLY (MAY INCLUDE RESID. @ MIN. REQ.)		3 ACRES	300	70	50	100	25	35 (See Note 4)	3 (See Note 4)	N/A
AGRICULTURE - LIVESTOCK (MAY INCLUDE RESID. @ MIN. REQ.)		5 ACRES	300	70	50	100	25	35 (See Note 4)	3 (See Note 4)	N/A

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
RU										
PUBLIC		0.50	100	25	25	25	20	35	3	N/A

UTILITY BUILDING, ELECTRIC STATION, SWITCH STATION OR PUMP HOUSE		ACRE						(See Note 4)	(See Note 4)	
STABLE - PRIVATE & COMMERCIAL KENNEL ROD & GUN CLUBS		5 ACRES	300	70	50	100	25	35 (See Note 4)	3 (See Note 4)	N/A
OTHER GENERAL OR BUSINESS USE		3 ACRES	200	50	30	60	20	35 (See Note 4)	3 (See Note 4)	N/A
R1										
ONE-UNIT DWELLING NO PUBLIC WATER OR SEWER	35,000 sq. ft.		100	40	25	60	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TWO-UNIT DWELLING NO PUBLIC WATER OR SEWER	50,000 sq. ft.		100	40	30	60	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TOWN OF BIG FLATS										

BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
R1										
SINGLE-UNIT DWELLING WITH PUBLIC WATER AND SEWER	25,000 sq. ft.		100	40	20	50	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TWO-UNIT DWELLING WITH PUBLIC WATER AND SEWER	40,000 sq. ft.		100	40	25	50	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)

BED AND BREAKFAST	1 ACRE		150	40	40	50	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
PUBLIC UTILITY BUILDING, ELECTRIC STATION, SWITCH STATION OR PUMP HOUSE		0.50 ACRES	100	25	25	25	20	35 (See Note 4)	3 (See Note 4)	N/A
OTHER GENERAL USE		2 ACRES	200	50	50	50	40	35 (See Note 4)	3 (See Note 4)	N/A

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
R2										

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
ONE-UNIT DWELLING	15,000 sq. ft. (See Note 3)		80	25	15	30	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TWO-UNIT DWELLING	25,000 sq. ft. (See Note 3)		80	25	20	40	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
PUBLIC		0.50	80	25	15	25	20	35	3	N/A

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
UTILITY BUILDING, ELECTRIC STATION, SWITCH STATION OR PUMP HOUSE		ACRE						(See Note 4)	(See Note 4)	
OTHER GENERAL USE		2 ACRES	200	50	50	50	40	35 (See Note 4)	3 (See Note 4)	N/A
TC										
ONE-UNIT DWELLING WITHOUT PUBLIC WATER OR SEWER	15,000 sq. ft. (See Note 3)		80	25	15	30	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TC										

Error! No

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
ONE-UNIT DWELLING WITH PUBLIC WATER AND SEWER	7,500 sq. ft.		60	20	10	20	40	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TWO-UNIT DWELLING WITHOUT PUBLIC WATER OR SEWER	25,000 sq. ft.		80	25	20	40	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
TWO-UNIT DWELLING WITH PUBLIC WATER OR SEWER	12,500 sq. ft.		60	20	10	20	35	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
MULTI-UNIT DWELLING WITHOUT PUBLIC WATER OR SEWER	30,000 sq. ft. 15,000 sq. ft./unit		80	≤ 25 (See Note 8)	≤ 20 (See Note 8)	50	20	35	3	As Speci-fied in RU
MULTI-UNIT DWELLING WITH PUBLIC WATER AND SEWER	15,000 sq. ft. 5,000 sq. ft./unit		80	≤ 20 (See Note 8)	≤ 10 (See Note 8)	10	35	35	3	As Speci-fied in RU
TC										

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
DWELLING WITH BUSINESS	5,000 sq. ft.	10,000	80	≤ 25 (See Note 8)	≤ 15 (See Note 8)	≤ 25 (See Note 8)	50	35	3	As Speci-fied in RU
OTHER GENERAL OR BUSINESS		10,000	80	≤ 25 (See Note 8)	≤ 15 (See Note 8)	≤ 25 (See Note 8)	50	35 (See Note 4)	3 (See Note 4)	N/A
TC-2										
MULTI-UNIT DWELLING WITHOUT PUBLIC WATER OR SEWER	30,000 sq. ft. 15,000 sq. ft./unit		80	≤ 25 (See Note 8)	≤ 10 (See Note 8)	≤ 50 (See Note 8)	20	35	3	As Speci-fied in RU
MULTI-UNIT DWELLING WITH PUBLIC WATER AND SEWER	15,000 sq. ft. 5,000 sq. ft./unit		80	≤ 20 (See Note 8)	≤ 10 (See Note 8)	≤ 10 (See Note 8)	35	35	3	As Speci-fied in RU

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
ONE-UNIT DWELLING WITHOUT PUBLIC WATER OR SEWER	15,000 sq. ft.		80	≤ 25 (See Note 8)	≤ 15 (See Note 8)	≤ 30 (See Note 8)	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
ONE-UNIT DWELLING WITH PUBLIC WATER AND SEWER	7,500 sq. ft.		60	≤ 20 (See Note 8)	≤ 10 (See Note 8)	≤ 20 (See Note 8)	40	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TC-2										

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
TWO-UNIT DWELLING WITHOUT PUBLIC WATER OR SEWER	25,000 sq. ft.		80	≤ 25 (See Note 8)	≤ 20 (See Note 8)	≤ 40 (See Note 8)	20	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
TWO-UNIT DWELLING WITH PUBLIC WATER OR SEWER	12,500 sq. ft.		60	≤ 20 (See Note 8)	≤ 10 (See Note 8)	≤ 20 (See Note 8)	35	35	2	1,200 with no overall exterior dimen-sion less than 20 feet. (See Note 2)
DWELLING WITH BUSINESS	5,000 sq. ft.	10,000	80	≤ 25 (See Note 8)	≤ 15 (See Note 8)	≤ 25 (See Note 8)	50	35	3	As Speci-fied in RU

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
OTHER GENERAL OR BUSINESS		10,000	80	≤ 25 (See Note 8)	≤ 15 (See Note 8)	≤ 25 (See Note 8)	50	35 (See Note 4)	3 (See Note 4)	N/A
BN AND BN2										
GENERAL OR BUSINESS USE		1 ACRE	100	25	15	25	50	35	3	N/A
BNR										
MULTI-UNIT DWELLING WITH PUBLIC WATER AND SEWER	5 ACRES MAXIMUM DENSITY @ 10 UNITS/ ACRE		100	25	15	25	35	35	3	See RU

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE						
Zoning DISTRICT PRINCIPAL	Minimum LOT AREA PER PRINCIPAL	MIN. LOT	MINIMUM YARD REQUIREMENTS (SETBACKS)	MAXIMUM LOT	MAXIMUM BUILDING HEIGHT	MINIMUM HABIT

				(See Note 5)						
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	(sq. ft.)
BNR										
GENERAL, BUSINESS OR INDUSTRIAL USE		1 ACRE	100	25	15	25	50	35	3	N/A
BR										
INDIVIDUAL GENERAL, BUSINESS OR INDUSTRIAL USES		3 ACRES	300	25	15	25	70	35	3	N/A
COMBINATION OF GENERAL, BUSINESS AND INDUSTRIAL USES		3 ACRES	300	25	15	25	70	35	3	N/A
ABD										
INDIVIDUAL GENERAL, BUSINESS OR INDUSTRIAL USE		3 ACRES	300	25	15	25	50	35	3	N/A
COMBINATION OF GENERAL, BUSINESS OR INDUSTRIAL USE		3 ACRES	300	25	15	25	50	35	3	N/A
CL AND I										
GENERAL, BUSINESS OR INDUSTRIAL USE		1 ACRE	100	25	15	25	70	35	3	N/A

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
CONSERVATION										
GENERAL AND BUSINESS USE		3 ACRES	200	25	15	25	5	30	2	N/A
RECREATION CONSERVATION										
GENERAL AND BUSINESS USE		3 ACRES	200	25	15	25	5	30	2	N/A
PUBLIC UTILITY BUILDING, ELECTRIC STATION, SWITCH STATION OR PUMP HOUSE		0.50 ACRE	80	25	15	25	20	35 (See Note 4)	3 (See Note 4)	N/A
OTHER GENERAL USE		3 ACRES	200	50	50	50	40	35 (See Note 4)	3 (See Note 4)	N/A
AGRICULTURE -- PLANT		3 ACRES	300	70	50	100	25	N/A	N/A	N/A

TOWN OF BIG FLATS BULK and DENSITY CONTROL SCHEDULE										
Zoning DISTRICT PRINCIPAL USE	Minimum LOT AREA PER PRINCIPAL USE		MIN. LOT WIDTH (FT.)	MINIMUM YARD REQUIREMENTS (SETBACKS) (See Note 5)			MAXIMUM LOT COVERAGE %	MAXIMUM BUILDING HEIGHT		MINIMUM HABITABLE DWELLING AREA PER UNIT (sq. ft.)
	RESIDENTIAL	OTHER USE		FRONT (FT.)	SIDE (FT.)	REAR (FT.)		FEET	STORIES	
RCD										
GENERAL AND BUSINESS USE		3 ACRES	200	25	15	25	5	30	2	N/A

Notes applicable to the density or bulk control schedule:

1. Where municipal water and sewer can be provided and available prior to the issuance of a certificate of occupancy, the density and bulk requirements for the stated use in the R-l district with no water and sewer shall apply.

2. Overall exterior dimension means overall exterior lineal length and width of a structure.

3. The Chemung County health department may require new development using on-lot sewage disposal systems to have larger than the minimum lot sizes stated in this chapter.

4. Height of a *building* shall be measured and determined as specified in the NYS Uniform Fire Prevention and Building Code. The planning board may permit higher building height in an approved site plan based on the fire safety design and construction of the building and the ability of the jurisdictional fire district to protect the building.

5. Where a lot is proposed to contain a use listed in the use categories set forth in Section 17.12.010 abuts a lot containing an existing or approved use, a buffer, barrier and landscaping shall be provided along the abutting lot lines in accordance with Section 17.36.200.

6. Where lot fronts and abuts Sing Sing Road, front yard setback shall be a minimum of seventy-five (75) feet and provide landscaping, buffer and transitional yards in accordance with Section 17.36.200. All lots abutting public roadways shall provide landscaping, buffers and transitional yards in accordance with Section 17.36.200.

7. All development shall comply with and be subject to the provisions set forth in Chapter 17.21. Dimensional requirements as set forth in this chapter may be varied by the planning board based on set conditions and the merits of the specific proposal in meeting the objectives set forth in Chapter 17.21. Small-scale light industrial structures shall not exceed twenty-five thousand (25,000) sq. ft.

8. Refer to Chapter 17.24.030 Town Center Overlay District (TCOD). (LL No. 1, 2008 (part); LL No. 8, 2007 § 7 (part); LL No. 2, 2003 (part))

17.16.030 Yard requirements.

Except as provided in this chapter, no structure shall be erected or altered, or lots used, except in accordance with the requirements set forth in this chapter and the bulk and density control schedule. No principal building shall be erected or altered in a setback.

A. Special Requirement Relating to Front Yard.

1. No part of any lot that has two or more front yards shall be deemed to be a rear yard.

2. On any lot with more than one front yard, all yards, other than front yard, shall be deemed to be a side yard.

3. The minimum front yard setback on an undeveloped lot may be reduced under the following conditions:

a. Lots adjoining the two sides of the undeveloped lot have principal buildings located within less than the minimum front yard setback established for the district;

b. The lot width of the undeveloped lot is two hundred fifty (250) feet or less; and

c. The reduced front yard setback on the undeveloped lot shall be no less than a distance equal to the average distance between the front lot line and the building line on the adjoining lots.

B. Special Requirement Relating to Side Yard.

1. A structure having semi-detached, townhouse or multi-unit dwelling shall meet side yard setback only at the end of the structure facing the side yard.

2. Where the side wall of a *building* is not parallel to the side lot line or the side lot line is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any one point than one-half the otherwise required minimum width setback. (LL No. 2, 2003 (part))

17.16.040 Projection into yard.

Only the following shall be permitted to project into a minimum yard setback:

A. Awnings and canopies may project a maximum of six feet.

B. Cornices, eaves, passive solar devices, other such architectural features and roof-mounted antenna may project a maximum of two feet.

C. Exterior uncovered and unenclosed handicap access facilities may project up to the lot line if required to meet the access requirements of Americans with Disabilities Act (ADA).

D. Except as provided in Chapters 17.36 through 17.52, unroofed and unenclosed paved surfaces may project up to the lot line. (LL No. 2, 2003 (part))

17.16.050 Compliance with density.

A. No subdivision of a lot shall create a lot that is not in compliance with any provision of the bulk and density control schedule.

B. There shall be no more than one principal structure containing any dwelling unit on a lot except as may be approved under site plan review and approval. (LL No. 2, 2003 (part))

17.16.060 Distance between principal structures on same lot.

Where there are two or more principal structures on a lot in any district, the space between such structures shall be at least equal to the structure height of the taller structure. (LL No. 2, 2003 (part))

17.16.070 General exception to structure height requirements.

The limitations of the structure height of a *building* shall not apply to parts of a structure which are nonhabitable, including: silo, chimney, heating, ventilating and air conditioning (HVAC) equipment, skylight, tank, bulkhead, spire or antenna in accordance with Section 17.36.180. (LL No. 2, 2003 (part))

17.16.080 Through lot.

In the case of a lot running through from one road to another road, the front of such lot shall for the purposes of this title, be considered that frontage upon which the majority of the buildings in the same block front, but in case there has been no clearly defined frontage established, the owner may, when applying for a *building* permit, specify on the permit application which lot line shall be considered the front lot line. The rear portion of such a lot shall, however, be a front yard for the purposes of determining required setback and locations of permitted structure and use. (LL No. 2, 2003 (part))

17.16.090 Transition yard requirements.

A. Where a R1, R2 or RU district abuts any other district along the centerline of a road, a minimum front yard setback in the other district that is measured from a front lot line coincident with the right-of-way of the road shall be twenty-five (25) feet more than the minimum front yard setback specified in Section 17.16.020 for the other district.

B. Where a R1 or R2 district abuts any other district without an intervening road, a minimum side or rear yard setback in the other district that is measured from a lot line coincident with the boundary of the abutting district shall be increased more than the minimum yard setback specified in Section 17.16.020 for the other district by the number of feet as follows:

Other District:	Abuts a R1 or R2 District, increase added to Required Setback:
RU, TC, TC-2, C and RCD	Ten (10) Feet
BN	Fifteen (15) Feet
BNR	Twenty (20) Feet
BR	Thirty (30) Feet
ABD and I	Forty (40) Feet

(LL No. 1, 2008: LL No. 2, 2003 (part))

17.16.100 Special requirements relating to yards in RU district.

A. Notwithstanding any other provision of this BFZL other than subsections (B) and (C) of this section, agricultural plant use, except structures thereof other than fences and/or plant-supporting structures, may extend to any and all lot lines of the lot on which the agricultural plants are raised.

B. No agricultural plant use shall be within:

1. Ground surface distance of one hundred (100) feet from any watercourse, spring, existing well on a lot abutting the lot containing the agricultural plant use, or other surface water body used to provide potable water, and

2. The required buffer and transition yard, as set forth in Section 17.36.200, along the lot line of the agricultural plant use that is coincident with a R1 or R2 or PMRD district boundary line.

C. No business use other than agricultural plant, agricultural animal and commercial stable shall be within two thousand (2,000) feet of a boundary line of a R1 or R2 or PMRD district. (LL No. 2, 2003 (part))

Chapter 17.20

PLANNED-MULTIPLE RESIDENTIAL DISTRICT (PMRD)*

Sections:

17.20.010 Intent.
17.20.020 Floating zone.
17.20.030 Applicable districts.
17.20.040 Permitted uses.
17.20.050 General requirements governing non-senior housing PMRD (NHPMRD).
17.20.060 Special requirements governing non-senior housing PMRD (NHPMRD).
17.20.070 General requirements governing senior housing PMRD (SHPMRD).
17.20.080 Special requirements governing SHPMRD.
17.20.090 Procedures for establishing a NHPMRD or SHPMRD.

* Prior history: LL No. 2, 1997.

17.20.010 Intent.

It is the intent of this chapter to provide flexible land use and design requirements through the use of performance criteria so that small-to-large neighborhoods or portions thereof may be developed that incorporate a variety of residential density and *building* types. This PMRD may contain both individual dwelling unit *building* sites and common property which is planned and developed as a unit. In order to carry out the purpose of this PMRD. A PMRD development shall achieve the following objectives:

A. A maximum choice at all economic levels in the types of environment, occupancy, housing, lot sizes and community facilities available to existing and potential town residents;

B. Create more usable open space and recreation areas;

C. The preservation of large trees and outstanding natural features;

D. Creative use of land and related physical development;

E. An efficient use of land resulting in smaller networks of utilities and roads, thereby lower costs;

F. A development pattern in harmony with the objectives of the comprehensive plan for the town;

G. Compatibility with all applicable guidelines and requirements set forth in Chapters 17.36 through 17.52;

H. Maintenance or creation of acceptable traffic patterns and levels of service on the existing road network, especially in established residential areas. (LL No. 2, 2003 (part))

17.20.020 Floating zone.

The PMRD is a floating zone that shall be superimposed on an underlying district and subject to site plan approval and zoning amendment. (LL No. 2, 2003 (part))

17.20.030 Applicable districts.

A. A non-senior housing PMRD (NHPMRD) may be permitted in the RU, R1, TC and TC-2 underlying districts in accordance with the procedures for establishing a PMRD hereafter set forth in Section 17.20.090.

B. A senior housing PMRD (SHPMRD) may be permitted in the RU, R1, TC, TC-2 and BNR underlying districts in accordance with the procedures for establishing a PMRD hereafter set forth in Section 17.20.090. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.20.040 Permitted uses.

One-unit, two-unit and multi-unit dwellings and their accessory uses are permitted subject to site plan review and approval. Such dwelling units may be in the form of condominiums or rental units. (LL No. 2, 2003 (part))

17.20.050 General requirements governing non-senior housing PMRD (NHPMRD).

Any development proposal to be considered as a NHPMRD allowing such density increases as outlined in this chapter shall conform to the following requirements, which are regarded as minimum requirements, in addition to applicable requirements in other subsections of this chapter:

A. NHPMRD Lot Area. The minimum lot area required to constitute a NHPMRD lot shall be ten (10) acres.

B. NHPMRD Access. A minimum of two vehicular drives, approved and constructed in accordance with Section 17.36.050 shall be required for each NHPMRD lot. Such drives shall originate from a road with a minimum classification as secondary road.

C. NHPMRD Buffer Yard. A NHPMRD lot shall have a buffer yard along the entire perimeter of the NHPMRD lot that shall meet the following minimum requirements:

1. A NHPMRD buffer yard shall be at least equal to twice the minimum front, side and rear yard setback specified for a lot in the underlying district, except that in no instance shall the NHPMRD buffer yard be less than twenty-five (25) feet deep. The NHPMRD buffer yard shall be designed to contain a minimum six foot visual barrier through the use of man-made materials and/or natural plants. No barrier of man-made materials shall exceed six feet in height.

2. No part of the dwelling lot and no principal or accessory structure, parking area or other accessory use shall be located within the minimum NHPMRD buffer yard.

3. The planning board may, during the site plan review and approval process, require a NHPMRD buffer yard and/or setback on each dwelling unit lot in an NHPMRD greater than the minimum provided in this section and Section 17.20.060.

D. Water and Sewer Service. A NHPMRD shall be serviced by public water and public sanitary sewer systems.

E. NHPMRD Density. The planning board shall determine in each case the appropriate dwelling unit density and location. The gross density shall be calculated using the total acreage of the proposed NHPMRD lot. Such gross density shall in no instance exceed ten (10) dwelling units per acre.

F. Maximum Number of Units. The maximum number one-unit and two-unit dwellings in a NHPMRD shall be no more than thirty (30) percent of the total allowable dwelling unit per the density calculation for the development in accordance with the subsection 17.20.050(E).

G. Recreation Requirements. A NHPMRD development shall have a minimum of ten (10) percent of the entire NHPMRD lot set aside and developed, as appropriate, for recreational use in accordance with Section 17.36.100. (LL No. 2, 2003 (part))

17.20.060 Special requirements governing non-senior housing PMRD (NHPMRD).

In addition to compliance with the general requirements set forth in Section 17.20.050 the following special requirements shall apply to NHPMRD:

A. One-Unit and Two-Unit Dwelling. The requirements for each one-unit and two-unit dwellings and its lot within the NHPMRD lot shall be as established by the planning board in the site plan review and approval process, but shall comply with the following special requirements:

1. Maximum lot coverage: forty (40) percent;
2. Minimum lot area: ten thousand (10,000) square feet;
3. Minimum lot width: seventy-five (75) feet;
4. Minimum setbacks:

a. Front yard as measured from pavement edge of drive or interior drive: thirty (30) feet,
b. Side Yard: fifteen (15) feet,
c. Rear Yard: twenty-five (25) feet;

5. Maximum structure height: thirty-five (35) feet and two stories;
6. Minimum habitable dwelling area:

One thousand two hundred (1,200) square feet in each one-unit dwelling,

Nine hundred (900) square feet in each two-unit dwelling;

7. Parking: Shall be in conformance with Section 17.48.010;
8. An accessory *building*, including detached garage, shall be located no less than ten (10) feet from any rear or side lot line and shall not be located in front yard, and shall be located at least twelve (12) feet from the principal *building*.

B. Townhouse. The requirements for each townhouse and its lot within the NHPMRD lot shall be as established by the planning board in the site plan review and approval process, but shall comply with the following special requirements:

1. Maximum lot coverage: forty (40) percent;

2. Minimum lot area: three thousand five hundred (3,500) square feet;
3. Minimum lot width: twenty (20) feet;
4. Minimum setbacks:
a. Front yard as measured from pavement edge of drive or interior drive: thirty (30) feet,
b. Side Yard: five feet (at end of townhouse);
c. Rear Yard: twenty-five (25) feet;
5. Maximum structure height: thirty-five (35) feet and two stories;
6. Minimum habitable dwelling area: one thousand two hundred (1,200) square feet in each dwelling;
7. Parking: shall be in conformance with Section 17.48.040;
8. An accessory *building*, including detached garage, shall be located no less than ten (10) feet from any rear or side lot line and shall not be located in front yard, and shall be located at least twelve (12) feet from the principal *building*.

C. Multi-unit Dwelling. The requirements for each multi-unit dwelling and the lot for the multi-unit dwelling within the NHPMRD lot shall be as established by the planning board in the site plan review and approval process, but shall comply with the following special requirements:
1. Maximum lot coverage: forty (40) percent;
2. Minimum lot area:
For each one bedroom dwelling unit: four thousand (4,000) square feet,
For each two bedroom dwelling unit: four thousand two hundred (4,200) square feet,
For each three bedroom dwelling unit: four thousand four hundred (4,400) square feet,
For each four bedroom dwelling unit: four thousand six hundred (4,600) square feet,
3. Minimum lot width: two hundred (200) feet;
4. Minimum setbacks:
a. Front yard as measured from pavement edge of drive or interior drive: thirty (30) feet,
b. Side Yard: ten (10) feet (at ends of *building*s),
c. Rear Yard: twenty-five (25) feet;
5. Maximum structure height: forty-two (42) feet and three stories;
6. Minimum habitable dwelling area:

efficiency	350 square feet,
1 bedroom	430 square feet,
2 bedroom	510 square feet,
3 bedroom	590 square feet
additional bedroom	add 80 square feet.

7. Parking: shall be in conformance with Section 17.48.010.
8. Accessory *building*, including detached garage, shall be located no less than ten (10) feet from any rear or side lot line and shall not be located in front yard, and shall be located at least twelve (12) feet from the principal *building*. (LL No. 2, 2003 (part))

17.20.070 General requirements governing senior housing PMRD (SHPMRD).

Any development proposal to be considered as a SHPMRD allowing such density increases as outlined in this chapter shall conform to the following requirements, which are regarded as minimum

requirements, in addition to applicable requirements in other subsections of this title as well as the requirements of the Federal Fair Housing Act.

A. SHPMRD Lot Area. The minimum lot area required to constitute a SHPMRD lot shall be five contiguous acres.

B. SHPMRD Access. A minimum of two drives, approved and constructed in accordance with Section 17.36.100 shall be required. Such drives shall originate from a road with a minimum classification as secondary road.

C. SHPMRD Buffer Yard. A SHPMRD lot shall have a buffer yard along the entire perimeter of the SHPMRD lot that shall meet the following minimum requirements:

1. A SHPMRD buffer yard shall be at least equal to twice the minimum front, side and rear yard setback specified for a one-unit dwelling lot, in underlying district, except that in no instance shall the SHPMRD buffer yard be less than twenty-five (25) feet. The SHPMRD buffer yard shall be designed to contain a minimum six foot high visual barrier through the use of manmade materials and/or natural plants. No manmade barrier shall exceed six feet in height.

2. No part of a dwelling lot and no principal or accessory structure, parking area or other accessory use shall be located within the minimum SHPMRD buffer yard.

3. The planning board may, during the site plan review and approval process, require a SHPMRD buffer yard and/or setback on each dwelling unit lot in a SHPMRD greater than the minimum provided in this section and Section 17.020.080.

D. Water and Sewer Service. Each SHPMRD shall be serviced by public water and public sanitary sewer systems.

E. Density. The planning board shall determine in each case the appropriate dwelling unit density and location. The gross density shall, be calculated using the total acreage of the proposed development. Such gross density shall not exceed the following requirements:

1. Multi-unit dwelling units shall be permitted at a density of twelve (12) dwelling units per acre.

2. One-unit and two-unit dwellings shall be permitted at a density of 3.5 dwelling units per acre.

3. No dwelling unit in a SHPMRD shall have more than two bedrooms, with the exception of a caretaker's or manager's dwelling unit which may have up to four bedrooms.

F. Minimum habitable space shall be as established in Section 17.16.020, bulk and density control schedule.

G. Recreation Requirement. All development proposals shall have a minimum of five percent of all lands set aside and developed in accordance with Section 17.36.100 for the private recreational use of the SHPMRD residents.

H. Other Permitted Use. To further the objectives of the SHPMRD the town establishes and permits the following additional principal and accessory use:

1. Principal Use. The following principal uses shall also be permitted in a SHPMRD. Each such use shall be required to have a minimum lot area of one acre. The planning board shall determine at the time of site plan review if a larger lot area is required to support the use:

a. Assisted care living units, which for the purposes of this section, shall be living units that do not constitute the definition of a dwelling unit, but may contain separate living and sleeping space, and includes central eating facilities at which residents take meals;

b. Nursing home or convalescent home, health care services facility, home for the aged and other health care related facilities in combination with assisted care living units with central facilities duplicating those centrally provided for congregate care units and assistance with daily living services including but not limited to bathing, dressing, mobility and medication supervision;

c. Any combination of subsection (H)(1)(a) or (b) of this section.

2. Accessory Use. Certain related ancillary facilities shall be permitted, either in a separate *building* or in combination with assisted and/or congregate care units. Such ancillary facilities are deemed to be and shall function as an accessory use and shall be compatible with the residential character of the development and are as follows:

a. Cafeteria;

b. Laundry;

c. Lounge;

d. Game room;

e. Recreation room;

f. Exercise or multipurpose room;

g. Workshop;

h. Library;

i. Sauna or spa, exercise rooms, whirlpool;

j. Medical and/or emergency medical center, physical and speech therapy areas, first aid station, principally for the benefit of residents of the development;

k. Community and smaller private dining rooms, cocktail lounge, restaurant, coffee shop and/or lounge areas:

l. Small retail stores, convenience store, beauty parlor, barber shop, bank, post office, areas for crafts, games and other activities;

m. Chapel;

n. Rental units and/or guest rooms for visitors;

o. Social services office. Such office shall be for use by social service providers or others offering direct assistance to residents of the development;

p. Playground (outdoor and/or indoor);

q. Adult day care facilities;

r. Twenty-four (24) hour security;

s. Maintenance facilities.

(LL No. 2, 2003 (part))

17.20.080 Special requirements governing SHPMRD.

In addition to compliance with the general requirements set forth in Section 17.20.070, the following special requirements shall be applied to all SHPMRD and shall be regarded as minimum requirements:

A. One-Unit and Two-Unit Dwelling Requirements. The dimensional requirements for one-unit and two-unit dwellings shall be as established by the planning board in the site plan review and approval process, except that in no instance shall they be less than the following requirements:

1. Maximum lot coverage: forty (40) percent;

2. Maximum density: 3.5 dwelling units per acre;

3. Minimum lot size: seven thousand (7,000) square feet per dwelling unit;

4. Minimum lot width: fifty (50) feet;

5. Minimum setback requirements:

a. Front yard as measured from the pavement edge of drive and interior drive: twenty-five (25) feet,

b. Side yard: fifteen (15) feet,

c. Rear yard: twenty-five (25) feet,

d. Exception: awning, canopies, single story decks and single story covered porches may project a maximum of six feet into the required yard setbacks. Such awning, canopies, single story decks and single story covered porches shall not exceed one hundred forty (140) square feet of structure area within the required yard set forth above;

6. Minimum parking: 1.5 spaces per dwelling unit and in accordance with all other requirements of Section 17.48.010;

7. An accessory *building*, including detached garage, shall be no more than two hundred (200) square feet in size and shall be located no less than ten (10) feet from any rear or side lot line, shall not be located in a front yard setback, and shall be located at least twelve (12) feet from the principal *building*.

B. Townhouse Dwelling. The requirements for townhouse shall be as established by the planning board in the site plan review and approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum lot coverage: forty (40) percent;

2. Minimum setback requirement:

a. Front yard as measured from the pavement edge of drive and interior drives: thirty (30) feet,

b. Rear Yard: twenty-five (25) feet,

c. Side Yard: ten (10) feet (at ends of *building*s);

3. Maximum *building* height shall be three stories or forty (40) feet, whichever is the lesser;

4. Parking: 1.5 spaces per dwelling unit and in accordance with the requirements of Section 17.48.010;

5. Any accessory *building*, including a detached garage, shall be no more than two hundred (200) square feet in size and shall be located no less than ten (10) feet from any rear or side yard, shall not be located in a front yard setback, and shall be located at least twelve (12) feet from the principal *building*.

C. Multi-unit Dwelling Development. The dimensional requirements for multi-unit dwellings shall be as established by the planning board in the site plan review and approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum lot coverage: forty (40) percent;

2. Minimum setback requirement:

a. Front yard as measured from pavement edge of drive and interior drive: thirty (30) feet,

b. Rear Yard: twenty-five (25) feet,

c. Side Yard: ten (10) feet (at ends of *building*),

d. No principal *building* shall be located less than thirty (30) feet from any interior lot line,

e. Principal *building* setback from any road shall be a minimum of forty (40) feet;

3. Maximum *building* height shall be three stories or forty (40) feet, whichever is the lesser;

4. Parking: 1.5 spaces per dwelling unit and in accordance with all other requirements of Section 17.48.010;

5. An accessory *building*, including detached garage, shall be located no less than ten (10) feet from any rear or side yard and shall not be located in a front yard setback, and shall be located at least twelve (12) feet from the principal *building*. (LL No. 1, 2004 § 2: LL No. 2, 2003 (part))

17.20.090 Procedures for establishing a NHPMRD or SHPMRD.

A. Application Requirements. A request for establishing a NHPMRD or SHPMRD shall sequentially comprise: (1) a concept plan pursuant to Chapter 17.32 and (2) a site plan application pursuant to Chapter 17.32 and a proposed zoning amendment pursuant to Chapter 17.68.

B. Concept Plan Requirement. A concept plan for a proposed NHPMRD or SHPMRD, prepared in accordance with Chapter 17.32 shall be submitted to the town board and to the planning board.

C. Action on the Concept Plan.

1. The planning board shall evaluate the concept plan and make a recommendation to the town board. The recommendations shall be either conditional acceptance of the concept plan or disapproval of the request and shall include findings for such recommendation.

2. Then the town board shall evaluate the concept plan and the recommendation by the planning board. The town board shall make a decision of either conditional acceptance of the concept plan or disapproval of the request and shall include findings for such decision.

D. Application for Site Plan and Zoning Amendment. Upon conditional acceptance of the concept plan by the town board, the applicant may initiate a site plan application in accordance with Chapter 17.32 for a NHPMRD or SHPMRD by submitting to the planning board a preliminary plan together with a proposed zoning amendment.

E. Action on Preliminary Plan of Site Plan and Zoning Amendment. The planning board shall act on the preliminary plan and proposed zoning amendment as follows:

1. Evaluate potential environmental impact, compliance with this title and any other applicable law, rule or regulation, and any other significant concern;

2. Make findings based on the evaluation according to subsection (C)(1)(a) of this section;

3. Make a decision based on the findings according to subsection (C)(1)(b) of this section to either;

4. Accept the preliminary plan and proposed zoning amendment for consideration by the town board, and make a recommendation to the town board that the town board:

a. Make a determination of no significant environmental impact by the proposed NHPMRD or SHPMRD;

b. Enact the proposed zoning amendment; or

c. Refuse to accept the preliminary plan and proposed zoning amendment and make a recommendation to the town board that the town board disapprove or modify the proposed zoning amendment.

F. Action on Zoning Amendment.

1. After the receipt of the planning board's recommendation to accept the preliminary plan and proposed zoning amendment, the town board shall, in accordance with Chapter 17.68, set and hold a public hearing on the proposed zoning amendment for the NHPMRD or SHPMRD.

2. After the public hearing pursuant to subsection (C)(2)(a) of this section and in accordance with Chapter 17.68, the town board shall enact, with or without modification, or disapprove the proposed zoning amendment and record the reason for the action.

G. Action on Site Plan Application. After enactment of the zoning amendment pursuant to subsection (C)(2)(b) of this section the planning board shall process and make decision on the site plan application for the NHPMRD or SHPMRD in accordance with Chapter 17.32.

H. Subdivision Approval Requirement. If the NHPMRD or SHPMRD proposal involves a subdivision of land:

1. Any subdivision of land shall be included in the concept plan specified in subsections A and B of this section.

2. An application for subdivision approval shall, concurrent with the site plan application, be initiated by the applicant and processed with decisions thereon by the planning board.

I. Modification or Amendment of Approved NHPMRD or SHPMRD. Any proposed modification or change to an approved site plan for a NHPMRD or SHPMRD requires submission, processing and decision on an amendment to the approved site plan in accordance with Chapter 17.32. (LL No. 2, 2003 (part))

Chapter 17.24

OVERLAY DISTRICTS*

Sections:

17.24.010 Flood damage prevention overlay district (FDPOD).
17.24.020 Aquifer protection overlay district (APOD).
17.24.030 Town center overlay district (TCOD).
17.24.040 Ridgeline overlay district (RLO).

* Prior history: LL No. 2, 1997.

17.24.010 Flood damage prevention overlay district (FDPOD).

A. Intent. The town finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the town and that such damage may include: destruction or loss of private and public housing, damage to public facilities and injury to and/or loss of human life. In order to minimize the threat of such damage and achieve the purposes and objectives set forth in the Flood Damage Prevention Local Law this overlay district is established.

B. Applicable Area. The provisions of this chapter shall be applicable to all areas of special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance

Rate Map and Flood Boundary-Flood Way Map, all panels dated August 18, 1993 or the most recent updated version.

C. Special Requirements. The specific provisions as set forth in the Flood Damage Prevention Local Law, town of Big Flats, shall be applicable to all areas in this overlay district. (LL No. 2, 2003 (part))

17.24.020 Aquifer protection overlay district (APOD).

A. Intent. The intent of the aquifer protection overlay (APOD) district is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the town's groundwater resources in order to ensure a safe and healthy drinking water supply. This purpose will be accomplished by regulating certain uses that have been determined to be potentially damaging to groundwater quality, and by establishing minimum documentation and submittal requirements to ensure that other uses will not adversely affect the groundwater quality and quantity.

B. The aquifer protection overlay districts are named and described as follows:

1. Area I District. Zone of contribution type of aquifer which is a highly permeable area that primarily serves as a public water supply for a municipal water system, private water company, water district and water authority.

2. Area II District. Primary aquifer type of aquifer which is a potentially productive area not yet intensively used as sources of public water supply, but that is composed of moderately permeable material that may have the potential to be a source of public water supply and that serves as a significant source of water for individual wells and/or has an area extent greater than one square mile in size.

3. Area III District. That upland area of the town tributary to the aquifer protection overlay district.

C. Applicable Area. The aquifer protection overlay district shall have three areas that are considered as overlaying other districts as defined in subsection B of this section and as indicated on the zoning map as Area I, Area II and Area III. Any use permitted in the portions of the district so overlaid shall be permitted subject to all the provisions of this subsection. The APOD district consists of aquifers and aquifer recharge areas shown on the figure entitled aquifer protection areas of the town of Big Flats Comprehensive Plan (2006). The aquifer overlay protection district map is an approximate delineation of the boundaries of the unconsolidated sand and gravel deposits, recharge areas with sand and gravel at the surface, and probable high-yield bedrock well locations as identified. In any cases where conflicts arise between these supplemental requirements and any other existing requirement, the more restrictive shall apply.

D. Permitted Use. All uses permitted under this title and listed in Section 17.12.010 for the various districts are permitted in the aquifer protection overlay district except as follows:

1. Prohibited uses and activities in all areas of the APO:

a. The discharge, land application or disposal of any hazardous material, toxic substance or radioactive material;

b. Any principal use that is the production or processing of any hazardous material or toxic substance;

c. Any form of underground injection of hazardous materials or toxic substances is prohibited;

d. The use of septic system cleaners which contain toxic substances or hazardous materials;

e. The disposal of toxic substances or hazardous materials by means of discharge to a septic system;

f. Land spreading of septic waste.

2. Prohibited use in aquifer Areas I and II:

a. The open storage of pesticides, herbicides or fungicides. All other storage of such material is prohibited unless authorization has been obtained from the New York State Department of Environmental Conservation as provided in the New York Environmental Conservation Law;

b. Solid waste disposal facility;

c. The bulk storage of coal or salts, except in a water-tight structure, or cover constructed on an impervious material;

d. One-unit dwelling using septic tanks on a lot of less than thirty-five thousand (35,000) square feet, except as otherwise permitted by the Chemung County health department;

e. Two-unit dwelling using septic tanks on a lot of less than fifty thousand (50,000) square feet, except as otherwise permitted by the Chemung County health department.

3. Prohibited uses in aquifer Area III:

a. The open storage of pesticides, herbicides, fungicides and artificial fertilizers within fifty (50) feet linear distance of any watercourse;

b. The open storage of coal or salt within fifty (50) feet linear distance of any watercourse.

E. Applicability.

1. An applicant for any proposed action requiring subdivision approval, special use permit, site plan approval, zoning amendment, or zoning variance, under this chapter or Chapter 16, Subdivisions, shall be subject to the restrictions contained herein. Applicants for special use permit or a major subdivision shall additionally be subject to the aquifer impact assessment provisions of subsection F of this section. Compliance shall be required as a condition of approval of any action within the APOD district. The applicant shall show on any required submissions, the location of any portion of the subject property which lies within the APOD district as identified on the town of Big Flats aquifer overlay district map.

2. Existing development, uses or activities located within the APOD district are not subject to the requirements of this section and are considered a permitted pre-existing nonconforming uses or activities. Any significant change in a permitted pre-existing nonconforming use or activity shall be subject to the requirements of the APOD district regulations except for routine maintenance, repair, replacement, or minor improvements to such existing permitted nonconforming uses and facilities.

F. Aquifer Impact Assessment. All applications for subdivision, site plan, or special use permit, zoning variances, and zoning amendments under the town code shall include an aquifer impact assessment, unless waived by the town planning board for good cause shown, based on the methodology developed by the town of Big Flats department of planning, code enforcement, and *building* inspection. Said assessment shall be prepared by a qualified professional (e.g., licensed engineer, water engineer, geohydrologist). The following use restrictions and requirements shall apply to all land in the APOD district and which is within one mile of community water supply wells or springs. These use restrictions are not intended to supersede the New York State Agriculture and Markets Law or the New York State Environmental Conservation Law governing acceptable agricultural practices.

G. Supplemental Requirement in Areas I, II and III.

1. All commercial, industrial and home occupation, and cottage industry uses shall comply with all local, state and federal requirement concerning storage, use and disposal of toxic substances, hazardous materials and hazardous wastes.

2. Petroleum bulk storage facilities installed above or below ground shall comply with New York State Department of Environmental Conservation requirement.

3. Commercial, industrial, home occupation and cottage industry use shall provide to the code enforcement officer lists of all toxic substances, hazardous materials or hazardous wastes known to be used or stored on a lot together with sufficient detail to apprise the town of the method of storage and the amount of toxic substances, hazardous materials or hazardous wastes on the lots. In the case of existing uses, this information shall be supplied within six months of enactment of the local law codified in this title. In the case of proposed use, this information will be supplied as part of the plans prepared for site plan approval.

4. When the existing or proposed use includes the bulk storage of toxic substances, hazardous materials or hazardous waste and it is determined to have a potential negative impact on groundwater quality, the town planning board, as part of site plan review and approval procedure, may require plans showing all features of a system necessary for proper storage and monitoring in the event of leak or spill of these substances and such plans be prepared by a design engineer.

5. When a proposed use includes the use of toxic substances or hazardous materials and it is determined to have a potential negative impact on groundwater quality, the town planning board may require, as part of their site plan review and approval procedures, plans prepared by a licensed architect or engineer showing all features of the systems necessary for satisfactory conveyance, distribution and use of the materials, operating plans and monitoring in the event of leak or spill of these substances.

6. The planning board may require that certain commercial and industrial uses provide on-going groundwater monitoring as follows:

a. A commercial or industrial use, for which the planning board requires groundwater monitoring, which commence on or after the effective date of the local law codified in this title shall install and maintain a minimum of one groundwater monitoring well in a direction up gradient from on-site activities and one groundwater monitoring well in a direction down gradient from on-site activities. The specific location of these groundwater monitoring wells shall be determined by a professional geologist, hydrologist, engineer or other qualified expert trained and experienced in hydrogeology.

b. Frequency of required water quality sampling from monitoring wells shall be determined on a site-specific basis.

c. Access to monitoring wells shall be provided to the town for purposes of inspecting and monitoring water quality sampling deemed as appropriate.

d. The sampling analysis shall include, as a minimum, pH, total dissolved solids, total carbon and total organic carbon.

7. Vehicle filling station, vehicle repair, vehicle sales or lease and/or repair, heavy equipment and salvage yard including but not limited to, vehicle repair, body repair, disassembly and rust proofing operations:

a. Floor drains shall be connected to a holding tank or sanitary sewer equipped with an oil and grit separating tank.

b. Wastes collected in a holding tank shall be disposed of through a licensed waste hauler.

c. Waste degreasing solvents shall be stored in drums or a holding tank and disposed of through a licensed waste hauler.

d. Waste oil shall be stored in tanks or drums for disposal by a licensed waste hauler.

e. Storage facilities for tanks and/or drums shall require coated, sealed concrete floors, and containment areas to retain accidental spills or leaks; a permanent roof to protect tanks or drums and that prevents precipitation from entering dikes. Drums shall be sealed, and shall be located away from floor drains.

f. Large drip pans shall be kept beneath drums which have spigots and are stored in horizontal position on racks.

g. Potentially contaminated scrap, including but not limited to scrap parts, batteries and used filters shall be stored in proper containers to prevent environmental release of contaminants.

8. Commercial application of pesticides, herbicides, fungicides or chemical fertilizers:

a. Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.

b. Property owners who enlist the services of a commercial pesticide, fungicide or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Environmental Conservation.

c. No pesticides or herbicides shall be stored or applied except in compliance with this section. All storage of pesticides and herbicides within the APOD district shall be within a *building*. Application of pesticides and herbicides within aquifer recharge areas or probably high-yield bedrock wells, as identified on the aquifer overlay protection district map, shall be subject to issuance of a special use permit as required by Chapter 17.32 Special Use Permit Review and Criteria with the exception of commercial agricultural uses, which are exempted from this requirement. All such use, storage, or application shall be in accordance with the requirements of the New York State Environmental Conservation Law and its implementing regulations.

9. Whenever there is a question as to the groundwater contamination potential of a proposed use, the expert opinion of the United States Environmental Protection Agency (U.S. EPA), the New York State Department of Environmental Conservation (NYS DEC), or the state or county health departments may be requested.

10. The dumping or disposal of snow or ice collected off-site from roadways or parking areas within fifty (50) feet linear distance of watercourse is prohibited.

11. Any outside area used for loading, handling, or mixing of coal or salts, shall be designed so as to prevent seepage and runoff from entering the groundwater or any watercourse.

12. Disposal Wells. The installation or use of disposal wells is prohibited.

13. Infiltration Basins. Stormwater infiltration practices shall be designed in accordance with the standard in the "New York State Stormwater Design Manual." The bottom of the infiltration facility shall be separated by at least four feet vertically from the seasonally high water table or bedrock. Runoff from hotspot land uses or activities, such as heavy industry or auto recycling, must not be directed to a formal infiltration facility.

14. Animal Wastes. Manure piles shall not be permitted unless provision has been made to prevent seepage into groundwater. Suitable storage facilities shall be required when it is not possible to spread or dispense of wastes on a daily basis.

15. Industrial Sludge and Toxic Chemicals. No toxic or hazardous substances, defined as such by the United States Environmental Protection Agency or the New York Department of Environmental Conservation, shall be stored except under permit from those agencies.

16. Wastewater Lagoons and Pits. Use of wastewater lagoons and pits for temporary storage of wastewater is prohibited. All storage facilities shall be watertight, located above ground and under permit by the New York Department of Environmental Conservation.

17. Disposal. Disposal of toxic chemicals, industrial sludge or radioactive materials is prohibited.

18. Fertilizer Storage. All bulk storage of fertilizers for agricultural or commercial use must be within a *building* or structure which will prevent any seepage or runoff.

19. Storage Tanks and Pipelines.

a. The installation, construction, placement, or replacement of new or existing underground storage tanks or containers of one thousand one hundred (1,100) gallons or less for petroleum products is prohibited in connection with all uses subject to this law, including home fuel storage tanks for residential purposes. All above underground storage tanks of one thousand one hundred (1,100) gallons or less for petroleum products, pipelines, and transfer areas shall, to the maximum extent feasible, be designed to minimize the risk of groundwater contamination by incorporating backup containment structures, impervious surfaces, catchment areas and other features.

b. The town reserves the right to prohibit installation or expansion of above ground storage tanks of one thousand one hundred (1,100) gallons or less for petroleum products or installation or expansion of above ground storage tanks, pipelines, or containers for any other toxic chemical, where consistent with the purpose and standards of this section. This subsection is intended to be consistent with the requirements of the New York State Petroleum Bulk Storage Code found in 6 NYCRR 612, 613, and 614 which regulates storage tanks holding one thousand one hundred (1,100) gallons or more.

20. Salt and Coal Stockpiles. The storage of salts or coal is prohibited except in a completely enclosed *building* or structure, which will prevent any seepage or runoff containing such materials.

21. Water Wells. All water supply wells shall be constructed in accordance with the requirements of the Chemung County department of health and NYS Department of Health.

22. Abandoned Wells. All abandoned wells shall be sealed in accordance with the requirements of the Chemung County department of health and NYS Department of Health.

H. Supplemental Requirement in Wellhead Protection Areas.

1. The following uses shall require special permit by the planning board:

a. The discharge, land application or disposal of any septic, sewage sludge and/or food waste byproduct(s);

b. Any use that involves the production, processing or use of any hazardous material, toxic substances or radioactive material.

2. All new development within five hundred (500) feet of a wellhead protection area shall be subject to site plan review and approval by the planning board.

3. Prohibited uses within five hundred (500) feet of a public water supply well:

a. All on-site sewage disposal systems.

b. All earth material extractive uses.

I. Delineation of Wellhead Protection Area. Upon delineation of any wellhead protection area boundaries for the town and subsequent approval, they shall become separate wellhead protection areas under this subsection and shall be subject to all applicable rules and requirement established in this chapter and promulgated by the approval authority at the time such areas are delineated. (LL No. 2, 2007: LL No. 2, 2003 (part))

17.24.030 Town center overlay district (TCOD).

A. Intent.

1. The following law establishes a town center overlay district that serves as a high-density, high-intensity, mixed-use residential and employment activity center. The overlay district is delineated on the zoning map of the town of Big Flats. Two types of underlying subdistricts are authorized in addition to residential high density (R2) district and the business non-retail (BNR) as defined in Section 17.08.040, Use districts:

a. TC, town center mixed-use subdistrict, primarily intended to accommodate moderate- to high-density residential and commercial development as well as small-scale ground-floor commercial uses with residential units above.

b. TC-2, town center residential subdistrict, primarily intended to support mixed-use (residential/nonresidential) projects that contain active business uses within walking distance of residents and other activity centers of the hamlet. The district also accommodates lower intensity office development compatible with the residential character of the TC-2 district.

B. Purpose.

1. The purposes of a town center overlay (TCOD) district are to:

a. Provide flexibility in development standards for reuse or new re-development of vacant or underutilized lots within the TCOD that will protect the character of the hamlet;

b. Provide compatibility with residential and nonresidential existing character through the use of architectural and urban design elements of scale, color, and form guidelines and standards;

c. Promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas, and residential living environments that provide a broad range of housing types for an array of housing needs;

d. Promote a diverse mix of residential, business, commercial, office, institutional, educational, and cultural and entertainment activities for workers, visitors, and residents;

e. Encourage pedestrian-oriented development within walking distance of transit opportunities at densities and intensities that will help to support transit usage where it is achievable and town center businesses;

f. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;

g. Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and

h. Enhance the community's character through the promotion of high-quality urban design.

C. Underlying Subdistricts.

1. The TCOD district establishes two mapped underlying subdistricts that reflect the existing and desired places within the town center area in accordance with Section 17.08.040, use districts. They are:

a. TC, Town Center Mixed-Use Subdistrict. The TC, town center mixed-use subdistrict is primarily intended to support mixed-use (residential/nonresidential) projects with active ground-floor uses within walkable distances from residents and activity centers within the hamlet. The TC mixed-use subdistrict is also intended to encourage and enhance the high-intensity professional office and an employment center function of the hamlet's core area. The TC subdistrict regulations support the town center's role as a hub of regional importance for small business, communications, professional office, government, retail, culture, education, visitor accommodations, and entertainment. The district regulations support a mix of small-scale offices, commercial, public, recreation, and entertainment uses. The TC district also accommodates moderate to high intensity mixed-use and residential projects as important components of the area's vitality.

b. TC-2, Town Center Residential Subdistrict. The TC-2, town center residential subdistrict is primarily intended to accommodate moderate-density residential development and low to moderate density small-scale business uses that also accommodates ground floor uses with residential units above. The district also accommodates low-intensity office development compatible with the residential character of the TC-2 district.

D. Definitions. As used in this section, the following words and terms have the meanings specified below:

Gross floor area is the sum of the gross horizontal areas of several floors of a *building* measured from the exterior faces of the exterior walls or from the centerline of walls separating two *building*s. Gross floor area does not include basements when at least one-half the floor-to-ceiling height is below grade. Gross floor area does not include accessory parking, attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

Mixed-use *building* means a *building* that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

E. Lot Area Coverage and Lot Widths.

1. All residential development in TCOD is subject to the standards for lot area coverage as provided in Section 17.16.020.

2. All other allowed uses, existing and proposed development within the TCOD is subject to the following standards for lot coverage:

a. The area covered by impervious surfaces (i.e., area covered by *building*s and pavement) shall be minimized to the greatest extent practicable; best practices for surface water management shall be required pursuant to the Stormwater Management Guidelines of the town of Big Flats.

b. The maximum allowable lot coverage in the TC district shall be one hundred (100) percent and shall be reviewed based on the local character, and surface water management objectives, and to determine whether the development is an impediment to compact development.

3. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.

4. All proposed new structures within the TCOD are subject to site plan review pursuant to Chapter 17.32.

F. Building Height.

1. All development in TCOD is subject to the following maximum building height standards:

a. All building heights for proposed new buildings shall be consistent with the prevailing building heights of contiguous lots and properties so as to not create a disparate and disproportionate mix of heights. For example, if both properties each side of the lot contain one-story buildings, it would not be disparate to create a two-story building; however, it would be disproportionately out of character of the neighboring properties to create a three-story structure. Or, if the adjacent properties were two-story, it would not be out of character to create a three-story building or one-story building.

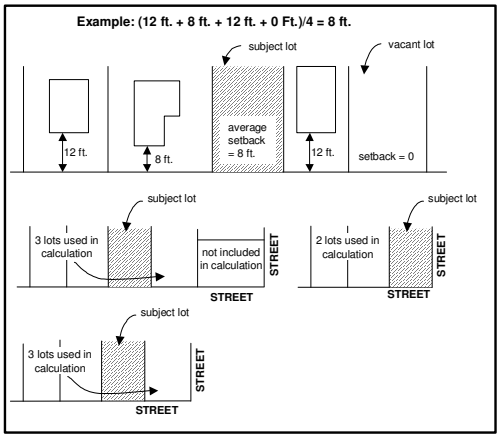
b. New structures within the TCOD shall be no more than three stories.

c. All proposed new structures are subject to site plan review pursuant to Chapter 17.32.

G. Setbacks.

1. Dimensional requirements as set forth in Chapter 17.16 may be varied by the planning board based on set conditions and the merits of the specific proposal in meeting the objectives set forth in this chapter. All development in TCOD districts is subject to the following setback standards:

a. No minimum front or street side building setback is required.



uilding setback may not exceed the average front yard
of the subject lot.
e included in the averaging calculation are vacant, such
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lot and the nearest two lots that front on the same street
ll be conducted by using the example provided below:

2. The following exceptions to the maximum front and street side building setbacks apply:

a. A portion of the building may be set back from the maximum setback line in order to provide an articulated facade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one square foot for every linear foot of building frontage.

b. A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the street wall, the building may be set back no more than twelve (12) feet from the front or street side property line or at least forty (40) percent of the building facade must be located at the maximum setback line. The total area of an outdoor eat-

ing area that is located between a public sidewalk and the building facade may not exceed twelve (12) times the building's street frontage in linear feet.

c. Exceptions to Minimum Front and Street Side Setbacks

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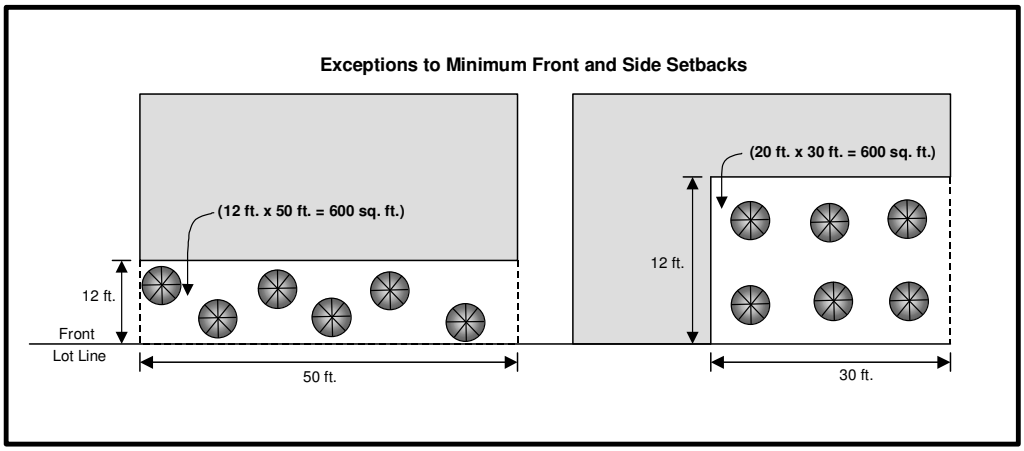


H. Off-Street Parking.

1. All development in TC districts is subject to the following setback standards:

a. One off-street parking space must be provided for each dwelling unit.

b. No off-street parking is required for nonresidential uses in TC-1 district unless the gross floor area of such uses exceeds five thousand (5,000) square feet of gross floor area, in which case off-street parking must be provided at a minimum ratio of one space per each one thousand (1,000) square feet of gross floor area in excess of five thousand (5,000) square feet.

c. No off-street parking is required for nonresidential uses in the TC-2 district unless the gross floor area of such uses exceed twice the area of the lot, in which case off-street parking must be provided at a minimum ratio of one space per each one thousand (1,000) square feet of gross floor area in excess of twice the lot area.

d. All off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

I. Indoor/Outdoor Operations.

1. All permitted uses in the TC districts must be conducted within buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas, alone or in connection with restaurants.

J. Floor-to-Floor Heights and Floor Area of Ground-Floor Space.

1. All nonresidential floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of eleven (11) feet.

2. All nonresidential floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:

a. At least eight hundred (800) square feet or twenty-five (25) percent of the lot area (whichever is greater) on lots with street frontage of less than fifty (50) feet; or

b. At least twenty (20) percent of the lot area on lots with fifty (50) feet of street frontage or more.

K. Transparency.

1. A minimum of sixty (60) to seventy-five (75) percent of the street-facing building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor nonresidential space or product display areas.

2. The bottom edge of any window or product display window used to satisfy the transparency standard of subsection (K)(1) of this section may not be more than three to four and one-half feet above the adjacent sidewalk.

3. Product display windows used to satisfy these requirements must have a minimum height of four feet and be internally lighted.

L. Doors and Entrances.

1. Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

2. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

M. Vehicle and Driveway Access.

1. No curb cuts are allowed to cross sidewalks that disrupt pedestrian movements and pose safety threats.

2. Curb cuts will provide pedestrian primary access, clear zones and circulation.

N. Drive-Through Facilities.

1. Drive-through facilities for vehicles are prohibited in TC-2 districts.

2. Drive-through facilities or windows in the TC district shall be located behind buildings, and traffic routing shall be located to protect and separate pedestrian circulation routes from auto traffic.1

O. Landscaping Requirements.

1. Parking Area Landscaping and Screening.

a. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

b. A landscaped area at least five feet wide along the public street or sidewalk.

c. Screening at least three feet in height and not less than fifty (50) percent opaque.

d. One tree for each twenty-five (25) linear feet of parking lot frontage.

2. Parking area interior landscaping. The corners of parking lots, “islands,” and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

3. In large parking lots containing more than two hundred (200) spaces, an additional landscaped area of at least three hundred (300) square feet shall be provided for each twenty-five (25) spaces or fraction thereof, containing one canopy tree. The remainder shall be covered with turf grass, native grasses or other perennial flowering plants, vines or shrubs.

4. Installation and Maintenance of Landscaping Materials.

a. All landscape materials shall be installed to current industry standards.

b. Maintenance and replacement of landscape materials shall be the responsibility of the property owner. Landscape maintenance should incorporate environmentally sound management practices, including the use of water- and energy-efficient irrigation systems such as drip irrigation, and pruning primarily for plant health and public safety, replacing dead materials annually.

5. Materials. All plant materials must meet the minimum standards set by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species. Plant materials shall comply with the following standards:

a. Minimum plant size shall be as specified as follows (for the purpose of determining tree trunk size, the diameter shall be measured six inches above ground level):

Plant Type	Minimum Size
Evergreen tree	six feet in height
Deciduous canopy tree	twenty-two (22) inches caliper at dbh*
Small deciduous tree	twelve (12) inches caliper at dbh*
Evergreen or deciduous shrubs	eighteen (18) to twenty-four (24) inches in height

*dbh = diameter at breast height

b. Landscape materials shall be tolerant of specific site conditions, including but not limited to heat, drought and salt.

c. Existing healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified above.

d. Landscape materials that are used for screening shall be of a size that allows growth to the desired height and opacity within two years.

P. Signage Requirements.

1. All signs shall comply with Chapter 17.52 of the town of Big Flats Zoning Law.

2. Exceptions to sign law shall apply when it can be show through site plan review pursuant to Chapter 17.32 that there is a common theme to a designed sign program that would apply to a mixed use building(s) or group of structures contiguous to one another.

3. All signs proposed within the TCOD are subject to a building permit issued by the code enforcement officer and approval of the director of planning, code and building inspection or his or her designee.

Q. Pedestrian Circulation.

1. Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the TCOD. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks on both sides in accordance with the specifications below:

a. Sidewalks in Residential Areas. Clear and well-lighted sidewalks, three to five feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.

b. Sidewalks in mixed-use areas. Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of five feet in width.

1. Note that these standards do not apply to service windows, such as a service window for an ice cream parlor.
(LL No. 8, 2007 § 7 (part))

17.24.040 Ridgeline overlay district (RLO).

A. Findings. The Big Flats town board considers scenic character to be one of the town's most important assets. Therefore, in accordance with the goals, objectives and strategies laid out in the town of Big Flats Comprehensive Plan (2006), the town board finds that:

1. The natural open character of the town's ridgelines is a critical feature whose conservation enriches and benefits both residents and visitors, as documented in the town's 2006 Comprehensive Plan.

2. The protection of the scenic character of the town's ridgelines is important to maintaining and protecting rural character, a sense of place, and scenic landscapes, all of which contribute to the town's quality and attractiveness for residential and commercial development, as well as for tourism.

3. The development of areas covered by this overlay district may be appropriate, but only if such development is carefully planned and designed to maintain, conserve and enhance the scenic features of the area and the views of the landscape from public roadways and waterforms.

4. The ridgeline conservation will protect important wildlife habitat and environmentally fragile areas as well as preserve open space.

(See Town of Big Flats Comprehensive Plan (2006), Chapter 5, Section 5.5 Environmental Identified Need; Goal No. 10.1.1 Land Use Development Objectives and Strategies; and Goal No. 10.3.1 Natural Environment Strategies and Objectives).

B. Purpose. The purpose of the ridgeline overlay district (hereafter the "RLO") is to:

1. Establish clear development guidelines so that future development activities do not interfere with the scenic, aesthetic and recreational uses utilized and enjoyed by residents and visitors;

2. Protect the town's ridgelines, which are found at higher elevations, and include some of the most environmentally sensitive areas of the town; and

3. Preserve the town's important scenic features including, but not limited to, individual healthy trees within open fields that are at least eighteen (18) inches in diameter at breast height (DBH), historic structures, wetlands, ponds, hedgerows, public or private unpaved country roads, and stone walls.

C. Applicability. Any parcel, partially or wholly in one of the three RLO areas are included in the RLO. The RLO is comprised of land located in the scenic view-shed with an elevation of one thousand one hundred (1,100) feet or more above mean sea level. The RLO areas are described below and shown on "Town of Big Flats Ridgeline Overlay District Map (RLO Map)," which was prepared by James W. Sewall Company and dated 8-2-2007 and is incorporated by reference and made a part of the town of Big Flats zoning map. The three areas are:

a. RLO-1 (east of New York State Route 352);

b. RLO-2 (west of New York State Route 352); and

c. RLO-3 (north of New York State Route 17/Interstate 86).

2. For any property in the RLO, prior to the issuance of any building permit, a RLO special permit and site plan approval must be received from the planning board (board). In the review of an application for a permit, the board must evaluate the potential for unreasonable adverse visual impacts resulting from a proposed activity.

3. The requirements of this chapter shall not apply to dwelling additions and accessory structures less than three hundred (300) square feet in structure area, provided no new area is cleared. Furthermore, an elevation survey, prepared and stamped by a licensed surveyor, may be submitted to the board to show that no part of the site is in the RLO.

4. Inconsistency. The RLO requirements shall not be used to lessen the underlying zoning district density applicable to the development. The most restrictive requirements under this chapter or the applicable requirements for the development set forth in the town code shall apply to such development. Except as provided herein, if any conflict arises between the provisions of this chapter and any other requirements set forth in the town code, this chapter shall control.

D. Scope of Review. The potential impacts of a proposed activity will be determined by the board considering the presence of the scenic resource, the significance of the scenic resource, the existing character of the surrounding area, the expectations of the typical viewer, the extent and intransience of the activity, the project purpose, and the context of the proposed activity. Unreasonable adverse visual impacts are those that are expected to unreasonably interfere with the general public's visual enjoyment and appreciation of a scenic resource, or those that otherwise unreasonably impair the character or quality of such a place. During the RLO special permit process, the planning board will determine whether the proposed development will have an unreasonable adverse effect on the scenic character of the surrounding area.

1. The board shall review the project's visual impact on the scenic viewshed using the Basic Visual Impact Assessment Form and the Visual Impact Analysis Matrix provided in the Appendix to this law.

2. The board shall consider all relevant evidence to that effect, such as evidence that:

a. The design of the proposed development takes into account the scenic character of the surrounding area;

b. A development which is not in keeping with the surrounding scenic character will be located, designed and landscaped to minimize its visual impact to the fullest extent possible; and

c. Structures will be designed and landscaped to minimize their visual impact on the surrounding area.

3. If the board finds that the proposed development will have an unreasonable adverse effect on the scenic character of the surrounding area and that effects cannot be mitigated, the board shall deny the project.

4. If the board finds that the proposed development has an unreasonable adverse effect on the scenic character of the surrounding area, but that the effects can be mitigated, the board may impose any reasonable conditions upon the approval of a development, so long as the conditions fulfill or enhance the overriding findings and purposes of this chapter. Such conditions may include, but are not limited to, limiting illumination of the site, limiting clearing or cutting, requiring architectural or

vegetative screening, regulating the use of color and or materials used in construction, or any other reasonable conditions developed during the review of the application. Any condition imposed under this paragraph shall be clearly noted on the final plat, plan or permit issued for the development and/or filed with the Chemung County clerk.

E. Definitions. As used in these rules, the following terms have the following meanings:

1. Aesthetic Impact. Aesthetic impact occurs when there is a detrimental effect on the perceived beauty of a place or structure. Mere visibility, even startling visibility of a project proposal, should not be a threshold for decision-making. Instead a project, by virtue of its visibility, must clearly interfere with or reduce the public's enjoyment and/or appreciation of the appearance of an inventoried resource (e.g., cooling tower plume blocks a view from a state park overlook).

2. Aesthetic Quality. There is a difference between the quality of a resource and its significance level. The quality of the resource has to do with its component parts and their arrangement. The arrangement of the component parts is referred to as composition. The quality of the resource and the significance level are generally, though not always, correlated.

3. Adverse Visual Impact. The negative effect of a regulated activity on the visual quality of a landscape.

4. Atmospheric Perspective. Even on the clearest of days, the sky is not entirely transparent because of the presence of atmospheric particulate matter. The light scattering effect of these particles causes atmospheric or aerial perspective, the second important form of perspective. In this form of perspective there is a reduction in the intensity of colors and the contrast between light and dark as the distance of objects from the observer increases. Contrast depends upon the position of the sun and the reflectance of the object, among other items. The net effect is that objects appear "washed out" over great distances.

5. Backdrop. The distant part of a landscape located from four miles to infinity from the viewer.

6. Color. The property of reflecting light of a particular wavelength that enables the eye to differentiate otherwise indistinguishable objects. A hue (red, green, blue, yellow, etc.) as contrasted with a value (black, white, or gray).

7. Composition. The arrangement of the component parts of a landscape. Component parts are objects or activities usually described in terms of color, texture, line, form, dominance, and scale.

8. Contrast. Diversity or distinction of adjacent parts. Effect of striking differences in color, form, line, or texture of a landscape. Comparing the component parts of a landscape in terms of form, line, color, texture, dominance, or scale.

9. Control Points. The two end points of a line-of-sight. One end is always the elevation of an observer's eyes at a place of interest (e.g., a high point in a state park) and the other end is always an elevation of a project component of interest (e.g., top of a stack of a combustion facility or the finished grade of a landfill).

10. Cumulative Impact. The impact on the environment, which results from the incremental impact of the activity when added to other past, present, and reasonably foreseeable future activities regardless of what entity undertakes such other actions. Cumulative impacts can result from individually minor, but collectively significant activities taking place over a period of time.

11. Direct Effects. Those effects caused by the activity and occur at the same time and place. Direct effects are a subset of cumulative effects.

12. Dominance. The extent to which an object is noticeable when compared to the surrounding context.

13. Duration. The period of time in which an effect on a resource may exist or remain detectable.

14. Form. The structure, mass or shape of a landscape or an object. Landscape form is often defined by the edges or outlines of landforms, rockforms, vegetation patterns, waterforms, or the enclosed spaces created by these attributes.

15. Existing Uses. The current appearance and use of the landscape, considering previous human alterations.

16. Indirect Effects. Those effects caused by the activity or use attributed to the activity and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects are a subset of cumulative effects.

17. Landform. One of the attributes or features that make up the Earth's surface, such as a plain, hill/mountain, ridgeline, or valley.

18. Landscape. An area composed of interacting ecosystems that are repeated because of geology, landform, soils, climate, biota, and human influences throughout that area.

19. Landscape Character or Landscape Composition. Particular attributes, qualities, and traits of a landscape that give it an image and make it identifiable or unique.

20. Landscape Compatibility. The elements of color, form, line, and texture that typically determine landscape character.

21. Line. Anything that is arranged in a row or sequence. In landscapes -- ridges, skylines, structures, changes in vegetation, or individual trees and branches -- may be perceived as line.

22. Line-of-Sight Profile. A profile is a graphic depiction of the depressions and elevations one would encounter walking along a straight path between two selected locations. A straight line depicting the path of light received by the eye of an imaginary viewer standing on the path and looking towards a predetermined spot along that path constitutes a line-of-sight. The locations along the path where the viewer stands and looks are the control points of the line-of-sight profile.

23. Mitigation. Any action taken or not taken to avoid, minimize, rectify, reduce, or eliminate actual or potential adverse environmental impact, including adverse visual impact.

24. Permanent Impact. The potential long-term effects on the characteristics, or functions and values of the resource that result from a regulated activity.

25. Practicable. Available and feasible considering cost, existing technology and logistics based on the overall purpose of the activity.

26. Reasonably Foreseeable Future Activities. The activity will proceed or there is a high probability that the activity will proceed, i.e., valid permits have been granted for projects in the vicinity of the proposed project; projects are constructed or under construction, or; applications for permits to construct projects in the vicinity of the proposed project are currently under consideration.

27. Resource. The individual protected natural resource specific to the activity proposed in an application.

28. Scale Contrast. The degree to which an activity or object dominates or intrudes into a landscape or confined setting.

29. Scenic Resource. Public natural resources or public lands visited by the general public, in part for the use, observation, enjoyment, and appreciation of natural or cultural visual qualities. The attributes, characteristics, and features of the landscape of a scenic resource provide varying responses from and varying degrees of benefits to, humans.

30. Scientific Perspective. Scientific, linear, or size perspective is the reduction in the apparent size of objects as the distance from the observer increases. An object appears smaller and smaller as an observer moves further and further from it. At some distance, depending upon the size and degree of contrast between the object and its surroundings, the object may not be a point of interest for most people. At this hypothetical distance it can be argued that the object has little impact on the composition of the landscape of which it is a tiny part. Eventually, at even greater distances, the human eye is incapable of seeing the object at all.

31. Situation. The position of the activity or object within the landscape.

32. Spatial Dominance. The degree to which an activity or object dominates the landscape; is prominently situated within the landscape; or dominates landform, waterform, or sky backdrop.

33. Significant Wildlife Habitat (SWH). Those frequented by endangered and threatened species.

34. Temporary Impact. The potential short-term effects on the characteristics, or functions and values of the resource that result from a regulated activity or the periodic use of a structure. Temporary effects are also those potential effects that can be overcome or avoided through implementation methods during an activity or restoration of the resource following completion of an activity.

35. Texture. The grain of a landscape or repetitive pattern of tiny forms. Visual texture can range from smooth to coarse.

36. Traditional Uses. The dominant cultural uses of the resource that have occurred in the recent, rather than historical, past.

37. Viewshed. The geographic area as viewed from a scenic resource, which includes the proposed activity. The viewshed may include the total visible activity area from a single observer position or the total visible activity area from multiple observers' positions. A map that shows the geographic area from which a proposed action may be seen is a viewshed.

38. Visual Assessments. Analytical techniques that employ viewsheds, and/or line-of-sight profiles, and descriptions of aesthetic resources, to determine the impact of development upon aesthetic resources; and potential mitigation strategies to avoid, eliminate or reduce impacts on those resources.

39. Visual Elements. The landscape's components that make up the overall visual character of a landscape.

40. Visual Impact. Visual impact occurs when the mitigating effects of perspective do not reduce the visibility of an object to insignificant levels. Beauty plays no role in this concept. A visual impact may also be considered in the context of contrast. For instance, all other things being equal, a blue object.

41. Visual Quality. The essential attributes of the landscape that when viewed elicit overall benefits to individuals and, therefore, to society in general. The quality of the resource and the significance of the resource are usually but not always, correlated.

42. Waterform. One of the attributes or features that make up the earth's surface, such as a pond, lake, stream, river, waterfall, estuary, or ocean.

43. WOSS. Wetlands of Special Significance.

F. Application Submissions. Applications for approval of proposed developments shall include evidence that affirmatively demonstrates that there will be no unreasonable adverse effect on the scenic character of the surrounding area. Basic evidence must be provided to ensure that visual concerns have been fully addressed in each application. In addition to a visual impact assessment as described in subsection G of this section, the applicant must submit a complete site plan application and landscaping and lighting plans prepared by a registered landscape architect. Depending on the scope of the project and its potential impact, the board may require a lighting engineer. The applicant must also submit the SEQR Visual Environmental Assessment Form Addendum (V-EAF) pursuant to 6 NYCRR 617.20 Appendix B. The applicant may request a pre-application meeting during which the planning department or a committee of the planning board can provide guidance.

G. Visual Impact Assessment. The applicant must complete a visual impact assessment (VIA). An applicant's visual impact assessment should visualize the proposed activity and evaluate potential adverse impacts of that activity on existing scenic and aesthetic uses of a protected natural resource within the viewshed of a scenic resource, and to determine effective mitigation strategies, if appropriate. The VIA must be prepared by a design professional trained in visual assessment procedures.

In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the scenic resource from which the activity will be visible, including representative and worst-case viewpoints, must be identified. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined, that the eye follows from a specific point to another point when viewing the landscape. For activities with more sensitive conditions, photosimulations and computer-generated graphics may be required.

A visual impact assessment must describe the location of the activity and provide an inventory of scenic resources within the viewshed of the proposed activity. It shall include narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources. It shall also describe the activity relative to its location and scale within the viewshed of any scenic resource, including a description of the existing visual quality and landscape characteristics and it will indicate how the development fits into the scenic character of the area.

H. Mitigation. In a case where the board determines that the proposed activity will have an adverse visual impact on a scenic resource, applicants may be required to employ appropriate measures to mitigate the adverse impacts to the extent practicable. Mitigation should reduce or eliminate the visibility of the proposed activity or alter the effect of the activity on the scenic or aesthetic use in some way. The board will determine when mitigation should be proposed and whether the applicant's

mitigation strategies are reasonable. The board may require mitigation by requesting that the applicant submit a design that includes the required mitigation or by imposing permit conditions consistent with specified mitigation requirements.

In determining whether the projects impact on scenic and aesthetic uses are unreasonable, the board will consider whether the applicant's activity design is visually compatible with its surroundings, incorporating environmentally sensitive design principles and components according to the general strategies described below (specific design standards are listed in subsection I of this section):

1. Planning and Siting. Properly siting an activity may be the most effective way to mitigate potential visual impacts. Applicants are encouraged, and may be required, to site a proposed activity in a location that limits its adverse visual impacts within the viewshed of a scenic resource.

2. Design. When circumstances do not allow siting to avoid visual impacts on a scenic resource, elements of particular concern should be designed in such a way that reduces or eliminates visual impacts to the area in which an activity is located, as viewed from a scenic resource. Applicants should consider a variety of design methods to mitigate potential impacts, including screening, buffers, earthen berms, camouflage, low profile, downsizing, non-standard materials, lighting, and other alternate technologies.

3. Offsets. Correction of an existing visual problem identified within the viewshed of the same scenic resource as the proposed activity may qualify as an offset for visual impacts when an improvement may be realized. Offsets may be used in sensitive locations where significant impacts from the proposal are unavoidable or other forms of mitigation might not be practicable. An example of an offset might be the removal of an existing abandoned structure that is in disrepair to offset impacts from a proposal within visual proximity of the same scenic resource. Offsets can also include visual improvements to the affected landscape, such as tree plantings or development of scenic overlooks.

I. Design Standards. All development subject to this chapter shall comply with the following requirements:

1. Placement of Structures.

a. To ensure the placement of structures outside of the exposed ridgeline area on proposed building lots, building sites, including areas of cleared vegetation, shall be clearly designated on the site plan. Constructed structures shall not differ in any direction from building site locations shown on an approved subdivision and/or site plan at the time of building permit application.

b. Structures shall be sited at the lowest elevation possible to be as visually inconspicuous as possible when seen from a distance and from lower elevations. In no case shall development occur along and/or project above ridgelines when viewed from the locations identified in subsection L of this section.

2. Restrictions on Height. Within the RLO, no principal or accessory structure with a building height of greater than twenty-five (25) feet shall be constructed unless visual cross sections or other appropriate methods demonstrate that the subject structure could be constructed with a building height greater than twenty-five (25) feet, in conformance with the bulk and density control schedule requirements identified within Section 17.16.020 without unduly impacting ridgelines and scenic view sheds.

3. Visibility. All structures shall be sited to avoid, eliminate or alter the project's effect on the scenic or aesthetic resource, or which occupy or obstruct public views of land within the RLO to the greatest extent practicable. Public views shall be considered to be from any location listed in subsection L of this section. These locations are frequented by the public and offer unobstructed views of the town's ridgeline landscapes. Visibility shall be measured using a condition of no leaves on trees.

4. Colors. Structures should blend in with natural surroundings through preferred use of stone and/or natural wood siding. In all cases, structures shall be constructed and maintained so predominating exterior wall colors (including the colors of basement walls on the downhill side of the structure) and roof surfacing materials repeat the colors found most commonly in the land and vegetation around the building (earth tone) and have a light reflective value of no more than sixty (60) percent.

5. Vegetation. Existing vegetation within ridgeline areas shall be preserved to the maximum extent practicable. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from public roads or parks or other public views. This section is not intended to limit forest management in ridgeline areas when practiced in accordance with environmentally sound and sustainable silvicultural principles.

6. Landscaping. The applicant must submit for approval, a landscape plan prepared by a licensed landscape architect, showing the satisfaction and location of all vegetation requirements on the site. An applicant may request alternative placement of landscaping on certain lots if such placement provides adequate mitigation of the visual impact of the roofline of the principal structure.

a. The area around each principal and accessory structure shall include at least one tree of a species with a mature height of at least thirty-five (35) feet for each two thousand five hundred (2,500) square feet of lot or parcel area; provided, however, that this requirement shall not require any single-family residential lot to contain more than eight trees unless growing naturally on the site.

b. Trees installed to meet the requirements of this section must be of coniferous species, shall be a minimum of twelve (12) feet tall when planted, shall be planted a maximum of twenty (20) feet on center, and shall be planted before a certificate of occupancy is issued for the principal structure. If planting is not possible due to planting season or weather conditions, a temporary certificate of occupancy (CO) may issued by the building inspector, however, the temporary CO will expire one month into the planting season when all final planting must occur.

c. Shrubs will be planted with a twenty-four (24) inches minimum size for those specified for spread, and thirty-six (36) inches minimum for those specified for height.

d. Landscaping survivability shall be assured by bond determined by the planning board, for at least one year.

7. Tree Cutting. All timber harvesting in the RLO shall comply with Chapter 5.16, Timber Harvesting of the town code.

a. If the regulations of the RLO district conflict with Chapter 5.16, the RLO regulations shall apply.

b. Clear-cutting of all trees in a single contiguous area in an RLO district in excess of one-fourth acre in area shall be prohibited.

c. Exceptions. This section shall not apply to:

i. Christmas tree culture or other existing tree plantation;

ii. Harvests conducted in accordance with a timber harvesting plan prepared pursuant to Section 480-a of the New York State Real Property Tax Law;

iii. Tree clearing for farm purposes within agricultural districts established pursuant to New York State Agriculture and Markets Law;

iv. Severe natural disturbances, which include fire, insect infestation, disease, ice and wind;

v. Removal of timber stands that, if partially harvested according to accepted silvicultural practice, are at high risk for wind throw due to factors such as soils, rooting depth, crown ratio, or stem quality;

vi. Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional, a New York State Department of Environmental Conservation Forester, a member of the New York Institute of Consulting Foresters, or a cooperating consultant forester.

8. Lighting. Exterior lighting in the RLO shall be controlled in both height and intensity and shall be in conformance with the following requirements:

a. The preparation of a complete lighting plan by a registered landscape architect, or by a lighting engineer if required by the planning board.

b. Under no circumstances shall the light level at any lot line exceed 0.2-foot candle, measured at ground level.

c. Floodlights shall not be used to light any portion of a principal or accessory structure facade, and all outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded cutoff light fixtures.

d. For purposes of this section, a "full cutoff light fixture" is one in which no more than two and one-half percent of the total output is emitted at ninety (90) degrees from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries and all such fixtures must come from the directory of fixtures approved by the International Dark Sky Association.

9. Parking. Parking lots for nonresidential and multifamily residential uses shall be provided with screened parking wholly at the side and/or rear of the structures, provided such an arrangement does not create a significant visual effect.

a. Parking is provided at the side of structures, at least a ten-foot-wide landscaped area (exclusive of that required for sidewalks or utility easements) shall be provided between the road right-of-way and the parking lot, to be planted with shade or ornamental trees and at least a three-foot-high evergreen hedge, wall or fence.

b. In addition, at least one tree and three shrubs shall be provided for each eight parking spaces in interior areas of the parking lot, whether such lot is provided at the side or rear of structures.

c. Parking for single-family dwellings shall also be provided at the side and/or rear of the principal structure, provided such an arrangement does not create a significant visual effect.

10. Screening. Vegetation, topography and architectural features shall be used to buffer and screen.

a. Clearing of existing vegetation at the edge of the road shall be minimized, except to create road and driveway entrances with adequate sight distance. Curved driveways shall be used to increase the screening of buildings.

b. Buildings shall be sited so that they do not protrude above treetops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees or hilltops.

c. All electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring within easements of dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

11. Dimensional Regulations. The following dimensional regulations shall apply to development within the RLO:

a. All subdivisions of land, other than residential cluster development or conservation subdivisions should be considered for cluster subdivision in accordance with this chapter, Chapter 17.28 and New York State Town Law.

b. Nonresidential and multifamily residential buildings shall be sited in clusters.

c. No building shall exceed seven thousand five hundred (7,500) square feet unless the structure is to be used exclusively for agricultural purposes.

d. The maximum allowable impervious surface coverage on any parcel proposed for subdivision or development shall be twenty (20) percent. To implement this requirement, restrictions on impervious surface coverage for individual subdivided lots shall be shown on any subdivision plat.

e. Maximum building height requirements shall apply to the peak of the roofline except for cupolas or turrets as well as silos or barns when used in conjunction with agricultural operations, which may exceed the maximum building height.

12. Drainage and Prevention of Soil Erosion. No site plan, building permit, or subdivision plat shall be approved unless such approval includes soil erosion and sediment control measures, prepared in accordance with the standards described in Section(s) 17.36.090 and 99.02.010 Appendix I, Stormwater Management Guidelines for New Developments of the town code, or manuals in common usage, such as the New York State Department of Environmental Conservation's Reducing the Impacts of Stormwater Runoff from New Development or the New York State Soil and Water Conservation Committee's New York Guidelines for Urban Erosion and Sediment Control. Landowners shall bear full responsibility for the installation, construction, and maintenance of all erosion control measures required as a condition or approval.

J. Referral. The town of Big Flats' ridgeline areas contain significant wildlife habitats, including those frequented by endangered and threatened species. To receive assistance in its review of applications, the applicable reviewing board may refer the proposed plan to the New York State Department of Environmental Conservation and/or the New York Natural Heritage Program for its review and recommendations. To receive further assistance, such reviewing board may refer the proposed plans to any such agencies or officials of the town, county, state, or federal government as the board may deem appropriate.

K. Waiver. The planning board, may waive some or all of the regulatory requirements of this section in the RLO under any of the following circumstances:

a. The structure or area within the RLO is situated so the structure does not create a significant visual impact that needs to be mitigated, when viewed from visually sensitive areas, including public

view locations identified as important views in the town of Big Flats comprehensive plan or subsection I of this section;

b. The work to be done is of a minor nature and is consistent with the design standards set forth herein.

c. The use involves commercial agricultural operations and pursuits as defined under the New York State Department of Agriculture and Markets.

L. Determination. It is the responsibility of the applicant to demonstrate that the proposed design does not unreasonably interfere with existing scenic and aesthetic uses, and thereby diminish the public enjoyment and appreciation of the qualities of a scenic resource, and that any potential impacts have been minimized. The board's determination of impact is based on the following visual elements of the landscape:

a. Landscape compatibility, which is a function of the sub-elements of color, form, line, and texture. Compatibility is determined by whether the proposed activity differs significantly from its existing surroundings and the context from which they are viewed such that it becomes an unreasonable adverse impact on the visual quality of a protected natural resource as viewed from a scenic resource;

b. Scale contrast, which is determined by the size and scope of the proposed activity given its specific location within the viewshed of a scenic resource; and

c. Spatial dominance, which is the degree to which an activity dominates the whole landscape composition or dominates landform, water, or sky backdrop as viewed from a scenic resource.

In making a determination within the context of this rule, the board considers the type, area, and intransience of an activity related to a scenic resource that will be affected by the activity, the significance of the scenic resource, and the degree to which the use or viewer expectations of a scenic resource will be altered, including alteration beyond the physical boundaries of the activity. In addition to the scenic resource, the board also considers the functions and values of the protected natural resource, any proposed mitigation, practicable alternatives to the proposed activity that will have less visual impact, and cumulative effects of frequent minor alterations on the scenic resource. An application may be denied if the activity will have an unreasonable impact on the visual quality of a protected natural resources as viewed from a scenic resource even if the activity has no practicable alternative and the applicant has minimized the proposed alteration and its impacts as much as possible through mitigation. An "unreasonable impact" means that the standards, purpose and intent of this law will or cannot be met.

M. Scenic Resources. The following public natural resources and public lands are usually visited by the general public, in part with the purpose of enjoying their visual quality. Under this law, the board considers a scenic resource as the typical point from which an activity in, on, over, or adjacent to a protected natural resource is viewed. This list of scenic resources includes, but is not limited to, locations of national, state, or local scenic significance. A scenic resource visited by large numbers who come from across the country or state is generally considered to have national or statewide significance. A scenic resource visited primarily by people of local origin is generally of local significance. The list of places where the intent of this section is to protect the viewshed includes, but not limited to:

1. Soaring Museum and Harris Hill;
2. Palisades;

3. Chemung River and future Chemung River Greenway;
4. Community Park and Miniers' Fields;
5. Elmira/Corning Regional Airport;
6. New York State Route 352;
7. New York State Route 17/Interstate 86;
8. Tanglewood Nature Center;
9. Rails to Trails;
10. National or State Parks;
11. A property on or eligible for inclusion in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended;
12. Public natural resources or public lands visited by the general public, in part for the use, observation, enjoyment and appreciation of natural or cultural visual qualities.

N. Appeal. Article 78 proceedings:

1. The applicant or any interested person may appeal a decision of the planning board on a RLO permit.
2. The appeal shall be made to the Supreme Court of New York State for review by a proceeding under Article 78 of the Civil Practice Law and Rules of New York State.
3. Any such proceeding shall be commenced within thirty (30) days of the issuance of the permit granted under this section that is the subject of such review proceeding. (LL No. 7, 2007)

Chapter 17.28

RESIDENTIAL CLUSTER DEVELOPMENT*

Sections:

17.28.010 Intent.
17.28.020 Applicable districts.
17.28.030 Permitted uses.
17.28.040 Dimensional requirements.
17.28.050 Authorization of planning board to grant or deny RCD.
17.28.060 Requirements governing RCD.
17.28.070 Review of RCD plan.
17.28.080 Public hearing on RCD.

* Prior history: LL No. 2, 1997.

17.28.010 Intent.

The RCD is intended to enable and encourage flexibility in the design and development of land in such a manner as to promote the most appropriate use of land, to facilitate adequate and economical provision of services, to preserve those areas in the town that are suitable for agricultural use, to pro-

tect and conserve open space use and environmentally sensitive features, and to preserve scenic qualities. (LL No. 2, 2003 (part))

17.28.020 Applicable districts.

RCD shall be considered applicable in the RU, and R1 districts. (LL No. 2, 2003 (part))

17.28.030 Permitted uses.

All one-unit, two-unit and multi-unit dwelling and ancillary uses as specified in Section 17.12.010, Use Requirements Table, for the applicable districts are permitted. (LL No. 2, 2003 (part))

17.28.040 Dimensional requirements.

Dimensional requirements as set forth in Chapter 17.16 may be varied by the planning board based on set conditions and the merits of the specific proposal in meeting the objectives of this chapter. (LL No. 2, 2003 (part))

17.28.050 Authorization of planning board to grant or deny RCD.

In accordance with subsection 278 of the Town Law, the town board authorizes the planning board, simultaneously with the approval of a plat, to modify the applicable bulk and density provisions of this title, subject to the conditions hereinafter set forth, where such modification would benefit the town by providing an alternate method of development of the plat. In no instance shall the number of dwelling units exceed the number permitted, in the planning board's judgment, if the land were subdivided in to lots conforming with the minimum lot size and density requirements of the district. The town board, pursuant to Section 278 of the Town Law, authorizes the planning board to require that the developer submit an application which reflects and incorporates RCD modifications where the objectives stated in this chapter and/or in Chapter 17.04 are met to a greater degree than if the development were permitted to occur in a conventional manner. The planning board shall comply with all procedures and requirements set forth in this chapter where implementing such power. (LL No. 2, 2003 (part))

17.28.060 Requirements governing RCD.

Any RCD shall conform to the following requirements which are regarded as minimum requirements.

A. The RCD shall apply only to lands as specified in Section 17.28.020 that have a minimum of four contiguous acres. It shall be determined that such development will not be detrimental to the health, safety or welfare of persons residing in the vicinity, or to property or improvements in close proximity. The proposed development shall create an attractive residential environment that is in conformity with the intent of this chapter and the town comprehensive plan.

B. Such development shall be buffered in accordance with Section 17.36.200.

C. All RCD plans shall be prepared with competent professional assistance of a design engineer and shall be consistent with the spirit and intent of the zoning law.

D. In areas without public water and sewer, any reduction in lot size allowed under this chapter shall be dependent on approval of the on-lot potable water and sewage disposal system by either NYS

Department of Health, NYS Department of Environmental Conservation, or the Chemung County Department of Environmental Health.

E. All the land not contained in the lot or the road right-of-way shall be of such size and shape as to be usable for recreation or agriculture or natural buffer areas. Such land shall either be:

1. Offered for dedication to and accepted by the town;

2. Be held in corporate ownership by the owners of lots within the development, and the developer shall incorporate into the deeds of all property within the development, a clause giving to the owners an interest in such open land which shall be used for recreation, cultural or agricultural purposes only; or

3. Be retained under separate ownership as an agriculture use or other permitted use. If retained under separate ownership, a clause shall be incorporated into the deed restricting the land to be used for recreation, cultural or agriculture use only. No structure save those incidental to the recreational, cultural or agricultural use shall be permitted thereon.

F. The residual open land left undeveloped after development shall be maintained in accordance with the development plan. Applicants shall provide copies of deed covenants for the prospective purchasers, or conservation easement with the town, describing land management practices to be followed by whichever party or parties are responsible for maintenance.

G. Further subdivision of residual land, or its use for other than recreation, conservation or agriculture, except for easements for utilities, shall be prohibited. Accessory structures to recreation, conservation or agriculture may be erected on residual land, subject to the provisions of Chapter 17.32, site plan approval procedures.

H. In cases where a developer has proposed architecturally unusual groups of dwellings and/or accessory structures, the planning board after reviewing the plans and elevations, may recommend approval of smaller minimum lot sizes than those specified; provided, that the sanitary sewer systems are approved by the NYSDEC, that the gross density does not exceed that permitted within the district in which the land is located, and the layout is not detrimental to the health, general welfare and aesthetic character of the community.

I. Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the developer and the planning board. If such time frame is not met by the developer, the RCD approval shall be revoked.

J. In the event that an organization established to own and maintain common property fails to maintain such property as prescribed, the town board may take action as prescribed by law. (LL No. 2, 2003 (part))

17.28.070 Review of RCD plan.

The approval procedure shall be the same as that for approval of subdivisions in the town. In addition, the developer shall at each level of approval provide the following information:

A. Proposed number of dwelling units and computation of overall density per net acre as indicated on a scaled drawing with appropriate documentation using the following guidelines:

1. Applicant shall identify and subtract all acreage considered to be undevelopable as follows:

a. Steep slopes twenty-five (25) percent or greater,

b. Floodways,

c. Wetlands, both NYSDEC and Army Corp of Engineers, and

d. Lands covered by water bodies.

2. The applicant shall then calculate the acreage that is determined to be developable and apply the bulk or density control schedule minimum square footage per dwelling unit for the district to determine the maximum number of permitted dwelling units. All density values shall be rounded to the nearest whole number of dwelling units.

3. In order for a portion of a parcel to be considered developable for the density calculations, there shall be a minimum area of five thousand (5,000) square feet of land that is not classified in one of the undevelopable categories outlined above, and is capable of supporting an on-lot potable water and sewage disposal system;

B. A tabulation of the total number of acres in the proposed project; the percentage designated for each use area;

C. Proposed location and acreage for a park, playground, natural watercourse and other open space;

D. Lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:

1. Focus development on site soils that are best suited for development and that can accommodate storm water management and control and/or subsurface septic disposal in areas not provided with public sewer,

2. Avoid disturbance of mature wood-lot and/or hedgerow,

3. Preserve environmentally sensitive areas and/or unique site features,

4. Located to least likely block or interrupt scenic vistas,

5. Located where the greatest number of units could be designed to take maximum advantage of solar heating opportunities,

6. Promote a more efficient and economical provision of utility services; and

7. Shall conform with other criteria listed in Chapter 17.32. (LL No. 2, 2003 (part))

17.28.080 Public hearing on RCD.

A public hearing, as specified in NYS Town Law, shall be held by the planning board regarding the RCD subdivision plat. (LL No. 2, 2003 (part))

Chapter 17.32

SITE PLAN REVIEW AND APPROVAL*

Sections:

17.32.010 Intent.
17.32.020 Authorization.
17.32.030 Application for area variance.
17.32.040 Conditions of site plan approval.
17.32.050 Waiver of requirements.
17.32.060 Concept plan.

17.32.070 Site plan application.
17.32.080 Preliminary plan requirements.
17.32.090 Action on preliminary plan.
17.32.100 Findings and decision on preliminary plan.
17.32.110 Final plan requirements.
17.32.120 Approval of site plan.
17.32.130 Resubmittal of a concept or preliminary plan.
17.32.140 Appeal.
17.32.150 Expiration and termination of site plan approval.
17.32.160 Deviation from approved site plan.
17.32.170 Amendment of an approved site plan.

* Prior history: LL No. 2, 1997.

17.32.010 Intent.

The intent of site plan review and approval is to determine compliance with the purpose and provisions of this title. The further intent of this chapter is to evaluate conditions and environmental impact that may cause conflict between existing and proposed uses or be in conflict with natural site conditions. The evaluation is intended to minimize the adverse affects concerning health, safety and overall welfare of the residents of the community. (LL No. 2, 2003 (part))

17.32.020 Authorization.

The power to approve, approve with modification and/or conditions, or disapprove a site plan for a use is vested in the planning board pursuant to Section 274-a of the Town Law. Where a site plan approval is required, no building permit shall be issued until site plan approval is granted. The planning board may impose conditions on a site plan approval that are to be fulfilled prior to the issuance of a building permit, certificate of compliance or occupancy. The planning board in their review of any site plan shall be guided by the provisions set forth in this chapter and elsewhere in this title the planning board may require that the site plan be prepared by a design engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure or land use as related to same. (LL No. 2, 2003 (part))

17.32.030 Application for area variance.

Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the bulk and density requirements of this title, application may be made to the zoning board of appeals for an area variance pursuant to Section 267-b of the Town Law. (LL No. 2, 2003 (part))

17.32.040 Conditions of site plan approval.

The developer is required to comply with all conditions of site plan approval.

Stormwater Pollution Prevention Plan. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of this chapter (the stormwater management and erosion and sediment

control law of the town of Big Flats (Chapter 17.37 of the town of Big Flats Municipal Code) shall be required for site plan approval. The SWPPP shall meet performance and design criteria and standards set forth in Chapter 17.37 of the town of Big Flats Municipal Code. The approved site plan shall be consistent with the provisions of this chapter (the stormwater management and erosion and sediment control law of the town of Big Flats). (LL No. 9, 2007 § 2 (part); LL No. 2, 2003 (part))

17.32.050 Waiver of requirements.

The planning board in its discretion, may waive any requirements of this chapter deemed not necessary for review of an application for site plan review and approval. (LL No. 2, 2003 (part))

17.32.060 Concept plan.

An applicant may submit a concept plan for discussion and comment by the planning board or its designated committee as prescribed by the rules of the planning board. The purpose of the concept plan is to facilitate the preparation of an adequate preliminary plan. The concept plan shall be submitted in accordance with the rules of the planning board.

A. Concept Plan Contents.

The concept plan shall comprise the following data which shall be clearly labeled with the name of the proposed development, name of the applicant, and tax parcel number of the lot proposed for development:

1. An area map showing:

a. All lots proposed for development by the applicant,

b. All of the following data within one thousand (1,000) feet of the boundary line of the lot specified in this subsection:

i. Existing and proposed lots and their ownership,

ii. Existing and proposed uses,

iii. Existing and proposed districts,

iv. Existing and proposed roads,

v. Existing and proposed subdivisions,

vi. Existing and proposed easements,

vii. Existing and proposed structures,

viii. All existing natural features such as water bodies, watercourses, wetlands, wooded areas, special flood hazard areas and individual large trees,

ix. District boundaries including zoning, fire, school, sewer and water, and

x. All soil classifications;

2. An area map of the site topography, at a scale of not less than one inch to two thousand (2,000) feet, showing the entire proposed site area and the location of the lots for the proposed development;

3. A scaled site development map of the concept plan showing existing and proposed:

a. Structures,

b. Public and private improvements;

4. Additional data:

a. Name, address and telephone number of applicant,

b. Concise written description of the proposed development, including:

i. Purpose, nature and magnitude of the use,
ii. Projected time frame for the proposed development,
iii. Notation of the acreage of the lot proposed for development,
iv. Square footage of each proposed structure,
v. Proposal for the source of water supply and method for sewage disposal.
B. Action on the Concept Plan. The planning board or its designated committee shall:
1. Review the concept plan with the applicant; and
2. Give its written comments thereon to the applicant. (LL No. 2, 2003 (part))

17.32.070 Site plan application.
A. A site plan application shall comprise:
1. Completed forms of the planning board required of the applicant by the rules of the planning board;
2. Preliminary plan in accordance with Section 17.32.080;
3. Final plan in accordance with Section 17.32.040;
4. Environmental assessment form required of the applicant by the rules of the planning board;
5. Supplemental engineering and technical reports as appropriate to the contents of the preliminary and final plans and required by the planning board; and
6. Other information required by the planning board.
B. A site plan application shall be submitted to the planning board in accordance with the rules of the planning board. (LL No. 2, 2003 (part))

17.32.080 Preliminary plan requirements.
The preliminary plan shall comprise:
A. The documents required in Section 17.32.060;
B. Report and plan regarding any potential environmental impact associated with the proposed development;
C. The mitigation offered or proposed for any environmental impact;
D. Preliminary plan drawing that includes the following information:
1. Title drawing, including name, address and telephone number of applicant and the tax parcel number of the lot proposed for development,
2. North point, scale and date, all revision dates (include month, day, year),
3. Boundaries of the development plotted to scale of not more than one hundred (100) feet to one inch on a survey map prepared by a design engineer,
4. Existing natural features such as watercourse, water body, wetland, wooded area and individual large trees and a notation of features to be retained,
5. Existing and proposed contours at intervals of not more than five feet of elevation,
6. Location of proposed use and the location, area and the height of all structures,
7. Location of all existing or proposed improvements, whether public or private, including roads, drives, internal drives, driveways, storm water management system, culverts, retaining walls, fences and easements,
8. Preliminary design of sewage disposal and water supply systems and location of such systems,

9. Location and design of all energy distribution facilities, including electrical, gas and solar energy system,

10. Location of any proposed buffer, barrier and landscaping,

11. Delineation of the extent of each residential area, description of dwelling unit type, and a calculation of the residential density in dwelling units per square foot for each such area,

12. Location of each parking area and vehicle loading area, with access and egress to a drive, internal drive or driveway,

13. Location, design and size of all signs and outdoor lighting,

14. The approximate location and dimension of the area proposed for a neighborhood park or playground, or other recreation open space,

15. Building orientation and site design for energy efficiency,

16. Grading plan and erosion control plan, including the description and location of control measures,

17. Location and design of a storm water management system, and

18. The lines and dimensions of any lot which is offered, or is to be offered, for dedication to a government for public use, with the purpose indicated thereon, and of any lot proposed to be reserved for the common use of the occupants of the proposed development;

E. A storm water management analysis and plan consistent with the requirements of The Standards for Storm Water Management in the town of Big Flats, including all design data and computations used as a basis for the design capacities and the performance of the storm water management system and the erosion control plan.

F. The planning board may require such additional information that appears necessary for a complete assessment of the development under this title and the State Environmental Quality Review Act (SEQRA). (LL No. 2, 2003 (part))

17.32.090 Action on preliminary plan.

The planning board:

A. Shall review and evaluate potential environmental impact, compliance with this title and any other applicable law, rule or regulation, and any other significant concern;

B. In its review of the preliminary plan, may confer with any consulted agency;

C. In review of the preliminary plan, shall consider:

1. Adequacy and arrangement of vehicular traffic, including public transportation and bicycle access and circulation, including on-site circulation,

2. Location, arrangement, appearance and sufficiency of off-road vehicular parking and loading,

3. Adequacy of pedestrian access, circulation, convenience and safety,

4. Location, arrangement, size and design of building, outdoor lighting and signs,

5. Relationship of the various uses on the project site to one another and their scale,

6. Adequacy of a buffer and barrier between adjacent uses and adjoining lots,

7. Adequacy of any storm water management system,

8. Adequacy of structures, roads, drives, internal drives, driveways and buffers in areas susceptible to flooding, pending and/or erosion,

9. Adequacy of flood damage prevention measures consistent with Chapter 17.24,

10. Compatibility of development with natural features of the site and with surrounding land uses,

11. Adequacy of open space for play area, recreation and natural area such as wildlife habitat, wetland and wooded area,

12. Adequacy of orientation of a structure and the site design for energy efficiency, the extent to which the proposed plan conserves energy and energy resources in the community, and the protection of adequate sunlight for a solar energy system,

13. Adequacy of fire protection water supply and site design to accommodate emergency vehicle access,

14. Consistency of building design, scale, mass and site location with surrounding development and district intent, and

15. Any other relevant matter;

D. Shall determine if the preliminary plan is complete and sufficient to make findings pursuant to Section 17.32.100, and if not, require additional information to make the preliminary plan complete and sufficient;

E. When it finds the preliminary plan is complete and sufficient pursuant to subsection D of this section, shall accept the completed preliminary plan; and

F. Upon acceptance of the preliminary plan pursuant to subsection E of this section, a public hearing may be scheduled within sixty-two (62) days from the date of such acceptance. (LL No. 2, 2003 (part))

17.32.100 Findings and decision on preliminary plan.

The planning board:

A. Shall make findings based on the evaluation according to Section 17.32.090(A);

B. Shall make a decision based on findings according to subsection A of this section to approve, with or without conditions, or disapprove the preliminary plan; and

C. Shall provide the applicant with a copy of the findings and decision pursuant to subsections A and B of this section. (LL No. 2, 2003 (part))

17.32.110 Final plan requirements.

A. The final plan shall comprise:

1. The approved preliminary plan with any modifications thereof and/or additions thereto required by the planning board; and

2. Every necessary permit from a governmental authority relating to the development pursuant to the site plan or a written assurance from such governmental authority that it is willing to issue such permit upon the performance by the developer of an action that is or will be required of the developer.

B. Action on the Final Plan. When the planning board finds the final plan is complete pursuant to subsection A of this section, it shall approve, with or without conditions, or disapprove the final plan, and record the reason for disapproval. A copy of the decision and reason shall be given to the applicant. (LL No. 2, 2003 (part))

17.32.120 Approval of site plan.

A. Approval of a final plan, with or without conditions, constitutes approval of the site plan subject to any and all conditions of the approved final plan.

B. Pursuant to the rules of the planning board, an approval endorsement shall be affixed on a copy of the title drawing of the approved site plan. A copy of the endorsed title drawing shall be given to the applicant.

C. Stormwater Pollution Prevention Plan. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of this chapter (the stormwater management and erosion and sediment control law of the town of Big Flats (Chapter 17.37 of the town of Big Flats Municipal Code) shall be required for site plan approval. The SWPPP shall meet performance and design criteria and standards set forth in Chapter 17.37 of the town of Big Flats Municipal Code. The approved site plan shall be consistent with the provisions of this chapter (the stormwater management and erosion and sediment control law of the town of Big Flats). (LL No. 9, 2007 § 2 (part); LL No. 2, 2003 (part))

17.32.130 Resubmittal of a concept or preliminary plan.

A. The planning board may require the re-submittal of a concept plan for a proposed development if:

1. More than six months has lapsed since the date of giving the planning board's written comments on the concept plan for the proposed development pursuant to subsection 17.32.060(B);

2. A submitted preliminary plan contains substantial changes in the scope of the proposed development in comparison with the concept plan commented on; or

3. An applicant who submitted a preliminary plan is different than the applicant who submitted the concept plan commented on for the proposed development.

B. The planning board may require re-submittal of a preliminary plan if:

1. More than one year has lapsed since the date of approval of a preliminary plan for a proposed development pursuant to Section 17.32.100;

2. A submitted final plan contains substantial changes in the scope of the proposed development in comparison with the preliminary plan approved for a proposed development; or

3. An applicant, who submitted a final plan is different than the applicant who submitted the preliminary plan approved for a proposed development. (LL No. 2, 2003 (part))

17.32.140 Appeal.

The applicant or any interested person may appeal a decision of the planning board on a site plan. The appeal shall be made to the Supreme Court of New York State for review by a proceeding under Article 78 of the Civil Practice Law and Rules of New York State. (LL No. 2, 2003 (part))

17.32.150 Expiration and termination of site plan approval.

A. 1. Approval of a site plan for a development shall be valid for a period of one year from the date of the date of endorsement of the drawing of the approved final plan.

2. Failure to secure a building permit or to begin construction or installation of required improvements during the one year period shall cause a site plan approval to become null and void.

3. Failure of an applicant or developer to comply with any conditions of approval for an approved site plan shall make the approval null and void.

B. Extension of Expiration or Termination of Site Plan Approval. Upon written application to the planning board, the board may extend the time of validity of the site plan approval for a period of not more than three years from the date of approval endorsement pursuant to subsection 17.32.120(B). (LL No. 2, 2003 (part))

17.32.160 Deviation from approved site plan.

A. A proposed deviation from an approved site plan that produces no significant change in performance of the development, as documented in the approved site plan and any conditions thereof, may be approved by the code enforcement officer provided such action is concurred in by a member of the planning board as prescribed in the rules of the planning board.

B. Any deviation from an approved site plan granted pursuant to this section shall be noted on an as-built drawing submitted to the town for inclusion in the site plan approval record. The as-built drawing shall be received by the town prior to the issuance of any certificate of compliance or occupancy. (LL No. 2, 2003 (part))

17.32.170 Amendment of an approved site plan.

A. No proposed change of and/or addition to an approved site plan, other than as provided in Section 17.32.160 shall be executed without approval thereof by an approved site plan containing such site plan amendment.

B. Any proposed change of and/or addition to an approved site plan, other than as provided in Section 17.32.160 shall require a site plan application addressing such site plan amendment and decision on that application by the planning board pursuant to this chapter. (LL No. 2, 2003 (part))

Chapter 17.33

SPECIAL USE PERMIT REVIEW AND APPROVAL

Sections:

17.33.010 Authorization.
17.33.020 Applicability.
17.33.030 Procedure.
17.33.040 Standards.
17.33.050 Decision.

17.33.010 Authorization.

Pursuant to Section 274-b of Town Law and in accordance with the procedures, standards and conditions herein specified, the town board is authorized to grant special use permits for the establishment of one or more of the uses for which a special use permit must be secured as specified in this chapter. Under the authority of Section 10 of the Municipal Home Rule Law, this section supersedes Section 274-b of Town Law. (LL No. 1, 2007 (part))

17.33.020 Applicability.

A. A special use permit shall be required for:

1. Reestablishment of a prior nonconforming use. See Chapter 17.56.

2. Expansion of a prior nonconforming use. See Chapter 17.56.

3. Change in use of a structure with a prior nonconforming use. See Chapter 17.56.

4. Any and all uses requiring a special use permit under the district use requirements of this chapter. See Section 17.12.010.

B. Prior to the submission of any application for a building permit or certificate of occupancy for any use requiring a special use permit under this chapter, an application shall be made to the director of planning, code and building inspection or his or her designee for a special use permit in the manner and form specified in Section 17.33.030 of this chapter.

C. Any revision of an approved special use permit or any reconstruction, enlargement, extension, moving or structural alteration of an existing special use shall require approval and submission of a new application for approval.

D. All buildings, structures and uses that require a special use permit under this chapter must also obtain site plan approval pursuant to Chapter 17.32 Site Plan Review and Approval. (LL No. 1, 2007 (part))

17.33.030 Procedure.

A. Application. Any application for a special use permit shall be consistent in the manner and form prescribed Chapter 17.64 Administration and Enforcement.

B. SEQRA.

1. Any use requiring a special use permit shall be deemed to be either a Type I or unlisted action.

2. If there is any other involved agency, the action shall undergo coordinated review.

3. An application for a special use permit shall not be deemed final until the planning board or another involved agency serving as lead agency shall have completion of a DEIS.

C. Public Hearing. A public hearing shall be required for every special use permit. The public hearing and official notice shall comply with the requirements of Section 274-b of the Town Law, and may be combined with a public hearing held pursuant to SEQRA. The notice shall contain an agriculture data statement required by Section 283-a of the Town Law.

D. Area Variance. Where a proposed special use permit contains one or more features which do not comply with the regulations of this chapter, application may be made to the zoning board of appeals for an area variance pursuant to Section 17.60.050 without the necessity of a decision or determination by the zoning administrator.

1. Such application shall be made part of the application for such special use permit; and

2. The fee for such application shall be in addition to that required for said special use permit. (LL No. 1, 2007 (part))

17.33.040 Standards.

The town board may grant a special use permit, provided that it finds that all of the following conditions and standards have been met for each proposed use or structure:

A. Will comply with the applicable requirements contained in Sections 17.33.020, 17.33.030 and in this section of this chapter, will be consistent with the purposes of the district in which it is located and shall be given due consideration by the town board.

B. The location, size and use of structure, nature and intensity of operations involved, size of site in relation to the proposed structure(s), and the location of the site with respect to roads giving access to it are such that the proposed use will be in harmony with orderly development of the district.

C. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.

D. The proposed use shall not conflict with any the town of Big Flats Comprehensive Plan (2006), or any part thereof.

E. Operations of any special use shall not be more objectionable to nearby properties than would be the operations of any unconditionally permitted use.

F. A special use permit shall not be issued for a use on a property where there is an existing violation of this local law.

G. The use shall not have an adverse effect on the agriculture of the area.

H. The proposed use shall be in strict compliance with the requirements of Chapter 17.36 Development Requirements Generally.

I. The proposed use will not result in excessive off-premises noise, dust, odors, solid waste, or glare, or create any pubic or private nuisances.

J. The proposed use will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads considering their current width, surfacing, condition, and any proposed improvements made to them by the applicant.

K. The proposed use will be suitable for the proposed action considering the property's size, location, topography, vegetation, soils, protected natural habitat, hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

L. The proposed use will be subject to such conditions on operation, design and layout of structures and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the town.

M. In addition to the above, any proposed accessory apartment will comply with the following provisions:

1. The apartment shall be clearly subordinate to the one-family dwelling unit;

2. The number of bedrooms in the apartment shall be not more than two;

3. The floor area of the apartment shall be greater than four hundred (400) square feet;

4. The floor area devoted to the apartment shall be less than fifty (50) percent of the entire floor area of the one-family dwelling or one thousand (1,000) square feet, whichever is less;

5. The apartment and one-family dwelling must have a safe and proper means of entrance, clearly marked for the purpose of fire safety and mail service;

6. If the water supply is from a private source, the applicant shall certify that the water supply is potable and of adequate flow;

7. The applicant shall certify that the sewage disposal system is adequate for the two units. Failure to correct promptly any sewage system problem shall result in revocation of the special permit;

8. No special permit shall be granted in any case where the Chemung County department of health has determined that the water or sewage system serving the dwelling or dwellings in question is for any reason not capable of handling the additional demand that would be imposed upon it in the event the special permit were issued thereunder;

9. Stairways leading to any floor or story above the first floor shall be located within the walls of the building wherever practicable. Stairways and fire escapes shall be located on the rear wall in preference to either sidewall. In no instance shall a stairway or fire escape be located on any wall fronting on a street.

10. The owner(s) of the one-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises; and

11. Any apartment within a one-family dwelling that is in existence at the time of the adoption of this subsection shall be subject to the provisions outlined above. (LL No. 1, 2007 (part))

17.33.050 Decision.

The town board may approve the application, approve it subject to modifications, or disapprove the application.

A. Decision. Any decision by the town board to grant or deny a special use permit shall include either a negative declaration of environmental significance or a written findings statement consistent with the requirements of SEQRA, and in addition shall contain a statement of its findings regarding the appropriateness of the use so authorized and the conditions required in the special use permit, or its reasons for denial. In granting any approval, the town board shall impose any conditions that may be necessary to ensure that the proposed use will be compatible with its surroundings.

B. Filing. Within five business days from the date of adoption of a resolution approving the special use permit, the town supervisor or other duly authorized member of the town board shall cause a copy of such resolution to be filed in the office of the town clerk. Simultaneously of the filing with the town clerk, an additional copy of such resolution shall be delivered to the zoning administrator and such resolution shall be deemed to authorize the issuance of a building permit.

C. Conditions. The town board shall attach to the special use permit such conditions and restrictions as are deemed necessary. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the town. The town board shall attach a condition that site plan approval is obtained prior to the issuance of any building permit or certificate of occupancy, when the town board report contains a recommendation for such approval.

D. Expiration. A special use permit shall be deemed to authorize only the particular use or uses specified in such permit and shall expire if:

1. A certificate of occupancy is not issued within two years from the date of approval of such special use permit;

2. If the certificate of occupancy is revoked for any reason;

3. If the authorized use or uses shall cease for more than one year for any reason; or

4. If the required improvements are not maintained and all conditions and standards complied with throughout the duration of the use.

E. Revocation. In accordance with the provisions of Chapter 15.04, a special use permit may be revoked by the zoning administrator as a permit related to the certificate of occupancy. (LL No. 1, 2007 (part))

Chapter 17.36

DEVELOPMENT REQUIREMENTS GENERALLY*

Sections:

17.36.010 Intent.
17.36.020 General requirement.
17.36.030 Lot requirements.
17.36.040 Road arrangement and access design requirements.
17.36.050 Drive, internal drive and driveway requirements.
17.36.060 Fence requirements.
17.36.070 Clear vision zone requirements.
17.36.080 Valley wall development requirements.
17.36.090 Storm water management and erosion control requirements.
17.36.100 Recreation parks, playgrounds and open space requirements.
17.36.110 Utility requirements.
17.36.120 Damaged and unsafe building or structure requirements.
17.36.130 Industrial use requirements.
17.36.140 Solar energy system and solar access requirements--Plan requirements.
17.36.150 Wind energy conversion systems (windmill) requirements.
17.36.160 Home occupation requirements.
17.36.170 Cottage industry requirements.
17.36.180 Wireless telecommunication facility (WTF) requirements.
17.36.181 Accessory antenna.
17.36.190 Vehicle filling station, vehicle repair, vehicle sales or lease and heavy equipment vehicle sales and/or repair, and/or contractor's equipment yard requirements.
17.36.200 Transition yard, buffer yard, landscaping and barrier requirements.
17.36.210 Fast food restaurant requirements.
17.36.220 Drive-through use requirements.
17.36.230 Adult use requirements.
17.36.240 Outdoor lighting requirements.
17.36.250 Outdoor recreational use requirements.
17.36.260 Sound control requirements.
17.36.270 Mobile home as second principal dwelling on a lot requirements.
17.36.280 Commercial parking lot or structure requirements.
17.36.290 Flea market requirements.
17.36.300 Airport and heliport requirements.

17.36.310 Rod and gun club requirements.

* Prior history: LL No. 2, 1997 and LL No. 3, 2002.

17.36.010 Intent.

The intent of this chapter and Chapters 17.40 through 17.52 is to establish requirements for all development to assure compliance with this title and the town comprehensive plan. (LL No. 2, 2003 (part))

17.36.020 General requirement.

Every development shall comply with the applicable provisions of this chapter and Chapters 17.40 through 17.52. (LL No. 2, 2003 (part))

17.36.030 Lot requirements.

A. A lot shall be sized and arranged to not create any degree of nonconformance with this title.

B. Lot Access.

1. Insofar as possible, a lot shall not have direct access with a primary road. Access shall be from a marginal access road or a road other than a primary road.

2. Where a watercourse separates a buildable area of a lot from a road with which the lot has vehicle access, installation of a bridge or other structure, spanning the watercourse, shall be subject to the same design criteria and review as all other storm water drainage facilities in a development. (LL No. 2, 2003 (part))

17.36.040 Road arrangement and access design requirements.

A. Intent. It is the intent of this section to assure that all development provide for safe and adequate access to a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new town road, private road and/or internal drive be designed to:

1. Provide for:

a. Convenient traffic access and circulation,

b. Traffic control and safety,

c. Access for firefighting, snow removal and street maintenance equipment,

d. Storm water drainage,

e. Utility location; and

2. Arranged to:

a. Separate through traffic from neighborhood traffic insofar as practical,

b. Be coordinated to compose a connected system,

c. Be laid out to provide suitable future road connection with an adjoining lot, and

d. Conform to the requirements of the Americans with Disabilities Act (ADA).

B. Road and Drive Requirements.

1. A development proposal, subject to site plan review as provided in Section 17.12.010, shall show and detail all design features for a town road, private road and/or internal drive sufficient to

document compliance with the intent of this section and The Standard for Road Construction in the town of Big Flats.

2. A traffic study or analysis may be required to support design considerations and/or to validate the mitigation of any traffic impacts associated with a development.

3. Any new general or business use, except uses of government and public utility building, electric, switch or pump station, to be established in the RU district must have direct vehicular access to a primary road and shall not utilize vehicular access via any secondary road. (LL No. 2, 2003 (part))

17.36.050 Drive, internal drive and driveway requirements.

A. Intent. It is the intent of this section to assure that all development provides for safe and adequate access to a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new internal drive and/or driveway be designed to comply with the requirements of a highway work permit for all work conducted in a right-of-way.

B. General Requirement.

1. A development plan shall show and detail design features for an internal drive and/or driveway sufficient to document compliance with the intent of this section and the standard for internal drive and driveway construction in the town of Big Flats.

2. A plan for an internal drive and/or driveway prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any traffic impacts associated with a development. (LL No. 2, 2003 (part))

17.36.060 Fence requirements.

A. General Requirement. Grading of a site for the purpose of raising the elevation of a fence contrary to this section is prohibited, except as shown in an approved site plan.

B. A fence on a lot shall comply with the following requirements:

1. Height Restrictions.

a. RU, R1, R2, C, TC, TC-2 and RCD districts:

i. Maximum height of four feet above finished grade shall be permitted for a fence located in a front yard. A fence located in a front yard, near a right-of-way, shall be established and maintained in accordance with the provisions of Section 17.36.070.

ii. Maximum height of seven feet above finished grade shall be permitted for a fence located in a side or rear yard.

b. ABD, BN, BNR, BR, CL and I districts:

i. The height and location of a fence shall be approved in a site plan.

ii. A site plan is not required for a fence located on a lot containing an existing residential use listed in Section 17.12.010; provided, that the existing residential use is continued and the fence construction complies with the requirements of this section.

2. Location. A fence shall be constructed entirely within the boundaries of a lot. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.36.070 Clear vision zone requirements.

A. Intent. It is the intent of this section to assure that all development provides for safe and adequate access to and from a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new road, drive, internal drive or driveway be designed to provide a clear vision zone.

B. General Requirement.

1. A development plan shall show and detail design features for a drive, internal drive and driveway sufficient to document compliance the intent of this section and the standard for clear vision zone in the town of Big Flats.

2. A plan for a road, drive, internal drive or driveway prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any traffic impacts associated with a development. (LL No. 2, 2003 (part))

17.36.080 Valley wall development requirements.

A. Steep Slope Requirements. The topography of the town includes many steep slopes that benefit the community by providing scenic views, aquifer recharge areas and wooded areas and substantial protection against flooding and erosion. If these areas are not carefully protected, the benefits of these areas will be irreparably lost and extensive erosion and flooding is likely to occur. Road construction, building site development and other construction activity proposed for these areas require special design consideration to prevent erosion, minimize storm water runoff and preserve large trees, natural terrain and scenic views.

B. General Requirements.

1. Each development proposal shall, in a plan, show all site work, cut and fill, erosion and drainage control measures and any proposed road, drive, internal drive and/or driveway cross-subsections. The detail of the plan shall be sufficient to determine if steep slopes exist on the proposed development site and the extent which such steep slopes affect the proposed site work. The preparation of these plans by a design engineer may be required.

2. Constructing or grading development sites to be level, otherwise known as padding, shall be permitted only when it can be clearly demonstrated, by exhibits presented in a site plan that the final treatment of the site meets the requirements of this subsection.

C. Design Requirements. Design principles and criteria used in the review of a site plan application shall include, but is not limited to, the following:

1. Landscaping of areas around a structure making such areas compatible with the natural terrain;

2. Shaping, grouping and placement of manmade structures to complement the natural landscape;

3. Arrangement of structures so they complement one another to promote visual interest;

4. Shaping of essential grades to conform to the existing contours and prohibit the appearance of successive padding, terracing or other similar form of grading for a building site in steep slope areas;

5. Encouragement of split-level development sites;

6. Use of one-way roads when consistent with traffic safety, circulation needs and natural topography. This guideline may allow for smaller road right-of-way, less cut and fill within a given area and a road network consistent with the natural terrain. A road shall be parallel with the hillside wherever possible and may require variable width of right-of-way. This shall not only provide the most economical routing, but also minimize the amount of grading required.

D. Slopes Greater than Twenty-Five (25) Percent. A slope greater than twenty-five (25) percent (2.5 feet of vertical rise in a ten (10) feet horizontal distance) shall not be developed except as approved in a site plan. When an application is received by the code enforcement officer for a development that proposes to affect, in any way, a slope greater than twenty-five (25) percent, the application shall be referred to the planning board as a site plan application under Chapter 17.32. (LL No. 2, 2003 (part))

17.36.090 Storm water management and erosion control requirements.

A. Intent. It is the intent of this section to assure that all development provides for adequate protection against the impacts associated with storm water and that development does not create added storm water runoff from a development site. This intent is furthered by requiring that all development plans include provisions for storm water management and that such plans comply with the standard for storm water management in the town of Big Flats.

B. General Requirement.

1. A development plan shall show and detail design features for a storm water management system sufficient to document compliance the intent of this section and the standard for storm water management in the town of Big Flats.

2. A plan for a storm water management system prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any storm water impacts associated with a development.

C. Special Site Plan Requirement. When an application for building permit, highway work permit, variance and/or special permit, includes a lot where, in the determination of the code enforcement officer, a significant impact associated with storm water management and/or erosion is likely to occur as a result of a development the application shall be referred to the planning board as a site plan application under Chapter 17.32.

D. Stormwater Pollution Prevention Plan. A stormwater pollution prevention plan consistent with the requirements of this chapter (the stormwater management and erosion and sediment control law of the town of Big Flats (Chapter 17.37 of the town of Big Flats Municipal Code)) shall be required. The SWPPP shall meet performance and design criteria and standards set forth in Chapter 17.37 of the town of Big Flats Municipal Code. The approved preliminary subdivision plat shall be consistent with the provisions of this chapter (the stormwater management and erosion and sediment control law of the town of Big Flats). (LL No. 9, 2007 § 5; LL No. 2, 2003 (part))

17.36.100 Recreation parks, playgrounds and open space requirements.

A. Alternative Dwelling Park, PMRD, or Multi-unit Dwelling Development.

1. Consistent with the town comprehensive plan a park, playground and/or open space is required for an alternative dwelling park, PMRD, or multi-unit dwelling development. The required park, playground and/or open space shall meet the following minimum requirements:

a. Such land shall be either held in private or corporate ownership, maintained in perpetuity by an established organization or deeded to the town.

b. The location of such land on a lot shall be determined with the following considerations:

i. Maximizing the safety of children walking between such facilities and their homes;

ii. Providing for safe traffic circulation and parking at the park, playground and/or open space site;

iii. Minimizing the interaction between traffic to and from the principal use of the lot and the traffic to and from the park, playground and/or open space site on the lot;

iv. The suitability of the park, playground and/or open space site and its location for the intended recreational purpose.

2. A preliminary site plan shall include the following minimum details regarding a park, playground and/or open space:

a. A dimensional drawing showing boundaries of the park, playground and/or open space, its size in square feet, the location and description of any equipment to be installed or buildings to be constructed in the park, playground and/or open space;

b. A maintenance plan for the area;

c. A detailed description of future ownership of the land for the park, playground and/or open space or a deed offering dedication of such land to the town;

d. The details of the plan shall show how the entire area is to be graded, drained and landscaped to make it a useful and attractive feature of the development.

B. Park and/or Playground Area Requirements.

1. In an alternative dwelling park and multi-unit dwelling development: Nine hundred (900) square feet per dwelling unit.

2. In a PMRD: As prescribed in Chapter 17.20.

C. Alternative for a Park, Playground and Open Space Requirement.

1. When it is determined by the planning board in an alternative dwelling park, multi-unit dwelling development, or PMRD, a park and/or playground is not practical due to the size, shape and/or the character of the development and the site plan shall be:

a. Referred to the town park commission for review and report to the planning board regarding any public park and/or playground resource likely to be impacted and the effect the development may have on such public resource:

b. Referred to the town assessor who shall make a report to the planning board with a cost estimate of the per square foot value of the land being considered for an alternative dwelling park, multi-unit dwelling development, or PMRD based on current assessment data.

2. The information provided in the report received in accordance with subsection (C)(1) of this section shall be utilized by the planning board to validate any impact associated with an alternative dwelling park, multi-unit dwelling development or PMRD on an existing public park and/or playground resource and to calculate a payment in lieu of park and/or playground land.

3. To calculate a required payment in lieu of park and/or playground land, multiply the required area in square feet of park and/or playground required in subsection B of this section times the per square foot value of the land as determined by the assessor in subsection (C)(1)(b) of this section.

4. When the provisions of subsection C of this section are invoked, the payment in lieu of park and/or playground land shall be made to the town prior to an approval of a preliminary site plan.

D. Open Space in All Development.

1. Areas, on a lot proposed for a development that requires a site plan in accordance with Section 17.12.010 that are determined to be of importance to the community based on their environmental

setting, scenic view, historical or archeological significance may be set aside and not be developed as a condition of site plan approval. Such a determination shall depend upon the magnitude and character of the development and the potential that the environmental setting, scenic view, historical or archeological site would be irreparably lost if not preserved.

2. The planning board may consider these areas, when reserved for recreation purposes, in lieu of any portion of a park and/or playground required in subsections A through D of this section.

3. Lands proposed for open space purposes shall be either held in private or corporate ownership and maintained in perpetuity by an established organization or may be deeded to the town. The ownership of such land shall be determined in consideration of the following:

a. The severity of the constraints and the impact these constraints have on the potential for further development of a lot;

b. The importance of the land area to the town and the persons using the development;

c. The lands scenic quality, potential for wildlife habitat and the potential for protecting adjacent properties from any potential adverse impact that may result from development of the area of an open space;

d. The likelihood that residents in the development and/or the town would utilize and/or benefit from the set aside of such land.

4. When it is determined by the planning board that open space is required, a detailed plan shall be provided with a preliminary site plan for the open space and at minimum include:

a. A dimensional drawing showing boundaries of the open space;

b. A maintenance plan for the open space area;

c. Either a detailed description of future ownership of the land or a deed offering dedication of such land to the town;

d. A description of any improvements planned for the land. (LL No. 2, 2003 (part))

17.36.110 Utility requirements.

A. Electric, Telephone and Cable. With the exception of individual service to one-unit and two-unit residential development, the telephone and television cable, electric and gas lines or similar utility services shall be installed underground unless full documentation supporting other methods as the most feasible approach is provided to and accepted by the planning board in an approved site plan.

B. Water Supply and Sewage Disposal. The installation of and specifications for public water and sewer lines shall comply with the rules, regulations and requirements of the Town Water District, Chemung County Sewer District, Chemung County Health Department, NYS Department of Environmental Conservation and/or NYS Department of Health. (LL No. 2, 2003 (part))

17.36.120 Damaged and unsafe building or structure requirements.

A. General Requirements.

1. The owner of a structure or building that has been damaged by fire, flood or other cause shall notify the code enforcement officer (CEO) of the damage within seventy-two (72) hours of when the damage occurred. Any damaged building or structure shall be made safe and secure in accordance with the NYS Uniform Fire Prevention and Building Code.

2. The use of fire as a method for razing a damaged or unsafe structure or building is prohibited unless specifically authorized by the NYS Department of Environmental Conservation, Chemung County Emergency Management Office, the fire chief for the jurisdictional fire district and the town code enforcement officer.

B. Repair, Replacement and/or Razing.

1. The owner of a building or structure which has been damaged by fire, flood or other cause to an extent more than fifty (50) percent of its replacement value shall comply with the following requirements:

a. Arrange for the damaged building or structure to be evaluated by a design engineer and/or the CEO.

b. Shall apply for a building permit for the work recommended by the design engineer and/or CEO and which may include repair, reconstruction or razing of the damaged building or structure. The owner shall perform such work within one hundred eighty (180) days of the date of an order to remedy from the CEO.

2. The owner of a building or structure which has been damaged by fire, flood or other cause to an extent less than fifty (50) percent of its replacement value shall apply for a building permit for the work required to either repair, reconstruct or raze the damaged building or structure and perform such work within two hundred seventy (270) days of the date the damage occurred. (LL No. 2, 2003 (part))

17.36.130 Industrial use requirements.

A. General Requirements. No industrial use shall be permitted, established, maintained or conducted which is likely to cause or have:

1. Fumes, gases, dusts, particulate, odors or any other atmospheric pollutant beyond the boundaries of the lot whereon an industrial use is located;

2. Excessive smoke or similar atmospheric pollutant beyond the boundaries of a lot on which the industrial use is located. Excessive smoke shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines. When the shade or appearance of such smoke is darker than No. 2 on the Ringelmann Smoke Chart, it is then excessive;

3. Noise levels greater than fifty-five (55) decibel (dbl) measured at a boundary of a lot occupied by an industrial use;

4. A discharge of any industrial effluent into any watercourse, open ditch or on a land surface unless specifically permitted under the authority of the NYS Department of Environmental Conservation;

5. A discharge of any industrial effluent into a public sanitary sewer system except in accordance with the rules of and under the control of public health authorities or the public body controlling such sewer system;

6. Open storage or stocking of any waste materials;

7. Glare or light levels in excess of the requirements set in Section 17.36.240;

8. Vibration perceptible beyond the lot lines whereon such industrial use is conducted;

9. Any other nuisance, activity or action that may be harmful to a person or property.

B. Buffer, Barrier and Landscape Requirements.

1. Buffer and barrier shall be provided in accordance with Section 17.36.200.

2. All portions of the lot proposed for industrial development and not occupied by structure, parking area, drive, internal drive, pedestrian ways or storage shall be landscaped with lawn, trees, shrubs or other plant material in accordance with Section 17.36.200.

C. Other Industrial Use Activity.

1. Outdoor Storage. Materials, supplies, or products shall not be stored in a front yard and such storage located in the side or rear yard shall be screened in conformance with Section 17.36.190.

2. Off-Road Loading and Unloading Berths. Off-road loading and unloading berths shall be provided in accordance with Section 17.48.020 and the following minimum requirements:

a. An off-road loading and unloading berth located on or along a drive shall be located a minimum of one hundred (100) feet from a road.

b. The handling of all freight shall occur either on those sides of a building which do not face a road or be suitably landscaped and screened in accordance with Section 17.36.190.

3. Accessory Use. Accessory uses shall conform to the minimum requirements set forth in Chapter 17.40 and as prescribed in an approved site plan.

D. Design Requirement. A site plan for an industrial use shall include design elements that includes sufficient documentation to determine compliance with the requirements of this section and all other applicable sections of this title.

E. Access. Access to a lot containing an industrial use shall:

1. Be designed by a design engineer;

2. Be designed not to route traffic directly through a R1 or R2 district on other than a primary road;

3. Be designed to access a road other than a town road located within a R1 or R2 district; and

4. Have a design based on a traffic study that includes provisions for access for all vehicles expected or intended to use the site. (LL No. 2, 2003 (part))

17.36.140 Solar energy system and solar access requirements--Plan requirements.

A site plan for new residential development that includes either one hundred (100) or more acres of site development area and/or more than two hundred (200) dwelling units, shall consider designs to promote the maximum number of buildings receiving direct sunlight sufficient for using a solar energy system. Such site plan shall include a solar access plan that considers the following:

A. Solar access shall be protected between the solar azimuths of -45 degrees east of due south and +45 degrees west of due south.

B. In considering dimensional modifications permitted in Chapters 17.20 and 17.28, the planning board shall consider solar access design.

C. For solar access roads, lots and building setbacks should be designed so that the buildings are oriented with their long axes running from east to west for single-unit development and north to south for multi-unit development.

D. In order to maximize solar access, the higher density development units should be placed on a south-facing slope and lower density dwelling units sited on a north-facing slope.

E. Structures should be sited as close to the north lot line as possible to increase yard space to the south for reduced shading of the south face of a structure.

F. A tall structure should be sited to the north of a short structure.

G. A description of any legal mechanisms, such as deed restrictions, covenants, etc., that are to be applied to protect or provide for solar access shall be provided as documentation in a site plan. (LL No. 2, 2003 (part))

17.36.150 Wind energy conversion systems (windmill) requirements.

The intent of this section is to regulate the placement of and access to wind for an energy conversion system and to protect the health and safety of individuals on adjacent lots.

A. General Requirements. A site plan approval and building permit are required for the construction of a wind energy conversion system.

B. Dimensional Requirements.

1. The total height for a vertical axis rotor installation of a wind energy conversion system is the tower height plus one-half the rotor diameter, and for a horizontal rotor installation of a wind energy conversion system is the distance from the base at finished grade to the top of the unit.

2. A wind energy conversion system setback shall be a distance that is the greater of either the total height of the wind energy conversion system or the required setback.

3. A maximum allowable total height for a wind energy conversion system shall be eighty (80) feet unless otherwise restricted or prohibited by federal, state or local laws, rules, or regulations.

4. Minimum allowable height above finished grade at the lowest point of the arc of a rotor blade shall be fifteen (15) feet.

C. Safety Requirements. All wind energy conversion systems shall be designed, installed and maintained in accordance with the following:

1. The foundation and supports for a wind energy conversion system shall be as designed by a design engineer.

2. At least one sign shall be posted at the base of the wind energy conversion system warning of high voltage.

3. Tower climbing ladders, stairs or similar devices shall be no lower than twelve (12) feet from the ground.

4. All wind energy conversion system shall be installed with braking systems approved by the manufacturer.

D. Sound Control Requirements. The maximum level of sound created by the wind energy conversion system as measured at the lot line shall be no greater than fifty-five (55) decibels (db).

E. Design Requirements.

1. All electric transmission lines serving the installation shall be installed underground.

2. No wind energy conversion system with guy wire support shall be permitted. (LL No. 2, 2003 (part))

17.36.160 Home occupation requirements.

A. Restrictions. The following uses shall not be permitted as a home occupation:

1. A business which has a primary function of wholesale or retail sale of goods or articles on a lot;

2. Any form of motor vehicle repair including vehicle body work;

3. Motor vehicle sales or lease;
4. Any small engine or appliance repair;
5. A veterinary hospital;
6. A kennel;
7. A bar and/or restaurant;
8. Cottage industry; and
9. Any use that, under the provisions of the New York State Uniform Fire Prevention and Building Code is not permitted based on the type of construction or a use prohibited based on any other federal, state or local law, rule or regulation.

B. General Requirements. A home occupation use shall comply with the following minimum requirements:

1. In a dwelling unit the lesser of either twenty-five (25) percent of the total floor area or five hundred (500) square feet, may be used for or dedicated to the use.
2. The use shall be conducted within the enclosed walls of dwelling unit.
3. There shall be no external evidence of such use except for a sign installed in accordance with Chapter 17.52. No stock, merchandise, packaging, equipment or displays related to the use shall be visible from outside the dwelling unit.
4. The dwelling unit in which the use is located shall not be altered or extended in a manner not customary or typical to a residential building to accommodate the use.
5. The use shall not result in or cause vehicular traffic volumes of greater than four cars per hour or otherwise create a nuisance to abutting lots.
6. The use shall not change the residential character of the adjoining lots. (LL No. 2, 2003 (part))

17.36.170 Cottage industry requirements.

A. Restrictions. The following uses shall not be permitted as a cottage industry use:

1. A business which has a primary function of wholesale or retail sale of goods or articles on a lot except as provided in subsection (B)(6) of this section;
2. Any form of motor vehicle repair including vehicle body work;
3. Motor vehicle sales or lease;
4. Veterinary hospital;
5. Bar and/or restaurant;
6. Any use that, under the provisions of the New York State Uniform Fire Prevention and Building Code is not permitted based on the type of construction or a use prohibited based on any other federal, state or local law, rule or regulation.

B. General Requirements. A cottage industry use may be permitted when an approved site plan documents compliance with the following minimum requirements:

1. In a dwelling unit the lesser of thirty (30) percent of the total floor area or seven hundred fifty (750) square feet is to be used for or dedicated to the use.
2. No more than one thousand five hundred (1,500) square feet of an accessory structure is used for or dedicated to the use.
3. The use is to be conducted within the enclosed walls of the dwelling unit and/or accessory structure.

4. There is no external evidence of such use except for a sign installed in accordance with Chapter 17.52. No stock, merchandise, packaging, equipment or displays related to the use is visible from outside the dwelling unit and/or accessory structure.

5. A dwelling unit in which the use is located is not altered or extended in a manner not customary to or typical of a residential building in order to accommodate the use. Construction and/or modification of an accessory structure to accommodate the use is permitted.

6. The use shall not result in or cause vehicular traffic volumes of greater than six cars per hour or otherwise create a nuisance to abutting properties.

7. A maximum of ten (10) percent of any area devoted to or used for the use may be for display, and/or wholesale and retail sales.

8. The use shall remain compliant with all conditions of site plan approval. (LL No. 2, 2003 (part))

17.36.180 Wireless telecommunication facility (WTF) requirements.

A. Intent. The town has received and anticipates receiving additional applications for WTF that will include the construction of antennas and towers. It is the intent of the town to establish an orderly process for managing the accommodation of the communication needs of the residents and businesses consistent with applicable federal and state regulations, while protecting the health safety and general welfare of the residents of the town of Big Flats by:

1. Facilitating the provision of wireless telecommunication and other communication services to the residents and businesses of the town, while simultaneously preserving the character, appearance and aesthetic resources of the town;

2. Minimizing the adverse visual effects of wireless telecommunication towers and facilities through development of site and approval criteria;

3. Protecting the scenic, historic, environmental, natural and man-made resources of the town;

4. Preserving property values of the town;

5. Minimizing the undue proliferation and height of wireless telecommunication towers throughout the town;

6. Avoiding potential harm to adjacent persons and properties from tower failure, noise, falling objects and attractive nuisance through the establishment of site standards; and

7. Encouraging shared use of existing and approved towers in order to reduce the number of towers needed to serve the community where reasonably possible, so as to minimize and mitigate the adverse visual impacts of towers and their facilities.

B. These regulations are intended to be consistent with the Telecommunication Act of 1996 in that:

1. They do not prohibit, or have the effect of prohibiting, the provision of personal wireless services;

2. They are not intended to be used to reasonably discriminate among providers of functionally equivalent services;

3. They do not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning emissions.

C. Approval Procedures.

1. Site Plan Approval. As specified in Town Municipal Code Section 17.12, all WTF shall require site plan approval in accordance with the procedures and requirements of Town Municipal Code Section 17.32.

2. Additional Submittal Requirements. In addition to the standard submittal requirement for a site plan as specified in Section 17.32, an application for a WTF shall include the following documentation, except that the planning board may waive the submittal of certain of the following documentation in the instance of an antenna that is to be located on an existing structure or tower:

a. Necessity of Service. A documentary demonstration supported by standard engineering practices, signed by a licensed NYS professional engineer with expertise in WTF, that the proposed WTF is necessary to provide service to locations that cannot be served by an existing WTF within or outside the town, and/or by alternate technologies, such as repeaters.

b. A copy of the FCC license for the applicant's service in the proposed area.

c. A five year build-out plan for the proposed site and other sites within the town and within adjacent towns, clearly demonstrating the applicant's plans for other structures, proposed application and building dates.

d. Structural Integrity Certification. A certification by a NYS licensed professional engineer that the supporting structure will meet the New York State Building Code wind load requirements for the proposed facility and any additional users identified in the Co-Location Antenna Certification.

e. Co-Location Antenna Certification. A documentary demonstration by standard engineering practices, signed by a licensed NYS professional engineer, that the tower would accommodate co-locators. Such data shall identify the maximum number of co-locators, or alternative co-location antenna strategies, which could be supported on the tower.

f. Visual Impact Assessment. The applicant shall provide a documentary visual impact assessment, including a photo simulation, that supports with clear and convincing evidence that the visual, aesthetic and community character intrusion impacts have been minimized to the greatest extent possible.

g. Bulk and Density Documentation. The applicant shall provide clear and convincing documentary evidence that the proposed structure height of the antenna or tower is the minimum necessary to provide licensed communications to the locations in the town that the applicant is unable to serve with an existing facility or with a structure with a lower structure height.

h. Emission Certification. A report signed by NYS licensed professional engineer with expertise in WTF and/or a health physicist with expertise in radio frequency emissions, that the proposed maximum equipment output at the proposed site will comply with all emission standards adopted by the FCC, such certification may be required to be updated periodically.

i. Non-Interference Certification. A certification and supporting evidence signed by NYS licensed professional engineer with expertise in WTF that the proposed WTF will not cause interference with existing communication devices.

D. Standards for WTF. A new or the alteration of an existing WTF shall meet the following minimum standards:

1. Minimum lot area shall be as specified in the Town Municipal Code Section 17.16.

2. An antenna or a tower for a WTF shall have a setback, from all property lines, from above ground power lines and/or from other structures not used in support of the WTF, the greater of: (a) either the required setback set forth in Section 17.16, or; (b) no less than the maximum distance from the center of the monopole antenna to the perimeter of the fall zone of the antenna or tower, as certified by a NYS licensed professional engineer.

3. A WTF shall be located no nearer than five hundred (500) feet to a dwelling unit, day care center, place of worship, school or a road or drive used by the public.

4. Structure Height Limits. The structure height of any antenna or tower shall be the minimum required to establish and maintain adequate service as supported by the documentation submitted in the site plan review and approval application. In no instance shall the tower exceed a structure height that is the lesser of either one hundred twenty (120) feet or a maximum of fifty (50) feet above any immediately adjacent tree line.

5. A WTF shall be a monopole, unless otherwise authorized by the planning board for good cause as shown in the submittal documentation.

6. Signal lights shall be prohibited unless required by the FCC or Federal Aviation Administration.

7. A WTF shall be sited to have the minimum adverse visual impact on the surrounding areas and roads. WTF and towers shall be designed and constructed of materials that are harmonious with natural setting.

8. The maximum area to be cleared for a WTF shall be no more than fifty (50) feet in extent from the footprint of the WTF and its accessory structure. Only the very minimum amount of vegetative clearing shall be permitted to accommodate construction.

9. All equipment and accessory structures shall be sited to minimize adverse visual impact on the surrounding areas and roads. The planning board may require that these facilities be located completely or partially underground.

10. All equipment not located within a building shall be designed and/or treated with materials to blend with surrounding natural setting.

11. Signs shall be prohibited unless required by the planning board or an applicable regulation or law.

12. Co-location antenna arrangements are required of all new WTF unless substantial documentation shows that:

a. The applicant has provided clear and compelling evidence in accordance with subsection 17.36.180(B);

b. Co-location cannot achieve the minimum reasonable technical needs of the proposed facility;

c. The inability to secure permission of owner of existing site and/or facility at a reasonable cost to allow additional installation; and/or

d. Structural and other engineering limitations, absent reasonable refurbishment, are demonstrated.

13. The applicant shall document additional capacity for future shared use of the tower and shall certify that such additional capacity shall be available for future applicants providing wireless telecommunication services, subject to good faith negotiations.

14. The clustering of antennas or towers on the same lot shall be considered if co-location antennas cannot be arranged.

15. Each WTF shall be protected against unauthorized access. Security fencing shall be required. The planning board shall determine the area extent of fencing required based on the site plan application submittal. All security fencing shall be a minimum of twelve (12) feet in height.

E. Discontinued Use. An antenna or tower not operated for the provision of wireless telecommunication services for a continuous period of twelve (12) months or more may be deemed abandoned. Upon receipt of notice of determination from the town, the operator shall remove the antenna or tower within ninety (90) days of the date of such notice of determination.

F. Exempt Facilities. Provided compliance with Section 17.36.181 is maintained by the property owner, the following transmitting and/or receiving WTF's are exempt from regulation by this section of the Town Municipal Code:

1. Amateur radio and satellite facilities provided that such facilities are operated by a licensed amateur;

2. Civil, emergency and other facilities under the control of or operated by a government agency; or

3. Home satellite facilities where installed on residential premises solely for the use by the residents of that premise and not offered for service to off-premise locations. (LL No. 2, 2003 (part))

17.36.181 Accessory antenna.

A. Residential Antennas. Antennas for transmitting and/or receiving telecommunication that are listed in subsection 17.36.180(F) as exempt from the provisions of Section 17.36.180 and that are constructed or installed on a lot with a residential principal use and are used as an accessory use to an existing residential use, shall be constructed and maintained as follows:

1. That the antenna or any supporting structure, such as a tower, is constructed or installed behind the front of the principal building on the lot and to not encroach on any portion of any required side, front or rear yard.

2. A free standing antenna or any part thereof including the supporting structure for such antenna, shall not exceed the structure height listed in Town Municipal Code Section 17.16.020 for the district and use applicable to the lot.

3. An antenna attached to any portion or part of a building including a chimney, shall not extend above the roof line to lesser of either: (a) the structure height as permitted by Town Municipal Code Section 17.16.020 for the district and use applicable to the lot or (b) no more than five feet above the highest point of the roof of the principal building on the lot.

4. Any guy wire supports for an antenna that are within eight feet to the ground, a walkway or any habitable space of a building shall be clearly marked to the extent as to make the guy wires visible pedestrians.

B. Commercial Antennas. Antennas for transmitting and/or receiving telecommunication that are listed in subsection 17.36.180(E) as exempt from the provisions of Section 17.36.180 and that are constructed or installed on a lot with a general, business or industrial principal use and are used as an accessory use to an exiting general, business or industrial use, shall require approval pursuant to Chapter 17.32 of this title and as a minimum be constructed and maintained as follow:

1. That the antenna or any supporting structure such as a tower, is constructed or installed behind the front of the principal building on the lot and to not encroach on any portion of any required side, front or rear yard.

2. A free-standing antenna or any part thereof including the supporting structure for such antenna, shall not exceed the structure height listed in Section 17.16.020 of this title for the district and use applicable to the lot.

3. A free-standing antenna or tower, including any guy supports, constructed or installed at ground level shall be enclosed in a fenced area of such area and height as permitted in an approved site plan.

4. An antenna attached to any portion or part of a building including a chimney, shall not extend above the roof line to lesser of either: (a) the structure height as permitted by Section 17.16.020 of this title for the district and use applicable to the lot or (b) no more than eight feet above the highest point of the roof of the principal building on the lot.

5. Any guy wire supports for an antenna that are within eight feet to the ground, a walkway or any habitable space of a building shall be clearly marked to the extent as to make the guy wires visible to pedestrians. (LL No. 2, 2003 (part))

17.36.190 Vehicle filling station, vehicle repair, vehicle sales or lease and heavy equipment vehicle sales and/or repair, and/or contractor's equipment yard requirements.

A. Dimensional Requirements.

1. Minimum Lot Size.

a. Minimum lot size for vehicle filling station, vehicle repair, vehicle sales or lease and heavy equipment vehicle sales and/or repair, and/or contractor's equipment yard uses shall be the greater of either one acre or the minimum lot area requirement prescribed in Section 17.16.020.

b. In those instances where a vehicle filling station, vehicle repair, vehicle sales or lease and heavy equipment vehicle sales and/or repair, and/or contractor's equipment yard uses is proposed as part of a mall or plaza, there shall be dedicated for such use a minimum lot area of one acre.

c. In addition to any required lot area and/or setback, a developer may be required to provide any additional space necessary, as determined by an approved site plan, to mitigate any potential impact on surrounding lots or uses.

2. The minimum lot width shall be the greater of two hundred (200) feet or the minimum lot width prescribed in Section 17.16.020.

3. Fuel dispensing devices shall be located at least thirty-five (35) feet from any front lot line and fifty (50) feet from any side or rear lot line. This distance shall be measured from the outer most edge of the fuel island structure.

B. General Requirements.

1. Automobile parts, including tires, frames, hubcaps, and motors, and dismantled or unregistered motor vehicles, are to be stored within a structure or otherwise screened from view from any adjoining lot or road. Accessory products that are offered for sale may be placed outside during normal business hours provided such items are stored or displayed in a rack.

2. All repair work shall be performed within a building. Vehicles waiting to be serviced or stored on the lot shall not be parked or stored in any required yard. Wrecked vehicles being held for insur-

ance adjustment or other legal purpose shall be stored behind the rear wall of the building and screened from view from an adjoining lot or road.

3. Parking.

a. No vehicle shall be parked, stored or left standing within fifteen (15) feet of a road right-of-way.

b. Parking area requirements shall be as set forth in Section 17.48.010. Such parking areas shall not conflict with the traffic pattern to and from any fuel pump. In addition to any required parking, a developer may be required to provide any additional parking areas necessary, by an approved site plan, to mitigate any potential impact on a surrounding lot or use.

c. Where parking areas abut a residential use as set forth in Section 17.12.010 or a residential district boundary, they shall be screened from such use or district and include a barrier that shall:

i. Be composed of densely-planted plant material no less than ten (10) feet in depth, eight feet in height from finished grade;

ii. Include a fence;

iii. Be of materials consistent with the character of adjacent residential lots;

iv. Be maintained in perpetuity or to a time when the adjoining residential use no longer exists.

4. No vehicles offered for rent or sale shall be placed, stored or parked within twenty-five (25) feet of a road right-of-way.

5. All storage and display areas shall be provided with a hard, dust-free surface and shall be adequately drained.

6. All outdoor lighting shall conform with Section 17.36.240.

7. No twenty-four (24) hour operation use shall be permitted within two hundred fifty (250) feet of an existing residential use and/or residential district boundary.

8. Fuel, oil and other materials which are environmentally hazardous shall be stored, controlled and disposed of in accordance with the rules and regulations of the NYS Department of Environmental Conservation. (LL No. 2, 2003 (part))

17.36.200 Transition yard, buffer yard, landscaping and barrier requirements.

A. Intent. The preservation and promotion of nature is a desirable and important means of protecting the public health, safety and welfare and that a healthy environment indicates a healthy community, which is consistent with the town comprehensive plan. The use of buffers and transition yards is a method of preserving and enhancing nature while providing citizens an assurance of protection from negative intrusions such as visual and noise impacts from uses on adjoining developments. More specifically, this section is intended to provide requirements that will ensure greater compatibility between different characters of land uses by requiring a transition yard between residential and non-residential districts and a screen or buffer between the uses in order to minimize the harmful impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion and other objectionable activities or impacts conducted on or created by an adjoining or nearby use. This section will provide consideration of those physical and visual elements of a development or use and to require treatment of the land with landscaping using plant materials and/or manmade features. Such plant materials and/or manmade features are to be arranged to enhance the appearance, to

screen or effectively separate different types of uses, and to eliminate or minimize impacts on adjoining uses.

B. Application of Transition Yards and Buffer Yards.

1. When a district other than a R1 or R2 district abuts a R1 or R2 district a transition yard shall be provided. (See Figure B-1)

2. The buffer yard provisions of this section shall apply to all uses requiring site plan approval or as a mitigation for impacts associated with a development in any districts in the town. (See Figures B-1 and D-1)

3. When provisions of this section requires transition and buffer yards such yards shall be in addition to any setback required in Article 5. (See Figures B-1 and D-1)

C. Transition Yard Requirements. (See Figures B-1 and D-1)

1. Minimum Requirements. Where a R1 or R2 district abuts any other district without an intervening road, a minimum side or rear yard setback in the other district that is measured from a lot line coincident with the boundary of the abutting district shall be increased more than the minimum yard setback specified in Section 17.16.020 for the other district by a transition yard which will have a depth equal to the number of feet as follows:

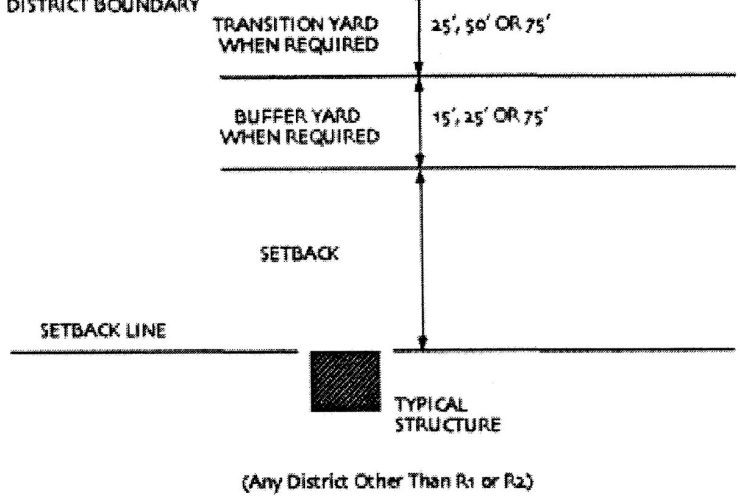
Other District	Residential Districts	Transition Yard Depth in Feet
RU	R1 & R2	25
TC	R1 & R2	25
TC-2	R1 & R2	25
C	R1 & R2	25
RCD	R1 & R2	25
BN	R1 & R2	25
BN2	R1 & R2	25
BNR	R1 & R2	50
BR	R1 & R2	50
ABD	R1 & R2	75
CL	R1 & R2	75
I	R1 & R2	75

2. Where a R1, R2, or RU district abuts any other district along the centerline of a road, a transition yard shall be required in the other district that is a depth measured from a front lot line coincident with the right-of-way of the road which shall be a minimum of twenty-five (25) feet more than the minimum front yard setback specified in Section 17.16.020 for the other district.

3. A transition yard shall be treated as a buffer yard for purposes of determining landscaping and barrier requirements as provided in subsections E and F of this section.

4. No principal structure, principal use, accessory structure or accessory use shall be located within any required transition yard.

5. No drive shall be located within a required transition yard if there is an adjoining lot in common ownership on which such drive may be located without being in a transition yard. Otherwise a



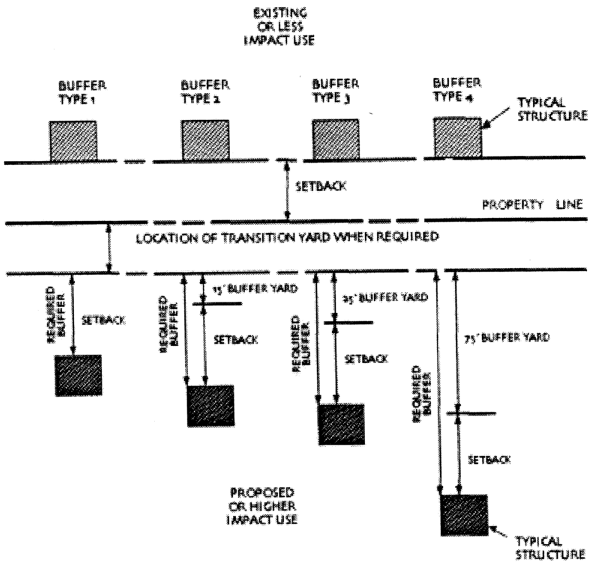
equired transition yard only as

D. Buffer Yard Requirements. (See Figure D-1)

1. Where a lot is proposed to contain a use listed in the use categories set forth in Section 17.08.040 and abuts a lot containing an existing or approved use, a minimum buffer yard shall be provided, for the proposed use, as follows:

Use Category	Existing or approved Residential Use	Existing or approved General Use	Existing or approved Business Use	Existing or approved Industrial Use
Proposed Residential Use	1	2	3	4
Proposed General Use	2	1	2	3
Proposed Business Use	3	2	1	2
Proposed In-	4	3	2	1

GRAPHIC REPRESENTATION OF SETBACK, BUFFER & BUFFER YARD



and D-1 for graphic representation)

quirements (setbacks) for the proposed principal

6.020.

imum yard requirements (setbacks) for the pro-

ection 17.16.020 plus a buffer yard of fifteen (15)

cordance with subsection E of this section.

quirements (setbacks) for the proposed principal

20 plus a buffer yard twenty-five (25) feet and

with subsection E of this section.

quirements (setbacks) for the proposed principal

0 plus a buffer yard of seventy-five (75) feet and

with subsection E of this section.

2. No principal structure, principal use, accessory structure or accessory use shall be located within any required buffer yard.

3. A drive and parking spaces shall not be located within a required buffer yard.

4. The buffer yard shall be provided with landscaping as required in an approved site plan and the requirements set forth in subsection E of this section.

5. A buffer yard shall be shown on drawings required in an application for site plan approval.

6. A buffer yard required to mitigate an impact associated with a development shall be designed by a design professional and constructed in accordance with said design.

7. The requirements of Section 17.36.070 shall be considered in the design of any buffer yard.

8. The owner shall maintain a required buffer yard in perpetuity.

E. Landscaping Requirements.

1. Where a buffer yard is required by this section, the buffer yard shall be provided with a landscape type as specified in the following table:

Use Category	Existing or approved Residential Use	Existing or approved General Use	Existing or approved Business Use	Existing or approved Industrial Use
Proposed Residential Use	1	2	3	4
Proposed General Use	2	1	2	3
Proposed Business Use	3	2	1	2
Proposed Industrial Use	4	3	2	1

Landscaping Type Description (See Figure E-1 for graphic representation of Landscape Density)

1. Buffers may be landscaped with plantings of choice. No landscape plan is required.

2. Planting shall include shrubbery and/or small trees that at maturity will be a minimum of six feet or a height that will provide intervening vegetation to the full height of the proposed use structure as viewed from an eye level elevation of five feet six inches at any point on the abutting use setback line.

3. Planting shall include hedges, shrubbery and/or small trees that at maturity will be a minimum of eight feet or a height that will provide intervening vegetation to the full height of the proposed use structure as viewed from an eye level elevation of five feet six inches at any point on the abutting use setback line.

4. Planting shall include hedges, shrubbery and/or small trees that at maturity will be a minimum of ten feet or a height that will provide intervening vegetation to the full height of the proposed use structure as viewed from an eye level elevation of five feet six inches at any point on the abutting use setback line and/or the second story of a residential use.

Plan above shows density of planting per 100 lineal feet of property line, and is not intended to represent the actual planting design. When a BARRIER is required it shall be placed in the back 1/3 of BUFFER YARD Type 2 and 3, and between 25' and 50' back from the property line in BUFFER YARD Type 4.

LEGEND & QUANTITY

PLANT DESCRIPTION	BUFFER YARD TYPE 2	3	4	PLANT DESCRIPTION	BUFFER YARD TYPE 2	3	4
	PLANT QUANTITY				PLANT QUANTITY		
SHADE TREE	2	3	5	SMALL TREE	1	4	7
				DECIDUOUS SHRUB	8	12	25
EVERGREEN TREE	1	3	9	EVERGREEN SHRUB	6	10	15

*Note: See subsection F3 of this section for plant type and minimum planted size.

2. Landscape Plan.

a. Whenever landscaping is required pursuant to this section and a site plan approval is required, a landscape plan shall be submitted to the planning board.

b. In those instances where a landscape plan is required to be submitted to the planning board, the landscape plan shall be prepared and stamped by a New York State licensed landscape architect, authorized to practice landscape architecture in accordance with New York State Law and shall be designed in accordance with the requirements of this section.

c. A variety of plants may be substituted for plantings required under this section; however, the performance of the substitute vegetation shall be equal to that of those approved in any site plan and as follows:

i. Evergreen trees may be substituted for shade trees or small trees without limitations.

ii. Evergreen shrubs may be substituted for deciduous shrubs without limitation.

d. The size and character of all plantings shall be in accordance with the provisions of the American Standard for Nursery Stock, (ASNS) latest edition (currently November 6, 1996), which is adopted by reference in this chapter.

e. Plantings adjacent to roads or within parking areas shall be those recommended in the handbook Urban Trees Site Assessment Selection for Stress Tolerance Planting, published by Urban Horticulture Institute, Cornell University.

f. Invasive or Rampant Plants. Invasive or rampant plants are prohibited. Examples of such plants include, but are not limited to, purple loosestrife, oriental bittersweet, kudzu, exotic wisterias, mile-a-minute weed, russian olive, multi-flora rose, white poplar, and black locust.

3. Plant Requirements. Plant branching, root size and proportions at time of planting shall be as described in the ASNS Standards according to the specified plant size. Minimum required planted size shall be as follows:

Plant Type (Per ASNS)	Minimum Size (approximate size when planted)	Mature Size
Shade Tree - Type 1 & 2	1.5” calliper	30’--80’ ht.
Small Tree - Small Upright Tree, Type 3	6’ height	20’--35’ ht.
Small Tree - Small Spreading Tree - Type 4	5’ height*	20’--30’ ht.
Small Tree - Multi-Stem Tree	6’ height	20’--30’ ht.
Evergreen Tree - Coniferous Evergreen -- Cone - Type 4	5’ height**	35’--75’ ht.
Deciduous Shrub	15” height	3’--15’ ht.

Plant Type (Per ASNS)	Minimum Size (approximate size when planted)	Mature Size
Evergreen Shrub - Coniferous Evergreen (CE) - Broad, Globe & Upright - Type 3	18” height	4’--15’ ht.
CE -- Broad Upright - Type 5	18” height	15’--20’ ht.
CE -- Columnar - Type 6	36” height	15’--20’ ht.
Broadleaf Evergreens (BE) Semi-spreading - Type 2	15” height	4’--6’ ht.
BE -- Broad Upright - Type 4 & 5	18” height	6’--l5’ ht.

* Pyrus Calleryana shall be sized as per Shade Tree, Type 1 and 2.

** Taxus cuspidata shall be sized as per CE, Type 3.

Table Notes:

- Bare root stock may be allowed as a portion of the required planting upon review of planting plan and determination that the landscaping meets the intent of this section.
- Dwarf plants, vines, and ground covers may be used as part of an overall planting plan but will not be counted as part of the buffer yard planting requirements.

4. Landscaping Minimum Requirements. The following minimum requirements shall apply to the preservation, installation and maintenance of all landscaping required by this section:

a. All disturbed soil areas of the site shall be replanted or re-seeded in accordance with the approved plan.

b. All planting will be done at an appropriate time of the year in accordance with the standards and policies of the Chemung County Soil and Water Conservation District (CCSWCD). No planting will be allowed if the ground is frozen and shall be completed in accordance with generally accepted horticultural practices for the town’s geographic area.

c. Shade or evergreen trees shall not be planted closer than five feet to a property line.

d. Plantings required by this section shall fit with the character of the surroundings and be composed of native, naturalized and disease resistant species capable of survival without extraordinary measures and be cold hardy in accordance with USDA plant hardiness Zone 5.

e. The owner shall be responsible for the maintenance, repair and replacement of all landscaping required under this section in perpetuity and the area shall be kept free of refuse and debris.

5. Credit for Existing Vegetation. To the extent possible existing site vegetation shall be saved during construction and thereafter. Existing site vegetation may be used to meet some or all of the requirements of subsection E of this section provided that the existing site vegetation provides or exceeds the minimum level of protection afforded by the requirements of this section. If applicable, the planning board may consider credit for preservation of qualifying existing site vegetation on a one to one basis with the landscaping requirements of this section. New plantings where existing vegetation is used as part of the required landscaping shall be compatible with the existing landscape in character and type.

6. Alternative Designs. For good cause shown, the developer may submit alternative designs as part of a landscape plan provided the alternative design meets or exceeds the minimum requirements of this section and that such alternative design is accepted and approved by the planning board.

F. Barrier Requirements.

1. When a specific impact is identified that cannot be practically mitigated under the landscaping requirements of this section, as determined by the planning board, a barrier may be required that meets or exceeds the following requirements:

Use Category	Existing or approved Residential Use	Existing or approved General Use	Existing or approved Business Use	Existing or approved Industrial Use
Proposed Residential Use	NA	1	2	4
Proposed General Use	1	NA	1	3
Proposed Business Use	2	2	NA	1
Proposed Industrial Use	4	3	1	NA

Barrier Description:

1. The barrier shall comply with the requirements of Section 17.36.070 and shall provide protection against impacts associated with a development to a minimum height above finished grade of six feet as measured at the common property line between the existing and proposed use.

2. The barrier shall comply with the requirements of Section 17.36.070 and shall provide protection against impacts associated with a development to a minimum height above finished grade of eight feet as measured at the common property line between the existing and proposed use.

3. The barrier shall comply with the requirements of Section 17.36.070 and shall provide protection against impacts associated with a development to a minimum height above finished grade of ten (10) feet as measured at the common property line between the existing and proposed use.

4. The barrier shall comply with the requirements of Section 17.36.070 and shall provide protection against impacts associated with a development to a minimum height above finished grade of twelve (12) feet as measured at the common property line between the existing and proposed use.

2. The barrier shall be provided for in the buffer yard or transition yard.

3. When a barrier is required, the barrier shall be illustrated on the drawings required in an application for site plan approval.

4. A barrier shall be designed to provide the degree of continuous protection to a use commensurate with the specific adverse impact associated with a development.

5. A barrier shall be designed by a design professional and constructed in accordance with the design.

6. The requirements of Section 17.36.070 shall be considered in the design of any barrier.

7. The owner shall maintain a required barrier in perpetuity. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.36.210 Fast food restaurant requirements.

A. Intent. A fast food restaurant use has operational characteristics that may include a significantly higher number of customers per day than those of surrounding uses. This use is likely to also have an accessory drive-through use. These characteristics have the potential for creating serious traffic conflicts, hazards to pedestrians and congestion. It is the intent of this section to provide reasonable controls to avoid, to the greatest extent possible the consequences of this congestion and traffic hazard.

B. Dimensional Requirements.

1. Minimum Lot Size.

a. Minimum lot size for all uses shall be as defined in the bulk density requirement, Section 17.16.020.

b. In those instances where a use regulated in this chapter is proposed as part of a mall, there shall be dedicated for such use an area of the lot equal to one acre.

c. To mitigate impacts on adjoining lots and/or road infrastructure, additional lot area, setbacks and/or right-of-way reserve strips may be required in an approved site plan.

2. Minimum Lot Width. The greater of one hundred (100) feet or the minimum lot width established in the bulk density requirement, Section 17.16.020.

C. Access and Parking.

1. Access shall be designed by a design engineer and in accordance with Sections 17.36.050 and 17.36.070.

2. Parking.

a. The number of parking spaces shall be as specified in Section 17.48.010.

b. Parking areas or parking lots shall be designed to provide for pedestrian safety, to the greatest extent possible, pedestrian access to the principal structure shall not cross primary circulation lanes.

D. Buffer, landscaping and barrier requirements.

1. Buffers, landscaping and barriers shall be provided in accordance with Section 17.36.200.

2. Additional barrier shall be provided for areas used for parking, dumpsters, utilities, and accessory structures from an adjoining, road or lot. (LL No. 2, 2003 (part))

17.36.220 Drive-through use requirements.

A. Intent. A drive-through use has many points of traffic conflict and the potential for creating congestion on roads, drives and internal drives. This section prescribes requirements to ameliorate such congestion and traffic conflicts.

B. General Vehicular Traffic Requirements.

1. A principal or accessory use which contains a drive-through use shall provide a drive or internal drive dedicated to the drive-through use and which complies with the requirements of Sections 17.36.050 and 17.36.070 as well as the following minimum requirements:

a. A drive or internal drive for a drive-through use shall be distinctly marked and shall be separate from other internal traffic circulation drive lanes and pedestrian ways.

b. Drive or internal drive for a drive-through use shall not cross any principal pedestrian access to the principal building.

2. All uses shall maintain a minimum distance of forty (40) feet from the service window to a public right-of-way or any other drive or internal drive.

C. Vehicular Traffic Stacking or Queuing Requirements. A drive-through use, for the following specific principal or accessory uses shall provide the following minimum vehicular traffic queuing or stacking distances:

1. For a fast food restaurant the minimum distance shall be one hundred forty (140) feet between start of lane to service window, eighty (80) feet from start of lane to order station and sixty (60) feet from order station to service window.

2. For a bank and other business not using order stations the minimum distance shall be sixty (60) feet from start of lane to service window.

D. Multiple Drive-Through Vehicular Traffic Lanes. The planning board may allow lesser distances than those specified in subsection C of this section for businesses with multiple drive-through lanes when substantial documentation supporting such reduction is provided in an approved site plan. (LL No. 2, 2003 (part))

17.36.230 Adult use requirements.

A. Intent. This section recognizes that adult uses, by their very nature, have serious objectionable operational characteristics and deleterious effects on adjacent neighborhoods and businesses. The objectionable characteristics of these uses are heightened by their concentration and by being located inappropriately in proximity to residential neighborhoods, schools, parks, and other areas frequently used by the town's youth. The special purpose of this section is to regulate, the creation, opening, commencement and/or operation of any adult use, as defined in this chapter, in order to achieve the following:

1. To preserve the character and the quality of life in the neighborhoods and business areas of the town;

2. To control such documented harmful and adverse secondary effects of the adult uses on the surrounding areas which include decreased property values, attraction of transients, parking and traffic problems, increased crime, loss of business for surrounding businesses, and deterioration of neighborhoods;

3. To keep such uses out of areas where youth routinely assemble;

4. To maintain the general welfare and safety for the town's residents.

B. Adult Uses. An adult use includes, but is not limited to, the following:

1. A business or establishment, or any part thereof, which excludes persons under eighteen (18) years of age and which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental and/or display of the following:

a. Books, magazines, periodicals or other printed materials, photographs, films, motion pictures, video cassettes or video reproductions, digital reproductions, slides, compact disks, computer software or other visual representations which depict or display human sexual activity or human sexual anatomical areas, or

b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sexual gratification.

A business or establishment has a significant or substantial portion of its use in adult uses when twenty (20) percent or more of its stock-in-trade is devoted to adult uses, or it derives twenty (20) percent or more of its revenues from adult uses or it devotes twenty (20) percent or more of its interior display or advertising to the sale, rental and/or display of adult uses;

2. A night club, bar, nonalcoholic or "juice" bar, restaurant or similar establishment which excludes persons under eighteen (18) years of age and which features:

a. Persons who appear nude or in a state of semi-nudity,

b. Live performances which are characterized by the display or exposure of human genitalia, buttocks or breasts, or

c. Films, motion picture, video cassettes or video reproductions, digital reproductions, slides, compact disks, computer software or other visual representations which depict or display human sexual activity or human sexual anatomical areas;

3. A hotel or motel or similar establishment which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic or digital reproductions which are characterized by the depiction or description of sexual activities or contact with sexual, anatomical areas of human beings and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or offers sleeping rooms for rent on a regular basis for a period of time which is less than ten (10) hours.

C. Criteria for Approval of Special Permit. An adult use shall only be permitted subject to the following requirements:

1. Located in a I and CL district;

2. Spaced at least one thousand (1,000) feet from another adult use;

3. Spaced not less than five hundred (500) feet from the boundary of any R1, R2, RU, TC, TC-2 or BNR district;

4. Spaced not less than five hundred (500) feet from any of the following:

a. School,

b. Place of worship,

c. Park or playground,

d. School bus stop, or

e. Existing residential dwelling unit;

5. Not conducted in any manner that permits the observation of the adult use or a picture or representation of the adult use from any road, drive, internal drive, driveway and/or pedestrian way or from any adjoining lot;

6. Complies with all other applicable provisions of this and other applicable laws. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.36.240 Outdoor lighting requirements.

A. Intent. It is the intent of this section to require that outdoor lighting conserves energy, provide security and utility and not adversely impact the night-time environment. Proposed outdoor lighting

plans shall to the maximum degree possible show that they do not adversely impact the rural character of the community or cause excessive glare to traffic or pedestrians.

B. General Requirement.

1. A development plan shall show and detail design features for outdoor lighting sufficient to document compliance the intent of this section and the standard for outdoor lighting in the town of Big Flats.

2. A plan for outdoor lighting prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any lighting impacts associated with a development.

C. Special Site Plan Requirement. When an application for building permit, variance and/or special permit, includes a lot where, in the determination of the code enforcement officer, a significant impact associated with outdoor lighting is likely to occur as a result of a development, the application shall be referred to the planning board as a site plan application under Chapter 17.32.

D. Restrictions. Except for in an approved site plan, the following types of lighting are prohibited as outdoor lighting:

1. Mercury vapor lights;

2. Any light source created by a laser or any similar high intensity light is prohibited for outdoor lighting;

3. Searchlights.

E. Performance Standards for Outdoor Lighting. Appropriately regulated and properly installed outdoor lighting will contribute to the safety and welfare of the residents of the town. This section is intended to assist property owners in their efforts to provide a safe and secure environment, control energy costs and keep unnecessary direct light from shining onto abutting properties or streets. It is also intended to reduce the problems of glare, minimize light trespass, and help reduce the energy and financial costs of outdoor lighting by establishing regulations which limit the area that certain kinds of outdoor lighting fixtures can illuminate and by limiting the total allowable illumination of lots located in the town of Big Flats. In order to assure that walkways, parking lots and other outdoor areas accessible to the general public are safely illuminated at night, the following minimum standards for outdoor lighting levels shall be adhered to. These outdoor lighting levels are the minimum levels that are generally considered adequate for the designated areas. Individual site lighting requirements can vary considerably, however, and property owners are ultimately responsible for ensuring that adequate illumination of outdoor areas is provided.

1. Minimum Required Outdoor Lighting Levels for Development Subject to Site Plan Approval or Special Use Permit.

Area	Footcandles (fc)	Lux (lx)
a. Walkways	0.5	5
b. Parking areas: Regional shopping centers, fast-food facilities, convenience stores, and retail gasoline sales.	0.9	10
c. Parking areas: Retail stores or shopping centers open before 8:00 a.m. or after 5:30 p.m., office parks, hospital parking lots, cultural, recreational or civic complexes, and parking areas for apartment complexes.	0.6	6
d. Retail stores or shopping centers open after 8:00 a.m. and closing at or before 5:30 p.m., employee parking areas for industrial development, schools and other educational facilities; churches and other places of worship; and other public areas where there is generally very little nighttime activity.	0.2	2

2. No artificial lighting shall shine directly upon any neighboring property or be so established that it shall shine directly upon any neighboring property or shall shine directly on or into any room or rooms, porches or patios of any neighboring structure or property as to be a nuisance. Nor shall any artificial lighting be maintained or operated from any structure or land in such a way as to be a nuisance to neighboring properties or impair vision through inordinate glare or to create a hazard to neighboring properties or as to interfere with the reasonable quiet enjoyment, use or comfort of the occupants of the neighboring properties.

3. Exterior lighting facing neighboring property shall be hooded or shielded so that it does not produce an objectionable or inordinate glare on the neighboring property.

4. Exterior lighting shall be controlled in both height and intensity and shall be in conformance with the requirements established herein. Under no circumstances shall the light level at any lot line exceed 0.2-footcandle, measured at ground level. All outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. For purposes of this section, a “full cutoff light fixture” is one in which no more than two and one-half percent of the total output is emitted at ninety (90) degrees from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries.

5. Any lights used to illuminate the exterior of a multiple-family, dormitory or other group residence, or a manufactured home park, or a commercial, industrial, or other nonresidential or nonagricultural space or parcel, including buildings, signs and other structures, parking and pedestrian areas and landscaping, shall be designed and installed such that:

a. Any luminaire with a lamp or lamps rated at a total of more than one thousand eight hundred (1,800) lumens, and any flood or spot luminaire with a lamp or lamps rated at a total of more than nine hundred (900) lumens, shall not emit any direct light above a horizontal plane through the lowest direct light-emitting part of the luminaire;

b. Any luminaire with a lamp or lamps rated at a total of more than one thousand eight hundred (1,800) lumens, and any flood or spot luminaire with a lamp or lamps rated at a total of more than nine hundred (900) lumens, shall be mounted at a height equal to or less than the value 3 + (D/3), where D is the distance in feet to the nearest property boundary;

c. The maximum height of the luminaire may not exceed twenty-five (25) feet.

6. Exceptions to the above shall be:

a. Any luminaire with a lamp or lamps rated at a total of one thousand eight hundred (1,800) lumens or less, and any flood or spot luminaire with a lamp or lamps rated at nine hundred (900) lumens or less, may be used without restriction as to light distribution or mounting height, except that if any spot or flood luminaire rated nine hundred (900) lumens or less is aimed, directed or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions. (LL No. 5, 2006: LL No. 2, 2003 (part))

17.36.250 Outdoor recreational use requirements.

A. Intent. The intent of this section is to control and regulate the impacts associated with an outdoor recreational use to assure minimum adverse impact on surrounding uses. Outdoor recreational use includes: a golf course; a football, polo, soccer, baseball or softball field; a tennis court; a race track; any outdoor show area; and any similar use.

B. General Requirements.

1. Outdoor lighting shall comply with Section 17.36.240.

2. An outdoor recreational use located within five hundred (500) feet of a lot line for any existing residential use shall schedule all events to end prior to eleven o'clock p.m.

3. The use of an outdoor public address system shall comply with Section 17.36.260.

4. Where an outdoor recreational use abuts an existing residential use and is designed or intended to be operated or open for business anytime after nine o'clock p.m., a buffer, in accordance with Section 17.36.200, equal to the requirements for an industrial use shall be provided on the lot of the outdoor recreational use.

C. Sanitary Requirements.

1. An outdoor recreational use shall provide for adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the NYS Department of Health and the NYS Uniform Fire Prevention and Building Code.

2. When temporary and/or portable restrooms are to be used to comply with this subsection, no less than four shall be provided. (LL No. 2, 2003 (part))

17.36.260 Sound control requirements.

A. Intent. This section is intended to establish sound level requirements sufficient to permit the enjoyment and use of adjoining lots without the adverse impacts associated with unnecessary or unusually high levels of sound. The sound levels requirements established in this section are considered to be minimum requirements and more restrictive requirements may be imposed to mitigate any measurable adverse sound impact associated with a development.

B. General Requirements.

1. Unless specifically authorized in an approved site plan a use on a lot shall not produce a sound level that exceeds an average of seventy (70) decibels (db) over any twenty (20) minute period from eight o'clock a.m. to ten o'clock p.m. and of sixty-five (65) decibels (db) at all other times and measured at a lot line of the lot.

2. A sound level deemed by a public health authority to be a danger to the public at large in the vicinity of a use creating such sound shall be prohibited.

3. All construction equipment in use on a construction site shall be equipped with mufflers and used in such a manner as to control the creation of excessive noise.

4. An outdoor sound system located in either a R1, R2, TC, TC-2 or BNR district or in another district within one thousand (1,000) feet of a R1, R2, TC, TC-2 or BNR district boundary shall not be operated at any time after eleven o'clock p.m. or earlier than eight o'clock a.m. local time.

C. Exceptions.

1. Sound levels of construction activities for a development pursuant to an approved site plan or building permit may exceed the limits established in subsection (B)(1) of this section provided such sound does not occur in any of the following circumstances:

a. After ten o'clock p.m.;

b. After construction activity has been completed;

c. After a certificate of compliance or occupancy for the development has been issued; or

d. In violation of subsection (B)(2) of this section.

2. Specific sound levels in excess of the requirements of subsection B of this section may be approved in a site plan.

3. A governmental use is not restricted by the requirements of this section. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.36.270 Mobilehome as second principal dwelling on a lot requirements.

A mobilehome may be approved by the planning board as a special use permit for a temporary second principal dwelling unit on a lot or as an interim dwelling unit for the construction of a new dwelling unit or repair of an existing dwelling unit.

A. Time Limit Requirements. The planning board will in each case establish a maximum time limit for a special use permit for a temporary dwelling unit based on the needs and circumstances included in each application. The maximum time limit shall be as follows:

1. For a mobilehome as a temporary second principal dwelling on a lot the maximum time limit is three years. The planning board may grant individual one year extension of this time limit upon the applicant making such request at least ninety (90) days prior to the expiration of the special use permit or any extensions previously granted thereto. Such request shall include a statement that satisfactorily documents significant and exceptional circumstances that support the granting of any such extension.

2. For mobilehome as a temporary interim dwelling for the construction of a new dwelling unit or repair of an existing dwelling unit the maximum time limit is eighteen (18) months. The planning board may grant one extension of this time limit to not exceed an additional six months when it finds exceptional extenuating circumstances exist.

B. Plans and Documentation Requirements.

1. Plans and documentation required for an application for a special use permit for a mobilehome as a temporary second principal dwelling unit or as an interim dwelling unit for the construction of a new dwelling unit or repair of an existing dwelling unit shall be those required for a concept plan prescribed in Chapter 17.32.

2. The planning board may require any other documentation it deems necessary for any required determination or decision on such application.

C. Density Requirement. The two dwelling units on the lot shall be located so as to conform with all density and bulk requirements in the bulk and density control schedule, Section 17.16.020.

D. Utility Requirement. Utilities shall comply with Section 17.36.110 and shall be provided to the proposed dwelling unit as follows:

1. Each unit proposed to be placed on a lot for more than two years shall have potable water supply and sewage treatment system separate from that of the existing dwelling unit.

2. The second dwelling unit may connect to the same electric and/or other utility source when the installation is approved by utility company servicing the lot and inspected in accordance with the NYS Uniform Fire Prevention and Building Code.

E. Construction Requirement. The mobilehome shall be installed and maintained in accordance with the requirements and conditions set by the planning board in the granting of the special use permit and applicable provisions of the NYS Uniform Fire Prevention and Building Code. (LL No. 2, 2003 (part))

17.36.280 Commercial parking lot or structure requirements.

A. Density Requirements.

1. Minimum lot size: three acres.

2. Minimum lot width: three hundred (300) lineal feet.

B. Access Requirements. Access shall be provided in accordance with Section 17.36.050 and such access shall comply with Section 17.36.070.

C. Prohibited Activity. The following activities or conditions are prohibited at a commercial parking lot or structure:

1. Storage or parking of unlicensed or unregistered motor vehicle;

2. Storage or overnight parking of commercial vehicles;

3. Retail use, auction, or flea market;

4. Overnight or long-term camping or occupancy. (LL No. 2, 2003 (part))

17.36.290 Flea market requirements.

A. Density Requirements.

1. Minimum lot size: ten (10) acres.

2. Minimum lot width: five hundred (500) feet.

B. Buffer, Landscaping and Barrier Requirements.

1. Landscaping Requirements.

a. The entire lot, except for area covered by a structure, or surfaced as parking area and/or other ancillary use, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved site plan.

b. All landscaping shall be maintained by the developer in perpetuity.

2. Buffer Requirements.

a. A buffer, landscaping and barrier in accordance with Section 17.36.200 and any conditions of an approved site plan shall be maintained by the developer in perpetuity.

b. A minimum buffer of one hundred (100) feet in width shall be maintained between a flea market use and the lot line of an adjoining lot containing residential use.

c. No structure, vendor or parking area shall be permitted within a buffer.

3. Barrier Requirements. Any material, incidental to the flea market use including trash, boxes, goods and wares and other materials stored outside a building shall be:

a. Screened from view from any adjoining lot or road by a barrier in accordance with Section 17.36.200 and at least eight feet in height as measured from finished grade; and

b. Located in accordance with a design approved in a site plan.

C. Parking Requirements.

1. No on-road parking is permitted.

2. Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation.

3. The parking area shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of Section 17.48.010.

D. Outdoor Sound or Public Address System Requirements. Unless specifically approved in a site plan, an outdoor sound or public address system is not permitted for a flea market.

E. Sanitary Facility Requirements.

1. A flea market shall provide for adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the NYS Department of Health and the NYS Uniform Fire Prevention and Building Code.

2. When temporary and/or portable restrooms are to be used to comply with this subsection, no less than four shall be provided.

F. Other Requirements.

1. With the exception of a permitted sign and/or required rest room facilities, there shall be no permanent or temporary accessory structure.

2. All tables, stands and/or other display equipment and all vehicles shall be removed from the lot at any time that the flea market is not open to the public for any period of time greater than seventy-two (72) hours.

3. No overnight camping or permanent occupancy shall be permitted unless specifically authorized in an approved site plan. (LL No. 2, 2003 (part))

17.36.300 Airport and heliport requirements.

A. Density and Runway Location Requirements.

1. A minimum lot size of twenty-five (25) acres is required for an airport and heliport.

2. To the greatest extent possible a runway shall be aligned and located so that the flight path as measured for distance of one thousand (1,000) feet from the end of the runway does not align directly over any existing residence or other occupied building other than those used in support of the airport or heliport use.

B. Buffer, Landscaping and Barrier Requirements.

1. Landscaping Requirements.

a. The entire lot, except for area covered by a structure, or surfaced as parking area and/or other ancillary use, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved site plan.

b. All landscaping shall be maintained by the developer in perpetuity.

2. Buffer Requirements.

a. Buffer, landscaping and barrier in accordance with Section 17.36.200 and any conditions of an approved site plan shall be maintained by the developer in perpetuity.

b. A minimum buffer of one hundred (100) feet in width shall be maintained on the lot of the airport or heliport use and the lot line of an adjoining lot containing residential use.

c. No structure or parking area shall be permitted within a buffer.

3. Barrier Requirements. Any material incidental to the airport or heliport use including trash, boxes, aircraft parts and other materials stored outside a building shall be:

a. Screened from view from any adjoining lot or road by a barrier in accordance with Section 17.36.200 and at least eight feet in height as measured from finished grade; and

b. Located in accordance with a design approved in a site plan.

C. Maintenance Facility Requirements. All aircraft repair and/or maintenance, with the exception of fueling, shall be conducted inside of a principal or accessory structure unless otherwise prohibited by local, state or federal law, rule or regulation. D. Fuel or Tank Farm Requirements. Fuel or tank farm shall be located a minimum of two hundred (200) feet from any lot line and shall meet any applicable local, state or federal law, rule or regulation.

E. Operating Hour Requirement. Standard operations of aircraft shall be limited to between the hours five o'clock a.m. and ten o'clock p.m. (LL No. 2, 2003 (part))

17.36.310 Rod and gun club requirements.

A. Density Requirements.

1. Minimum lot size: twenty-five (25) acres.

2. Minimum lot width: one thousand (1,000) feet.

B. Buffer, Landscaping and Barrier Requirements.

1. Landscaping Requirements.

a. The entire lot, except for area covered by a structure, or surfaced as parking area and/or other ancillary use, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved site plan.

b. All landscaping shall be maintained by the developer in perpetuity.

2. Buffer Requirements.

a. A buffer, landscaping and barrier in accordance with Section 17.36.200 and any conditions of an approved site plan shall be maintained by the developer in perpetuity.

b. A minimum buffer of one hundred (100) feet in width shall be maintained on the lot of the rod and gun club use and the lot line of an adjoining lot containing residential use.

c. No structure or parking area shall be permitted within a buffer.

3. Barrier Requirements. Any material incidental to the rod and gun club use, including trash, boxes, and other materials, stored outside a building shall be:

a. Screened from view from any adjoining lot or road by a barrier in accordance with Section 17.36.200 and at least eight feet in height as measured from finished grade; and

b. Located in accordance with a design approved in a site plan.

C. Parking Requirements.

1. No on-road parking is permitted.

2. Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation.

3. A parking area shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of Section 17.48.010.

D. Noise Control Requirement. Noise levels generated by a use shall be no greater than fifty-five (55) db as measured at the boundaries of the lot occupied by the use creating noise.

E. Sanitary Facility Requirement.

1. A rod and gun club shall provide adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the NYS Department of Health and the NYS Uniform Fire Prevention and Building Code.

2. When temporary and/or portable restrooms are to be used to comply with this subsection, no less than four shall be provided.

F. Other Requirements. No overnight camping or occupancy shall be permitted. (LL No. 2, 2003 (part))

Chapter 17.37

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

Sections:

17.37.010 Title.
17.37.020 Findings of fact.
17.37.030 Purpose.
17.37.040 Statutory authority.
17.37.050 Applicability.
17.37.060 Exemptions.
17.37.070 Definitions.
17.37.080 Stormwater pollution prevention plans (SWPPPs).
17.37.090 Performance and design criteria for stormwater management and erosion and sediment control.
17.37.100 Maintenance, inspection and repair of stormwater facilities.

17.37.110 Construction Inspection.
17.37.120 Performance guarantee.
17.37.130 Enforcement and penalties.
17.37.140 Fees for services.

17.37.010 Title.

This chapter shall be known as the stormwater management and erosion and sediment control law for the town of Big Flats, New York. (LL No. 9, 2007 § 1 (part))

17.37.020 Findings of fact.

It is determined that:

A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;

E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;

F. Substantial economic losses can result from these adverse impacts on the waters of the town of Big Flats;

G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;

I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development. (LL No. 9, 2007 § 1 (part))

17.37.030 Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the town of Big Flats, and to address the findings of fact in Section 17.37.020 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

A. Meet the requirements of minimum Measures 4 and 5 of the SPDES general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s), Permit No. GP-02-02 or as amended or revised;

B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation state pollutant discharge elimination system (SPDES) general permit for construction activities GP-02-01 or as amended or revised;

C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety. (LL No. 9, 2007 § 1 (part))

17.37.040 Statutory authority.

In accordance with Section 10(1)(ii)(a)(11) of the Municipal Home Rule Law of the state of New York, the town of Big Flats has the authority to enact local laws for the protection and enhancement of its physical and visual environment as well as to promote the health, safety and general welfare of the town. The town of Big Flats may include in such local law provisions for the appointment of any municipal officer, employee(s) or independent contractor to effectuate, administer and enforce such local law. (LL No. 9, 2007 § 1 (part))

17.37.050 Applicability.

This chapter shall be applicable to all land development activities as defined in Section 17.37.070.

The town of Big Flats shall designate a stormwater management officer who shall accept and review all stormwater pollution prevention plans (SWPPPs) and forward such plans to the planning board for approval. The stormwater management officer may: (1) review the plans; or (2) upon approval by the planning board of the town of Big Flats, engage the services of a New York State licensed professional engineer to review the plans, specifications and related documents pursuant to Chapter 2.12 of Title 2 of the town of Big Flats Municipal Code; or (3) accept the certification of a New York State licensed professional engineer that the plans conform to the requirements of this chapter. The stormwater management officer shall then forward the plans to the planning board for approval. For purposes of this chapter, the stormwater management officer shall be the director of planning or the director of planning's designated code enforcement officer. The fee for review of the SWPPP by the town of Big Flats shall be set by resolution of the town board. Fees for review of the SWPPP by a third party shall be passed on directly to the applicant.

All land development activities subject to review and approval by the town of Big Flats planning board under the town's stormwater management and erosion and sediment control law shall be reviewed subject to the standards contained in this chapter. (LL No. 9, 2007 § 1 (part))

17.37.060 Exemptions.

The following activities shall be exempt from review under this chapter:

A. Agricultural activity as defined in this chapter;

B. Silvicultural activity except that landing areas and log haul roads are subject to this chapter;

C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;

D. Repairs to any stormwater management practice or facility deemed necessary by the stormwater management officer;

E. Any part of a subdivision if a plat for the subdivision has been approved by the town of Big Flats on or before the effective date of this chapter;

F. Land development activities for which a building permit has been approved on or before the effective date of this chapter;

G. Cemetery graves;

H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;

I. Emergency activity immediately necessary to protect life, property or natural resources;

J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family;

K. Landscaping and horticultural activities in connection with an existing structure. (LL No. 9, 2007 § 1 (part))

17.37.070 Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

Agricultural activity means activity including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Applicant means a property owner or agent of a property owner who has filed an application for a land development activity.

Building means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than one hundred (100) square feet of area.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing means any activity that removes the vegetative surface cover.

Dedication means the deliberate appropriation of property by its owner for general public use.

Department means the New York State Department of Environmental Conservation.

Design Manual means the New York State Stormwater Management Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

Developer means a person who undertakes land development activities.

Erosion Control Manual means the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book."

Grading means excavation or fill of material, including the resulting conditions thereof.

Impervious cover means those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Industrial stormwater permit means a state pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the process of percolating stormwater into the subsoil.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land development activity means construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance agreement means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

New York State licensed professional engineer means an engineer, licensed by the state of New York under Article 145 of the New York State Education Law.

Nonpoint source pollution means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Phasing means clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

Pollutant of concern means sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the development activity.

Project means land development activity.

Recharge means the replenishment of underground water reserves.

Sediment control means measures that prevent eroded sediment from leaving the site.

Sensitive areas means cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES general permit for construction activities GP-02-01 means a permit under the New York state pollutant discharge elimination system (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES general permit for stormwater discharges from municipal separate stormwater sewer systems GP-02-02 means a permit under the New York state pollutant discharge elimination system (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

Stabilization means the use of practices that prevent exposed soil from eroding.

Stop work order means an order issued which requires that all construction activity on a site be stopped.

Stormwater means rainwater, surface runoff, snowmelt and drainage.

Stormwater hotspot means a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

Stormwater management means the use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater management facility means one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater management officer means an employee or officer designated by the town of Big Flats to accept and review stormwater pollution prevention plans, forward the plans to the town planning board and inspect stormwater management practices. For purposes of this chapter, the stormwater management officer shall be the director of planning or the director of planning's designated code enforcement officer.

Stormwater management practices (SMPs) means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Stormwater pollution prevention plan (SWPPP) means a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater runoff means flow on the surface of the ground, resulting from precipitation.

Surface waters of the state of New York means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

Watercourse means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain. (LL No. 9, 2007 § 1 (part))

17.37.080 Stormwater pollution prevention plans (SWPPPs).

A. Stormwater Pollution Prevention Plan Requirement. No application for approval of a land development activity shall be reviewed until the planning board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.

B. Contents of Stormwater Pollution Prevention Plans. All SWPPPs shall provide the following background information and erosion and sediment controls:

1. Background information about the scope of the project, including location, type and size of project;

2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s); site map should be at a scale no smaller than one inch equals one hundred (100) feet (e.g., one inch equals five hundred (500) inches is smaller than one inch equals one hundred (100) inches);

3. Description of the soil(s) present at the site;

4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -- prevention and response;

7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

9. Dimension, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

10. Temporary practices that will be converted to permanent control measures;

11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain;

12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

13. Name(s) of the receiving water(s);

14. Delineation of SWPPP implementation responsibilities for each part of the site;

15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

16. Any existing data that describes the stormwater runoff at the site.

Land development activities as defined in Section 17.37.070 of this chapter and meeting Condition "A," "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in subsection (B)(3) below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

SWPPP requirements for Conditions A, B and C:

1. All information in subsection B of this section;

2. Description of each post-construction stormwater management practice; site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

3. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

4. Comparison of post-development stormwater runoff conditions with pre-development conditions;

5. Dimensions, material specifications and installation details for each post-construction stormwater management practice;

6. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;

7. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

8. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Section 17.37.100 of this chapter; and

9. For Condition A, the SWPPP shall be prepared by a New York State licensed professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.

C. Other Environmental Permit. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

D. Contractor Certification. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activ-

ity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

The certification statement(s) shall become part of the SWPPP for the land development activity.

E. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization. (LL No. 9, 2007 § 1 (part))

17.37.090 Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

A. Technical Standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this section:

1. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).

2. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

B. Equivalence to Technical Standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in subsection A of this section and the SWPPP shall be prepared by a New York State licensed professional engineer.

C. Water Quality Standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York. (LL No. 9, 2007 § 1 (part))

17.37.100 Maintenance, inspection and repair of stormwater facilities.

A. Maintenance and Inspection During Construction. The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

For land development activities as defined in Section 17.37.070 of this chapter and meeting Condition A, B or C in Section 17.37.080(B)(2), the applicant shall have a New York State licensed professional engineer conduct site inspections and document the effectiveness of all erosion and sediment

control practices every seven days and within twenty-four (24) hours of any storm event producing one-half inch of precipitation or more. Inspection reports shall be maintained in a site log book.

The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

B. Maintenance Easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the town of Big Flats to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the county clerk after approval by the counsel for the town.

C. Maintenance after Construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes as a minimum, the following:

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.

2. Written procedures for operation and maintenance and training new maintenance personnel.

3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 17.37.090(C).

D. Maintenance Agreements. The town of Big Flats shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the county clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter entitled Sample Stormwater Control Facility Maintenance Agreement. The town of Big Flats, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. (LL No. 9, 2007 § 1 (part))

17.37.110 Construction inspection.

A. Erosion and Sediment Control Inspection. The town of Big Flats stormwater management officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the town of Big Flats code enforcement official at least forty-eight (48) hours before any of the following as required by the stormwater management officer:

1. Start of construction;

2. Installation of sediment and erosion control measures;
3. Completion of site clearing;
4. Completion of rough grading;
5. Completion of final grading;
6. Close of the construction season;
7. Completion of final landscaping;
8. Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the stormwater management officer.

B. Stormwater Management Practice Inspections. The town of Big Flats stormwater management officer or a qualified designee is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a New York State licensed professional engineer.

C. Inspection of Stormwater Facilities After Project Completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

D. Submission of Reports. The town of Big Flats stormwater management officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.

E. Right-of-Entry for Inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the town of Big Flats the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in subsection C of this section. (LL No. 9, 2007 § 1 (part))

17.37.120 Performance guarantee.

A. Construction Completion Guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the town of Big Flats in its approval of the stormwater pollution prevention plan, the town of Big Flats may require

the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the town of Big Flats as the beneficiary. The security shall be in an amount to be determined by the town of Big Flats based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the town of Big Flats, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the town of Big Flats. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance Guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the town of Big Flats with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the town of Big Flats may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Recordkeeping. The town of Big Flats shall require entities subject to this chapter to maintain records demonstrating compliance with this chapter. (LL No. 9, 2007 § 1 (part))

17.37.130 Enforcement and penalties.

A. Notice of Violation. When the town of Big Flats determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

1. The name and address of the landowner, developer or applicant;

2. The address when available or a description of the building, structure or land upon which the violation is occurring;

3. A statement specifying the nature of the violation;

4. A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;

5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

B. Stop Work Orders. The town of Big Flats may issue a stop work order for violations of this chapter. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the town of Big Flats confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.

C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter, may be restrained by injunction or otherwise abated in a manner provided by chapter.

D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine of at least fifty dollars ($50.00) and not exceeding three hundred fifty dollars ($350.00) for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars ($350.00) nor more than seven hundred dollars ($700.00) or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars ($700.00) nor more than one thousand dollars ($1,000.00) or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of Certificate of Occupancy. If any building or land development activity is installed or conducted in violation of this chapter the stormwater management officer may prevent the occupancy of said building or land.

F. Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the town of Big Flats may take necessary corrective action, the cost of which shall become a lien upon the property until paid. (LL No. 9, 2007 § 1 (part))

17.37.140 Fees for services.

The town of Big Flats shall require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the town of Big Flats or performed by a third party for the town of Big Flats, pursuant to Chapter 2.12 of Title 2 of the town of Big Flats Municipal Code. The fee for review of the SWPPP, inspections, and SMP maintenance performed by the town of Big Flats shall be set by resolution of the town board. Fees for review of the SWPPP by a third party shall be passed on directly to the applicant. (LL No. 9, 2007 § 1 (part))

Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)

Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.

Group	Practice	Description
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.

Group	Practice	Description
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

Schedule B

SAMPLE STORMWATER CONTROL FACILITY
MAINTENANCE AGREEMENT

Whereas, the Municipality of _____("Municipality") and the _____ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.

3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York.

The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.

6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.

7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).

8. This agreement shall be recorded in the Office of the County Clerk, County of _____together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to _____.

9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

10. This agreement is effective _____ .

_____ _____

Chapter 17.40

ACCESSORY STRUCTURE AND USE REQUIREMENTS*

Sections:

17.40.010 Intent.
17.40.020 Accessory structure requirements.
17.40.030 Accessory use requirements--General restrictions.
17.40.040 Special design.

* Prior history: LL No. 2, 1997.

17.40.010 Intent.

An accessory structure or use shall not create an impact on the environment that is any more significant than that of the principal use. The requirements established in this chapter are intended to provide for fire safety, open space, accessibility to sunlight and views. (LL No. 2, 2003 (part))

17.40.020 Accessory structure requirements.

A. General Requirements.

1. When a principal use is permitted as of right in accordance with Section 17.12.010, an accessory building associated with the principal use and constructed in accordance with this chapter shall also be permitted as of right.

2. When a principal use is permitted under site plan approval in accordance with Section 17.12.010, an accessory building associated with the principal use shall also require site plan approval and be constructed in accordance with this section.

3. The construction or placement, on a lot, of an accessory building in excess of one hundred twenty (120) square feet in area shall require a building permit issued by the code enforcement officer.

B. Size and Number of Accessory Buildings.

1. An accessory building associated with the following specified principal uses shall comply with the following maximum requirements:

Specific principal use listed in Section 17.12.010	Maximum floor area of an individual accessory building	Maximum accessory building height	Maximum number of accessory buildings associated with a principal use	Maximum permitted cumulative square feet of all accessory buildings associated with a principal use
Alternative dwelling park, two-unit dwelling or multi-unit dwelling	150 sq. feet	20 feet	One for each dwelling unit	Total dwelling units times 150 sq. feet
Airport or heliport	10% of the floor area of principal building	35 feet	As permitted in an approved site plan	As permitted in an approved site plan

Specific principal use listed in Section 17.12.010	Maximum floor area of an individual accessory building	Maximum accessory building height	Maximum number of accessory buildings associated with a principal use	Maximum permitted cumulative square feet of all accessory buildings associated with a principal use
Agriculture or private stable	As permitted under the NYS Uniform Fire Prevention and Building Code	35 feet	No restriction	As permitted under the NYS Uniform Fire Prevention and Building Code
Agri-business, plant nursery or commercial stable	10% of the floor area of principal building	35 feet	As permitted in an approved site plan	As permitted in an approved site plan
Golf or ski facility	4,000 sq. feet	20 feet	Two	6,000 sq. feet
Government	As permitted under the NYS Uniform Fire Prevention and Building Code	35 feet	No restriction	No restriction

2. An accessory building associated with a principal use other than as specified in subsection (B)(1) of this section shall comply with following maximum requirements:

District	Specific principal use listed in Section 17.12.010	Maximum floor area of an individual accessory building	Maximum accessory building height	Maximum number of accessory buildings associated with a principal use	Maximum permitted cumulative square feet of all accessory buildings associated with a principal use
R1, R2, TC, & TC-2	Residential use	750 sq. feet	20 feet	Two	1,000 sq. feet
R1 & R2	General use	1,000 sq. feet	20 feet	One	1,000 sq. feet

District	Specific principal use listed in Section 17.12.010	Maximum floor area of an individual accessory building	Maximum accessory building height	Maximum number of accessory buildings associated with a principal use	Maximum permitted cumulative square feet of all accessory buildings associated with a principal use
TC, TC-2, BN & BNR	General or business use	1,000 sq. feet	24 feet	One for each general or business use on a lot	Number of general or business use on a lot times 1,000 sq. feet
RU	Residential use	1,500 sq. feet	24 feet	Two	3,000 sq. feet
RU, BR, ABD, CL & I	General use	5% of the floor area of principal building	30 feet	As permitted in an approved site plan	5% of the floor area of principal building
C & RCD	General or business use	1,000 sq. feet	30 feet	Two	2,000 sq. feet
BR, ABD, CL & I	Business use	10% of the floor area of principal building	35 feet	As permitted in an approved site plan	10% of the floor area of principal building
BNR, ABD, CL & I	Industrial use	15% of the floor area of principal building	35 feet	As permitted in an approved site plan	15% of the floor area of principal building

C. 1. Accessory Building Location.

a. An accessory building shall not be located in a front yard.

b. An accessory building shall not be located in a buffer.

c. An accessory building associated with a nonconforming residential use located in a BN, BR, ABD, CL, I or C district shall be located in accordance with the requirements for a residential use in a R1 district as set forth in subsection (C)(2) of this section.

2. Accessory Building Setback. An accessory building shall have a minimum setback distance from a lot line as specified below:

Accessory Building Setback Requirements		
District principal use	An accessory building 120 sq. feet or less in area	An accessory building more than 120 sq. feet in area

	Side yard set-back	Rear yard setback	Side yard set-back	Rear yard set-back
RU, C & RCD				
For a residential use listed in Section 17.12.010	10 feet	10 feet	20 feet	15 feet
For a general or business use listed in Section 17.12.010	10 feet	15 feet	Not permitted	20 feet
R1, R2, TC, TC-2, BN & BNR				
For a residential use listed in Section 17.12.010	5 feet	5 feet	15 feet	5 feet
For a general use listed in Section 17.12.010	10 feet	10 feet	20 feet	15 feet
BR, ABD, CL & I				
For a general use listed in Section 17.12.010	10 feet	15 feet	Not permitted	20 feet
TC, TC-2, BN, BNR, BR, ABD, CL & I				
For a business use listed in Section 17.12.010	Not permitted	15 feet	Not permitted	20 feet
BNR, BR, ABD, CL & I				
For an industrial use listed in Section 17.12.010	Not permitted	15 feet	Not permitted	25 feet

3. Accessory Building Setback from Principal Building. An accessory building shall not be constructed closer to a principal building than either a distance of six feet or a distance equal to the height of the accessory building, whichever is greater.

4. Location of Certain Accessory Structures other than Buildings. In any district an accessory structure associated with a residential use listed in Section 17.12.010 other than a building, and in the form of or similar to the following accessory structures, are prohibited in a front or side yard:

a. Swimming pool;

b. Sauna or hot tub;

c. Solid fuel burning stove or appliance;

d. Court for tennis, racquetball or other sport;

e. Animal pen or enclosure; and

f. Above ground storage of solid or liquid fuel including wood, propane and fuel oil.

D. Exceptions to Accessory Building Locations.

1. Exception to accessory building setback requirements with respect to a lot and adjoining lot having a common lot line is as follows:

a. The minimum accessory building setback requirements as set forth in subsection (C)(2) of this section may be reduced under the following conditions:

i. When the adjoining lot has an existing accessory building located adjacent to the common lot line and within less than the minimum accessory building setback as set forth in subsection (C)(2) of this section;

ii. When a lot proposed to contain an accessory building adjacent to the common lot line is one hundred fifty feet (150) feet or less in lot width.

b. The minimum accessory building setback requirements as set forth in subsection (C)(2) of this section for the proposed, accessory building may be reduced to a minimum distance that is the average of:

i. The unreduced required accessory building setback set forth in subsection (C)(2) of this section; and

ii. The actual distance between the common lot line and the existing accessory building located on the adjoining lot.

2. Exception to the Location of Certain Accessory Structures Other than Buildings. The following are exceptions to the requirements of subsection (C)(4) of this section:

a. Certain accessory structures located on a lot in accordance with an approved site plan;

b. An enclosure of any portion of a yard for a dog or cat, but not including a pen, dog run or kennel; or

c. An animal pen or enclosure used in conjunction with the keeping of or maintaining agriculture livestock and/or horses, or an agriculture use. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.40.030 Accessory use requirements--General restrictions.

A. An accessory building containing an accessory use shall comply with the requirements of Section 17.40.020.

B. An accessory use not involving a structure is prohibited in a front yard except as provided in an approved site plan. (LL No. 2, 2003 (part))

17.40.040 Special design.

A detached garage or carport as part of a building group may be permitted in a front yard on a lot containing the building group in accordance with an approved site plan. (LL No. 2, 2003 (part))

Chapter 17.44

ALTERNATIVE DWELLING PARKS*

Sections:

17.44.010 Alternative dwelling park defined.
17.44.020 Intent.
17.44.030 Special site plan requirement.
17.44.040 Requirements for a lot containing an alternative dwelling park.
17.44.050 Access requirements.
17.44.060 Vehicular and pedestrian circulation requirements generally.
17.44.070 Dead end road, drive and/or internal drive requirements.
17.44.080 Buffer, landscape and barrier requirement.
17.44.090 Fire protection equipment and design.
17.44.100 Solid waste storage and removal requirement.
17.44.110 Recreation parks, playgrounds and open space in an alternative dwelling park.
17.44.120 Facility maintenance requirements.
17.44.130 Sales or model dwelling unit requirements.
17.44.140 Accessory building and use requirements.
17.44.150 Utility requirements.
17.44.160 Individual dwelling unit site requirements.
17.44.170 Dwelling unit installation requirements.
17.44.180 Modification of an existing or approved alternative dwelling park.

* Prior history: LL No. 2, 1997.

17.44.010 Alternative dwelling park defined.

Any existing trailer or mobile home park, previously approved under the provisions of an applicable local law or ordinance that is repealed in Article 17 of the local law codified in this title, is, for the purposes of this chapter, defined as an alternative dwelling park. (LL No. 2, 2003 (part))

17.44.020 Intent.

The intent of this chapter is to ensure that those residents of the town who may reside in an alternative dwelling park are provided with a safe and secure environment in which to live. The creation of reasonable bulk and density, traffic control, fire protection and utility requirements will provide a degree of protection of health, safety and welfare for these residents equal to that of any other style of

residential living. These requirements are also provided to protect existing uses that may adjoin a proposed alternative dwelling park from significant adverse impacts associated with the development of an alternative dwelling park. (LL No. 2, 2003 (part))

17.44.030 Special site plan requirement.

Any extension or significant modification of or change to the layout, bulk, density, utilities, drives, internal drives or roads for an existing alternative dwelling park shall require a site plan amendment in accordance with Chapter 17.32 and the provisions of this chapter. (LL No. 2, 2003 (part))

17.44.040 Requirements for a lot containing an alternative dwelling park.

A. Density Requirements.

1. Minimum lot area for an alternative dwelling park is ten (10) acres.

2. Lot coverage shall be calculated using the total usable acreage for the entire lot proposed to contain an alternative dwelling park.

3. The total lot coverage shall not exceed forty (40) percent.

B. Dwelling Unit Density Requirement.

1. The planning board shall determine in a site plan if the dwelling unit density and placement on a lot is appropriate in consideration of natural land features, potential for environmental impact, traffic and pedestrian movements and consistency with the town comprehensive plan.

2. The gross dwelling unit density shall be calculated using the total usable acreage and shall in no instance exceed five dwelling units for any acre, or maximum of one hundred fifty (150) dwelling units. (LL No. 2, 2003 (part))

17.44.050 Access requirements.

A site plan for an alternative dwelling park shall include provisions for compliance with the following minimum access requirements:

A. A minimum of two vehicular drives shall be provided to an alternative dwelling park.

B. The drives may originate from any road except a private or primary road.

C. The intersection of one drive with a road shall be separated a minimum distance of five hundred (500) feet from any other drive servicing the lot.

D. Each drive shall either directly align with an opposing drive, or shall be off-set at a minimum distance as established by a traffic study.

E. Each drive shall be located a minimum distance of five hundred (500) feet from any intersection of roads. (LL No. 2, 2003 (part))

17.44.060 Vehicular and pedestrian circulation requirements generally.

A. A site plan application for an alternative dwelling park shall document that there are adequate and safe provisions for internal vehicular and pedestrian traffic movements. A traffic study may be required as the basis of design for the site access and internal road and pedestrian access or circulation. The documentation in the site plan application shall, as a minimum, provide for:

1. Proper pavement width for emergency vehicles;

2. Safe pedestrian passage along and across drives, internal drives and driveways;

3. Adequate storage space for snow removal;

4. The parking of vehicles on other than roads, drives and internal drives.

B. The documentation associated with internal vehicular movements, parking and pedestrian circulation in an alternative dwelling park shall include as a minimum the following details:

1. Drive, internal drive, driveway and/or road construction drawings in compliance with Sections 17.36.040, 17.36.050 and 17.36.070 including details such as alignment, width, profile, construction cross section, wear surface specification, drainage and traffic control device or signs and pavement marking;

2. Parking area construction drawing including surface design and markings:

3. Plans for emergency vehicle, public transportation and school bus access;

4. Pedestrian access design including sidewalks, walkways, cross walks, signs, and pavement marking with details for access to any public or common area including school bus or public transportation stop, parks and/or recreational structure;

5. A design for the access of U.S. postal delivery of mail and the access for tenants to receive or pick up their individual mail;

6. A drive and/or internal drive maintenance plan having provisions for maintaining the drive surface, snow removal and storage, continuous access for all emergency vehicles and parking control. (LL No. 2, 2003 (part))

17.44.070 Dead end road, drive and/or internal drive requirements.

A. A road or drive located on a lot containing an alternative dwelling park and providing access to an individual dwelling unit lot within the alternative dwelling park shall be continuous and without end.

B. An internal drive located on a lot containing an alternative dwelling park and that exceeds five hundred (500) feet in length or provides access to more than five dwelling units shall be continuous and have two separate and distinct connections with a drive.

C. An internal drive located on a lot containing an alternative dwelling park and that is over one hundred and fifty (150) feet in length or provides access to more than three dwelling units shall be provided with a turn-around suitable for the expected vehicular traffic including emergency vehicles. (LL No. 2, 2003 (part))

17.44.080 Buffer, landscape and barrier requirement.

A. A lot containing an alternative dwelling park shall have and maintain buffers, landscaping and barriers along perimeter of the lot that complies with the same requirements as those for a business use set in Section 17.36.200.

B. A lot containing an individual dwelling unit within an alternative dwelling park shall have and maintain buffers, landscaping and barriers along perimeter of the lot that complies with the same requirements as those for a residential use set in Section 17.36.200.

C. The planning board may, in an approved site plan, require greater buffer, landscape and barrier requirements to mitigate those impacts associated with an alternative dwelling park development on an adjoining lot. (LL No. 2, 2003 (part))

17.44.090 Fire protection equipment and design.

A. An alternative dwelling park development site plan shall include design provisions for firefighting. These provisions include:

1. Firefighting vehicle access;
2. Building spacing and setbacks;
3. Fire hydrant location and fire hose dimension;
4. Emergency shut off of utilities;
5. The local fire department's equipment and manpower limitations;
6. Fire lane location; and
7. Response time.

B. A site plan application shall include a detailed plan for all fire protection equipment to be provided in the alternative dwelling park development. This plan shall be prepared by a design engineer and the equipment shall be designed constructed, installed and maintained in accordance with all applicable standards including the National Fire Protection Association and the applicable provisions of the NYS Uniform Fire Prevention and Building Code.

C. Prior to approval of any preliminary plan the planning board shall receive from the applicant a written response to a review for the plan prescribed in subsection B of this section by the fire department having jurisdiction for the lot proposed for an alternative dwelling park development. (LL No. 2, 2003 (part))

17.44.100 Solid waste storage and removal requirement.

An approved site plan for an alternative dwelling park shall include adequate provisions for the storage and removal of solid waste in accordance with the New York State Fire Prevention and Building Code, New York State Environmental Conservation Law and the laws of the County of Chemung. Each site plan application shall include the following:

A. A provision for either curb side pick-up, or central dumpster location within the alternative dwelling park;

B. The applicant shall include in a maintenance plan a procedure and responsibility for the policing of the area used for solid waste collection, which shall include provisions for cleaning up any solid waste improperly disposed of or otherwise scattered on the property. (LL No. 2, 2003 (part))

17.44.110 Recreation parks, playgrounds and open space in an alternative dwelling park.

A. An alternative dwelling park site plan shall include provisions for recreation parks, playgrounds and open space in accordance with Section 17.36.100.

B. The planning board may consider certain ancillary recreational facilities in lieu of the recreation parks, playgrounds and open space. Such facilities shall be specifically approved by the planning board and shall be deemed to be and shall function as accessory structures and/or uses and as such comply with Chapter 17.40. These recreational facilities shall be compatible with the residential character of the development may include a:

1. Community room or lounge;
2. Game or recreation room;
3. Exercise or multipurpose room;

4. Sauna/spa, whirlpool;
5. Swimming pool;
6. Indoor playground; and/or
7. Day care center.

(LL No. 2, 2003 (part))

17.44.120 Facility maintenance requirements.

A. An alternative dwelling park approved in a site plan shall be subject to periodic inspection by the code enforcement officer to document compliance with this title, the conditions of site plan approval and the applicable provisions of the NYS Uniform Fire Prevention and Building Code.

B. An alternative dwelling park approved in a site plan shall be maintained in perpetuity, by the developer or any successors thereto, in such condition as intended by the approved site plan and in accordance with the provisions of such approval and any condition thereof.

C. It shall be a violation of this title to maintain an alternative dwelling park in noncompliance with this section. (LL No. 2, 2003 (part))

17.44.130 Sales or model dwelling unit requirements.

A. On a lot containing an alternative dwelling park:

1. The commercial sales of dwelling units shall not be permitted as another principal use or as an accessory use; however,

2. As shown and permitted in an approved site plan, up to three model dwelling units may be setup and displayed on individual dwelling unit sites.

B. When the provisions of subsection (A)(1) of this section are permitted, such model dwelling units shall be included in any bulk and density calculation. (LL No. 2, 2003 (part))

17.44.140 Accessory building and use requirements.

Except for an accessory building and/or use associated with an individual dwelling unit as specified in Section 17.44.040(B), an accessory building and/or use shall comply with the requirements specified in Section 17.20.030 for a residential use in an RU district. (LL No. 2, 2003 (part))

17.44.150 Utility requirements.

A. An approved site plan shall include the design and construction specifications for all utilities, including electric, telephone, gas or other fuel source, water, sewer and television, required to service the alternative dwelling park and each individual dwelling site. Such plans shall comply with the provisions of Section 17.36.110.

B. Television service to the alternative dwelling park shall be provided as a consolidated system for the entire site. No individual antennas shall be permitted on dwelling unit sites. (LL No. 2, 2003 (part))

17.44.160 Individual dwelling unit site requirements.

A. Density Requirements.

1. Minimum lot size: eight thousand (8,000) square feet.

2. Minimum lot width: fifty (50) feet.
3. Maximum lot coverage: forty (40) percent.
4. Minimum setback requirements:
a. Front yard from an internal drive: twenty-five (25) feet.
b. Side yard: ten (10) feet.
c. Rear yard: twenty-five (25) feet.
B. Accessory Building and Use Requirements.
1. Except as otherwise specified in this subsection, an accessory building and use shall comply with the requirements of Chapter 17.40.
2. An accessory building or use located on an individual dwelling lot in an alternative dwelling park shall:
a. Not require a site plan amendment pursuant to Section 17.40.020(A)(2), and
b. In lieu of Section 17.40.030(C)(2) an accessory building may be setback from a side and rear lot line of an individual dwelling unit site a minimum distances of five feet.
C. Individual Dwelling Unit Site Access. An individual dwelling unit site shall be provided with driveway access from drive or internal drive and such driveway shall comply with the applicable provisions of Section 17.36.050. (LL No. 2, 2003 (part))

17.44.170 Dwelling unit installation requirements.
A. Each individual dwelling unit site, pad or foundation shall comply with the applicable provisions of and the generally accepted standards prescribed in the NYS Uniform Fire Prevention and Building Code for the construction of sites and the installation of dwelling units.
B. When the dwelling unit is a mobile home, the reference standard for construction shall be as prescribed in the NYS Uniform Fire Prevention and Building Code specifically Subchapter D and Reference Requirement 68.
C. When the dwelling unit is not a mobile home, the reference standard for construction shall be as prescribed in the NYS Uniform Fire Prevention and Building Code specifically Subchapter B.
D. A site plan for an alternative dwelling park must include certification by the design engineer that the project is compliant with the NYS Uniform Fire Prevention and Building Code specifically Subchapter B and/or D.
E. In addition to all the other requirements of this section, each individual dwelling unit and/or site shall meet the following minimum requirements:
1. The site shall be properly drained and compacted to support the weight imposed on the ground by the installed dwelling unit.
2. Each dwelling unit shall be stabilized either in accordance with the manufacturers' specification, the standards referenced in this section, or an engineering design completed by a design engineer specific to the dwelling unit and/or site.
3. Anchors and/or roll over protection, as provided for in the manufacturers' specification, the standards referenced in this section or an engineering design completed by a design engineer specific to the dwelling unit shall be provided for each dwelling unit installed. (LL No. 2, 2003 (part))

17.44.180 Modification of an existing or approved alternative dwelling park.

A. Site plan requirement. Other than as permitted in a previously approved site plan, a site plan or amendment thereto pursuant to Article 9 shall be required for the following activities on a lot containing an existing alternative dwelling park:

1. The construction of an individual dwelling unit on a lot,

2. The construction of a building, other than a dwelling unit, except a permitted accessory building on an approved lot,

3. The extension, improvement or modification, excluding periodic or required maintenance, of an existing water, sewer, electric, gas or television cable utility,

4. The removal of soil, brush or vegetation, except lawn or required open space maintenance, within one hundred (100) feet of any lot line of an alternative dwelling park,

5. The dumping or stockpiling of soil, hard fill or debris that raises the elevation of any portion of the lot, and

6. Any other change to the alternative dwelling park determined to have a potential for significant environmental impact greater than those of the existing condition.

B. Retroactive Compliance Requirement. Any existing alternative dwelling park or any alternative dwelling park previously approved in a site plan shall comply with all applicable provisions of this title when such alternative dwelling park is proposed to have an extension, alteration or modification that:

1. Increases the number of lots by a number equal to or greater than fifty (50) percent of the number of existing lots or lots approved in a site plan;

2. Increases the lot area being dedicated to or used for an existing or approved alternative dwelling park by more than fifty (50) percent of that which is existing or approved in a site plan; or

3. Has a verified estimated cost of construction or installation for such extension, alteration or modification that exceeds fifty (50) percent of the assessed property value of the alternative dwelling park at the time that such construction or installation is proposed. (LL No. 2, 2003 (part))

Chapter 17.48

OFF-ROAD PARKING AND LOADING REQUIREMENTS*

Sections:

17.48.010 Off-road parking requirements.
17.48.020 Off-road loading and unloading berth requirements.

* Prior history: LL No. 2, 1997.

17.48.010 Off-road parking requirements.

All development shall provide for off-road parking.

A. General.

1. It shall be the responsibility of the owner of a lot to provide off-road parking spaces for any use which is created, enlarged, or altered after the effective date of the local law codified in this title.

2. A parking space shall be a minimum dimension of nine feet by eighteen (18) feet, exclusive of pedestrian access, drive or internal drive, and have access from a drive or internal drive.

3. Each parking area shall conform to the requirements of the Americans with Disabilities Act (ADA).

4. The lighting of off-road parking areas shall comply with the requirements set forth in Section 17.36.240.

5. For the purpose of calculating required parking spaces for any use in which patrons and/or spectators occupy benches, pews or other similar seating facility; each twenty (20) inches of linear dimension of such seating shall be counted as one seat.

6. Off-road parking area for a residential use shall be restricted to noncommercial vehicles only.

7. If a use on a lot and a lot are under separate ownership, the right to joint use of parking lot must be evidenced by a deed, lease, contract or other appropriate document. Such document shall be provided to the planning board for inclusion in the site plan record.

8. A required parking area, drive and internal drive on a lot shall not be used for the display of merchandise, goods or wares offered for sale or connected with the use of a lot.

B. Required Off-Road Parking Spaces. The minimum number of parking spaces in a parking area for a use shall be as follows:

1. One-unit dwelling: two spaces for up to the first four bedrooms, plus one-half space for each additional bedroom.

2. Two-unit dwelling: two spaces per dwelling unit for up to first four bedrooms, plus one-half space for each additional bedroom.

3. Multi-unit dwelling: two spaces per dwelling unit for up to first four bedrooms, plus one-half space for each additional bedroom.

4. Alternative dwelling park: one and one-half spaces per dwelling unit, plus one space for each approved dwelling unit to be developed in a common parking area.

5. Hospital, convalescent or nursing home: one space for each employee on the major shift plus .25 spaces per bed.

6. Bed and breakfast: one additional space for each bedroom that is rented within the dwelling.

7. Hotel/motel or boarding house: one space for each room offered for rent or lease, plus one space for every four employees, plus one space per one hundred fifty (150) square feet net area of restaurants and assembly rooms.

8. Office, general business or professional: two and one-half spaces for each one thousand (1,000) square feet of gross floor dedicated to the use.

9. Retail: three and one-half spaces for each one thousand (1,000) square feet of gross floor area.

10. Funeral home, veterinary hospital, bank or personal service use: three spaces for each one thousand (1,000) square feet of gross floor area dedicated to the use.

11. Restaurant, standard or fast food: one space for each sixty (60) square feet of customer floor area.

12. Membership club, conference or convention center, commercial recreation: one space for every one hundred fifty (150) square feet of assembly space.

13. Roadside stand: one space for every fifty (50) square feet of area devoted to sales or display.

14. Nursery or elementary school: one space per employee, plus two additional spaces per classroom.

15. High school or college: one space per employee plus five spaces for each classroom.

16. Place of worship, auditorium, theater, stadium: one space for every four seats.

17. Vehicle filling station, vehicle sales or lease and/or repair and/or heavy equipment sales, contractor's equipment yard, outdoor sales and/or rental: one space for each three thousand (3,000) square feet of area devoted to the use including, outside display areas, equipment and/or sale yards.

18. Cottage industry: one space per employee, plus one space per five hundred (500) square feet of area devoted to the use.

19. Industrial use:

a. One space for each one thousand (1,000) square feet of floor area devoted to manufacture; including printing, publishing, laundry and dry cleaning plant;

b. One space for each two thousand (2,000) square feet of floor area devoted to storage or stationary operating equipment;

c. One space for each three thousand (3,000) square feet of area devoted to storage, including outside storage yards; and/or

d. For any utility or industrial use, one additional space for each fleet or company vehicle.

20. Warehouse or distribution center, truck terminal: one space per three thousand (3,000) square feet devoted to storage or warehousing.

21. Each other use not specified above: the number of parking spaces shall be determined by the planning board in the site plan review process after considering the area of use, the number of employees, customers and suppliers of goods and services for the use.

C. Maximum Number of Parking Spaces. In the interest of protecting and preserving the groundwater quality and quantity, no use in the town shall be permitted to have more than five parking spaces per one thousand (1,000) square feet of gross floor area unless such development plans document the need for such additional parking and that, with quantifying analysis, such parking is determined to not adversely impact the aquifer or ground water. Such additional parking must be specifically approved by the planning board.

D. Calculation of Required Parking Spaces.

1. In the case of a combination of uses, the total requirement for off-road parking spaces shall be the sum of the requirements for all uses, unless it can be proven by substantive documentation that staggered hours or other operational activities of such uses would permit modification.

2. Whenever a fraction of a space is required, a full space shall be provided.

E. Dimensions for Drives and Internal Drives Within a Parking Area.

1. Parallel curb parking: twelve (12) foot aisle width for one-directional flow and twenty-two (22) foot aisle width for two-directional flow.

2. Thirty (30) degree parking: thirteen (13) foot aisle width for one-directional flow and twenty-two (22) foot aisle width for two-directional flow.

3. Forty-five (45) degree parking: sixteen (16) foot aisle width for one-directional flow and twenty-two (22) foot aisle width for two-directional flow.

4. Ninety (90) degree parking: twenty-two (22) foot aisle width.

F. Location of Required Parking Spaces in a Parking Area.

1. RU, R1 and R2 Districts. Required vehicle parking spaces shall be provided either in a garage or in a drive which is located on the same lot and is readily accessible to a road or drive.

2. ABD, TC, TC-2, BN, BNR, BR, CL and I Districts.

a. Such spaces shall be provided on the same lot, or not more than four hundred (400) feet therefrom provided that the criteria in subsection A of this section are met.

b. Vehicles and equipment for display or for sale shall not be parked or stored within twenty-five (25) feet of a road right-of-way.

c. Where such parking is situated adjacent to a residential use, it shall be set back a minimum of ten (10) feet from the residential lot line, and an adequate landscape buffer in conformance with Section 17.36.200 shall be provided within such setback area.

G. Special Requirement for ABD, BN, BNR, and BR Districts. The planning board shall, in the review of all site plans, consider the potential for synergism to exist between adjoining uses and may require that parking areas be designed to accommodate traffic movement between lots without reentering the road system to lessen traffic volumes and turning movement conflicts and provide proper sight distances.

H. Off-Road Parking Waiver. Off-road parking requirements may be waived in whole or in part upon finding by the planning board that;

1. Satisfactory municipal off-road parking facilities are available within four hundred (400) feet of the lot containing the subject use and with proper pedestrian access in accordance with subsection (A)(7) of this section;

2. Satisfactory off-site parking arrangements are proposed in compliance with subsection (A)(7) of this section;

3. The applicant document the specific use routinely requires less parking spaces than those required under this chapter.

I. Construction of Off-Road Parking Area. All off-road parking, with the exception of the parking area for a single or two-unit dwelling shall be provided with a suitable all-weather, dust-free surface and all individual parking spaces shall be visibly marked with paint or other durable and suitable material.

J. Landscaping. A minimum of eight percent of the area devoted to off-road parking shall be landscaped islands or other landscaping areas with lawn, trees, shrubs or other plant materials. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

17.48.020 Off-road loading and unloading berth requirements.

A. Required Berths. In all districts, except the TC and TC-2 districts, a lot or structure which is to be occupied by industrial, commercial, business or similar uses requiring the receipt and/or distribution by vehicles, of materials or merchandise; there shall be provided and maintained, on the lot, off-road loading berths.

USE	GROSS SQUARE FEET OF FLOOR AREA	VEHICLE LOADING BERTH REQUIREMENTS*
Retail, wholesale, storage and other similar	3,000 -- 15,000	1
	15,001 -- 40,000	2

USE	GROSS SQUARE FEET OF FLOOR AREA	VEHICLE LOADING BERTH REQUIREMENTS*
business use	each 25,000 additional	1
Hotel or motel, restaurants, office building	90,000 or less	1
	90,001 -- 300,000	2
	each 200,000 additional	1
Industrial use	15,000 or less	1
	15,001 -- 40,000	2
	40,001 -- 90,000	3
	each 40,000 additional	1

* These are considered minimum requirements; however, the planning board may modify the above requirements in the site plan approval process based on scale of business operation and supporting documentation analyzing the necessity for modification of these requirements.

B. Dimensions of Berths. Each loading berth, either open or enclosed, shall be a minimum of fifty-five (55) feet long, twelve (12) feet wide and fourteen (14) feet high; except business uses utilizing vehicles not larger than panel trucks may have berths which are a minimum of twenty (20) feet long, ten (10) feet wide and nine feet high.

C. Location of Berths. Loading berths are to be located in such a way vehicles occupying berths do not to interfere with the movement of people and vehicles on public ways and within on-site parking areas.

D. Landscaping. Areas around loading berths shall be provided with buffer as required in Section 17.36.200. (LL No. 1, 2008 (part): LL No. 2, 2003 (part))

Chapter 17.52

SIGNS*

Sections:

17.52.010 Sign requirements generally.
17.52.020 Permitted sign description.
17.52.030 General requirements.
17.52.040 Signs permitted in any district.
17.52.050 Sign requirements by use and district.
17.52.060 Aggregate sign area requirement.
17.52.070 Removal of certain signs.

* Prior history: LL No. 2, 1997 and LL No. 2, 2003.

17.52.010 Sign requirements generally.

A. No sign of any kind may be altered, erected or established in the town except in conformance with the requirements in this chapter.

B. The only signs permitted are those listed in Section 17.52.020. (LL No. 2, 2003(part))

17.52.020 Permitted sign description.

A. *Identification Signs*.

1. Awning: a sign painted, printed, affixed or displayed on an awning attached to an exterior surface of a building containing a general, business or industrial use listed in Section 17.12.010.
2. Facade: a sign, painted on, inscribed on or attached to an exterior surface of a building containing a general, business or industrial use or accessory use associated with the general, business or industrial use listed in Section 17.12.010 and without having any portion thereof extending more than eight inches from the building surface.
3. Projecting: a sign attached to and having any portion thereof extending more than eight inches from the surface of a building containing a general, business or industrial use listed in Section 17.12.010.
4. Representational: any three-dimensional *identification sign*, which is either a projecting or free standing sign and constructed to physically represent the object advertised.
5. Agricultural: a sign, not illuminated, used to identify a farm, ranch, stable or other agricultural use.
6. Freestanding: a sign supported by a structure independent of a building, at least twelve (12) feet in height, and installed on a lot containing a general, business or industrial use listed in Section 17.12.010.
7. Directory: a sign that contains the names of the principal uses located in a mall or plaza.
8. Residential: a sign, not illuminated, identifying the name of the owner or occupant of or fanciful name of a residential lot or property.
9. Real Estate: a *temporary sign*, not illuminated, used to offer or advertise a lot or real property for sale, or lease.
10. Mall/Plaza: a sign installed on a lot or building of a mall or plaza and used to identify or landmark the name of the mall or plaza. Such sign shall be either a facade, free standing, ~~or~~ awning sign, or monument sign.
11. Development: a sign, not illuminated, installed on a lot in an approved residential subdivision, *alternative dwelling park*, PMRD or multi-unit dwelling development, used to memorialize or landmark the name of the development.
12. Monument: a sign supported by a structure independent of a *building*, no greater than twelve (12) feet in height, and installed on a lot containing a general, business or industrial use listed in Section 17.12.010. (LL No. 4, 2009 (part))

B. *Accessory Signs*.

1. Directional: a sign located near a drive entrance only indicating direction or calling attention to vehicular or pedestrian traffic entrances by displaying arrows or directional words and in accordance with 17.52.030 (A)(6).
2. Mandated: any sign, not illuminated, required by a federal, New York State, Chemung County or local law or rule.
3. Memorial: a sign, not illuminated, authorized by the Town Board, Chemung County Legislature, or the Governor or Legislature of the State of New York to honor or identify a person, event, organization or place of local or regional historic interest or importance.
4. Portable: a sign that is temporary and not structurally attached to the ground, a building, a structure or another sign, including sidewalk signs regardless if such sign is on its own trailer, wheels or otherwise designed to be movable.
5. Real estate: a *temporary sign*, not illuminated, used to offer or advertise a lot or real property for sale, or lease.
6. Sandwich board: a two-sided "A" frame, *temporary sign*, not illuminated, placed on, without any physical attachment to, the ground.
7. Tourist Oriented Directional (TOD): a sign, not illuminated, that directs travelers to essential services such as gas, food and lodging, public services or a hospital and installed in a *right-of-way*, under the jurisdiction of a government authority.
8. Construction: a *temporary sign*, not illuminated, and used on property under construction to denote a contractor, design engineer/architect, financing institution and/or developer or development.
9. Poster: a *temporary sign*, not illuminated, used to advertise an event or show, political candidate or issue and/or an election and/or a sale or product.
10. Civic: a sign, not illuminated, used to identify a civic or religious organization, place of worship, social or *membership club* or an educational institution, and installed in a *right-of-way* under the jurisdiction of a government authority.
11. Community Promotion: a sign, not illuminated, designed to promote the town and welcome visitors to the town.
12. Occupation: a sign, not illuminated, used to identify an approved home occupation or cottage industry.
13. Roadside stand: a *temporary sign*, not illuminated, used to identify a roadside stand.
14. Awning: a sign painted, printed, affixed or displayed on an awning attached to an exterior surface of a *building* containing a general, business or industrial use listed in Section 17.12.010.
15. Facade: a sign, painted on, inscribed on or attached to an exterior surface of a *building* containing a general, business or industrial use listed in Section 17.12.010 and without having any portion thereof extending more than eight inches from the *building* surface.

16. Window: a sign, or group of signs painted, printed, or otherwise displayed on a window of a *building* containing a general, residential, business or industrial use listed in Section 17.12.010.
17. Banner: a *temporary sign* made of flexible materials and supported along one or more sides or at two or more corners by staples, tape, wires, ropes, strings, or other supporting materials.
18. Changeable: A sign, permanent or temporary, with the capability of display change by means of manual or remote input. Includes the following types:
    a. Manually Activated: Changeable sign whose display can be changed manually on a display surface
    b. Electronically Activated: Changeable sign whose display can be changed by means of remote electrically energized on-off switching combinations or alphabetic or pictographic components arranged on a display surface. A display on an Electronically Activated Changeable sign shall remain static for a period of time not less than twenty (20) minutes and the only appearance of movement permitted is the transition from one display to another which shall occur in a time period not to exceed two (2) seconds.
    c. Electronic Time/Temperature/Date Sign: A sign which only displays time, temperature, and/or calendar date shall not flash and shall be exempt from 17.52.020(B)(18)(b).
19. Representational: any three-dimensional *accessory sign*, temporary or permanent, constructed to physically represent an object advertised.
20. Private Owner Merchandise Sale (POMS): a *temporary sign*, erected not longer than four (4) calendar days, used to depict the sale of personal and private merchandise located upon the lot where such sign is located.
21. Freestanding: a sign of which is co-located on an identification freestanding sign, as described in Section 17.52.020 (A) (6). (LL No. 2, 2003(part) and LL No. 4, 2009 (part))

17.52.030 General requirements.

A. All signs shall comply with the following requirements:
1. The installation of a sign, except for a residential, occupation, agricultural, temporary, window sign, memorial, Tourist-Oriented-Directional, real estate, sandwich board, construction, civic, roadside stand, banner, private owner merchandise sale, and as provided in Section 17.52.040, shall require a *building* permit.
2. A sign shall be constructed and installed in compliance with applicable provisions of the NYS Uniform Fire Prevention and Building Code.
3. No sign shall be located at or near an intersection in violation of Section 17.36.070, *clear vision zone*, or in any manner which may cause a traffic hazard at the intersec-

tion. A sign shall not be located where, by reason of the position, shape or color of the sign, it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device, nor shall any sign make use of the word "Stop," "Look," "Drive-In," "Left" or "Right," or any other word, phrase, symbol or character in such a manner as to distract, mislead or confuse traffic.

4. No sign shall be placed on a roof or on a cupola or similar roof mounted structure or on top of a parapet or similar architectural element of a *building*.
5. No sign shall be more than twenty-four (24) feet in height above the finished grade or the grade shown on a grading plan of a site plan approved by the planning board, unless otherwise stated. Grading of a site for the purpose of raising the elevation of a sign contrary to this section is prohibited, except as shown in an approved site plan.
6. Each sign on a lot shall be set back a minimum of five (5) feet from the edge of any *road* and not within a road right-of-way, unless otherwise stated.
7. No sign shall be permitted within any road right-of-way.
8. Any *flashing sign* is prohibited.
9. Any *off-lot sign* is prohibited.
10. No sign is permitted for a wind energy conversion system, except as required in 17.36.150.
11. A sign for any residential use, either as listed in Section 17.12.010 or as nonconforming pursuant to Chapter 17.56, occurring in a BR, ABD, CL or I district shall comply with the provisions of Section 17.52.050.
12. All signs, sign finishes, supports and electric work shall be maintained, kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring, loose supports, braces, guys and anchors.
13. No utility pole or tree, or the like, located in any public *right-of-way* or public *easement* shall be used for the posting of signs.
14. No trailer or vehicle shall be intentionally parked on the premises in a manner to serve as a sign.
15. Refer to 17.12.010 for the list of residential, general, business, industrial, and accessory uses.

B. The following requirements apply to an *identification sign*:

1. A projecting or free standing sign projecting over a pedestrian way shall have a clearance of not less than ten (10) feet above the way or finished grade. A projecting or free standing sign shall not project over a lot line or *right-of-way*. No projecting or free standing sign shall project over a *drive*, *internal drive* or parking area unless the sign has a clearance from finished grade of fifteen (15) feet.
2. An *identification sign* on a lot containing a general, business or industrial use listed in Section 17.12.010 may be illuminated.

C. The following requirements apply to an *accessory sign*:

1. Portable sign:

a. A portable sign may be allowed only for a cumulative time period not to exceed ninety (90) days in any consecutive twelve (12) month period.

b. A portable sign shall not exceed thirty-two (32) sq. ft. in sign area and shall not exceed six (6) ft. in height.

2. Wherever a Tourist-Oriented-Directional and community promotion sign is installed, its sign area shall not exceed the permitted sign area for a free standing sign in the underlying district in which it is located.

3. A construction sign shall be removed within fifteen (15) days of the completion of construction or the issuance of any certificate of occupancy or compliance, whichever occurs first.

4. A *temporary sign* shall be limited to:

a. A maximum of ninety (90) cumulative days within any one calendar year.

b. A maximum of seven (7) cumulative days within any one calendar year, unless otherwise stated, for any temporary sign constructed of raw paper and/or raw paper products.

5. Directional Sign:

a. Every directional sign shall not project more than four (4) feet above the finished grade and shall not be located in such a manner as to violate any provisions of Section 17.36.070.

b. A directional sign shall not exceed six (6) sq. ft.

c. The number of directional signs shall not exceed two (2) for each drive

6. When computing time restrictions for each *temporary sign* any fraction of a day used shall be construed to be one full day.

7. An *accessory sign* on a lot containing a general, business or industrial use listed in Section 17.12.010 may be illuminated, unless otherwise stated. (LL No. 2, 2003 (part) and LL No. 4, 2009 (part))

17.52.040 Signs permitted in any district.

A. In accordance with 17.52.030(A)(1), no building permit shall be required for any sign listed in this section provided they are displayed and located as follows:

1. Residential and *Home Occupation* sign

a. Maximum sign area per face:

i. Residential : two (2) sq. ft.

ii. *Home Occupation* in R1, R2 : two (2) sq. ft

iii. *Home Occupation* in RU, C, TC, TC2, RCD, BN, BN2, BNR, BR, ABD, CL, I or RCD: four (4) sq. ft

b. Number of signs permitted: One (1)

c. Location permitted in R1 and R2: affixed to a dwelling unit

d. Location permitted in RU, C, TC, TC2, RCD, BN, BN2, BNR, BR, ABD, CL, I or RCD: affixed to a dwelling unit or a post

e. Maximum height permitted: eight (8) ft. above finished grade

2. Poster

a. Maximum sign area per face located in the R1, R2, RU, C, TC, TC-2, RCD, BN, BN2 or BNR: twelve (12) sq. ft.

b. Maximum sign area per face located in a district not listed in 17.52.040 (A)(2)(a): twenty (20) sq. ft.

c. No poster signs shall be placed between the edge of any *road* and the sidewalk, where sidewalks exist.

3. Window sign

a. Maximum sign area per face for a general or business use, except in a mall or plaza: the lesser of thirty (30%) percent of each window area or one hundred (100) sq. ft. of aggregate area of all windows of the use.

b. Maximum sign area per face for each tenant within a mall or plaza: the lesser of forty (40%) percent of each window area or one hundred (100) sq. ft. of aggregate area of all windows of the use

c. Maximum sign area per face for a mall or plaza: the lesser of ten (10%) percent of each window area or one hundred (100) sq. ft. of aggregate area of all windows of the use

d. Maximum sign area per face for a residential use: the lesser of ten (10%) percent of each window area or thirty-six (36) sq. ft. of aggregate area of all windows of the use.

4. Memorial sign

a. Maximum sign area per face : twelve (12) sq. ft.

b. Number of signs permitted: one (1) on a lot

c. Location permitted: on a lot or in a right of way as permitted by the authority having jurisdiction

d. Maximum height permitted: ten (10) ft. above finished grade

5. Tourist Oriented Directional sign:

a. Maximum sign area per face : as permitted by the authority having jurisdiction

b. Number of signs permitted: as permitted by the authority having jurisdiction

c. Location Permitted: in a right of way as permitted by the authority having jurisdiction

6. Real Estate sign

a. Maximum sign area per face for a residential use located in any zoning district and for general or business use located in the R1, R2, TC, TC2: ten (10) sq. ft.

b. Maximum sign area per face for a general use; or a business use located in the RU, C, RCD, BN, BN2, or BNR: forty (40) sq. ft.

c. Maximum sign area per face for a business located in the BR, ABD, CL, I, except in a mall or plaza; or an industrial use located in any zoning district: sixty-four (64) sq. ft.

d. Maximum sign area per face for a mall or plaza: sixty-four (64) sq. ft.

e. Maximum sign area per face for each tenant within a mall or plaza: forty (40) sq. ft.

f. Number of signs permitted: two (2) for each lot offered for sale or lease or one (1) for each block of lot area or floor area. A block is an area either over zero and up to five hundred thousand (500,000) sq. ft. or over five hundred thousand (500,000) and up to one million (1,000,000) sq. ft. or over one million (1,000,000) sq. ft.

g. Location permitted: on a lot, or *building*, offered for sale or lease

h. Time restriction: sign shall be removed ten (10) days after the date of closing or signing of lease agreement.

7. Sandwich Board

a. Maximum sign area per face: twenty (20) sq. ft.

b. Number of signs permitted: two (2)

8. Construction sign

a. Maximum sign area per face: twelve (12) sq. ft.

b. Number of signs permitted: two (2) for any single construction site or development

c. Location permitted: on a lot where a construction activity is being performed

d. Maximum height permitted: eight (8) ft. above finished grade

9. Civic sign

a. Maximum sign area per face : twelve (12) sq. ft.

b. Number of signs permitted: one (1) per event

c. Location permitted: in a right of way as permitted by the authority having jurisdiction

10. Roadside Stand

a. Maximum sign area per face: sixteen (16) sq. ft.

b. Number of signs permitted: two (2)

c. Location permitted: on a lot where said roadside stand is established

11. Banner

a. Maximum sign area per face: forty (40) sq. ft.

b. Number of signs permitted: Not to exceed two (2) at the same time

c. Location permitted: on the lot

12. Private Owner Merchandise Sale sign

a. Maximum sign area per face: two (2) sq. ft.

b. Number of signs permitted: two (2) per sale

c. Location permitted: On the lot where such sale is being held (LL No. 2, 2003 (part) and LL No. 4, 2009 (part))

17.52.050 Sign requirements by Principal use and district.

A. Sign requirements for a residential use and an accessory use associated with the residential use, listed in Section 17.12.010 and located in a R1, R2, RU, C, TC, TC-2, RCD or BNR district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Development	Twenty (20) sq. ft.	Two	Twelve (12) ft.

B. Sign requirements for general use and an accessory use associated with the general use, listed in Section 17.12.010 and located in any district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area Per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Facade	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or one hundred (100) sq. ft. of the side.	Not to exceed two (2)	Twenty-four (24) ft.
Projecting	Twelve (12) sq. ft.	One	Twenty-four (24) ft.
Freestanding	40 sq. ft.	Not to exceed two (2) on a lot	Twenty-four (24) ft.
Monument	40 sq. ft.	Not to exceed two (2) on a lot	Twelve (12) ft.
Community Promotion	24 sq. ft.	One	Twenty-four (24) ft.

C. Sign requirements for a business use, except in a mall or plaza, and an accessory use associated with the business use, listed in Section 17.12.010 and located in a R1, R2, RU, C, TC, TC-2, RCD, BN, BN2, or BNR district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Facade	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or one hundred (100) sq. ft. of the side.	Not to exceed two (2) for each principal use and one (1) for each accessory use.	Twenty-four (24) ft.
Projecting	Twelve (12) sq. ft.	One for each principal use.	Twenty-four (24) ft.
Freestanding	Forty (40) sq. ft.	Not to exceed two (2)	Twenty-four (24) ft.
Monument	Forty (40) sq. ft.	Not to exceed two (2)	Twelve (12) ft.
Community Promotion	Twenty-four (24) sq. ft.	One	Twenty-four (24) ft.
Awning	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or forty (40) sq. ft. of the side.	One for each principal use and one for each accessory use.	Twenty-four (24) ft.

D. Sign requirements for a business use, except in a mall or plaza, and an accessory use associated with the business use listed in Section 17.12.010 and located in a BR district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Facade	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or two hundred (200) sq. ft. of the side.	Not to exceed two (2) for each principal use and one (1) for each accessory use.	Thirty-six (36) ft.
Projecting	Twenty-four 24 sq. ft.	Not to exceed two (2) for each principal use and one (1) for each accessory use.	Twenty-four (24) ft.
Freestanding	Fifty (50) sq. ft.	Not to exceed two (2) on a lot	Thirty-six (36) ft.
Monument	Fifty (50) sq. ft.	Not to exceed two (2) on a lot	Twelve (12) ft.
Community Promotion	Twenty-four 24 sq. ft.	One	Twenty-four (24) ft.
Awning	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or one hundred (100) sq. ft. of the side.	One for each principal use and one for each accessory use.	Twenty-four (24) ft.

E. Sign requirements for a mall or plaza located in a TC, TC-2, BN, BN2, BNR, BR, ABD, CL, or I district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height

Mall/Plaza	One Hundred (100) sq. ft.	Two (2) for each block of floor area.*	Thirty-six (36) ft in BR, Twenty-four (24) ft. in TC, TC-2, BN, BN2, BNR, ABD, CL, or I
Community Promotion	Twenty-four 24 sq. ft.	One	Twenty-four (24) ft.
Directory	Six Hundred (600) sq. ft.	Two (2) for each block of floor area.*	Twenty-four (24) ft.

* A Block is an area either over zero and up to five hundred thousand (500,000) sq. ft. or over five hundred thousand (500,000) and up to one million (1,000,000) sq. ft. or over one million (1,000,000) sq. ft.

F. Sign requirements for each tenant principal use and an accessory use associated the tenant principal use, listed in Section 17.12.010, within a mall or plaza and located in the TC, TC-2, BN, BN2, BNR, BR, ABD, CL, or I district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Facade	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or three hundred fifty (350) sq. ft. of the side.	Two (2) for each principal use and one for each accessory use.**	Thirty-six (36) ft in BR, Twenty-four (24) ft. in TC, TC-2, BN, BN2, BNR, ABD, CL, or I
Projecting	Twenty-four 24 sq. ft.	One for each principal use.	Twenty-four (24) ft.

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Awning	The lesser of ten (10) percent of the area of the side of the mall *building* the sign is installed on or two hundred (200) sq. ft. of the side.	One for each principal and one for each accessory use.**	Twenty-four (24) ft.

* A block is an area either over zero and up to five hundred thousand (500,000) sq. ft. or over five hundred thousand (500,000) and up to one million (1,000,000) sq. ft. or over one million (1,000,000) sq. ft.

** The aggregate façade sign area shall be the lesser of fifteen (15) percent of the area of the side of the *building* the sign is installed on or three hundred fifty (350) sq. ft. of the side for all signs on the side of the *building*.

G. Sign requirements for a business or industrial use, except in a mall or plaza, and accessory use associated with the business or industrial use, as listed in Section 17.12.010 and located in the ABD, CL or I district are as follows:

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Facade	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or two hundred (200) sq. ft. of the side.	Two (2) for each principal use and one for each accessory use.**	Twenty four (24) ft.
Freestanding	Forty (40) sq. ft.	Not to exceed two (2) on a lot.	Twenty four (24) ft.

Permitted Sign from Section 17.52.020	Maximum Sign Area per face in Square Feet	Number of Signs Permitted	Maximum Sign Height
Awning	The lesser of ten (10) percent of the area of the side of the *building* the sign is installed on or two hundred (200) sq. ft. of the side.	One sign for each principal use and one for each accessory use.**	Twenty four (24) ft.
Projecting	Thirty-six (36) sq. ft.	One for each principal use.	Twenty four (24) ft.

* A Block is an area either over zero and up to five hundred thousand (500,000) sq. ft. or over five hundred thousand (500,000) and up to one million (1,000,000) sq. ft. or over one million (1,000,000) sq. ft.

** The aggregate façade sign area shall be the lesser of fifteen (15) percent of the area of the side of the *building* the sign is installed on or two hundred (200) sq. ft. of the side for all signs on the side of the *building*. (LL No. 1, 2008 (part), LL No. 2, 2003 (part) and LL No. 4, 2009 (part))

17.52.060 Aggregate sign area requirement.

A. The aggregate sign area is the sum of all sign areas on a lot except those of signs listed in Section 17.52.040. At no time are signs to be displayed that will cause an aggregate sign area to exceed the limits set forth in subsection B of this section.

B. Aggregate Sign Area Requirements by Use and District.

1. For a residential use and an accessory use associated with the residential use listed in Section 17.12.010 and located in a R1, R2, RU, C, TC, TC-2, RCD, BN, BN2 or BNR district, the maximum aggregate sign area, excluding the sign area of any memorial sign, is thirty six (36) square feet.
2. For a general use and an accessory use associated with the general use listed in Section 17.12.010 and located in any district, the maximum aggregate sign area is one hundred sixty (160) square feet.
3. For a business use, except for a mall or plaza, and an accessory use associated with the business use listed in Section 17.12.010 and located in a R1, R2, RU, C, TC, TC-2, RCD, BN, BN2, or BNR district, the maximum aggregate sign area is two hundred fifty (250) square feet.

4. For a business use, except for a mall or plaza, and an accessory use associated with the business use listed in Section 17.12.010 and located in the BR district, the maximum aggregate sign area is seven hundred fifty (750) square feet.
5. For a mall or plaza located in the BN, BN2, BR or BNR district, the maximum aggregate sign area is one thousand (1,000) square feet.
6. For a mall or plaza located in the TC or TC-2 district, the maximum aggregate sign area is two hundred (200) square feet.
7. For each tenant principal use and accessory use associated with a tenant principal use listed in Section 17.12.010 in a mall or plaza and located in the BN, BN2, or BR district, the maximum aggregate sign area is five hundred (500) square feet.
8. For each tenant principal use and accessory use associated with a tenant principal use listed in Section 17.12.010 in a mall or plaza and located in the TC or TC-2, district, the maximum aggregate sign area is one hundred fifty (150) square feet.
9. For a permitted business or industrial use and accessory use associated with a permitted business or industrial use as listed in Section 17.12.010, located in the ABD, CL and I district, the maximum aggregate sign area is five hundred (500) square feet. (LL No. 1, 2008 (part), LL No. 2, 2003 (part) and LL No. 4, 2009 (part))

17.52.070 Removal of certain signs.

A. Any sign now or hereafter existing which relates to a, use no longer conducted on a lot shall be removed by the owner, agent or person having the beneficial use of the lot upon which such sign may be found and within ninety (90) days of cessation of the use except as provided to the contrary elsewhere in this chapter. (LL No. 2, 2003 (part) and LL No. 4, 2009 (part))

Chapter 17.56

NONCONFORMING STRUCTURES, USES AND LOTS*

Sections:

17.56.010 Continuation of nonconforming structure, use and lot.
17.56.020 Discontinuance of nonconforming structure, use and lot.
17.56.030 Necessary maintenance and repairs of nonconforming structure, use and lot.
17.56.040 Construction started prior to this zoning law.
17.56.050 Existing nonconforming lots.
17.56.060 Extension, alteration or modification of a nonconforming structure, use and/or lot.
17.56.070 Reduction in lot area.

* Prior history: LL No. 2, 1997.

17.56.010 Continuation of nonconforming structure, use and lot.

Any lawful structure, use or lot existing at the time of enactment of the local law codified in this title, or any subsequent amendment thereof applying to such structure, use or lot, may continue, although such structure, use or lot does not conform to the provisions of this title provided:

A. Nothing in this chapter contained shall be construed to render lawful any use not lawfully conforming to provisions of the town zoning ordinance repealed in Article 17, the local law codified in this title.

B. A nonconforming structure or use is not expanded, enlarged or extended or increased.

C. Every permanent sign other than signs approved in an approved site plan or those signs for which a sign variance has been granted and lawfully existing at the time of enactment of the local law shall comply with the requirements of Chapter 17.52. Such nonconforming sign shall be removed or altered in a manner to conform with Chapter 17.52 within five years of the effective date of the law. (LL No. 2, 2003 (part), LL No. 4, 2009 (part))

17.56.020 Discontinuance of nonconforming structure, use and lot.

A. A structure or lot which is used for or occupied by a nonconforming use and which is changed to or replaced by a conforming structure or use, shall not thereafter be used for or occupied by a nonconforming use or structure.

B. When a nonconforming use has been discontinued for a period of one year, it shall not thereafter be re-established and the future use shall be in conformity with this title. (LL No. 2, 2003 (part))

17.56.030 Necessary maintenance and repairs of nonconforming structure, use and lot.

A. Except as specified in Section 17.56.060 a nonconforming structure, use or lot may be maintained, repaired or restored to a safe condition.

B. Nothing in this title shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the code enforcement officer.

C. Any maintenance, repair or restoration of a nonconforming structure shall comply with the applicable provisions of the NYS Uniform Fire Prevention and Building Code. (LL No. 2, 2003 (part))

17.56.040 Construction started prior to this zoning law.

A structure for which a *building* permit was issued prior to the effective date of the local law codified in the law, or prior to the effective date of any subsequent amendment of the local law codified in this chapter, may be completed and used in accordance with approved plans and specifications for the structure. (LL No. 2, 2003 (part))

17.56.050 Existing nonconforming lots.

Any lot held in single and separate ownership and use from adjoining lot prior to the adoption of the local law codified in this chapter, and whose area is less than the specified minimum lot requirements in Section 17.16.020 may be considered as complying with such minimum lot requirements and no variance shall be required, provided that the following minimum conditions are met:

A. Such lot does not adjoin any other lot or lots held by the same owner where the aggregate area of such adjoining lot is equal to or greater than the minimum lot area required in Section 17.16.020.

B. A septic permit from the one of the following agencies is issued for the nonconforming lot and a copy of such permit is provided to the town prior to commencement of any construction thereon:

1. NYS Department of Environmental Conservation;
2. NYS Department of Health;
3. Chemung County Health Department;
4. Chemung County Sewer District.

C. For residential use listed in Section 17.12.010, such lot shall have a minimum area of at least six thousand (6,000) square feet and minimum width of fifty (50) feet at the required setback line and have the following minimum yard setbacks:

1. Side yard: six feet
2. Rear yard: fifteen (15) feet
3. Front yard: twenty (20) feet

D. Accessory structures shall be located as follows:

1. A minimum of three feet from any rear or side lot line;
2. Behind the rear line of a residential *building*;
3. In accordance with all other requirements specified in Chapter 17.40.

In any district where residences are permitted, such undersized nonconforming lot may be used for not more than one single-unit dwelling. (LL No. 2, 2003 (part))

17.56.060 Extension, alteration or modification of a nonconforming structure, use and/or lot.

A. Any existing nonconforming structure, use and/or lot or any nonconforming structure, use and/or lot previously approved in a site plan shall comply with all applicable provisions of this title when such nonconforming structure, use and/or lot is proposed to be extended, altered or modified in a manner that:

1. Increases the lot area being dedicated to or used for an existing or approved nonconforming structure, use and/or lot by more than fifty (50) percent of that which is existing or approved in a previously approved site plan;
2. Has a verified estimated cost of construction or installation for such extension, alteration or modification that exceeds fifty (50) percent of the assessed value of the nonconforming structure, use and/or lot at the time that such construction or installation is proposed; or
3. A nonconforming *building* is renovated or structurally altered during its life to an extent exceeding, in aggregate, a value that is fifty (50) percent of the replacement cost of the *building*.

B. Repair or Reconstruction of Damaged Nonconforming Structure. A nonconforming structure damaged by fire, flood or other causes shall comply with Section 17.36.120. The applicable provisions of Chapters 17.36 through 17.52 shall be utilized when the reconstruction or repair costs for such damaged structure are estimated to be more than fifty (50) percent of the assessed value of such damaged structure at the time of such damage. (LL No. 2, 2003 (part))

17.56.070 Reduction in lot area.

A *building* permit shall not be issued for any lot that is reduced in area so that it creates a nonconforming bulk or density in violation of this title. (LL No. 2, 2003 (part))

Chapter 17.60

ZONING BOARD OF APPEALS*

Sections:

17.60.010 Title.
17.60.020 Authority.
17.60.030 Establishment and duties.
17.60.040 Training and attendance requirements.
17.60.050 Lack of training not to affect validity of members' action.
17.60.060 Removal procedures.
17.60.070 Term of office.
17.60.080 Compensation.
17.60.090 Staff.
17.60.100 Powers and duties.
17.60.110 Use variance.
17.60.120 Area variance.
17.60.130 Grant of variance.
17.60.140 Referral of planning board.
17.60.150 Rules of procedure, by laws and forms.

* Prior history: LL No. 2, 1997, LL No. 2, 2003 and LL No. 3, 2006.

17.60.010 Title.

This chapter shall be known as the "Town of Big Flats Zoning Board of Appeals Law." (LL No. 3, 2007 (part))

17.60.020 Authority.

This chapter is enacted pursuant to Town Law Section 267 and Municipal Home Rule Law Section 10. (LL No. 3, 2007 (part))

17.60.030 Establishment and duties.

Pursuant to New York State Town Law, the town board shall appoint a zoning board of appeals consisting of five members, shall designate its chairperson, and also provide for such expenses as may be necessary and proper. A member of the zoning board of appeals shall not at the same time be a member of the town board. (LL No. 3, 2007 (part))

17.60.040 Training and attendance requirements.

All members of the zoning board of appeals shall be required to attend a minimum of seventy-five (75) percent of their board meetings scheduled within a calendar year.

Noncompliance with minimum requirements relating to attendance at meetings shall be deemed a proper cause for removal from office.

All members of the zoning board of appeals shall be required to attend a minimum of five hours in relevant courses within two years from the date of their initial appointment to such board and thereafter attend training sessions of not less than two hours every year thereafter.

Noncompliance with minimum requirements relating to training shall be deemed a proper cause for removal from office.

The costs of such seminars, workshops or continuing education courses so designated shall be a town charge. Members shall also be reimbursed for travel and meal expenses according to town policies. Such training session shall be approved in advance by the town board.

Training sessions which relate to the duties of members of the zoning board of appeals may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Department of Environmental Conservation, the Chemung County planning department, the New York State Planning Federation, and other such entities, as well as in-house updates or seminars. The town board, after discussion with the chairpersons of the zoning board of appeals, shall annually designate such seminars, workshops, or continuing education courses which may be offered within a reasonable distance and which may be helpful to or of assistance to the zoning board of appeals in carrying out its functions in a timely, fair and lawful manner. (LL No. 3, 2007 (part))

17.60.050 Lack of training not to affect validity of members' action.

Notwithstanding the foregoing, the failure of a member of the zoning board of appeals to attend the required percentage of meetings or obtain such training shall not affect said person's appointment to serve on such board, to entertain applications, to vote on such applications, or the validity of such member's actions. (LL No. 3, 2007 (part))

17.60.060 Removal procedures.

The chairperson of the zoning board of appeals shall notify the town board in writing on or about December 1st in any year, or at any other time if warranted, of any member who fails to comply with the minimum requirements for meeting attendance and/or training in any calendar year. In the event a member of the zoning board of appeals has failed to complete the minimum attendance and/or training requirements set forth in this chapter, then the town board may remove such member for cause as herein provided:

A. Notice. Such members shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements regarding training and attendance.

B. Public Hearing. Such notice shall specify a date, not less than ten (10) or more than thirty (30) days from the date of mailing such notice, when the town board shall convene and hold a public hearing on whether or not such member should be removed from service on such board. Such notice shall also specify the time and place of such hearing.

C. Public Notice. Public notice of such hearing shall be published in a paper of general circulation within the town at least ten (10) days prior to the date of the public hearing.

D. Conduct of Hearing. The public hearing on the charges shall be conducted before the town board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the town board shall be reduced to writing, together with specific findings of the town board with respect to each charge against such member. Findings shall be filed in the town clerk's office and mailed to the member within five business days of such filing by certified mail, return receipt.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the minimum attendance and/or training established by this chapter, the town board may:

1. Remove such member from the zoning board of appeals; or
2. Issue a written reprimand to such member without removing such member from such board; or
3. If the town board shall find the reasons for failing to meet the minimum meeting attendance and/or training requirements are excusable because of illness, injury or other good and sufficient cause, the town board may elect to take not action.

F. Nothing contained herein shall be deemed to limit or restrict the town board's authority to remove a member from the zoning board of appeals for cause (i.e., for other than the reasons enumerated herein). The procedural rules established under this section shall govern any hearing to remove a member for such cause. (LL No. 3, 2007 (part)

17.60.070 Term of office.

A. Appointment. The town board shall appoint the members of the zoning board of appeals by resolution. The terms of the members of the zoning board of appeals shall be for five years.

B. Removal. The town board shall have the power to remove, after public hearing, any member of the zoning board of appeals for cause. Any zoning board of appeals member may be removed for noncompliance with minimum requirements relating to meeting attendance and training.

C. Vacancies. If a vacancy shall occur otherwise than by expiration of term, the town board shall appoint the new member for the unexpired term of the vacated office.

D. Alternate Member. Pursuant to Town Law Section 267(11)(a), the town board shall appoint, by resolution, up to two alternate members to the zoning board of appeals to substitute for a regular member of the zoning board of appeals in the event such regular member is unable to participate in matters before the zoning board of appeals because of a conflict of interest, illness or other absence. Such alternate members shall be appointed for one-year terms. (LL No. 3, 2007 (part))

17.60.080 Compensation.

The town board, by resolution, may provide for compensation to be paid to board members. (LL No. 3, 2007 (part))

17.60.090 Staff.

The zoning board of appeals may employ such clerical or other staff assistance as may be necessary and prescribe their duties; provided, that it shall not at any time incur expenses beyond the

amount of appropriations made by the town board and then available for that purpose. (LL No. 3, 2007 (part))

17.60.100 Powers and duties.

The zoning board of appeals shall have the following powers and duties:

A. Appeals. The zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the code enforcement officer, and that end shall have all of the powers of the code enforcement officer.

B. Variance. The zoning board of appeals, on an appeal from a decision or determination of the code enforcement officer shall have the power to grant area and use variances as defined herein. (LL No. 3, 2007 (part))

17.60.110 Use variance.

A. Definition. Use variance means the authorization by the zoning board of appeals for the use of lot for a purpose which is not otherwise allowed or is prohibited by this title.

B. Criteria for Review. No use variance shall be granted by the zoning board of appeals without a showing by the applicant that the requirements of this title have caused unnecessary hardship, in order to prove such unnecessary hardship the applicant shall demonstrate the following facts to the zoning board of appeals for each and every permitted use under this zoning law for the particular district in which the lot is located:

1. The applicant cannot realize a reasonable return; provided, that lack of return is substantial and demonstrated by competent financial evidence;

2. The alleged hardship relating to the lot in question is unique, and does not apply to substantial portion of the district or neighborhood in which the lot is located;

3. The requested use variance, if granted, will not alter the essential character of the district neighborhood in which a lot is located; and

4. The alleged hardship is not self-created. (LL No. 3, 2007 (part))

17.60.120 Area variance.

A. Definition. Area variance means the authorization by the zoning board of appeals for the use of lot in a manner which is not allowed by dimensional or physical requirements of this title.

B. Criteria for Review. In making the determination, the zoning board of appeals shall take into consideration the benefit to the applicant, if the area variance is granted, as weighed against the detriment to the health, safety, and general welfare of the neighborhood or community by such grant. In making such determination the board shall consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance;

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variance;

3. Whether the requested area variance is substantial;

4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; or

5. Whether an alleged difficulty of compliance with this title was self-created, which is relevant to the decision, but shall not necessarily preclude the granting of the area variance. (LL No. 3, 2007 (part))

17.60.130 Grant of variance.

A. The zoning board of appeals, in granting an area variance or use variance, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship or balance proven by the applicant, and at the same time preserve and protect the character of the neighborhood and health, safety and general welfare of the community.

B. The zoning board of appeals shall, in granting an area variance or use variance, have the authority to impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of property. (LL No. 3, 2007 (part))

17.60.140 Referral of planning board.

The zoning board of appeals shall refer every request for area variance and use variance to the town planning board at least thirty (30) days prior to the scheduled hearing date. The planning board shall report its recommendation to the zoning board of appeals at least five days prior to the hearing date. (LL No. 3, 2007 (part))

17.60.150 Rules of procedure, by laws and forms.

The zoning board of appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this title. (LL No. 3, 2007 (part))

Chapter 17.64

ADMINISTRATION AND ENFORCEMENT*

Sections:

17.64.010 Enforcement.
17.64.020 Zoning permits.
17.64.030 Notice of compliance.
17.64.040 Violation.
17.64.050 Fee schedule.

* Prior history: LL No. 2, 1997.

17.64.010 Enforcement.

This title shall be enforced by the code enforcement officer, who shall be appointed by the town board. No *building* permit shall be issued except where all the provisions of this title have been complied with. The code enforcement officer shall keep the planning board and town board advised of all matters pertaining to the enforcement of this title other than routine duties, and shall submit a monthly report to the town board enumerating the applications received, inspections made, permits issued or refused and other actions taken.

Whenever a violation of this title occurs, any person having knowledge thereof may lay any information in regard thereto before a proper magistrate as provided by law, and the procedures thereafter shall be as set forth in the Code of Criminal Procedure. (LL No. 2, 2003 (part))

17.64.020 Zoning permits.

No structures or land shall be used, no *building* or structure shall be erected, added to or structurally altered until a permit therefore as specified in this section has been issued by the code enforcement officer. Except on written order of the code enforcement officer, no such zoning permit shall be issued for any *building* where the construction, addition or alteration or use thereof would be in violation of any of the provisions of this title or any other applicable town laws.

A. Application. There shall be submitted, with each application for a zoning permit, a fee as established by town board and two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the any existing and/or proposed *building* and accessory structures to be erected and such other information as may be necessary to determine and provide for the enforcement of this title.

B. Process.

1. One copy of such layout or plot plan shall be returned when approved by the code enforcement officer, together with such permit to the applicant.

2. Upon approval of the application, the code enforcement officer shall issue a *building* permit to the applicant upon the form prescribed by him and shall affix his or her signature or cause his or her signature to be affixed thereto.

3. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the town files and the other set shall be returned to the applicant together with the *building* permit and shall be kept at the *building* site open to inspection by the code enforcement officer.

4. If the application together with plan, specifications and other documents filed therewith, describe proposed work which does not conform to all of the applicable requirements of this title, the code enforcement officer shall not issue the same and shall return the plans and specifications to the applicant with a written explanation outlining the reasons therefore. (LL No. 2, 2003 (part))

17.64.030 Notice of compliance.

No *building* or structure hereafter erected, structurally altered, or extended shall be used, or changed in use until a notice of compliance or occupancy shall have been issued by the code enforcement officer in accordance with this title.

All notice of compliance or occupancy for new or altered structures shall be applied for coincident with the application for a *building* permit therefore. Such certificate of compliance shall be issued

within thirty (30) days after the erection or alteration shall have been approved as complying with the provisions of this title. (LL No. 2, 2003 (part))

17.64.040 Violation.

A. Penalty. Any person, firm, company or corporation owning, controlling or managing a use, *building*, structure or lot on which there has been placed, or there exists anything in violation of any of the provisions of this title; and any person, firm, company or corporation who shall assist in the commission of any violation of this title or any conditions imposed by the planning board; or who shall build, contrary to the plans or specifications submitted to the planning board and certified as complying with this title shall be guilty of an offense and subject to a fine of not more than one thousand dollars ($1,000.00). Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each day such a violation, omission, neglect or refusal shall continue.

B. Alternative Penalty. In case of any violation or threatened violation of any of the provisions of this title, or conditions imposed by the town board or planning board, in addition to other remedies provided in this chapter, the town board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such *building*, structure or lot, or to prevent an illegal act, conduct, business or use in or about such lot. (LL No. 2, 2003 (part))

17.64.050 Fee schedule.

A. Fee Schedule Established. A schedule of fees for all permits and applications as required in this title shall be set by town board.

B. Fee Remittance.

1. An application for a permit or other action for which a fee has been established in accordance with subsection A of this section shall be accompanied with such appropriate fee in order for such application to be deemed complete.

2. No action such as to grant permission, comment on, approve or disapprove an application pursuant to this title shall be taken without receipt by the town of the appropriate fee. (LL No. 2, 2003 (part))

Chapter 17.68

AMENDMENTS*

Sections:

17.68.010 Procedure.
17.68.020 Advisory report by planning board.
17.68.030 Petition by owners of fifty percent of frontage.
17.68.040 Public notice and hearing.
17.68.050 Protest by owners.
17.68.060 Decision by town board.

17.68.070 Notification of decision.

* Prior history: LL No. 2, 1997.

17.68.010 Procedure.

The town board may, from time to time, on its own motion, or on petition, or on recommendation from the planning board, amend the requirements and districts established under this chapter after public notice and hearing in each case. All proposed amendments of the requirements or districts in this chapter established shall be filed in writing in a form required by the town board. (LL No. 2, 2003 (part))

17.68.020 Advisory report by planning board.

Every proposed amendment, unless initiated by the planning board, shall be referred to the planning board. The planning board shall report in writing its recommendations thereon to the town board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the planning board fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the town board, the town board may act without such report. If the planning board recommends disapproval of the proposed amendment, or recommends modification thereof, the town board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action. (LL No. 2, 2003 (part))

17.68.030 Petition by owners of fifty percent of frontage.

Wherever the owners of lots having fifty (50) percent of the total cumulative road frontage in a district or a part thereof shall present a petition duly signed and acknowledged to the town board and requesting an amendment, supplement, change or repeal of the requirements prescribed for such district or part thereof, it shall be the duty of the town board to vote upon the petition within ninety (90) days after filing of the same by the petitioners with the town clerk. (LL No. 2, 2003 (part))

17.68.040 Public notice and hearing.

The town board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

A. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the town, not less than ten (10) days prior to the date of public hearing;

B. By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in a manner prescribed by title. (LL No. 2, 2003 (part))

17.68.050 Protest by owners.

A zoning amendment shall be passed by the favorable vote of at least a three-fourths majority vote of the town board if a protest against the proposed amendment is presented to the town board, duly signed and acknowledged by:

A. The owners of twenty (20) percent or more of the area of land included in such proposed amendment;

B. The owners of twenty (20) percent or more of the area of land immediately adjacent and extending a distances of one hundred (100) feet there from; or

C. By the owners of twenty (20) percent or more of the area of land directly opposite thereto and extending a distance of one hundred (100) feet from the street frontage of the land proposed for zoning amendment. (LL No. 2, 2003 (part))

17.68.060 Decision by town board.

The town board shall set the public hearing as required and shall render its decision within sixty (60) days of the receipt of the planning board's report. If the town board deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time. (LL No. 2, 2003 (part))

17.68.070 Notification of decision.

The town board shall provide notice of decision pursuant to town law. (LL No. 2, 2003 (part))

Chapter 17.72

TOWN OF BIG FLATS PLANNING BOARD LAW

Sections:

17.72.010 Title.
17.72.020 Authority.
17.72.030 Purpose.
17.72.040 Establishment of the planning board.
17.72.050 Eligibility.
17.72.060 Term of office.
17.72.065 Training and attendance requirements.
17.72.067 Lack of training not to affect validity of members' actions.
17.72.068 Removal procedures.
17.72.070 Compensation.
17.72.080 Procedures.
17.72.090 Powers.
17.72.100 Inconsistency.
17.72.110 Unconstitutionality and illegality.

17.72.010 Title.

This chapter shall be known as the "Town of Big Flats Planning Board Law." (LL No. 5, 2004 (part))

17.72.020 Authority.

This chapter is enacted pursuant to Town Law Section 271 and Municipal Home Rule Law Section 10. (LL No. 5, 2004 (part))

17.72.030 Purpose.

This chapter is enacted to establish a planning board for the town of Big Flats for purpose of securing, planning for and promoting the public health, comfort, convenience, safety, welfare, the environment, appropriate land use, and orderly development in and of the town of Big Flats. (LL No. 5, 2004 (part))

17.72.040 Establishment of the planning board.

There shall be a planning board of seven members, which shall have the powers and duties set forth in Town Law Section 271. (LL No. 5, 2004 (part))

17.72.050 Eligibility.

A. Membership on Other Boards. No person who is a member of the town board shall be eligible for membership on the planning board. No person shall be disqualified from serving as a member of the planning board by reason of serving as a member or employee of the Chemung County planning board or department.

B. Attendance and Training. Any planning board member who is absent, without excuse, for more than two consecutive meetings of the board shall be subject to removal for failure to attain minimum attendance requirements. All planning board members shall complete such training requirements, including seminars, conferences, videotapes, audiotapes, or reading, as may be prescribed by the town board by resolution or as required under Article 16 of the Town Law. (LL No. 5, 2004 (part))

17.72.060 Term of office.

A. Appointment. The town board shall appoint the members of the planning board by resolution. The terms of the members of the planning board shall be for seven years.

B. Vacancies. If a vacancy shall occur otherwise than by expiration of term, the town board shall appoint the new member for the unexpired term of the vacated office.

C. Alternate Member. Pursuant to Town Law Section 271(15)(a), the town board shall appoint, by resolution, an alternate member to the planning board to substitute for a regular member of the planning board in the event such regular member is unable to participate in matters before the planning board because of a conflict of interest, illness or other absence. (LL No. 2, 2006 (part): LL No. 5, 2004 (part))

17.72.065 Training and attendance requirements.

A. All members of the planning board shall be required to attend a minimum of seventy-five (75) percent of their board meetings scheduled within a calendar year.

B. Noncompliance with minimum requirements relating to attendance at meetings shall be deemed a proper cause for removal from office.

C. All members of the planning board shall be required to attend a minimum of five hours in relevant courses within two years from the date of their initial appointment to such board and thereafter attend training sessions of not less than two hours every year thereafter.

D. Noncompliance with minimum requirements relating to training shall be deemed a proper cause for removal from office.

E. The costs of such seminars, workshops or continuing education courses so designated shall be a town charge. Members shall also be reimbursed for travel and meal expenses according to town policies. Such training session shall be approved in advance by the town board.

F. Training sessions which relate to the duties of members of the planning board may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Department of Environmental Conservation, the Chemung County planning department, the New York State Planning Federation, and other such entities, as well as in-house updates or seminars. The town board, after discussion with the chairpersons of the planning board, shall annually designate such seminars, workshops, or continuing education courses which may be offered within a reasonable distance and which may be helpful to or of assistance to the planning board in carrying out its functions in a timely, fair and lawful manner. (LL No. 2, 2006 (part))

17.72.067 Lack of training not to affect validity of members' actions.

Notwithstanding the foregoing, the failure of a member of the planning board to attend the required percentage of meetings or obtain such training shall not affect said person's appointment to serve on such board, to entertain applications, to vote on such applications, or the validity of such member's actions. (LL No. 2, 2006 (part))

17.72.068 Removal procedures.

The chairperson of the planning board shall notify the town board in writing on or about December 1st in any year, or at any other time if warranted, of any member who fails to comply with the minimum requirements for meeting attendance and/or training in any calendar year. In the event a member of the planning board has failed to complete the minimum attendance and/or training requirements set forth in this chapter, then the town board may remove such member for cause as herein provided:

A. Notice. Such members shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements regarding training and attendance.

B. Public Hearing. Such notice shall specify a date, not less than ten (10) or more than thirty (30) days from the date of mailing such notice, when the town board shall convene and hold a public hearing on whether or not such member should be removed from service on such board. Such notice shall also specify the time and place of such hearing.

C. Public Notice. Public notice of such hearing shall be published in a paper of general circulation within the town at least ten (10) days prior to the date of the public hearing.

D. Conduct of Hearing. The public hearing on the charges shall be conducted before the town board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the town board shall be reduced to writing, together with specific findings of the town board with respect to each charge against such

member. Findings shall be filed in the town clerk's office and mailed to the member within five business days of such filing by certified mail, return receipt.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the minimum attendance and/or training established by this chapter, the town board may:

1. Remove such member from the planning board; or

2. Issue a written reprimand to such member without removing such member from such board; or

3. If the town board shall find the reasons for failing to meet the minimum meeting attendance and/or training requirements are excusable because of illness, injury or other good and sufficient cause, the town board may elect to take not action.

F. Nothing contained herein shall be deemed to limit or restrict the town board's authority to remove a member from the planning board for cause (i.e., for other than the reasons enumerated herein). The procedural rules established under this section shall govern any hearing to remove a member for such cause. (LL No. 2, 2006 (part))

17.72.070 Compensation.

The town board, by resolution, may provide for compensation to be paid to board members. (LL No. 5, 2004 (part))

17.72.080 Procedures.

A. Chairperson. The town board shall, by resolution, designate the chairperson of the planning board. In the absence of a chairperson, the planning board may designate a member to serve as chairperson.

B. Meetings. All meetings of the planning board shall be held at the call of the chairperson and at such other times as such board may determine. The concurring vote of a majority of the members of the board shall be necessary for the planning board to act.

C. Oaths. The chairperson, or in absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses.

D. Meetings, Minutes, Record. Meetings of the planning board shall be open to the public to the extent provided in Article Seven of the Public Officers Law. The planning board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

E. State Environmental Quality Review Act. The planning board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part 617 of the New York Codes, Rules and Regulations.

F. Hearings.

1. Time of Hearing. If a public hearing is required, the board shall schedule a hearing of all applications within the time permitted by the applicable ordinance, law, or regulation giving jurisdiction to the board in the manner.

2. Notice of Hearing. The board shall give notice of the hearing in the time and manner as provided by law. The board shall mail notices of the hearing to the parties, and if required by Section 239 of the General Municipal Law of the State of New York, to the county planning board.

3. Form of Notice. The notice shall state the name of the applicant, the location of the property involved, the general nature of the application involved, and the date, time and place of the hearing sought.

4. Proceedings. The planning board shall create its own rules and regulations pertaining to the conduct of such public hearings.

5. General Rules. Any party may appear in person or by agent or attorney.

6. Oaths. The chairman, or in his or her absence, the acting chairman, may administer oaths.

G. Procedures. The planning shall create and adopt its own rules and regulations, subject to the town board's review and approval, concerning the procedures to be utilized for matters submitted to, or reviewed by, the planning board. (LL No. 5, 2004 (part))

17.72.090 Powers.

The planning board shall have all the powers allowed under Article 16 of the Town Law and any provisions of the town code. (LL No. 5, 2004 (part))

17.72.100 Inconsistency.

All other local laws and ordinances of the town of Big Flats inconsistent with the provisions of this chapter are repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this chapter shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered by this chapter. (LL No. 5, 2004 (part))

17.72.110 Unconstitutionality and illegality.

If any clause, sentence, paragraph, word, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair, or invalidate any paragraph, word, section or part thereof not directly involved in the controversy in which such judgment shall have been rendered. (LL No. 5, 2004 (part))