New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
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Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

□County □City √Town □Village

(*select one*:)

of Brunswick

Introductory Local Law No. 4 of the year 2016

A LOCAL LAW ADOPTING THE TOWN OF BRUNSWICK ZONING LAW

Be it enacted by the Town Board of the Town of Brunswick as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF BRUNSWICK

INTRODUCTORY LOCAL LAW NO. 4 OF THE YEAR 2016

Be it enacted by the Town Board of the Town of Brunswick, Rensselaer County, New York, as follows:

SECTION I – ENACTMENT

A. The Zoning Ordinance of the Town of Brunswick, adopted in 1958 and amended thereafter from time to time, is hereby superseded and replaced in its entirety with the attached new Zoning Law of the Town of Brunswick, incorporated herein in full, to be identified as Chapter 160 of the Code of the Town of Brunswick.

B. This Local Law also supersedes and replaces Chapter 55 (Building Construction), Chapter 97 (Mobile Homes), and Chapter 125 (Signs) of the Code of the Town of Brunswick, Brunswick Local Law #1 of 1999 (Telecommunications Service Facilities), and the Town of Brunswick Site Plan Review Act.

C. All remaining provisions of the Code of the Town of Brunswick, to the extent inconsistent herewith, are hereby superseded.

SECTION II – AUTHORITY

This Local Law is enacted pursuant to the authority of Section 10 of the New York State Municipal Home Rule Law.

SECTION III – SEVERABILITY

If any part or provision of this local law is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in application to the part of provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this law even without such part of provision or application.

SECTION IV - EFFECTIVE DATE

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____of 20____of the (County)(City)(Town)(Village) of _____was duly passed by the _____on_____20_____, in accordance with the
(Name of Legislative body)
applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____of 20____of the (County)(City)(Town)(Village) of _____was duly passed by the _____on_____20_____, and was (approved)(not~~
~~*(Name of Legislative body)*~~
~~approved) (repassed after disapproval) by the _____ and was deemed duly adopted~~
~~*(Elective Chief Executive Officer*)*~~
~~on_____ 20_____in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____of 20____of the (County)(City)(Town)(Village) of _____was duly passed by the _____on_____20_____, and was (approved)(not~~
~~*(Name of Legislative body)*~~
~~approved) (repassed after disapproval) by the _____ on _____ 20_____.~~
~~*(Elective Chief Executive Officer*)*~~
~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20_____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____of 20____of the (County)(City)(Town)(Village) of _____was duly passed by the _____on_____20_____, and was (approved)(not~~
~~*(Name of Legislative body)*~~
~~approved) (repassed after disapproval) by the _____ on _____ 20_____.~~
~~*(Elective Chief Executive Officer*)*~~
~~Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20_____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~**5. (City local law concerning Charter revision proposed by petition.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____of 20____of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20_____, became operative.~~

~~**6. (County local law concerning adoption of Charter.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____of 20____of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20_____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

_____
Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal) Date:_____

Town of Brunswick Chapter 160 Zoning Law
Contents

ARTICLE 1: GENERAL PROVISIONS 5
§ 160-1. Title. 5
§ 160-2. Purpose. 5
§ 160-3. Authority. 5
§ 160-4. Jurisdiction. 5
§ 160-5. Severability. 5
§ 160-6. Supersession of inconsistent laws. 6
§ 160-7. Interpretation; conflict with other laws. 6
§ 160-8. Effect of existing violations. 6
§ 160-9. When effective. 6
§ 160-10. Fees. 6
ARTICLE 2: TERMINOLOGY & DEFINITIONS 7
§ 160-11. Interpretation and use of words. 7
§ 160-12. Definitions. 7
ARTICLE 3: ESTABLISHMENT OF DISTRICTS 32
§ 160-13. Zoning districts. 32
§ 160-14. Zoning map 32
§ 160-15. District purposes 32
§ 160-16. Interpretation of district boundaries 34
§ 160-17. Application of zoning district regulations. 34
ARTICLE 4: USE REGULATIONS 36
§ 160-18. District schedule of use regulations. 36
§ 160-19. General performance standards. 36
§ 160-20. Water supply and sewage disposal requirements. 37
ARTICLE 5: AREA AND BULK REGULATIONS 38
§ 160-21. District schedule of area and bulk regulations. 38
§ 160-22. Existing lots of record. 38
§ 160-23. Height exceptions. 38
§ 160-24. Corner lots. 39
§ 160-25. Architectural features permitted in required yards. 39
§ 160-26. Transition requirements between zoning districts. 39
§ 160-27. Lots on two districts. 39
ARTICLE 6: SUPPLEMENTARY REGULATIONS 40
§ 160-28. Applicability of supplemental regulations. 40
§ 160-29. Accessory structures. 40
§ 160-30. Adult use establishments. 40
§ 160-31. Agriculture. 42
§ 160-32. Keeping of farm animals on properties not containing farm operations 43
§ 160-33. Bed and breakfast establishment 43
§ 160-34. Car Washes. 44
§ 160-35. Day care centers, child and adult. 45
§ 160-36. Dispensing of gasoline. 45
§ 160-37. Driveways. 45
§ 160-38. Excavation as part of site preparation. 46
§ 160-39. Home occupation. 46
§ 160-40. Landscaping standards. 46
§ 160-41. Lighting regulations. 47
§ 160-42. Mobile Homes and Mobile Home Parks 50

§ 160-43. Motor Vehicle Repair Shop and Motor Vehicle Service Station 52
§ 160-44. Off-street parking and loading standards. 52
§ 160-45. Recreational Vehicle and Travel Trailers 56
§ 160-46. Required screening for nonresidential uses. 57
§ 160-47. Roadside stands. 57
§ 160-48. Solar collection systems, Small-scale 57
§ 160-49. Solar utility-scale collector system. 59
§ 160-50. Solid Waste Management Facilities. 61
§ 160-51. Swimming pools. 61
§ 160-52. Temporary Events 61
§ 160-53. Timber Harvesting, Commercial 61
§ 160-54. Wind Energy Conversion 63

ARTICLE 7: SITE PLAN REVIEW 71

§ 160-55. Site Plan General Provisions 71
§ 160-56. Site Plan Procedures 71
§ 160-57. Specific Site Plan Requirements 72
§ 160-58. Scope of Planning Board's Review of a Site Plan 73
§ 160-59. Documentation Required Prior to Approval 75
§ 160-60. Planning Board Action on Detailed Site Plan 75
§ 160.61. Expiration 76
§ 160.62. Reimbursable Costs 76

ARTICLE 8: SPECIAL USE PERMITS 77

§ 160-63. Special Use Permit General Provisions 77
§ 160-64. Special Use Permit Application Procedures. 77
§ 160-65. Special Use General Standards. 81

ARTICLE 9: PERSONAL WIRELESS TELECOMMUNICATION SERVICE FACILITIES 83

§ 160-66. Purpose. 83
§ 160-67. General Standards for Personal Wireless Telecommunications Service Facilities 83
§ 160-68. Application for Minor Personal Wireless Telecommunications Service Facility. 83
§ 160-69. Application for a Major Personal Wireless Telecommunications Service Facility. 84
§ 160-70. Specific Standards for Personal Wireless Telecommunications Service Facilities. 87
§ 160-71. Site Requirements. 87
§ 160-72. New Telecommunications Towers and Future Shared Use. 89
§ 160-73. Post-Installation Field Report. 89
§ 160-74. Removal. 89
§ 160-75. Evaluation by Independent Consultants. 89
§ 160-76. Required Inspections. 90
§ 160-77. Intermunicipal Notification 90
§ 160-78. Notification of Nearby Landowners. 91
§ 160-79. Certificate of Insurance Required. 91
§ 160-80. Continuing Compliance with FCC Radio-Frequency Emission Standards. 91
§ 160-81. Permitted Actions by the Planning Board. 91
§ 160-82. Exempted Telecommunications Facilities. 91
§ 160-83. Application Fee. 92

ARTICLE 10: SIGNS 93

§160-84. Purpose. 93
§160-85. General Regulations; Permitted Signs. 93
§160-86. Temporary Signs. 94
§160-87. Computation of number and sign area. 94
§160-88. Height limitations. 95
§160-89. Nonconforming signs. 95
§160-90. Permit required. 95
§160-91. Application information. 95
§160-92. Fee; tag. 96

§160-93. Maintenance; Revocation of Permit. 96
§160-94. Removal of Obsolete and Perilous Signs. 96

ARTICLE 11: STORMWATER 97

§160-95. Stormwater. 97

ARTICLE12: PLANNED DEVELOPMENT DISTRICTS 98

§160-96. Authority. 98
§160-97. PDD - Purpose, Effect, Authorized Uses, Applicability 98
§160-98. General Requirements and Design Standards 99
§160-99. PDD Application Procedures 102
§160-100. PDD Final Site Plan Procedures 107
§160-101. Infrastructure, Inspection and Security. 108
§160-102. Effect of Conditions. 110
§ 160-103. Expiration, Revocation, and Amendments. 110

ARTICLE 13: NONCONFORMING BUILDINGS, LOTS AND USES 111

§ 160-104. Regulations regarding nonconforming buildings, lots and uses. 111

ARTICLE 14: ADMINISTRATION 114

§160-105. Building Department. 114
§160-106. Planning Board 114
§160-107. Zoning Board of Appeals 115
§160-108. Building Permits 116
§160-109. Certificate of Occupancy & Certificate of Compliance 118
§160-110. Records 119
§160-111. Conflict of Interest 120
§160-112. Notice of Public Hearing 120
§160-113. Fees 120
§160-114. State Environmental Quality Review Act (SEQRA) 120

ARTICLE 15: ENFORCEMENT 121

§160-115. Buildings and Code Inspector 121
§160-116. Violations & Complaints 121
§160-117. Fines & Penalties 121
§160-118. Alternative or Additional Actions & Remedies 122
§160-119. Administrative Actions; Stop-work Orders 122
§160-120. Suspension of Administrative Review 123
§160-121. Misrepresentation 123

ARTICLE 16: AMENDMENTS 125

§160-122. Initiation 125
§160-123. Review by Planning Boards 125
§160-124. SEQRA Compliance 125
§160-125. Public Hearing and Notice 125
§160-126. Adoption 126
§160-127. Effective Date 127

ARTICLE 17: APPEALS AND VARIANCES 128

§160.128 General Rules – Interpretations and Variances 128
§160.129. Use Variances 128
§160.130. Area Variances 129
§160.131. Procedure for Appeals 129

ATTACHMENT 1: SCHEDULE OF USE REGULATIONS 132

ATTACHMENT 2: SCHEDULE OF AREA AND BULK REGULATIONS 135

ZONING MAP OF TOWN OF BRUNSWICK 136

ARTICLE 1: GENERAL PROVISIONS

The Town Board of the Town of Brunswick in the County of Rensselaer, State of New York does hereby enact as follows:

§ 160-1. Title.

This chapter shall be known and may be cited as the "Zoning Law of the Town of Brunswick," and is also referred to as the “Law”. The Town of Brunswick is hereinafter referred to as the "Town.”

§ 160-2. Purpose.

A. This Law establishing a comprehensive Zoning Law for the Town of Brunswick by dividing the Town into various districts and prescribing certain regulations for each of said districts for the purpose of the following:

(1) To protect the health and general welfare of the Town of Brunswick.

(2) To conserve the value of property and encourage the most appropriate use of land throughout the Town.

(3) To secure safety from fire, panic and other dangers.

(4) To facilitate the adequate provision of transportation, water, sewerage, parks, schools, and other public requirements.

(5) To conserve and improve the physical appearance of the Town.

(6) To foster appropriate economic development.

(7) To encourage the continuation of agricultural activities.

(8) To ensure that the design of new development protects open space, environmentally sensitive areas, community character, and other important natural resources in Brunswick.

(9) To guide the future growth and development of the Town in accordance with the Town of Brunswick Comprehensive Plan.

B. The size of buildings and other structures, the percentage of the lot that may be occupied, the size of yards and other open spaces, the density of population and the use of buildings, structures, other matters described herein and land designated for trade, commercial business operations, residence, agricultural or other purposes are hereby regulated as hereinafter provided.

§ 160-3. Authority.

This chapter is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York and the Town Law of the State of New York, in conformance with the Town of Brunswick Comprehensive Plan duly adopted by the Town Board.

§ 160-4. Jurisdiction.

These regulations govern the use, development, and protection of all land and structures within the unincorporated areas of the Town of Brunswick, New York, said territory being indicated on the Zoning Map on file at the Brunswick Town Hall. The map and its boundaries shall be incorporated and made part of this chapter.

§ 160-5. Severability.

If any article or specific part or provision or standard of this chapter or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application

thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

§ 160-6. Supersession of inconsistent laws.

The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the Town Law inconsistent with this chapter. The Town Law provisions intended to be superseded include all of Article 16 of Town Law, §§ 261 to 285 inclusive, and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this chapter and superseded such inconsistent provision had it been apparent.

§ 160-7. Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this chapter are inconsistent with the requirement of any other lawfully adopted rules, regulations, zoning laws or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

§ 160-8. Effect of existing violations.

No subdivision, site plan or special use permit shall be approved, no building permit, certificate of use, or certificate of occupancy issued, or variance granted under this chapter for any premises upon which there is an existing violation of this chapter or any related Town, county or state regulation governing either building construction, development or the use of land, buildings and structures within the Town of Brunswick. This limitation does not, however, prohibit such an approval, issuance, or grant with respect to a legal nonconforming use or legal nonconforming structure.

§ 160-9. When effective.

This chapter shall become effective immediately upon its filing in the office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, specifically § 27 of the Municipal Home Rule Law.

§ 160-10. Fees.

The Town Board reserves the right to impose such fees and expenses as may be determined to be appropriate and necessary for the administration and enforcement of this Zoning Law. The amount of such fees which shall be due and owing as set forth in this Zoning Law, including but not limited to Building Department fees, Town Board fees, Planning Board fees, and Zoning Board of Appeals fees, shall be determined by separate local law or resolution, and as may be amended from time to time by the Town Board.

ARTICLE 2: TERMINOLOGY & DEFINITIONS

§ 160-11. Interpretation and use of words.

A. For the purpose of these regulations, the following terms shall have the meaning given herein. The following terms shall be interpreted as follows:

(1) The masculine includes the feminine;

(2) The singular includes the plural and the present tense includes the future tense;

(3) The word "person" includes an individual, partnership, firm or corporation, limited liability company, business unit or organization of any kind, institution, trust, and federally recognized tribe;

(4) The word "shall" is always mandatory; the word “may” is permissive or discretionary;

(5) The word "lot" includes the word "plot" or "parcel;”

(6) The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied;"

(7) Any reference to a residence or residential district shall be interpreted to mean any district with the word "residence" in its title;

(8) A building or structure includes any part thereof;

(9) The words “zone,” “zoning district,” and “district” have the same meaning;

(10) The words “these regulations,” “the regulations,” “said regulations,” “the zoning regulations,” and “said zoning regulations,” shall be deemed to refer to the Zoning Regulations of the Town of Brunswick as may be amended.

§ 160-12. Definitions.

ABANDONMENT
To cease from actively using land or any premises for its intended use for a period greater than one year.

ACCESSORY APARTMENT
A permitted independent, subordinate dwelling unit, either in or added to an existing single-family detached dwelling, or building accessory thereto, which must include completely separate and independent cooking, eating, sanitation, and sleeping areas. Such a dwelling unit shall be clearly accessory and incidental to the principal dwelling and shall not be deemed to be a two-family dwelling.

ACCESSORY STRUCTURE
A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith and located in the same zoning district as the principal structure, and is without living quarters or cooking facilities. Accessory structures shall not include accessory apartments.

ACCESSORY USE
A use incidental to and customarily associated with a specific principal use, located on the same lot therewith and located in the same zoning district as the principal use.

ADULT USE
Any use or business that uses land, structures or premises for an adult oriented purpose by which the provisions of the Penal Law is required to restrict the access thereto by minors. Such establishments may include but are not limited to:

ADULT BOOKSTORE
A commercial establishment which, as one of its principal business purposes, offers "for sale or rental for any form of consideration" any one or more of the following:

(1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, which depict or describe specified anatomical areas.

(2) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specific sexual activities or specified anatomical areas.

ADULT CABARET
A nightclub, bar, restaurant or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3) Films, motion pictures, video cassettes, slide or other photographic reproductions, which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT MOTEL
A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(2) Offers sleeping room for rent for a period of time that is less than ten hours, or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER
A commercial establishment where (for any form of consideration) films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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

ADULT VIDEO STORE
See "adult bookstore."

NUDITY
The appearance of a human bare buttocks, anus, genitals or full female breasts.

SEMI-NUDE
A state of undress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portion of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER
A business or commercial enterprise that, as one of its primary business purposes offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or

(2) Activities between male and female persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS
An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS
The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES
Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

(3) Masturbation, actual or simulated.

(4) Excretory functions as part of or in connection with any of the activities set forth above.

STATE OF NUDITY
See "nudity."

AGRICULTURE
Agriculture shall include the following:

FARM OPERATION
Such use shall be consistent with New York State Agriculture and Markets Law and shall mean the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including but not limited to field crops, fruits, vegetables, horticultural specialties, livestock and livestock products, maple syrup, Christmas trees, aquaculture products, woody biomass, and apiary products; a farm operation also includes a "commercial equine operation," a "commercial horse boarding operation," a "timber operation," and a "compost, mulch or other biomass crops" as defined in this chapter and New York State Agriculture and Markets Law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

COMMERCIAL EQUINE OPERATION
Such use shall be consistent with New York State Agriculture and Markets Law and shall mean an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of

such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

COMMERCIAL HORSE BOARDING OPERATION

Such use shall be consistent with New York State Agriculture and Markets Law and shall mean an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

COMPOST, MULCH OR OTHER BIOMASS CROPS

Such use shall be consistent with New York State Agriculture and Markets Law and shall mean the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

TIMBER OPERATION

Such use shall be consistent with New York State Agriculture and Markets Law and shall mean the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

AGRIBUSINESS, ACCESSORY

Agribusiness uses shall be accessory and subordinate to an active farm operation as defined herein and by New York State Agriculture and Markets Law; agribusiness accessory uses include products or services which may be sold or rendered, and are limited to topsoil, mulch, compost, sand, gravel, feed, blacksmithing, processing and sales of farm products, butchering or slaughtering, and wood crafts; provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such accessory agribusiness does not exceed fifty per cent (50%) of the annual gross sales value of such crops, livestock or livestock products. Such agribusiness accessory uses shall support, promote, or sustain the active farm operation as defined herein.

AGRICULTURAL TOURISM
Accessory activities conducted on an active farm operation and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation, or active involvement in the farm operation. An agricultural tourism activity shall be secondary to the primary farm operation on a property. Agricultural tourism activities may be conducted in an accessory building or structure, and may include, but are not limited to, on-farm bed-and-breakfasts, farm-stay programs, u-pick operations, restaurants, farm stores, and pumpkin patches.

ALTERATIONS
As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERNATE ENERGY SYSTEM
Structure, equipment devices or construction techniques for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

AREA, BUILDING
The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

AREA, NET SITE
The total area within the property lines excluding external streets.

BAKERY
A building or structure utilized for the baking of breads and/or pastries for sale on and off the premises.

BANK OR FINANCIAL INSTITUTION
An establishment where the principal businesses is the receipt, disbursement or exchange of funds and currencies, such as: banks, savings and loans, credit unions, and automatic teller machines (ATMs); the institution may also provide related financial services to consumers. Drive-through services shall only be considered a permitted accessory use or a special use permit in designated districts.

BAR OR TAVERN
An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

BASEMENT
A story partly underground but having less than half of its clear height below the average level of the finished grade. A basement shall be counted as a story and for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

BED-AND-BREAKFAST (B&B)
An owner occupied residence that offers sleeping accommodations to guests in six (6) or fewer rooms for rent; breakfast is the only meal served and breakfast is served only to overnight guests.

BUFFER AREA; BUFFER ZONE
Open space, landscape areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another use or property. An appropriate buffer may vary depending on uses, districts, size, etc., and shall be determined by the board with approval jurisdiction over the application.

BUILDABLE AREA
The space remaining on a legal lot after the minimum yard, area and bulk requirements have been met.

BUILDING
A permanent, fixed structure intended for the shelter, housing, or enclosure of persons, animals or other property.

BUILDING, ACCESSORY
A building, the use of which is incidental to that of a main or principal building and located on the same lot therewith and located in the same zoning district as the principal building.

BUILDING COVERAGE
The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of the total lot area. Such coverage is to be measured at mean grade level and excludes uncovered porches, terraces, and steps.

BUILDING, FRONT LINE OF
The base line of the vertical plane, beyond which no portion of a building shall extend.

BUILDING, HEIGHT OF
The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck lines of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. When a lot fronts on two (2) or more streets of different levels, the lower street level shall be taken as the base for measuring the height of the building.

BUILDING PERMIT
A permit issued by the Buildings and Code Inspector authorizing the erection, construction, reconstruction, alteration, repair, conversion, or maintenance of any building, structure, or portion thereof. Such a permit shall not be issued without the signature of the Buildings and Code Inspector, certifying compliance with this law.

BUILDING, PRINCIPAL
The building in which the principal or primary use of the lot on which the building is located is conducted.

BULK REGULATIONS
Controls that establish the minimum or maximum size, height, and setback of buildings and/or structures on a lot.

CAMP, DAY
A tract of land, including accessory structures, devoted to primarily outdoor recreation uses but shall not include overnight accommodations for users.

CARPORT
A roofed accessory structure providing space for the parking of motor vehicles and enclosed on not more than three sides, and shall not include a private garage.

CAR WASH
A building, the use of which is devoted to the washing of and cleaning of the interior and exterior of motor vehicles, and may be accessory to a motor vehicle service station, including but not limited to one of the following types:

> **CAR WASH – CONVEYOR**
> A car wash facility where motor vehicles progress through the washing process pulled by a conveyor or by some alternate means other than power supplied from the motor vehicle.

CAR WASH – DRIVE-THROUGH
A car wash facility where motor vehicles are driven through the washing process under their own power.

CAR WASH – SELF-SERVICE
A car wash facility where automobiles are washed by the driver of the motor vehicle using machinery provided by the management of the facility.

CEMETERY
Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Funeral homes and mortuaries shall be included when operated within the boundary of such cemetery.

CELLAR
See "Basement."

CELL TOWER
See "Personal Wireless Telecommunication Tower."

CHANGE OF USE
When there is a change of use from one use category to another use category in the table of uses of this Law, or when a use has exceeded the scope of its original approval. A change in ownership or tenancy alone shall not be considered a change of use. When a change of use occurs, a new approval is required (e.g., site plan approval or special permit) and compliance with all applicable provisions of this Law and other applicable regulations will be required.

CLUB, CIVIC & SOCIAL/FRATERNAL
Buildings and facilities, owned or operated by a corporation, non-for-profit, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

COMMUNITY BUILDING
A publically owned building or structure used by the Town of Brunswick, any Town department, or branch of government, or for uses such as any library, museum, post office, police, rescue and/or fire stations that serve the public; such facilities may incidentally offer recreational, social, educational, and/or cultural activities but shall exclude all buildings and structures belonging to a religious organization or social and/or fraternal organization.

COMPREHENSIVE PLAN
The long-range plan intended to guide growth and development of the Town, expressing official policy on the course of its housing, public utilities, community facilities, transportation and land use distribution and intensity and adopted according to New York State Town Law § 272-a.

COVERAGE
That percentage of the plot or lot area covered by all structures, buildings, and accessory structures.

DAY CARE, CHILD AND ADULT
Shall mean care for a child or adult on a regular basis provided in a residence that is not the child's or adult's residence for less than 24 hours per day by someone other than the parent, step- parent, guardian, or relative within the third degree of consanguinity of the parents or step-parents of such child. For purposes of the Town of Brunswick Zoning Law, the following uses shall be considered a day care:

FAMILY DAY CARE HOME
Shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a residence for three to six children.

ADULT DAY CARE HOME
Shall mean a program caring for elderly and/or functionally impaired adults for more than three hours per day for less than six adults in a protective setting in a residence.

DAY CARE CENTER, CHILD AND ADULT
A place, other than an occupied residence, providing or designed to provide child day care or adult day care on a regular basis away from the child's or adult's residence for less than 24 hours per day by someone other than the parent, step- parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of such child or adult. For purposes of the Town of Brunswick Zoning Law, the following uses shall be considered a day care center:

CHILD DAY CARE CENTER
Means a program or facility which is not a residence in which child day care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise, except those programs providing care as a school-age child care program.

SMALL DAY CARE CENTER
Means a program or facility which is not a residence in which child day care is provided to three through six children for more than three hours per day per child for compensation.

ADULT DAY CARE FACILITY
A facility providing care for the elderly and/or functionally impaired adults for more than three hours per day for six or more adults in a protective setting outside a residence.

DISTRIBUTION CENTER
An establishment engaged in the receipt, short term storage, and distribution of goods, products, cargo, and materials.

DRIVE-THROUGH SERVICES
An establishment that dispenses products or services to patrons who remain in vehicles; drive-through services shall be considered an accessory use or special use permit and only permitted in designated districts.

DWELLING
Any building or portion thereof designed or used primarily as the residence or sleeping place of one or more persons. A dwelling shall include group homes but not a hotel, motel, hospital, nursing home, dormitory, fraternity or sorority house, or other similar structure under the terms of this Law.

DWELLING UNIT
Any single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING, MULTIFAMILY
A structure, or group of structures, each containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other. May include apartments, condominiums, townhouses, and cooperatives.

DWELLING, SENIOR
A dwelling unit as defined herein designated for older persons, as defined in the Federal Fair Housing Act.

DWELLING, SENIOR CONGREGATE
A dwelling as defined herein, where residents share common facilities which may include a common kitchen, dining room and living room with one or more residents. In congregate housing developments, services provided may include, but not be limited to, central food service, social service and referral consultation, housekeeping assistance and central laundry.

DWELLING, SINGLE-FAMILY
A detached building designed for or occupied by one family and containing not more than one dwelling unit, but shall not include a mobile home.

DWELLING, TWO-FAMILY
A detached or semidetached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors that are unpierced except for access to the outside or to a common cellar. Such use shall not include accessory apartments.

EQUINE USES

EQUESTRIAN OPERATION
Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club association, ranch or similar establishment but does not qualify as a “commercial equine operation” as defined herein.

HORSE BOARDING OPERATION
A horse boarding operation provides care, housing, health-related services and training to animals kept on the premises or on other properties owned or leased by the owner. Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded by the owner and uses for such activities, are part of the operation. Riding academies offering riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding and operations whose primary function is horse racing are not considered a horse boarding operation. A horse boarding operation does not qualify as a “commercial horse boarding operation” as defined herein.

EQUIPMENT FACILITY, SALES & SERVICE
A facility for the repair, maintenance, and sale of heavy equipment or trucks.

EXCAVATION
Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

FAMILY

A. Family shall be considered one of the following:

   (1) One, two or three persons occupying a dwelling unit; or

   (2) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

B. It shall be presumptive evidence that four or more persons living in a single dwelling unit who are all not related by blood, marriage, or legal adoption do not constitute the functional equivalent of a traditional family.

C. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

(1) The group is one which in theory, size, appearance, structure, and function resembles a traditional family unit;

(2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;

(3) The group shares expenses for food, rent, or ownership costs, utilities and other household expenses;

(4) The group is permanent and stable. Evidence of such permanency and stability may include:

(a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools;

(b) Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration, and filing of taxes;

(c) Members of the household are employed in the area;

(d) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;

(e) There is common ownership of furniture and appliances among the members of the household; and

(f) The group is not transient or temporary in nature;

(5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

FARM MARKET
A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and home-made handicrafts. At least eighty percent (80%) of the products sold must be grown or processed from the site or elsewhere by the owner of the property upon which the farm market is located.

FINANCIAL ASSURANCE
The reasonable economic assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit, for the purpose of insuring the performance of a party in fulfilling an obligation required by the Town of Brunswick.

FRONTAGE
That side of the lot adjacent to the street. A corner lot shall be considered to have two such frontages.

FRONT FACE OF BUILDING
The outer surface of the principal (main) building, measured linearly from corner to corner, which is visible from the main public street or highway. A secondary street, highway or drive shall not be considered frontage if the building is located on a corner property.

FUNERAL HOME OR MORTUARY
A building used for the preparation of the deceased for burial and the display and ceremonies connected therewith before burial or cremation.

GARAGE, COMMERCIAL
Any building or portion thereof, or accessory structure, other than a private garage, operated for gain and which is used for storage of motor vehicles, boats, recreational vehicle, travel trailer, and similar vehicles.

GARAGE, PRIVATE
A detached accessory building or portion of a principal building used or occupied for the parking or temporary storage of household goods, automobiles, recreational vehicles, travel trailers or boats of the occupants of the premises and wherein: (1) space is not rented for parking to persons not resident on the premises; and (2) no more than one vehicle used for commercial purposes per dwelling unit is parked.

GOLF COURSE
A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restaurant, bar, tavern, pro-shop, restrooms, driving range, and shelters as accessory uses.

GOVERNMENTAL BUILDINGS & FACILITIES
Any building, structure, premises or part thereof that is designed, constructed, or used for governmental or municipal purposes.

GRADE, FINISHED
The finished surface of the ground on a lot, including but not limited to lawns, landscaped areas, walks, driveways, and ground surface abutting buildings or structures at exterior walls, brought to finished grade as shown on a grading plan approved by the Town of Brunswick.

GREENHOUSE, ACCESSORY
An accessory building or structure, permanent or portable, which is used for the growth of flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products and is not a commercial enterprise.

GREENHOUSE, COMMERCIAL
An building or structure, permanent or portable, which is used for the growth of flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products to be sold at wholesale or retail.

GREENSPACE
An area designated for open space preservation, recreation (active or passive), landscaping or parkland.

GROUP HOME
A residential structure that is licensed to provide room, board, and supervised care, but not continuous nursing care, for unrelated adults over the age of seventeen (17). Shall include homes for: recovering substance abusers; the mentally and physically disabled; special needs populations such as pregnant/parenting teens and victims of domestic violence; and supervised foster homes. Such homes shall share a common kitchen, sanitary facilities and other common living facilities. Group homes, as defined herein, will not include institutional type facilities such as shelters, transitional housing, single room occupancy hotels, or facilities that include more than fourteen residents.

HOME OCCUPATION

Any personal or professional services customarily conducted entirely within a principal or accessory residential structure which use is clearly incidental and secondary to the use of the property for dwelling purposes and does not change the residential character, with no retail sales therein, and such use shall not exceed 30% of the total building floor space, excluding accessory and outbuildings. A home occupation is conducted primarily by a member of the family residing in the dwelling unit.

HOSPITAL
An institution licensed by the New York State Department of Health providing health services primarily for inpatients, and medical or surgical care to persons, primarily inpatient suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, including, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices. It does not include a sanitarium, clinic, rest home, nursing home, or convalescent home.

HOTEL
An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

IMPERVIOUS LOT COVERAGE
The percentage of the area of a lot that is covered by impervious surface.

IMPERVIOUS SURFACE
Any material that prevents absorption of stormwater into the ground such as buildings, parking lots, roads, drives, accessways, sidewalks, paved drainageways or other materials which prevent the percolation of stormwater into the soil.

INDUSTRIAL, HEAVY
A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials; may include the bulk storage and handling of such products and materials; includes manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that may potentially involve hazardous conditions.

INDUSTRIAL, LIGHT
A use that involves the manufacturing, production, processing, fabrication, assembly, treatment, repair, or packaging, of finished products, predominantly from previously prepared or refined materials, or from raw materials that do not need refining and are conducted wholly within an enclosed building. Warehousing, wholesaling, and distribution of the finished products produced at the site is allowed as part of this use. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc.

JUNKYARD OR DISMANTLING FACILITY
Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered motor vehicles or motor vehicles no longer in condition for legal use on public highways or in agricultural activities are held, whether for the purpose of resale of used parts, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise. Such term shall include any place of storage or deposit for such purposes of used parts, waste materials from the vehicle which taken together equal two or more such vehicles, provided that the term "junkyard" shall not be construed to mean an establishment having facilities for processing or crushing iron, steel or scrap. For the purpose of this definition, "motor vehicle" shall mean all vehicles propelled or drawn by power originally intended for use on public highways or in farming activities.

KENNEL
An establishment where dogs or cats are boarded for compensation or where dogs or cats are bred or raised for sale purposes.

LINE, STREET
The dividing line between the street or highway and the lot or abutting land.

LOT
A parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

LOT, CORNER
A parcel of land at the junction of and fronting on two or more intersecting streets, and shall have two front yards.

LOT, DEPTH OF
The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

LOT FRONTAGE
The linear length bordering the main public street or highway parallel to the front face of the building.

LOT, INTERIOR
A lot other than a corner lot, but shall include a through lot.

LOT, THROUGH
An interior lot having frontage on two (2) parallel or approximately parallel streets, having two front yard setbacks and no rear yard.

LOT, WIDTH OF
The horizontal distance between side-lot lines measured at the front of the existing or proposed principal structure parallel to the front lot line. No principal structure shall be constructed in that area of the lot less than the required lot width.

LOT LINES
The legally recorded boundary of a lot, tract, or other parcel of land which divides one lot from another or from a street or any public place.

LOT LINE, FRONT
The line separating the lot from a street, road, highway or right-of-way.

LOT LINE, REAR
The lot line opposite and most distant from the front line.

LOT LINE, SIDE
Any lot line other than a front or rear lot line. A side lot line separating a lot from a street, road or highway is called a "side street, road or highway lot line."

MINE
A lot or lots, or part thereof, used for the purpose of extracting a mineral or minerals for sale or exchange, or for commercial, industrial, or municipal use; including the preparation and processing of minerals, and any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, municipal, or construction use. A mine shall not include the excavation, removal and disposition of minerals from construction projects.

MIXED-USE STRUCTURE
A building in part for one use and in part for some other use or uses not accessory thereto, where all uses may be considered principal uses.

MOBILE HOME
A dwelling unit also known as manufactured homes, built to U.S. Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards designed for one family, which has the following characteristics:

A. Manufactured as a movable or portable dwelling unit for year-round occupancy and for installation on a masonry or concrete foundation or a mobile home stand, or piers, with or without a basement or cellar.

B. Designed to be transported on its own chassis and wheels and connected to utilities after placement on a stand, foundation, or piers.

C. May contain parts that can be folded, collapsed, or telescoped when being towed and expanded later to provide additional living space.

D. May be constructed in two or more separately towable components that are designed to be joined into one integral unit capable of being again separated into the components for repeated towing, such as a doublewide mobile home.

E. A modular home, as defined herein, is not considered a mobile home.

F. A mobile home shall only be allowed in a mobile home park or court, or as an approved residential and temporary dwelling unit associated with a farm operation as defined herein and by the New York State Department of Agricultural and Markets Law, or as an approved temporary residential dwelling unit pursuant to Brunswick Town Code Article 97.

MOBILE HOME LOT
A designated site of specific total land area within a mobile home park for the accommodation of one mobile home and its occupants.

MOBILE HOME PARK
Any parcel of land whereon two or more mobile homes are parked or located or which is planned and improved for the placement of two or more mobile homes and which is held open to the public for the parking or placement of mobile homes.

MODULAR HOME
A dwelling unit constructed off-site consisting of more than one segment designed to be permanently anchored to a foundation, to become a fixed part of the real estate, and which meets all of the standards of the New York State Building Code. A single modular housing unit is considered to be a single family dwelling for purposes of this law.

MOTOR VEHICLE REPAIR SHOP
An area of land, including structures thereon, intended, or designed for making repairs to motor vehicles, their mechanical systems and their body structure, including painting, but excluding the dispensing of gasoline or any other motor vehicle fuel.

MOTOR VEHICLE SALES
An area of land, including structures thereon, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used; service and repair of motor vehicles are allowed as an accessory use to motor vehicle sales.

MOTOR VEHICLE SERVICE STATION
An area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle minor accessories, and which may or may not include facilities for lubricating or otherwise servicing motor vehicles, but not including the painting thereof by any means. The dispensing of gasoline or other motor vehicle fuels shall require a special use permit.

MULTIFAMILY DWELLING
See "Dwelling, Multifamily."

NONCONFORMING:

NONCONFORMING LOT
Any lot, which lawfully existed on the effective date of this Chapter and fails to meet the area, shape, frontage or other applicable requirements of this chapter, shall be considered a legal nonconforming lot.

NONCONFORMING STRUCTURE
A structure that does not satisfy the dimensional or use requirements of this Law for the area in which it is located, but which was not in violation of applicable requirements when constructed and was lawfully erected pursuant to applicable permits and approvals.

NONCONFORMING USE
Any use lawfully existing prior to and at the time of the adoption or amendment of this Law, which use is not permitted by or does not conform to the permitted, permitted accessory, or special use permit provisions of this Law for the area in which it is located.

OCCUPANCY
The use of land, buildings or structures.

OFFICE, BUSINESS & PROFESSIONAL
Establishment used for the organizational or administrative aspects of a trade, or used in the conduct of a profession or business, and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers, consulting services, and persons with similar occupations; provided, however, that offices used by physicians or other similar medical personnel for the treatment and examination of patients shall be conducted solely on an outpatient basis with no overnight patients kept on the premises.

OFFICIAL MAP
The map established by the Town Board in accordance with New York State Town Law §270.

OPEN SPACE
An area of land set aside and designated in perpetuity for protection from development. Typically, such land is kept in its natural state or, in some instances, is improved for purposes of providing passive outdoor recreation, wildlife protection, community gardens, and agriculture or forest management. In some cases, areas utilized for active outdoor recreation may be included as open space but any area of land where buildings, structures, impermeable surfaces, such as parking lots, are situated shall not be considered as part of an open space area.

OPEN SPACE RECREATION USE
Any recreation use of an open space particularly oriented to and utilizing the outdoor character of an area, including but not limited to a snowmobile trail; a cross-country ski trail; hiking or backpacking trail; a bicycle trail; horse trail; a playground, picnic area, public park, or similar use.

PARKING SPACE UNIT

An off-street space available for the parking of one motor vehicle and having an area of not less than 162 square feet (nine feet by 18 feet).

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES
The provision of Personal Wireless Services, including but not limited to the provision of Commercial Mobile Radio Services such as cellular service, personal communications service (PCS) and specialized mobile radio services; unlicensed wireless services; and common carrier exchange access services, which services are regulated by the Federal Communications Commission in accordance with Section 704 of the Telecommunications Act of 1996.

FALL DOWN ZONE
The radius around a Telecommunications Tower within which all portions of the tower and antenna would fall in the event of a structural failure of the tower.

MAJOR PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY
Any Personal Wireless Telecommunications Service Facility that is not a Minor Personal Wireless Telecommunications Service Facility and/or requires the erection of a new Telecommunications Tower, proposed to be used for the provision of Personal Wireless Telecommunications Services.

MINOR PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY
Any Personal Wireless Telecommunications Service Facility installed on, in, or to an existing building or other existing structure including, but not limited to, an existing Telecommunications Tower, pole, other utility tower or pole, smokestack, steeple, water tank, silo, billboard or other signage or streetlight, comprised solely of antennas and ancillary and accessory telecommunications equipment, which do not individually, or in the aggregate, extend farther than twenty (20) feet above the highest point of the existing building or structure on which the Personal Wireless Telecommunications Service Facility is installed.

PERSONAL WIRELESS TELECOMUNICIATIONS ACCESSORY FACILITY
An accessory facility or structure or being used as part of Personal Wireless Telecommunications Service Facility and located on the same lot. Examples of an accessory facility are utility or transmission equipment storage sheds or cabinets.

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY
Any facility or equipment (including repeaters) used in connection with the provision of Personal Wireless Telecommunications, including but not limited to, antenna(s), ancillary and accessory telecommunications equipment, Telecommunications Towers and access.

TELECOMMUNICATIONS ANTENNA
An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC). Design examples for Telecommunications Antennas are (a) whip; (b) panel; and (c) dish.

TELECOMMUNICATIONS TOWER
Any freestanding tower, lattice structure or framework, monopole, or similar structure used for the provision of Personal Wireless Telecommunications Services and designed to support Personal Wireless Telecommunications Service transmission, receiving and relaying antennas and/or equipment.

100% CLEAR ZONE
The area where, in the event of a Telecommunications Tower failure, the entire height of the tower would fall completely within the boundaries for the property in which it is located.

PLANNED DEVELOPMENT DISTRICT (PDD)
A floating zoning district applicable throughout all districts in the Town pursuant to the review and approval procedures set forth in this chapter. Such district and the attendant review procedures allows for flexible, well-planned developments that are intended to incorporate a mixture of compatible uses that are beneficial to community needs and goals. A Planned Development District or PDD is considered a floating district in that the potential for one or more Planned Development Districts exists throughout the Town of Brunswick.

PLANNED SHOPPING CENTER
A group of four or more store units individually operated but architecturally connected on a single parcel of land.

PLANNING BOARD
The Planning Board of the Town, appointed by the Town Board pursuant to the NYS Town Law, having such powers and duties as are set out in the NYS Town Law, in this law and as lawfully may be further provided by the Town Board.

PLAT
A map showing a subdivision of land legally approved and recorded.

PROHIBITED USE
Any use which is not specifically provided for in this Law as a permitted, special permit, or permitted accessory use shall be considered a prohibited use under this Law.

RECREATIONAL FACILITY
An indoor or outdoor area or facilities designed and equipped for the conduct of sports and leisure-time activities. A commercial recreational facility is operated as a business and open to the public for a fee. May include recreational facilities such as golf courses, playgrounds, swimming pools, ice rink, tennis courts, waterpark, driving ranges, basketball courts, handball and racquets courts, baseball and softball fields, football fields, polo fields, running tracks, and riding rinks. Such uses may be accompanied by customary accessory uses, which may include food service facilities, meeting rooms, serving of alcoholic beverages, video or computer game facilities, video theater facilities, sales of sport or exercise-related equipment or clothing and other customary accessory uses.

RELIGIOUS USE
A building, facility, or main activity area wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

RESTAURANT
Any structure having as a principal use the preparation and dispensing of foods and beverages; drive-through services shall be a permitted accessory use in designated districts.

> **FOOD AND BEVERAGE SERVICE – OFF PREMISE**
> A business enterprise primarily engaged in the sale of quickly prepared food and beverages selected by patrons from a limited line of prepared specialized items, primarily for takeout, but may include on-premises consumption (in the latter case, where orders are placed at a counter as opposed to table service via a waiter/waitress, in a facility where the floor area available for dining is less than one-half the gross floor area, and a major portion of the sales to the public is at a drive-through or stand-up type counter). This term shall not include bakeries, delicatessens, or similar types of retail establishments.

FOOD AND BEVERAGE SERVICE – ON PREMISE
Any premises where food and beverages are commercially sold for primarily on-premises consumption to patrons seated at tables or counters and where table service is provided. Any facility without table service providing parking lot service to cars where the food is to be eaten outside of the structure and/or off the premises shall not be considered included in this term and shall be deemed to be a "Food and Beverage Service – Off Premise" for the purpose of this Law.

RETAIL ESTABLISHMENT
A commercial enterprise that provides goods and/or services directly to the consumer.

RETAIL ESTABLISHMENT, CONVENIENCE
A retail establishment that shall be a maximum of 5,000 square feet; the dispensing of gasoline or other fuels may be permitted as a special use permit.

RETAIL ESTABLISHMENT, LARGE
A retail establishment that is greater than 5,000 square feet; the dispensing of gasoline or other fuels may be permitted by special use permit. "Retail Establishment, Large" shall include a Planned Shopping Center.

RETAIL ESTABLISHMENT, LARGE PRODUCT
Establishments where goods are sold primarily at retail, but are large scale, where the display of such merchandise cannot necessarily be accomplished within a structure, and which requires a large amount of floor space. This includes equipment/heavy equipment, boats, recreation vehicles, machinery, and lumber yards. This does not include motor vehicle sales, or junkyards or dismantling facilities.

RETAIL ESTABLISHMENT, NEIGHBORHOOD
A retail establishment that shall be a maximum of 2,000 square feet and shall not include the dispensing of gasoline or other motor vehicle fuels.

ROADSIDE STAND
Buildings, structures, or vehicles totaling less than one-hundred (100) square feet in ground area for the sale of agricultural products and camp firewood. This definition does not include operations primarily for the sale of crafts or non-agricultural items.

SCHOOL, PUBLIC OR PRIVATE
Public and private schools that provide state-mandated primary and secondary generalized education in accordance with New York State Education Department (NYSED); and not schools for specialized activities, including but not limited to dance, music, and martial arts. Accessory uses to a school may include but are not limited to administrative offices, structures, equipment storage, fuel facilities, athletic playing fields, playgrounds, or parking lots.

SELF-STORAGE FACILITY
A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time and may include a dedicated area on the site for outdoor storage of recreational vehicles, boats, or other similar items. Such use shall not include a commercial garage.

SENIOR CITIZEN HOUSING & COMMUNITY
The Town of Brunswick shall consider the following uses when proposed in accordance with a Planned Development District (PDD) and complying with all such regulations found in §160-98 of this Chapter:

ASSISTED LIVING RESIDENCE
A senior citizen residential development as defined in Article 46-B of the Public Health Law of the State of New York.

SENIOR CITIZEN RESIDENTIAL DEVELOPMENT
A building or group of buildings, whether detached or connected, containing and are intended and operated for use as housing for persons who are 55 years of age or over, with common areas in multifamily or congregate dwellings owned and managed by a single management entity, together with normal and customary ancillary facilities or services for use by older persons. Senior citizen developments may also include single-family or two-family dwellings intended as housing for persons who are 55 years of age or over.

SEQRA
The State Environmental Quality Review Act (Environmental Conservation Law Article 8).

SIGN
Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out of doors or on the exterior of any building, including illuminated window signs over three square feet in area located within three feet of the window surface and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, and shall also include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person, business or cause when the same is placed in view of the general public.

ACCESSORY SIGN
Any sign related to a business or a profession conducted or to a commodity or service sold or offered upon the premises where such sign is located. A “non-accessory sign” means any sign unrelated to such business activity as above.

FREESTANDING SIGN
Any sign not attached or part of a building but separate by itself, and includes pole signs and masonry wall types.

ILLUMINATED SIGN
Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and includes reflective and phosphorescent light.

PROJECTING SIGN
Any sign which projects from the exterior of any building and is attached to that building.

SIGN SETBACK
The distance from the property line to the base of the structure, which may be either the main building or the sign support or each store entrance in the case of a planned shopping center.

SITE PLAN
A plan, drawing or map prepared to the specifications and containing the necessary elements, as set for the Section § 160-57 of this Law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan including, but not limited to, building locations, roads, parking areas, green space, and other site features.

SOLAR ACCESS
Space open to the sun and clear of overhangs or shade including the orientation of the streets and lots to the sun as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR ENERGY EQUIPMENT AND SYSTEMS
Solar collectors, controls, energy storage devices, and any other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy and is stored, protected from unnecessary dissipation and distributed. Solar energy systems include solar thermal, photovoltaic and concentrated solar.

ENERGY STORAGE DEVICE
A device that stores energy from the sun or another source and makes it available for use.

FLUSH-MOUNTED SOLAR PANEL
Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised for the direct conversion of solar energy into electricity.

FREESTANDING OR GROUND-MOUNTED SOLAR COLLECTOR SYSTEM
A solar collector system that is directly installed on the ground and is not attached or affixed to an existing structure and used for the direct conversion of solar energy into electricity.

ROOFTOP MOUNTED SOLAR COLLECTOR SYSTEM
A solar collector in which solar panels are mounted on top of a roof of a principal and/or an accessory structure either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle for the direct purpose of converting solar energy into electricity.

SMALL-SCALE SOLAR COLLECTOR SYSTEM
A solar energy system that is designed and/or built to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, and is constructed for the sale of excess power through an arrangement in accordance with New York Public Service Law 66-j or similar state or federal law or regulation.

SOLAR COLLECTOR SYSTEM – COMMERCIAL
A solar energy system that is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar use may include solar energy system equipment and uses, such as but not limited to supporting posts and frames, buildings and/or other structure(s), access drives, inverter equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.

SOLID WASTE MANAGEMENT FACILITIES
Any land used for the disposal or storage of solid waste material, including garbage, sewage, trash, rubble, construction debris, and all other kinds of organic or inorganic refuse by abandonment, discarding, dumping, reduction, burial, incineration, or any other similar means.

SPECIAL USE
A land use which is deemed permissible within a given zoning district or districts, but which may have the potential to exhibit characteristics or create impacts incompatible with the purposes of such district. The special

use shall, therefore, be subject to approval by the Planning Board in accordance with conditions set forth for such use, as well as other applicable provisions of this chapter.

STEEP SLOPES
All ground areas having a topographical gradient equal to or greater than 20%, measured by utilizing two-foot contours.

STORY
That portion of a building included between the finished floor of one floor and the finished floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF
A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

STORY, HEIGHT OF
The vertical distance from finished floor to the finished floor next above. The height of the topmost story is the distance from the top surface of the ceiling joists.

STREET
A suitably improved public or private right-of-way which affords the principal means of access to abutting property.

STREET, GRADE
The officially established grade of the street, measured at the centerline, upon which a lot fronts or in its absence the established grade of another street upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

STRUCTURE
A combination of materials assembled or constructed, for permanent or temporary purposes, in a manner that is safe and stable and shall include, but is not limited to, buildings, barns, towers, stadiums, platforms, trailers, radio towers, sheds, storage bins, fences, signs, and swimming pools.

SWIMMING POOL
Any outdoor structure or excavation, designed, manufactured or constructed for the purpose of containing water fro swimming, excluding working farm ponds.

TELECOMMUNICATIONS TOWER
See also “Personal Wireless Communication Services.”

TEMPORARY STRUCTURE
Any structure that:

A. Is not permanent by nature including but not limited to event tents, portable carports, and temporary storage and/or disposal containers.

B. Is not in place for more than eight consecutive months nor more than eight months in any twelve month period,

C. Is of a neutral or natural color to minimize visual impact to the surrounding area,

D. Does not involve any excavation, grading, piping or foundation construction as part of its placement and

E. Complies with setback requirements.

THEATER
A building or part of a building devoted to the showing of moving pictures, plays, musical entertainment, or other similar events for public entertainment on a paid admission basis.

THEATER, OUTDOOR DRIVE-IN
An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures of theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

TIMBER HARVESTING, COMMERCIAL
Timber harvest activity that fells trees whose volume in any year is greater than 20 standard cords of wood or 1,600 cubic feet of wood or 10,000 board feet of timber as measured by the International Log Rule. In addition to normal harvesting activities, the clearing of lands for agricultural or building purposes or utility line rights-of-way which shall fell trees greater than the aforesaid volumes shall specifically be included within this definition. Such use shall not be considered a "Timber Operation, Agricultural" as defined herein. In addition, the following definitions shall apply:

BOARD FOOT
A measure of lumber 12 inches by 12 inches by one inch thick.

CLEARCUTTING
A method of harvesting where virtually all trees on a site are removed.

DIAMETER LIMIT CUTTING
A method of harvesting where merchantable trees of a particular diameter or larger are cut.

HAUL ROADS
A constructed road of dirt and/or gravel utilized for moving cut trees from the point where they were loaded on a truck to an exit from the site.

INTERNATIONAL LOG RULE
A professionally recognized and accepted methodology for grading and measuring logs.

LANDINGS
An open or cleared area used for loading logs onto trucks or used for any general purpose such as for storing logs or for servicing equipment.

LOGGING SLASH AND DEBRIS
Any residue of trees or of the associated cutting left on the site after harvesting operation, including but not limited to undesirable tree trunks, tree tops and litter.

MINIMUM STUMP DIAMETER
The designated diameter of the stumps of trees to be cut, which diameter of the remaining stumps can be checked after the tree is cut.

PROFESSIONAL FORESTER
A graduate forester from an accredited forestry college who has at least two years of experience in the field of forest management or timber product harvesting.

SELECTION CUTTING
A method of harvesting where trees to be cut are selected and marked via some specified criteria before the harvesting begins.

SKID TRAIL
A trail or rough road used to move a tree from the place where it was cut to a pile or landing where it is loaded onto a truck.

STANDARD CORD
A cut pile of wood measuring four feet by four feet by eight feet.

STREAM
A body of running water flowing continuously or intermittently in a channel on the surface of the ground.

THINNING
A selective cutting or deadening of trees in an immature stand of trees for the purpose of upgrading the quality and/or growth of the trees left.

WATERBARS
Small humps or diversions for the purpose of erosion and sediment control built up across roads and landings which catch and divert runoff into adjacent vegetated areas and release the runoff in a nonerosive manner.

TRAVEL TRAILER
Shall mean a trailer built on a single chassis transportable upon the public streets and highways that is designed to be used as a temporary dwelling without a permanent foundation and may be used without being connected to utilities.

USE
The specific purpose for which land or a building is designed, arranged, intended, or for which it may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any non-conforming use.

USE, ACCESSORY
See also “Accessory Use.”

USE, PRINCIPAL
The main or primary use of the lot. Except for designated mixed use structures and planned development districts, only one principal use shall be permitted on a single lot.

USE, SPECIAL
See also “Special Use.”

URGENT CARE FACILITY
An institutional structure used for the delivery of ambulatory medical care outside of a hospital emergency department licensed by New York State Department of Health (NYSDOH) with only out patient services.

USE, NON-CONFORMING
See also, “Nonconforming Use”.

UTILITY, PUBLIC
Any person, firm, corporation, municipal department, or board duly authorized to furnish, and furnishing under state or municipal regulations to the public, electricity, gas, communication, water or sewer.

VARIANCE
A modification of the use and/or area and bulk regulations of this chapter in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or practical difficulty that would deprive the owner of a reasonable use of the land or structure. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconveniences or a desire to make more money.

VARIANCE, AREA
A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

VARIANCE, USE
A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

VETERINARY OFFICE AND CLINIC
Any structure where animals or pets are given medical or surgical treatment. Short-time boarding of animals shall be permitted as an accessory use and shall be only incidental to such hospital use.

WAREHOUSE OR STORAGE FACILITY
A use engaged in storage and/or distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive.

WHOLESALE BUSINESS
Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institution or professional business users, other wholesaler, or acting as agents or brokers and buying merchandise for or selling merchandise to, such individuals or companies. Such use shall exclude the wholesale of materials that are flammable or explosive or that present hazardous conditions.

WIND ENERGY CONVERSION SYSTEM (WECS)
Any device such as a turbine, windmill or charger that converts wind energy to a usable form of energy. WECS shall fall within two (2) classifications: small or commercial.

WIND ENERGY CONVERSION – SMALL
A small WECS shall produce energy to used only by the primary residence, business or agricultural operation and is intended primarily to reduce on-site consumption of utility power and is not intended for commercial profit. A small WECS shall consist of a wind turbine, a tower, and associated controls or conversion electronics, and shall have a rated capacity of not more than 100 kW.

WIND ENERGY CONVERSION SYSTEM – UTILITY
Any utility-scale WECS that has a rated capacity of more than 100 kW or is designed and/or built to provide electricity to the electric utility's power grid as an ongoing commercial enterprise, or for commercial profit, or designed to distribute electrical power generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale WECS shall include one or more wind turbines, towers, and associated controls or conversion electronics.

AMBIENT NOISE
Amount of noise in the natural background at any given time.

FLICKER OR SHADOW FLICKER
The motion of the shadow of wind turbine blades as they rotate.

WECS, HEIGHT
The total height of a structure from natural grade to the tip of the blade at extreme vertical position.

YARD
An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT
That portion of a yard situated between the street line and the front line of a building.

YARD, REAR
That portion of a yard situated between the rear lot line and the rear line of a building.

YARD, SIDE
That portion of a lot situated between the side lot line and the nearest side line of a building and extending from the rear line of the front yard to the front line of the rear yard.

ZONING BOARD OF APPEALS
The Zoning Board of Appeals (ZBA) of the Town, appointed by the Town Board pursuant to the NYS Town Law, having such powers and duties as are set out in the NYS Town Law, in this law and as lawfully may be further provided by the Town Board.

ARTICLE 3: ESTABLISHMENT OF DISTRICTS

§ 160-13. Zoning districts.

A. For the purposes of this chapter, the Town of Brunswick hereby establishes and divides the Town into zoning districts. The intent of the zoning districts is to guide both the conservation and development of the Town's land and water resources in harmony with the Town Comprehensive Plan and any locally or state-designated protected resources and critical environmental areas. In addition to the zoning districts, this chapter also establishes overlay districts, which add additional requirements to protect unique resources or to encourage specific types of development.

B. The Town of Brunswick is hereby divided into the following districts:

A-40	Agricultural District
AO	Agricultural Overlay District
R-40	Residential 40,000 District
R-25	Residential 25,000 District
R-15	Residential 15,000 District
R-9	Residential 9,000 District
BL	Business Light District
BL-O	Business Light Overlay District
B-15	Commercial District
H	Hamlet District
IND-L	Industrial Light District
IND-H	Industrial Heavy District
REC	Recreational District
PDD	Planned Development District

§ 160-14. Zoning map

Said districts are bounded and defined as indicated on a map titled “Zoning Map of the Town of Brunswick” adopted by the Town of Brunswick and which, with all explanatory matter thereon, as herein and hereafter amended, is hereby made a part of this law.

§ 160-15. District purposes

A. Agricultural (A-40) District Purpose and Intent. The A-40 District is a low-density agricultural and residentially zoned district. The land included in this district is considered to be well suited for agriculture and may have substantial environmental constraints, including steep slopes, erodible soils, water quality, and ecologically sensitive areas that significantly affect the development potential and development pattern of the land. Such lands are typically not served by municipal water or sewer. Development within this district should seek to protect open space, the Town’s rural character and agricultural resources from negative impacts in accordance with the Town's Comprehensive Plan.

B. Agricultural Overlay (A) District Purpose and Intent. The AO District is intended to encourage and protect agricultural uses on lands currently designated as an Agricultural District by Rensselaer County or as a farm operation by New York State Agriculture and Markets Law (AM). Such agricultural lands shall be encouraged in accordance with the Town's Comprehensive Plan.

C. Residential 40,000 (R-40) District Purpose and Intent. The R-40 District is a moderate/low-density residentially zoned district. The land included in this district has some environmental limitations, although not to the degree as found in the A-40 District, including steep slopes, wetlands, and floodplains. The area is comprised of primarily suburban style single-family neighborhoods on larger residential lots. Some existing neighborhoods within this district are currently serviced by public water. Development shall maintain the existing character and single-family land use pattern in accordance with the Town's Comprehensive Plan.

D. Residential 25,000 (R-25) District Purpose and Intent. The R-25 District encompasses an area generally built up with residential uses in a moderate density development pattern. Minimum lot sizes are 25,000 square. Future development shall not negatively impact the character of the residential areas and shall be in accordance with the Town's Comprehensive Plan.

E. Residential 15,000 (R-15) District Purpose and Intent. The R-15 District encompasses an area generally built up with residential uses in a higher density land use pattern currently serviced by public water and/or sewer. Minimum lot sizes are 15,000 square feet and include established smaller lot residential neighborhoods. Designated pedestrian walkways to connect neighborhoods, parks, and nearby commercial areas should be considered a priority for both quality of life and safety reasons in this district. Development shall be in accordance with the Town's Comprehensive Plan.

F. Residential 9,000 (R-9) District Purpose and Intent. The R-9 District is encompasses an area generally built up with residential uses in a higher density land use pattern currently serviced by public water and/or sewer. Minimum lot sizes are 9,000 square feet and include established smaller lot residential neighborhoods. Designated pedestrian walkways to connect neighborhoods, parks, and nearby commercial areas should be considered a priority for both quality of life and safety reasons in this district. Development shall be in accordance with the Town's Comprehensive Plan.

G. Hamlet District (H) Purpose and Intent. The H District is established to encourage mixed-use development that balances residential and compatible, low-impact commercial/retail, professional offices, schools, community services, civic uses, historic interpretive areas, and parks to promote attractive and architecturally compatible development. New infill development shall be compatible with existing land uses, prevailing architectural styles and scale in proximity to residential neighborhoods in accordance with the Comprehensive Plan.

H. Business Light (BL) District Purpose and Intent. The BL District is intended to support low density single-family residential development while providing opportunity low density and/or low intensity commercial development to expand economic development opportunities for the Town in accordance with the Town’s Comprehensive Plan. Where appropriate, introducing pedestrian-friendly amenities such as sidewalks, crosswalks, widened road shoulders, and/or traffic-calming measures will temper potential traffic impacts, and connecting existing and future businesses with new parallel access roads will solve traffic conflicts. Wherever feasible, shared driveways and parking areas to minimize curb cuts and increase pedestrian linkages between the businesses and the adjacent neighborhoods should be encouraged to allow safe access for all users in accordance with the Comprehensive Plan.

I. Business Light Overlay (BL-O) District Purpose and Intent. The BL-O District is intended to support low density single-family residential development while providing opportunity low density and/or low intensity commercial development to expand economic development opportunities for the Town in accordance with the Town’s Comprehensive Plan. The Overlay District allows for uses that can co-exist comfortably through site design with established agricultural operations and existing single-family residences. Consideration during the site planning process should be given to both size and character of new commercial establishments to ensure that building appearances, signage, lighting and landscaping are compatible and respect the rural nature of the surrounding area in accordance with the Comprehensive Plan.

J. Business (B-15) District Purpose and Intent. The B-15 District is the Town’s core commercial area with a wide range of small and large scale retail, commercial and professional services. While the area is commonly auto-oriented in design and scale, the Town should encourage pedestrian connections between all commercial developments and surrounding neighborhoods including installation of pedestrian walkways and crosswalks where appropriate in accordance with the Town’s Comprehensive Plan. The B-15 District shall maximize economic development potential by encouraging infill, reuse and expansion of related businesses.

K. Industrial Light (IND-L) District Purpose and Intent. The IND-L District corresponds to areas that have been, or are intended to be developed for light industrial facilities. Appropriate light industrial businesses shall be encouraged. Development standards shall ensure adequate buffering between incompatible uses and to protect environmental resources and adjacent residential uses in accordance with the Comprehensive Plan.

L. Industrial Heavy (IND-H) District Purpose and Intent. The IND-H District corresponds to areas that have been, or are intended to be developed for heavy industrial uses and other appropriate services. Extractive mineral

operations are allowed, provided all requisite permits are obtained from the New York State Department of Environmental Conservation and the Town of Brunswick to conduct such activities. Such uses shall be encouraged with tolerable levels of noise, dust, odor, vibration or smoke in accordance with the Town's Comprehensive Plan.

M. Recreational (REC) District Purpose and Intent. The REC District is intended to protect, preserve, enhance and/or restore recreational and open space resources in the Town through public and private entities. Such lands are intended to encourage a mix of recreational and community service opportunity consistent with the Comprehensive Plan.

N. Planned Development (PDD) District Purpose and Intent. The PDD District is intended to provide for flexible land development and/or flexible mix of land uses in accordance of the regulations of this Chapter and in accordance with the Town's Comprehensive Plan.

§ 160-16. Interpretation of district boundaries

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

A. Distances shown on the zoning map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines, in all cases where distances are given, are parallel to the street line.

B. Boundaries indicated as approximately following the center lines of streets, highways, alleys or utility/railroad rights-of-way shall be construed to follow such center lines of the right-of-way.

C. Boundaries indicated as approximately following Town limits shall be construed as following such Town limits.

D. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

E. Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.

F. Boundaries indicated as approximately following the center lines of streams, rivers, ponds or other bodies of water shall be construed to follow such center lines.

G. Boundaries indicated as parallel to or extensions of features indicated in Subsections B through F above shall be so construed.

H. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

I. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by Subsections B through H above, the Zoning Board of Appeals shall interpret district boundaries.

J. If the district classification of any land is in question, it shall be deemed to be in the more restrictive of the two districts or in the district in which higher standards are imposed.

§ 160-17. Application of zoning district regulations.

Except as hereinafter otherwise provided:

A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, moved, altered, reconstructed or enlarged for any purpose except in conformance with the regulations herein specified for the district in which it is located.

B. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.

C. No yard or lot existing at the time of the passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter, with such lots established in full accordance with the requirements of the Town's Land Subdivision Regulations and other land use controls.

D. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use except as otherwise provided for in this chapter.

E. No off-street parking or loading space shall be so reduced in area that it does not meet the minimum requirements of this chapter.

F. Except as otherwise specifically provided by this chapter, there shall be no more than one principal building or one principal use and its accessory structures or uses on any one lot within any district. Minor personal wireless communication service facilities, small-scale solar energy equipment and systems, and small-scale wind energy conversion systems shall not be considered a principal use if located on a lot with an existing principal use.

G. Yards, as required herein, shall not be used for the storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material. Signs shall be permitted in accordance with the provisions of this chapter.

H. Unless stated otherwise, within each district, the requirements set forth by this chapter shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land.

§ 160-18. District schedule of use regulations.

A. The general use regulations in each zoning district are set forth in the tabular District Schedule of Use Regulations at the end of this chapter. The uses permitted in the Town are subject to, as appropriate, other provisions of this chapter, including, but not limited to, the supplementary regulations set forth in Article 6, the special use permit standards set forth in Article 8, the site plan review and approval requirements set forth in Article 7.

B. Any use not listed specifically within the District Schedule of Use Regulations shall be considered a prohibited use in all districts under this chapter. Where permitted or special use permits are identified by generic words or descriptions, the Zoning Board of Appeals shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Zoning Board of Appeals shall consider to what extent the proposed use is similar to the class of use indicated in the District Schedule of Use Regulations. If a use is specifically listed elsewhere in the District Schedule of Use Regulations, it is excluded from a generic classification.

C. Symbols used on the District Schedule of Use Regulations shall be interpreted as follows:

P Permitted principal use in specified district. Permitted principal uses usually require a building permit, certificate of use and/or certificate of occupancy from the Town Buildings and Code Inspector (see Article 14. Such uses shall also require site plan review and approval by the Planning Board unless exempt under § 160-55 and may be subject to the special requirements identified in the final column of the District Schedule of Use Regulations.

PA Permitted accessory uses in specified district. All permitted accessory uses noted on the Schedule of Use Regulations shall meet any additional requirements for accessory uses in accordance with this chapter.

SP Special Permit is an authorization for a use which is permitted, subject to adherence to the general standards enumerated in Article 8, § 160-63, and, as applicable, any additional specific standards for the use enumerated in this chapter, as long as such use is in harmony with the Zoning Law, will not adversely affect the neighborhood if such standards are met, and has been approved in a manner required by this chapter for the specified district.

D. All land uses in the Town of Brunswick shall conform with the District Schedule of Use Regulations.

§ 160-19. General performance standards.

No use shall be permitted which does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other Local, County, State and Federal laws, regulations and ordinances. These standards are not intended to impede usual agricultural or residential activities.

A. The emission of dust, dirt, smoke, fly ash, odor, or noxious gases, which creates a nuisance or could cause damage to the health of persons, animals, plant life of other forms of property, is prohibited. This standard is not intended to restrict the normal use of residential heating units (including but not limited to outdoor furnaces or boilers) provided they are operated in conformance with any relevant State regulations, standards or guidelines.

B. No glare shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. Exterior illumination shall be shaded and directed downwards to prevent glare or traffic hazard on surrounding properties and streets.

C. There shall be no discharge or injection of any material of any nature into any wetland, watercourse, or public or private disposal system or into the ground, which may degrade water quality or contaminate any water supply or otherwise endanger health, property, or the environment.

D. No activity shall create a physical hazard by reason of fire, explosion, radiation, electromagnetic disturbance, or other such cause to persons or property in the same or in an adjacent district.

E. There shall be no storage of any material, either indoors or out, in such a manner that it facilitates the breeding of vermin or endangers the health or environment.

F. Ponding of water shall be avoided unless it is proposed within the site plan in which event there shall be sufficient water flow to maintain water levels and to avoid stagnation.

G. The manufacture, use, storage, or discharge of any products, materials or byproducts subject to these regulations, such as wastewater, solid waste, hazardous materials, or any pollutant, must conform to the requirements of this Law and all other applicable local, state and federal laws, rules and regulations. Any person who is responsible for a discharge of a hazardous substance, hazardous waste, petroleum product, or radioactive material within the Town shall immediately notify the Town Buildings and Code Inspector and the NYSDEC as appropriate, of such discharge.

§ 160-20. Water supply and sewage disposal requirements.

No person shall undertake to construct any building or structure intended for human occupancy, whether a principal, converted, or an accessory structure, within the Town of Brunswick without first meeting the requirements for a system or facilities for both a potable water supply and the separate disposal of sewage and domestic or trade wastes in accordance with the applicable regulations of the Town of Brunswick, the Rensselaer County Health Department and the New York State Departments of Health and Environmental Conservation.

§ 160-21. District schedule of area and bulk regulations.

A. The general area and bulk regulations in each zoning district are set forth in the tabular District Schedule of Area and Bulk Regulations at the end of this chapter. The schedule is supplemented, as appropriate, by other provisions of this chapter, including the supplementary regulations found in Article 6 and the general and additional specific standards required by Article 4 160-19 of this chapter.

B. All land uses within the Town of Brunswick shall conform to the District Schedule of Area and Bulk Regulations.

§ 160-22. Existing lots of record.

A. Existing nonconforming lots of record. A building or structure may be erected as a permitted use on any existing lot of record which, as defined in Article 2 and regulated in Article 13 of this chapter, does not conform to the lot area requirements of the District Schedule of Area and Bulk Regulations, provided that:

(1) Section 265-a of the New York State Town Law is complied with if applicable to the specific lot.

(2) Such lot may not be used for more than one dwelling unit and its associated accessory structures unless specifically authorized under this chapter, including accessory dwelling units and other ancillary and related dwellings created under the special use permit requirements of Article 8 of this chapter.

(3) Such use shall satisfy all applicable requirements of the Town of Brunswick, Rensselaer County, and the New York State Departments of Health and Environmental Conservation for potable water supply and sewage disposal facilities.

(4) All other area and bulk regulations and other applicable provisions of the Town Code are complied with, unless modified by section 160-104.

(5) Such lot was lawfully in existence on the effective date of this chapter.

B. Development of Existing Lots. Other provisions of this law notwithstanding, nothing shall prohibit the use of a lot of less than the required area and width for a single family dwelling in any district where permitted, provided that all the other provisions of this law are complied with, when such lot, at the time of the passage of this law, was owned, or under contract to purchase, by persons other than those owning or leasing any adjoining lot.

§ 160-23. Height exceptions.

A. The height limitations set forth in the District Schedule of Area and Bulk Regulations shall be applicable to principal and accessory buildings and structures. Building elements, such as roof air conditioners or elevator shafts that have the potential to detract from the aesthetics of the building's architecture, should be designed to appear as if they are an integral architectural element of the structure. No structure, or other exception, shall be used as a place for habitation or for signage not otherwise authorized by this chapter. The height limitations shall not be applicable to the following:

(1) Flagpoles, chimneys, towers, or similar structures shall not exceed 80 feet in height above average finished grade at its base. There shall be no height limitation on barns, silos and other farm structures. Special height requirements apply to communications towers found in Article 9, § 160-70.

(2) Spires, belfries, chimneys, cupolas, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, air-conditioning units or similar small-scale structures that are not to be used for human occupancy, which in their aggregate coverage occupy no more than 10% of the roof area of the building of which they are an integral architectural or mechanical element. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended and shall not detract from the visual appearance of the structure as determined by the Planning Board.

(3) The Town of Brunswick encourages the use of non-fossil-fuel energy systems such as solar collectors and wind generators. Special height and other regulations apply to solar collectors in accordance with Article 6, § 160-48 and § 160-49, and to wind generators in accordance with Article 6, § 160-54.

§ 160-24. Corner lots.

A. Required front yards. On a corner lot, each street frontage shall be deemed to be a front lot line, and the required yard along each such lot line shall be a required front yard. However, the above notwithstanding, for purposes of this chapter, no lot shall be interpreted to have more than two front yards regardless of how such lot is located or configured. The Town Buildings and Code Inspector, in consultation with the owner, shall establish which of the remaining yards shall be the required side yard and the required rear yard for purposes of this chapter.

B. Obstructions at street intersections. For traffic safety purposes, at all street intersections, no obstructions to vision such as a fence, gate, wall, hedge, structure or planting over three feet higher than the street grade shall be erected or installed and maintained.

§ 160-25. Architectural features permitted in required yards.

The following architectural features of a building may extend into a required yard subject to the limitations provided herein:

A. Ordinary projections of window sills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than three feet into any required yard;

B. Chimneys or pilasters;

C. Open arbor or trellis;

D. Unroofed steps, patio or terrace not less than 20 feet from the highway right-of-way nor less than 10 feet from any side or rear lot line, provided that the building complies with the yard requirements of this chapter and that no objectionable or offensive lighting inhibits the reasonable enjoyment of neighboring properties;

E. Awning or movable canopy not to exceed 10 feet in height, nor projecting more than six feet into any required yard; and

F. Required exterior fire stairways on the side or rear of a building and extending not more than eight feet from the principal building or closer than five feet to any lot line.

G. Bay windows, including their cornices and eaves, may project into any required yard not more than three feet; provided, however, that the sum of such projections on any wall does not exceed 1/3 of the length of said wall.

§ 160-26. Transition requirements between zoning districts.

Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted zoning district, there shall be provided along both sides of such abutting lot line or lines side or rear yards equal to those required in the more restricted zoning district.

§ 160-27. Lots on two districts.

Where a district boundary line divided a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion provided the lot has frontage on a street in the less restricted district.

§ 160-28. Applicability of supplemental regulations.

The following supplementary regulations are applicable to all zoning districts within the Town of Brunswick unless otherwise provided herein.

§ 160-29. Accessory structures.

A. Except for structures used for agricultural purposes when conducted using sound agricultural practices as defined by the New York State Department of Agriculture and Markets and for bona fide works of art such as sculptures, the following limitations shall apply to all accessory structures as defined in Article 2 of this chapter:

(1) No such structure shall exceed 20 feet in height in any residential district.

(2) No such structure shall be set back less than 10 feet from any lot line.

(3) Except for agricultural structures, no such structure shall project closer to the fronting street than the principal building on the lot.

(4) All roofed accessory structures, except for agricultural buildings, shall in the aggregate comprise not more floor area than either the principal building on the lot or 1,500 square feet, whichever is more restrictive.

(5) All such structures in the aggregate shall not occupy more than 20% or, in the case of roofed structures, more than 1,000 square feet of any required yard.

(6) Not more than three such accessory structures, other than a permitted sign or agricultural buildings, of which no more than one shall be a private garage, shall be permitted on an individual lot in a residential district. In the event the lot exceeds 10 acres, additional accessory structures may be sited if a special use permit is granted in accordance with Article 8 of this chapter.

B. A single portable accessory building with a maximum floor area of 80 square feet may be installed or constructed and used on any lot without the issuance of a building permit or certificate of occupancy, provided that:

(1) The structure does not have a permanent foundation.

(2) The structure is not served by any utility such as electricity, gas or plumbing.

(3) The structure does not exceed 10 feet in height.

(4) The structure is never used for human habitation.

(5) All other requirements of this chapter related to accessory structures are fully met.

C. Fences, gates and walls may be located in required yard areas where in full compliance with the standards provided within this chapter.

§ 160-30. Adult use establishments.

A. Legislative intent. It is the purpose of this section to regulate the creation, opening, commencement and/or operation of adult use and entertainment establishments, as herein defined, in order to achieve the following:

(1) To preserve the character and the quality of life in the Town of Brunswick's neighborhoods and business areas.

(2) To control documented harmful and adverse secondary effects of adult uses on the surrounding areas, such as decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.

(3) To restrict minors' access to adult uses.

(4) To maintain the general welfare and safety of the Town of Brunswick's residents.

B. Purposes and considerations.

(1) In the execution of this section, it is recognized that there are some uses that, by their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are increased by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.

(2) It is further declared that the location of these uses in regard to areas where Brunswick's youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Brunswick.

(3) The intent of this section is to provide adult entertainment uses without compromising the character of the neighborhood.

(4) This will be achieved through lighting being reflected away from abutting roadways and adjoining properties, and limiting these facilities to large parcels of property in order to maintain the visual and aesthetic environment, as well as provide adequate distances to protect neighbors from noise, obnoxious traffic, lights and other deleterious impacts. It is further declared that the location of these uses in regard to areas where Brunswick's youth may regularly assemble and the general atmosphere encompassing their operation is of great concern.

(5) No amplifiers or loudspeakers of any type shall be installed outside the building.

(6) There shall be a fifty-foot landscaped area along the entire highway frontage, except for necessary drives and sidewalks.

C. Adult uses shall be an allowed only pursuant to the issuance of a special permit and subject to the following restrictions:

(1) An adult use may not be operated within five hundred (500) feet of

(a) A church, synagogue or regular place of worship;

(b) A public or private elementary or secondary school or licensed child day care center;

(c) A public park; or

(d) A nursery school.

(2) An adult use may not be operated within two hundred fifty (250) feet of a residence.

(3) An adult use may not be operated within five hundred (500) feet of another adult use or on the same lot or parcel of land.

(4) An adult use may not be operated in the same building, structure or portion thereof containing another adult use.

D. For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school or licensed child day care center or the nearest boundary of an affected public park or residential lot.

E. All adult uses shall be conducted in an enclosed building. Regardless of location, the premises must be arranged or constructed in such a fashion that the public shall not be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area of activity. This requirement shall apply to any display, decoration, sign, window or other opening.

F. Signage shall only include the name of the establishment. No description in words, phrases, characters, or other form of any specified anatomical area or any specified sexual activity shall be permitted on any display, decoration, sign, window or other opening.

§ 160-31. Agriculture.

Agriculture and farm operations, as specifically defined in Article 6 of this chapter, are encouraged in the Town of Brunswick, and it is the intent of this chapter not to unreasonably restrict or regulate farm operations in contravention of the purposes of Article 25-AA of the New York State Agriculture and Markets Law, provided such farm operations employ best management practices and sound agricultural practices. The following guidelines and standards apply to agriculture and/or to parcels within 500 feet of an agricultural operation for which a subdivision, site plan, special use permit, zoning variance or zoning amendment approval is required from the Town of Brunswick. Guidelines are recommended practices and are preceded by "should," while standards are required and are preceded by "shall":

A. Building setbacks. Buildings or structures for permitted fowl or livestock should be located not less than 100 feet from any lot line, except where the farm operation precedes the residential use.

B. Manure storage. The storage of manure or odor-producing substances should be located not less than 150 feet from any lot line, stream or other water body and shall not be less than 200 feet from the nearest neighboring residential structure or well providing a source of potable water.

C. Livestock accessory to a residence. Keeping of livestock accessory to a residence shall require three acres for the first large livestock animal such as horses, cattle, or bison and one acre for each additional large livestock animal. Keeping of livestock accessory to a residence shall require three acres for the first two medium livestock animals such as goats, sheep, ponies, or llamas and one acre for each two additional medium livestock animals.

D. Buffers to agriculture required. The policy of the Town of Brunswick is to encourage agriculture, so wherever agricultural uses and proposed nonagricultural uses adjoin, the applicant for the nonagricultural use shall provide buffers to reduce the exposure of these abutting uses to odors, noise, and other potential nuisances associated with the agricultural operation. Said buffer strips may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and, when required, shall be no less than 100 feet in width and may be required up to a width of 300 feet, depending upon the type of adjoining agriculture or farm use, the topography and the proposed design and planting of such buffer. In the event that an application requires approval of the Town Board, Zoning Board of Appeals, or the Planning Board, it shall be the responsibility of the respective Board to provide an effective buffer that will reasonably protect adjacent residential living areas from agricultural practices and to protect the agricultural use from nuisance complaints and nuisance lawsuits, from their non-farm neighbors, as a result of normal farm operations.

E. New development requires deeded declarations. All deeds of new residential units within 500 feet of a farm operation shall contain references to notes that shall be placed on the subdivision plat and/or site plans relative to the requirements of this Article.

F. Agricultural data statement required. An agricultural data statement shall be required for any application for a subdivision, special permit, site plan, area or use variance, or zoning amendment approval by the Town Board, Planning Board, or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district. The reviewing board shall evaluate and consider the agricultural data statement and any comments thereon by owners or operators of farm operations potentially affected by such application in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

G. Exemptions for agricultural operations. Within a New York State Agricultural District, as defined in Article 25-AA of the New York State Agriculture and Markets Law, the following exemptions from provisions of this chapter shall apply to land and buildings on farm operations:

(1) There shall be no height limits on agricultural structures, including but not limited to barns, silos, grain bins, and fences, as well as equipment related to such structures, as long as they are being used in a manner that is part of the farm operation.

(2) There shall be no lot line setback restrictions on agricultural structures, except setbacks from adjacent lots that are either not within the agricultural district or adjacent lots that have existing residential uses. This setback requirement shall not apply to preexisting nonconforming structures.

(3) Agricultural farm management structures and practices are classified as Type 2 actions under SEQR and shall not require site plan approval.

§ 160-32. Keeping of farm animals on properties not containing farm operations

A. Keeping of farm animals on properties not containing farm operations. The keeping of farm animals on non-farm parcels of at least three acres in area shall be permitted in accordance with the following limitations:

(1) The keeping of not more than two horses, cows, hogs, beef cattle, sheep, goats or other four-legged domestic-type farm animal or combinations thereof per three acres of land and one acre for each additional animal up to a maximum of five total farm animals shall be permitted.

(2) Adequate enclosure shall be provided and all animals must be kept on the owner's property.

(3) In addition, the keeping of not more than a total of any combination of six (6) adult or fully grown chickens, ducks, geese or other fowl or birds of any type shall be permitted on a lot of three (3) acres to five (5) acres of land and a maximum of twelve (12) adult or fully grown chickens, ducks, geese or other fowl or birds of any type shall be permitted shall be permitted on a lot greater than five (5) acres.

§ 160-33. Bed and breakfast establishment

A. The Bed and Breakfast establishment shall be conducted within a single-family dwelling as permitted within the designated districts in accordance to the District Schedule of Use Regulations and shall be the principal residence of the operator and at least one bedroom shall be reserved for the owner's exclusive personal use.

B. A Special Use Permit shall be required for all Bed and Breakfast establishments. All Bed and Breakfast establishments shall be compatible with its immediate neighborhood and meet the following regulations:

(1) A Bed and Breakfast establishment may offer breakfast but only to registered lodgers. A public dining room and/or bar is prohibited.

(2) There shall be at least one off-street parking space per guest room and at no time are any vehicles permitted to park along public roads or highways.

(3) A bed and breakfast may have no more than six (6) bedrooms for guests and may accommodate no more than twelve (12) transient lodgers at any one time.

(4) No guest shall occupy the premises more than fourteen (14) days within any thirty (30) day period.

(5) Guest rooms shall primarily be accessed through interior entryways. Secondary exterior entryways shall be limited such that the individual guest rooms are not apparent from off the premises.

(6) No food preparation or cooking for guests shall be conducted within any bedroom made available for guests, with the exception of coffee makers and similar small beverage-warming appliances.

(7) Signage shall be limited to one sign which may not exceed 6 square feet, and the overall height of the sign may not exceed 4 feet, and shall otherwise comply with the sign regulations contained herein.

(8) Small-scale receptions or similar gatherings may be held incidentally to the primary bed and breakfast use, subject to the following:

(a) The number and duration of the gatherings and the number of participants may be limited by the Planning Board, based on the location and characteristics of the site (e.g. size of parcel, level of traffic, number of parking spaces, proximity to adjoining residences, number of restrooms, and location in a rural or urban setting).

(b) The gatherings shall not involve the use of amplified sound or lighting that is highly visible from off-site.

(9) The applicant shall comply with all applicable health codes, building codes and other applicable laws. Upon request the operator shall provide documentation that all required permits, including but not limited to, the County Health Department, State, County, and Local highway permits, etc. have been obtained. Prior to the issuance of a Certificate of Occupancy, the applicant must show that all applicable permits have been received.

(10) Utilities & Fire Protection.

(a) Water and sewage disposal shall meet all applicable requirements of the Town, County and the State Departments of Health and Environmental Conservation, and

(b) Water supply, fire protection measures, and the sewage disposal system shall be adequate for the maximum occupancy of the proposed facility.

§ 160-34. Car Washes.

In any district where so permitted, the following provisions shall apply to all car wash facilities as a principal use or an accessory use:

A. The minimum lot size for car wash facility shall be one acre, and such lot shall have street frontage of at least 150 feet.

B. All washing and machine-drying operations shall be conducted within a building.

C. The building exit for automobiles that have completed the washing and machine-drying process shall be set back a minimum of 50 feet from the nearest point of any street line.

D. No washing, vacuuming, steam-cleaning, waxing, polishing nor machine-drying operation nor building within which such operations are conducted shall be permitted within 100 feet of a residential building located in a residential district.

E. All lot lines abutting residentially zoned property shall be screened by means of a solid masonry wall, opaque fence or evergreen hedge or earthen berm of a design and height acceptable to the Planning Board. Such screen shall be maintained in good condition throughout the life of the use.

F. All entrance and exit lanes and parking areas shall be surfaced with an asphalt or Portland cement pavement so as to provide a durable and dustless surface and shall be so graded and drained as to dispose of all drainage water therein in a manner that does not adversely impact adjacent properties, uses and abutting roadways. Water recycling shall be addressed to the satisfaction of the Planning Board and any appropriate agencies.

G. Any lighting used shall be arranged so as to avoid being directed onto abutting roadways and adjoining premises in residential districts.

H. All operations shall be conducted completely within the lot lines of the property.

I. Parking and stacking space.

(1) One parking space shall be provided for every two employees.

(2) Stacking spaces.

(a) In addition, off-street stacking spaces provided for waiting vehicles shall not exceed the following requirements:

[1] Conveyor-type car wash: 3 off-street stacking spaces per washing lane.

[2] Drive-through-type car wash: 5 off-street stacking spaces per washing lane.

[3] Self-service-type car wash: 3 off-street stacking spaces per washing bay.

(b) For purposes of this subsection, an "off-street stacking space" shall mean an area measuring 18 feet in length by nine feet in width and located in such a manner as to provide an unimpeded egress from the space toward the automobile wash facility.

§ 160-35. Day care centers, child and adult.

A. Day-care centers.

(1) Such use shall comply with all licensing, site area and dimensional requirements established for such establishments by the New York State Department of Social Services.

(2) A buffer area of at least 20 feet in width, containing evergreen landscaping and/or fencing as, in the judgment of the Planning Board, will be adequate to screen the use from the neighboring residential area may be required along all adjoining residential property boundaries or across the street from residential properties, except where driveway access is required.

§ 160-36. Dispensing of gasoline.

Motor vehicle service facilities, motor vehicle repair facilities, and convenient retail establishments shall conform to the following requirements when dispensing gasoline or diesel fuel:

A. No pumps, lubricating and other dispensing devices, and other accessory services, shall extend within 50 feet of any property line, 60 feet of any street right-of-way line or 20 feet of any building on the lot.

B. All motor fuel shall be stored in underground tanks in conformity with the latest edition of the New York State Uniform Fire Prevention and Building Code and all applicable regulations of the New York State Department of Environmental Conservation.

C. When located adjacent to residential districts, the area required for setback from a property line shall be provided with fences, walls, embankments or evergreen shrubs or trees, to a height and design acceptable to the Planning Board so as to screen the structure from adjoining properties.

D. To enhance the streetscape fuel pumps shall be covered by a canopy and parking should be located on the rear and side of structures. Canopies and buildings should be integrated with the use of similar rooflines, color, materials and layout

§ 160-37. Driveways.

A. Driveways shall hereafter be so laid out and constructed by turnaround or otherwise so as to enable any automobile with a 128 inch wheel base to enter or leave the highway adjoining said driveway without backing out of or into said driveway.

B. All driveways shall have a 2% pitch away from the finished grade of the street for at least ten (10) feet from the street right-of-way.

§ 160-38. Excavation as part of site preparation.

A. Nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil or any other similar earth materials from a lot preparatory to construction of a building for which a building permit has been issued, or to move such material from one part of a lot to another part of the same lot, when such excavation or removal is clearly incidental to the approved building construction and/or both integral to implementation of an approved site development plan or subdivision plat and necessary for improving the property for a use permitted in the zoning district in which the property is located.

B. Provision shall be made to restore an effective cover crop in any area of land from which sand, gravel, shale, topsoil, or any similar earth materials have been removed or covered within the first growing season following the start of such operation. All excavation and regarding activities shall be in compliance with the requirements of Article 11, §160- 95, of this chapter governing stormwater management and be the subject of an approved sediment and erosion control plan.

§ 160-39. Home occupation.

A. All occupations conducted in residential districts shall meet the special use permit requirements as outlined in Article 8 and shall conform to the following:

(1) The home occupation shall be carried on only by a member(s) of the family residing in the dwelling unit. One employee who is not part of the family is permitted.

(2) The home occupation shall be carried on entirely within the principal or accessory structures and shall not exceed 30% of the total building floor space, excluding accessory and out buildings.

(3) Exterior displays or signs other than those permitted under Article 10, exterior storage of materials and exterior indication that a home occupation exists, or variation from the residential character of the principal structure shall be prohibited.

(4) Objectionable circumstances, including those which are visual, together with dust, electrical disturbance, odors, noise, heat or glare, shall not be produced.

(5) Parking shall be provided off street and shall not be located in front yards except for a maximum of three cars.

(6) Seasonal services may be permitted, provided that those services are personal in nature and are offered within the dwelling occupied by the same, i.e., income tax preparation.

§ 160-40. Landscaping standards.

A. Intent and purpose. Landscaping provides many unique services and values to the community such as providing shade, reducing soil erosion, absorbing stormwater runoff, and protecting wildlife habitats. Existing vegetation should be preserved as much as possible by minimizing clearing and grading in new developments. New development should be landscaped to provide visual interest in all four seasons by including deciduous trees, conifers, perennials and bulbs.

B. The Planning Board is responsible for determining the adequacy of landscaping during the review of site plans, special permit uses and subdivisions.

C. Landscaping Standards.

(1) All commercial and industrial uses in nonresidential zoning districts, and all nonresidential uses in residential zoning districts, shall provide a landscaped strip on the property adjacent to the right-of-way. The landscaped strip may not include any paved area except pedestrian sidewalks or trails which cross the landscaped strip.

(2) Landscaping shall be installed with adequate precautions to ensure survival, as shown on the approved landscape plan, prior to issuance of a certificate of occupancy for the building or use. Landowners shall be responsible for proper maintenance and care of all landscape treatments approved by the Planning Board. The Town's Buildings and Code Inspector is authorized to inspect

periodically all landscape treatments, including screening, as approved by the Planning Board or to investigate complaints made by any official or private citizen concerning the maintenance of such landscape treatments. If completion of required landscape work is not practical due to seasonal or weather conditions, the applicant shall submit assurances to the Planning Board and Town Attorney for the completion of landscaping. The acceptable assurance guaranteeing the completion of landscaping shall be an irrevocable letter of credit, certified check, performance bond, or other acceptable assurance, equal to the cost of the landscaping work accompanied by written assurance that such landscaping shall be completed in accordance with an approved site plan and, if required, subdivision plan within a specified period of time not exceeding six months from the date of occupancy.

(3) Required landscaping shall be maintained in a healthy, growing condition at all times. A maintenance bond may be required to ensure successful planting.

(4) Parking lot landscape standards.

(a) Parking lot landscaping is in addition to all other landscaping requirements of the Zoning Law. In parking lots of 1/2 acre or more, at least 20% of the area within the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board. Natural landscaping can count as part of the twenty-percent requirement. Such parking lots shall provide planting islands between every 10 spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree.

(b) Appropriate areas for snow storage shall be integrated into the landscape and stormwater management plans.

§ 160-41. Lighting regulations.

A. Intent and purpose. The intent and purpose of this section is to provide standards for outdoor lighting to maintain and protect the scenic and aesthetic character of the Town, to encourage conservation of energy and nonrenewable resources while providing safety, utility and security; to minimize glare; to protect the privacy of residences; to reduce atmospheric light pollution in the Town; to ensure that development fits into its natural and rural surroundings rather than being superimposed as a dominant element in the countryside; to avoid impacts on nearby residential properties; and to enhance the Town's nighttime ambience and rural character. These regulations apply in all zoning districts in the Town.

B. Applicability and submission of lighting plans. A lighting plan shall be required for any subdivision, special use permit and/or site plan approval involving outdoor lighting fixtures. Special regulations govern lighting of signage. Reference is made herein to Article 10, § 160-85, Sign regulations, for additional requirements. The submission shall contain the following:

(1) Plans indicating the location, height, orientation, type of illuminating device, and wattage of each outdoor lighting fixture.

(2) Location and use of adjacent properties.

(3) Nearby properties that may be affected by the proposed lighting plan.

(4) Description of the illuminating fixtures, lamps, supports, reflectors, and other devices, including, but not limited to, catalog cut sheets by manufacturers and drawings (including sections where required), glare reduction/control devices, on-off cycle control devices, and mounting devices.

(5) Photometric data showing an isolux / isofootcandle plot or lux / footcandle grid that demonstrates intensities and uniformity of light emissions.

(6) Statement of the proposed hours and days of the week when the luminaries will be on and when they will be extinguished.

(7) Additional information that the Planning Board or Town Buildings and Code Inspector determines is necessary.

C. Lamp or fixture substitution. Should any outdoor lighting fixture or the type of light source therein be changed after the approval has been issued, a change request shall be submitted to the Planning Board for revised approval. The Planning Board shall review the change request to assure compliance with this section.

D. General requirements for all non-residential zoning districts and non-residential uses in a residential district.

(1) General standards. All outdoor lights and illuminated signs shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The lighting levels for outdoor lighting shall be as described in Subsection D(13). The Town encourages, and in some cases requires, that the minimum lighting levels be used to attain efficient and effective use of outdoor lighting. The latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IESNA) shall be observed.

(2) Prohibitions. The following forms of lighting are prohibited:

(a) Uplighting is prohibited, with the exception of flags, as defined herein. The Town of Brunswick encourages the lowering of flags at sunset so that nighttime illumination of flags is unnecessary. Externally lit signs, displays, buildings, structures, streets, parking areas, recreational areas, landscaping, and other objects lit for aesthetic or similar purposes shall be lit from the top and shine downward.

(b) Roof-mounted area lighting.

(c) Laser lighting for outdoor advertising or entertainment.

(d) The use of and the operation of searchlights for advertising purposes.

(e) The use of mercury vapor lamps, which cast a very bright, unattractive light.

(f) Unshielded wallpack-type fixtures.

(g) Neon roping or trimming.

(3) Shielding. All outdoor fixtures, with the exception of those using less than 2,000 lumens, shall be fully shielded using full-cutoff light fixtures and installed in such a way that no light is emitted above a horizontal plane running through the lowest part of the fixture. For example, a one-hundred-watt incandescent bulb has a light output of 1,690 lumens while a twenty-six-watt compact fluorescent bulb has a light output of 1,800 lumens, both of which would be exempt from the shielding requirements. The lighting shall also be shielded to prevent direct glare and/or light trespass, and shall be, as much as physically practical, contained to the target area. All light fixtures that are required to be fully shielded shall be installed and maintained so that the shielding is effective as described in the definition of a fully shielded fixture in this section. Floodlighting is discouraged and, if used, must be shielded to prevent direct glare for drivers and pedestrians; light trespass beyond the property line; and light above a horizontal plane.

(4) Light trespass. Light trespass from a property shall be designed not to exceed 0.25 footcandle at the property line. Adjacent to residential property, no direct light source shall be visible at the property line at ground level or above. Mitigation to avoid or minimize light trespass may include landscaping and berming.

(5) Height. Unless specified elsewhere herein, the maximum allowable height of a freestanding luminaire shall be 15 feet above the average finished grade. The maximum allowable height of a building or structure-mounted luminaire shall be 15 feet.

(6) Spacing. The space between fixtures should be approximately four times the height or as determined by the Planning Board.

(7) Time controls. All nonessential lighting shall be turned off after business hours, leaving only the necessary lighting for site security, which shall be reduced to the minimum level necessary. "Nonessential" can apply to display, aesthetic, parking and sign lighting. Motion-sensor security lighting may be used to promote safety and reduce the amount of night lighting in the Town, as determined by the Planning Board.

(8) Electrical feeds. To improve the aesthetics of the area, electrical feeds to lighting fixtures and standards shall be run underground, not overhead.

(9) Gas stations. Island canopy ceiling fixtures shall be recessed into the canopy ceiling so that the bottom of the fixture is flush with the ceiling.

(10) Recreational facilities, public or private. Lighting for sports fields, tennis courts and similar outdoor recreational facilities may be permitted to exceed the fifteen-foot height maximum. Lighting for parking, walkways and buildings at recreational facilities shall comply with all other requirements of this section. Lighting for sports fields, tennis courts, golf courses, gun clubs and similar outdoor recreational facilities shall only be allowed provided that the following special conditions, in addition to the general conditions found in Article 8 are met:

(a) The proposed pole height is required to illuminate the center of the field while avoiding direct glare on adjacent properties.

(b) Surrounding vegetation or topography will substantially screen views of the lighting standards from adjacent properties.

(c) The fixtures will be fully shielded to prevent light spillage on adjacent properties and to prevent sky glow.

(d) The proposed lighting levels conform to the recommendations of the Illuminating Engineering Society of North America, and/or International Dark Sky Association for playing fields.

(11) Indoor light sources. Indoor light sources that are visible in outdoor locations shall be subject to Planning Board approval.

(12) Illuminance and uniformity. Parking lots shall have an average lighting level at or below one footcandle. High-security areas shall have lighting levels of no more than five footcandles, and two footcandles to five footcandles is the recommended range. Lighting levels greater than five footcandles is generally a waste of energy and a source of glare and atmospheric light pollution. Design should establish a hierarchy of lighting to assure a smooth transition from bright areas to those with subdued lighting. Light levels shall be maintained at design levels with lamp or luminaire replacement as needed. Unless accessory to a bank, all ATM banking machines shall be installed indoors so that the New York State ATM Safety Act design requirements shall not be applicable. The Planning Board remains responsible for ensuring that outdoor ATM banking machines accessory to a bank do not cause glare or other unwanted light spillage affecting residential areas and uses.

(13) Enforcement and inspections. The Town of Brunswick Town Buildings and Code Inspector is responsible for conducting post-installation nighttime inspection to verify compliance with the provisions of this section and, if appropriate, to require remedial action.

(14) Maintenance. Lighting fixtures shall be maintained so that they always meet the requirements of this section.

(15) Nonconforming outdoor lighting. No replacement or installation of new lighting fixtures shall be permitted unless in conformance with this section. Nonconforming outdoor lighting that is the subject of subdivision, special use permit and/or site plan applications or other permit, approval, entitlement,

or authorization from the Town of Brunswick shall be subject to all of the terms and conditions of this section.

§ 160-42. Mobile Homes and Mobile Home Parks

A. Every mobile home park shall be at least 10 acres in size and shall be located in an area where grades and soil conditions are suitable for use as mobile home sites, providing rapid drainage and free at all times from stagnant pools of water. The park shall be made free from heavy or dense growth or brush, retaining such existing natural landscaping as may add to the attractiveness of the park.

B. Every mobile home park shall be marked off into designated mobile home lots with the total not to exceed five per gross acre. Each lot shall have a total area of not less than 6,000 square feet, with no boundary line thereof less than 60 feet in length.

C. Location of mobile homes; facilities.

(1) No mobile home shall be parked or otherwise located than on a mobile home stand, which shall not be nearer than a distance of:

(a) Thirty feet from an adjacent mobile home in any direction.

(b) Fifty feet from an adjacent property line (park boundary).

(c) One hundred feet from the right-of-way of any public street or highway.

(d) Twenty feet from the nearest edge of any right-of-way boundary of any street within the park.

(2) Only one mobile home shall be permitted to occupy any one mobile home lot.

(3) Within 60 days after arrival in the park, each mobile home shall be skirted by enclosing the bottom portion with either a metal, wood or masonry skirt, properly ventilated. Provision shall also be made for effective tie-downs capable of withstanding one-hundred-mile-per-hour winds.

(4) Each mobile home unit must have a flush toilet, tub or shower, sink, cooking and heating facilities, plumbing and electrical connections to outside systems herein provided, all of which comply with all applicable laws, rules and regulations of the Town, County and State of New York.

D. Each mobile home lot shall have a mobile home stand constructed of durable, nonporous material sufficiently graded to permit rapid surface drainage and large enough to accommodate the mobile home, together with appurtenant structures.

E. Every mobile home park shall be easily accessible from a public highway, having at least two points of entry/exit so designed and located as to provide safe and convenient movement of vehicles to and from the public highway(s) to which it connects.

F. Each mobile home park shall have streets designed to permit safe and convenient vehicular traffic within the park.

G. Except in an emergency, no parking shall be allowed on any street in any mobile home park. Each mobile home lot shall provide at least one off-street parking space having a minimum length of 20 feet by nine feet wide. Every parking space shall be constructed of durable, nonporous material suitably graded to permit rapid surface drainage. Additional off-street parking spaces shall be provided within the park at convenient locations for guests and service vehicles amounting to one such space for every two mobile home lots within the park.

H. Utilities and service facilities.

(1) The following utilities and service facilities shall be provided in each mobile home park and shall be constructed and maintained in accordance with the regulations and requirements of the Rensselaer

County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.

(a) An adequate supply of drinking water supplied by pipes to all mobile home lots and service buildings within the park, with proper connections to each building and to each mobile home.

(b) A sewage system connected to each mobile home and service building to receive waste from showers, tubs, toilets, lavoratories and sinks to dispose of the same in a sanitary manner. Sewer connections in unoccupied lots shall be tightly sealed to prevent emission of gas or odors and the breeding or harboring of insects or vermin.

(c) Garbage containers with tight-fitting covers in quantities adequate to permit the disposal of all garbage and rubbish from the park. Such cans shall be kept covered and in sanitary condition at all times, in convenient locations and be emptied at least twice weekly.

(d) Weatherproof electric service connections and outlets of a type approved by the New York State Board of Fire Underwriters, for the provision of electric service to each mobile home lot, of not less than 100 amps; 150 amps if the mobile home unit is to be heated electrically.

(2) A storage building suitable for the secure and orderly storage of personal property, such as bicycles, baby carriages, lawn furniture and the like, may be placed on each mobile home lot. No combustible or noxious material creating a health hazard may be stored beneath any mobile home.

(3) All electric utilities shall be installed underground in a manner approved by the New York Board of Fire Underwriters.

G. Each mobile home park shall provide common open spaces conveniently located for use by the occupants of the park and amounting to at least 10% of the gross land area of the park. The Planning Board may establish such conditions on the ownership, use and maintenance of said open space as it deems necessary to assure the preservation of such for it intended purposes.

I. Every mobile home park shall have lawn or other suitable vegetative ground cover on all areas not used as stands or for the placement of buildings or roads or parking areas. Trees and other shrubs shall be provided to the extent necessary to provide shade and a suitable setting for the mobile homes, in addition to screening such objectionable views as laundry facilities, gas tanks, garbage storage and collection areas and service buildings. Other plantings shall be provided along areas fronting public highways to reduce glare from the headlights and along abutting property lines to form screening strips.

J. Every mobile home park shall be sufficiently lighted during the hours of darkness to provide for the safe movement of pedestrian occupants of the park and to and from other mobile homes and service buildings.

K. Mobile homes located outside of mobile home parks.

(1) No mobile home shall hereafter be parked or otherwise placed within the Town of Brunswick and outside a licensed mobile home park except as follows:

(a) The Town Board may grant a special mobile home license, in accordance with Chapter 97 Mobile Homes, for a period not to exceed one year, to the owner of land within the Town who intends to construct on such land a dwelling for his own occupancy. The owner of the land may park or place a mobile home on such land for his own occupancy during the construction of such dwelling, and said mobile home must be removed from the premises upon the expiration of the license. The special license may be renewed for an additional period not to exceed one year for extenuating circumstances at the discretion of the Town Board.

(b) The Town Board may grant a special mobile home license, in accordance with Chapter 97 Mobile Homes, not more than two concurrent one-year renewable licenses to the owner of a farm to set up a mobile home to be occupied only by a full-time farm worker and his family, provided that the unit is located on a lot at least 100 by 150 feet and no closer than 40 feet to the

farmhouse or any farm buildings, and provided that the lot is free from any drainage problems and fenced off from the farm animals. Said license shall not be transferable and becomes void if the ownership of the farm changes or if the mobile home unit is unoccupied for more than 90 consecutive days. It is hereby intended that not more than two mobile homes shall be licensed and permitted on a farm at the same time.

(2) Any mobile home parked or placed outside a duly licensed mobile home park shall have an adequate supply of pure drinking water and a sewage disposal system, both satisfying the requirements of the County Health Department. No such mobile home unit may be placed within 50 feet of the right-of-way of a public highway or within 15 feet of an adjacent property line. Not more than one mobile home shall be placed or parked on any one parcel of land which is located outside a licensed mobile home park.

(3) Existing mobile home. A mobile home which is lawfully located in the Town of Brunswick at the time of the enactment of this chapter but not located in a mobile home park may continue to be used as living quarters.

(4) Non-applicability. None of the provisions of this chapter shall be applicable to:

(a) A mobile home located on the site of a construction project, survey project or other similar work project and which is used solely as a field office or work or tool house in connection with such project, provided that such mobile home is removed from such site within 30 days after the completion of the project.

(b) A modular or sectional house which is prefabricated in sections, transported to the building site, fastened together and placed on a permanent and totally enclosed masonry foundation.

§ 160-43. Motor Vehicle Repair Shop and Motor Vehicle Service Station

A. All vehicles awaiting service, pick-up by customers, or otherwise stored overnight on the lot shall be parked within a vehicle parking area approved by the Planning Board.

B. All junk wastes such as discarded parts or portions of vehicles shall be stored in an enclosed structure or fenced area so as to not be visible from adjacent properties.

C. For Motor Vehicle Service Station, no pumps, lubricating and other dispensing devices, and other accessory services, shall extend within 50 feet of any property line, 60 feet of any street right-of-way line or 20 feet of any building on the lot.

D. For Motor Vehicle Service Station, pumps shall be located and accessed on the side of the station unless deemed impracticable by the Planning Board.

E. The Planning Board may require a green space buffer, vegetative screening, and/or solid or picket fencing in order to reduce visual impact upon surrounding properties.

§ 160-44. Off-street parking and loading standards.

A. Parking is subordinate to principal use. The purpose of the off-street parking and loading standards is to ensure that such uses are treated as accessory uses, do not predominate the site, are properly placed in relation to buildings to minimize their visibility, and feature quality landscaping and architecture along the road frontage to reduce the visual impact of glare, headlights, and parking lot lights to roadways and neighboring properties. Off-street parking areas should complement the buildings on a site, improve the visual appearance of the Town of Brunswick, protect the character of residential, business, institutional, and commercial areas, and conserve the value of land and buildings on surrounding properties.

B. Parking space requirements. Permanent off-street parking and loading spaces shall be provided in all districts for all uses in accordance with the criteria set forth below, except for single-family dwellings, unless such single-family dwellings require subdivision, site plan and/or special use permit approval:

(1) When any new building or structure is erected;

(2) When any existing building or structure is enlarged or increased in capacity;

(3) When adding dwelling units, guest rooms, seats or floor area to an existing or lawfully approved structure;

(4) When a new use is established;

(5) When an existing use is changed to another use; or

(6) When a new business activity is added.

C. Off-street loading berths are permitted accessory to any use except residences for one or two families. No off-street loading berth shall be located in a front yard in any district. Adequate off-street parking and loading spaces shall be provided to prevent parking in public streets of vehicles of persons connected with or visiting the use and the interior circulation system shall be adequate to provide safe accessibility to all required off-street parking and loading.

D. Schedule of Off-Street Parking Space Standards. Accessory off-street parking and loading spaces shall be provided as specified by the typical generation rates below, except where a written report defining and documenting the feasibility of a reduction or increase in spaces is submitted by a qualified parking consultant and approved by the Planning Board. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these standards. The final number and layout of parking spaces shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to rural, scenic, historic, and environmental resources. In determining the parking requirements for any proposed use, the Planning Board shall consider the Schedule of Off-street Parking and Loading Space Standards, together with the following criteria:

(1) The maximum number of persons who would be parking at the use as employees, customers, clients, members, students or other users, at times of peak daily usage. However, it is not appropriate to design for the peak accumulation that could conceivably ever occur.

(2) The size of the structure(s) and the site.

(3) The rural sensitivity of the site.

(4) The potential for shared parking, where peak parking accumulation can be accommodated at different times of the day, week or season by nearby land uses. Shared parking should be examined in relation to the availability of such off-site, off-street parking existing within 800 feet of the site. Shared parking must be either open to the public, owned or controlled by the applicant, or where a deeded right to shared use has been demonstrated by the applicant.

(5) The potential for staggered hours of use, in the case of a combination of uses on a single parcel, to reduce the parking requirements. The applicant shall legally assure, to the satisfaction of the Planning Board and Town Attorney, how staggered hours of operation will continue for the life of the uses.

(6) The maximum parking space generation rates may be increased by the Planning Board where an applicant demonstrates that the particular development characteristics of the proposed land use require a greater number of spaces than specified herein. Such demonstration shall include documentation of parking experience elsewhere through surveys of demand and problems at existing uses that may be applicable and/or a study of patterns of local automobile use that shows adjustments in design day peaks are needed. The Planning Board may require applicants to address alternatives for reducing vehicle use, parking demand and housing costs by limiting the number of parking spaces to less than the maximums identified herein.

Schedule of Off-Street Parking Space Standards		
Use	**Typical Parking Space Generation Rates**	**Loading Spaces Required**
One-family dwelling	2/dwelling unit	None
Two-family dwelling	2/dwelling unit	None
Accessory dwelling	1/dwelling unit	None
Multifamily dwelling	1.5/dwelling unit	None
Senior dwelling	0.33/resident, plus 1/2 employees	None
Home occupation	1/500 square feet of GFA devoted to the home occupation	None
Retail establishment	4/1,000 square feet GFA	
Roadside stands, Farm Market	4/1,000 square feet GFA	
Motor vehicle sales and service	2.5/1,000 square feet GFA interior sales space plus 1.5/1,000 square feet of external display (does not include stock areas closed to the public) plus 3/service bay	
Other retail/service uses	As determined by the Planning Board	
Restaurant	1 /2 seats or 1/60 square feet of area available to patrons	
Office, Business or Professional	3.6/1,000 square feet GFA	
Funeral homes	1/3 persons accommodated at capacity plus 1/2 employees	1/chapel
Medical, Dental or Veterinary offices	6/1,000 square feet GFA for GFA up to 5,000 square feet; 5.5/1,000 square feet NUA for buildings with GFA over 5,000 square feet	
Industrial, Light and Heavy	1/employee of largest shift or as special conditions may require	1/10,000 square feet up to 50,000 square feet GFA plus one for each 50,000 square feet thereafter or as special conditions require
Wholesale businesses	0.5/1,000 square feet GFA plus any required spaces for offices, sales, or similar use or as special conditions may require	1/50,000 square feet GFA
Clubs, civic and social/fraternal	1/1,000 square feet GFA but not less than 1/5 seats	
Hospitals	0.4/employee plus 1/3 beds plus 1/5 average daily outpatient treatments plus 1/4 members of medical staff	1/100,000 square feet GFA
Schools, Public and Private, Community Buildings	To be established by the Planning Board based on a study of parking needs prepared specifically for the subject institution	To be established by the Planning Board based on a study of loading space needs prepared specifically for the subject institution
Day care	1/employee plus 0.1/person of capacity enrollment plus drop-off spaces equal to 1/8 enrollees permitted	None
Other place of public assembly	0.25/person in permitted capacity	1/100,000 square feet GFA
Recreational facility	0.33/person in permitted capacity	1/100,000 square feet GFA

E. Uses not listed. Reasonable and appropriate off-street parking and loading requirements for structures and uses which do not fall within the categories listed above shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use. The Planning Board remains responsible for balancing the need for adequate parking with the need to avoid the negative environmental impacts of excessive parking.

F. Parking reserve areas. The Planning Board is authorized to approve parking reserve areas, which may not be constructed until and unless demand is evident. The Planning Board may, as a condition of allowing parking reserve areas, require an applicant to set aside (or to "bank") land to meet potential future parking needs. Such land shall remain in its natural state or be landscaped, but may not be used in a manner that would prevent it from being developed for parking in the future. Reserve areas shall be clearly identified on site plans approved under § 160-57. A covenant shall be executed guaranteeing that the owner will provide the additional spaces if the Town Buildings and Code Inspector, upon thorough investigation of the actual use of parking spaces at the building or use, recommends to the Planning Board that the approved reduction be modified or revoked.

G. ADA compliance. Parking areas shall comply with the applicable requirements of the Americans with Disabilities Act. All handicapped parking spaces shall be designed in accordance with the American National Standards Institute, Inc. Standards for Making Buildings and Facilities Accessible To and Usable by Physically Handicapped People (ANSI A117.1-1980, or as amended).

H. Design standards.

(1) Areas which may be computed as the required off-street parking space may include a garage, carport or other area available for parking, but is not to include a public street.

(2) Unobstructed access from and egress to a public street shall be provided. Such access shall consist of at least one twelve-foot lane for parking areas with less than 20 spaces, and at least two ten-foot lanes for parking areas of 20 or more spaces.

(3) When any lot contains two or more uses having differing parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total number of parking spaces required for that use with the least requirement.

(4) Parking spaces shall have wheel stops or curbs to prevent injury to trees and shrubs planted in landscaped islands.

(5) Off-street loading berths. All loading facilities shall be oriented to preserve auditory privacy between adjacent buildings and shall be screened from public view to the extent necessary to eliminate unsightliness.

(a) Accessory open or enclosed off-street loading berths shall be provided for any lot or any use as specified herein. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of such requirements.

(b) Size, location and access. Each required loading berth shall be at least 12 feet wide, 33 feet long and 14 feet high, unless specified elsewhere for a particular use. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. The berth may be located either within a building or in the open, but not within required yards. If such berths are not enclosed, they shall be located not less than 300 feet from any residential district boundary and an effective visual and noise buffer shall be provided as in the case of parking areas as set forth in Article 6, this section and § 160-46

(6) Parking associated with a nonresidential use is abutting an existing residential use or a residential district, a minimum 20 feet of separation between any parking area or access thereto and the residential property line shall be maintained.

(7) Access near street corners. No entrance or exit for any accessory off-street parking area with over 10 parking spaces, nor any loading berth, shall be located within 50 feet of the intersection of any two street lines.

I Pedestrian and vehicle access. Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with fewer than 20 spaces and at least two ten-foot lanes for parking areas with 20 spaces or more. Commercial entrances on roads shall be consolidated, where possible, and internal service streets shall be used as an alternative to new access locations. Pedestrian networks and crosswalks shall be created in order to create connections to shared parking, public transportation, and walking between stores and nearby housing.

J. Drainage and surfacing. All parking areas shall be properly drained, and all such areas of over 10 spaces shall be provided with a suitable surface as specified by the Planning Board Engineer and in accordance with the Town of Brunswick Local Law No. 5 of 2007 Establishing Regulations Regarding Erosion, Sediment Control and Stormwater Management as may be amended from time to time. .

K. Landscaping requirements. Parking lot landscaping is in addition to all other landscaping requirements of the Zoning Law. See Article 6, § 160-40 for landscaping requirements of all uses requiring special use permits and/or site plan approval. A minimum of 20% of the area between the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board. Natural landscaping can count as part of the minimum twenty-percent requirement. In all parking lots providing eight or more off-street parking spaces, a minimum of one canopy tree having a caliper of at least three inches and 10 shrubs shall be planted for each eight parking spaces and any additional portion thereof, said tree(s) to be planted in median dividers, landscape islands or such other locations as may be determined by the Planning Board to relieve the monotonous expanse of asphalt and provide shade for parked vehicles.

L. Pedestrian access. In large parking lots, separate pedestrian walkways should be provided to allow safe movement within the lots. These facilities should generally be oriented perpendicular to and between parking bays. Adjacent to the walks, trees should be planted. Coordinate pedestrian walkways with access for public transit if available or planned. The following walkway guidelines also apply:

(1) One walkway can serve as a collector for up to four bays of parked cars.

(2) The walkway should be a minimum of four feet wide, allowing an additional 30 inches on each side for overhanging of automobiles.

(3) All walkways should be raised to a standard sidewalk height and should be constructed of different paving material than the parking lot.

(4) Provide pedestrian and bicycle amenities such as benches, shade, human-scale lighting, and bicycle racks.

§ 160-45. Recreational Vehicle and Travel Trailers

A. No recreational vehicle shall hereafter be parked or otherwise placed within the Town of Brunswick, except as follows:

(1) Parking and storage of recreational vehicles or travel trailers. No occupied recreational vehicles or travel trailers shall be parked or otherwise placed hereafter within the Town, except on the owner's property.

(2) No recreational vehicles or travel trailers shall be parked or stored in any residential area so that it projects beyond the front line of the main residence on that site. A visiting recreational vehicle or travel trailer may be parked and occupied at a private residence with the knowledge and consent of the owner of the premises for a period not exceeding 72 hours.

B. No permanent structural addition, such as a porch, shall be added onto any recreational vehicle or travel trailer.

§ 160-46. Required screening for nonresidential uses.

In all zoning districts, except the mixed-use districts, any non-residential use permitted by this chapter shall be provided with a fence, screen and/or landscaping sufficient to obscure visually objectionable aspects of such use where such nonresidential property abuts a property located in a residential zoning district. This section shall not apply to agricultural uses.

A. Any use which is not conducted within a completely enclosed building shall not be located within the required front yard and shall be obscured from view from residential zoning districts in an effective manner, as determined by the Planning Board.

B. Adequate plans for the installation of required fences, screens and/or landscaping shall be reviewed by the Planning Board in accordance with the provisions of this chapter. The retention and enhancement of existing vegetation, the introduction of substantial new vegetation, and the introduction of earthen berms, only if appropriate, shall be considered the preferred means to satisfy these screening requirements.

C. Industrial uses shall be located not less than 200 feet from any residential district boundary or a residential use and an effective visual and noise buffer shall be provided.

D. Any required fencing, screening and/or landscaping installed in accordance with this chapter shall, as a condition of the certificate of occupancy, be maintained in good order to achieve the objectives stated herein.

§ 160-47. Roadside stands.

A. Such stand shall not exceed 100 square feet in gross floor area.

B. Such stand shall be located not less than 15 feet from the edge of pavement, and there shall be a suitable area provided where vehicles can safely park while visiting the roadside stand.

C. Such stand shall be solely for seasonal display and sale of agricultural products grown principally on the premises or, in limited quantity, elsewhere by the owner of the property upon which the roadside stand is located.

D. Signage shall be limited to a single sign, not greater than three square feet in sign area per side and located not less than 15 feet from the edge of pavement.

§ 160-48. Solar collection systems, Small-scale

A. Purpose and Intent

(1) The purpose of these regulations is to balance the potential impact on neighbors where solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. These regulations are not intended to override the New York State Agriculture and Markets Law.

(2) Solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.

B. Applicability

(1) The requirements herein shall apply to all solar collector system installations modified or installed after the effective date of this section.

(2) Solar collector system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Subsection D, Safety found herein.

(3) All solar collector systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code.

(4) Solar collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through an arrangement in accordance with New York Public Service Law §66-j or similar state or federal law or regulation.

C. Permitting

(1) Rooftop and flush-mounted solar collectors are permitted in accordance to the District Schedule of Use Regulations subject to the following conditions:

(a) Building permits shall be required for installation of all rooftop and flush-mounted solar collectors.

(b) Height limitations for structures found in Article 5, Area and Bulk Requirements shall apply.

(c) Rooftop and flush-mounted solar collector systems are permitted on the following structures:

[1] All principal structures.

[2] All accessory structures that meet the principal structure setbacks as required in each zoning district.

(d) Rooftop units must be three feet from any chimney and shall not be permitted on any roof overhangs.

(e) Any solar collector system attached to a pitched roof shall not extend more than three feet from the surface of the angle of the roof.

(2) Ground-mounted racks and freestanding solar collectors are permitted as an accessory structure in accordance with the District Schedule of Use Regulations in the Town of Brunswick subject to the following conditions:

(a) A Special Permit is required for all ground-mounted racks and freestanding solar collectors in a commercial and industrial zoning district which shall include Business (B-15), Business Light (BL), Business Light Overlay (BL-O), Hamlet (H), Industrial Light (IND-L), and Industrial Heavy (IND-H).

(b) A Special Permit from the Planning Board is required for all ground-mounted racks and freestanding solar collectors greater than 10 feet in height or greater than 20 feet in length or if the solar array surface area is greater than 200 square feet in the aggregate. All other ground-mounted racks and freestanding solar collectors shall follow the standard building permit process.

(c) All ground-mounted racks and freestanding solar collectors shall have a maximum height of 20 feet from ground elevation at its full extension.

(d) All ground-mounted racks and freestanding solar collectors shall comply with the setback requirements for a principal structure found in Article IV, Use, Area and Bulk Requirements.

(e) The unit must be installed in a side or rear yard. No ground-mounted racks and freestanding solar collectors shall be permitted in the front yard setback. As per § 160-24, all corner lots shall be deemed to have two front yards.

(f) Solar collectors shall be located in a manner that reasonably minimizes shading of adjacent property while still providing adequate solar access for collectors.

D. Safety

(1) All solar energy systems and solar collectors must obtain a building permit and shall be designed to be and installed to be in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the building permit is issued.

(2) If solar storage batteries are included, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York State Fire Prevention and Building Code and local laws of the Town of Brunswick and any other applicable laws or regulations.

(3) Glare and heat. No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

§ 160-49. Solar utility-scale collector system.

A. Purpose and Intent. The purpose of these regulations is to provide utility-scale solar collector systems through performance criteria that balance the unique characteristics of each site. All utility-scale solar collector systems shall require a special use permit from the Planning Board.

B. Bulk and Area Requirements. The following dimensional requirements shall apply to all utility-scale solar collector systems:

(1) Height.

(a) All solar collectors shall have a maximum height of 20 feet from ground elevation, at its full extension.

(b) All buildings and accessory structures associated with the utility-scale solar collector system shall have a maximum height of 35 feet, excluding the solar collector.

(2) Setback. All utility-scale solar collector systems and associated buildings, accessory structures and equipment shall have a minimum setback from any property line of 200 feet.

(3) Lot coverage.

(a) Impervious Surface Lot Coverage. All utility-scale solar collector systems and associated accessory structures and equipment shall utilize a maximum of 20% impervious lot coverage.

(b) Pervious Surface Lot Coverage. All utility-scale solar collector systems and associated accessory structures and equipment shall utilize a minimum of 80% permeable lot coverage.

C. General Provisions.

(1) Site Plan. All utility-scale solar collector systems shall provide a site plan in accordance with Article 7 of this Zoning Law.

(2) Signage. All signage shall be provided as part of site plan review and shall be in accordance with Article 10 of this Zoning Law.

(3) Visual.

(a) Utility-scale solar collector systems shall be sited in a manner to have the least possible practical visual effect on the environment.

(b) A visual environmental assessment form (Visual EAF), landscaping plan and visual assessment report, including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing treelines, surrounding topography, and proposed elevations shall be required.

(c) Landscaping, screening and/or earth berming shall be provided to minimize the potential visual impacts associated with the utility-scale solar collector systems and its accessory buildings, structures and/or equipment. Additional landscaping, screening and/or earth berming may be required by the Town Board and/or the Planning Board to mitigate visual and aesthetic impacts.

(d) Any associated structure shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.

(4) Lighting. No utility scale solar collector system shall be artificially lighted unless otherwise required by a Federal, State or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.

(5) Utilities. The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the utility-solar collector system. Electrical and land-based telephone utilities extended to serve the site shall be underground.

(6) Access. The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.

(7) Glare and heat. No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

(8) Ownership. In the case of an application for a utility-scale solar collector system to be located on private lands owned by a party other than the applicant or the town, a copy of the lease agreement with the property owner shall be filed with the Building Department.

(9) Proof of insurance. The applicant and the owner of the property where the utility-scale solar collector system is to be located shall file with the Building Department proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.

(10) Security provisions. Each site shall have a minimum of an eight foot security fence to prevent unauthorized access and vandalism to the utility-scale solar collectors and a security program for the site as approved by the Planning Board during site plan review.

(11) Noise. Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties as approved by the Planning Board during site plan review.

(12) Documentation from the utility company, verifying that the utility-scale solar collector system is active, shall be provided annually to the Town of Brunswick Buildings and Code Inspector.

(13) The utility-scale solar collector system, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the utility-scale solar collector system has been inoperative or abandoned for 12 consecutive months. As a condition of the certificate of occupancy, applicants shall post a surety in an amount and form acceptable to the Town for the purposes of removal or abandonment. The amount shall be determined by an estimate of total cost of removal of the solar facilities and restoration of the site. Acceptable forms shall include, in order of preference: cash, letter of credit, or a renewable bond that must remain in full force and effect, or a combination thereof. Such surety will be used to guarantee removal of the utility-scale solar collector system should the system be abandoned. Abandonment shall be assumed by the Town if the annual documentation as required in §160-49(C)(12) is not provided by the owner, applicant, or lessee for one year to the Town of Brunswick Buildings and Code Inspector. The Town Buildings and Code Inspector shall then provide written notice to the owner to remove the utility-scale solar collector system, and the owner shall have three months from written notice to remove the utility-scale solar collector system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, applicant, or lessee fails to remove any associated structures or

restore the site to the condition approved by the Planning Board, all costs incurred by the Town to cause compliance with this section shall be paid using the surety provided by the applicant.

§ 160-50. Solid Waste Management Facilities.

All solid waste management facilities are prohibited in all districts in the Town.

§ 160-51. Swimming pools.

A. Fencing. No person or persons, association or corporation shall maintain a swimming pool, as defined above, within the Town of Brunswick without first safeguarding such a swimming pool with a permanent protective fence. The fence shall be installed so as to encompass the entire perimeter of the swimming pool and at a reasonable distance therefrom. The fence shall be structurally sound, durable and must be maintained in such condition. The fence shall be a minimum of four feet in height and, any other contrary provision in this chapter notwithstanding, may have a maximum height of eight feet. The fence shall be of wooden or wire construction, and the materials shall be adequate to prevent and prohibit entrance to the pool by children and animals. If of wire construction, the fencing is not to have a linkage more than two inches in diameter. The entrance gate or gates shall have a closing device with a protective fastening latch and locking device. Such fence and appurtenances shall be approved in writing by the Town Buildings and Code Inspector of the Town of Brunswick before installation.

B. Existing pools. The Town Buildings and Code Inspector is hereby authorized and directed to inspect swimming pools existing at the time of the adoption of this chapter. If they have fences, the Town Buildings and Code Inspector shall approve them if they substantially comply with the foregoing provisions. If the fences do not substantially comply or if the pool has no fence, a fence shall be erected or altered to comply with the provisions of this chapter within 180 days after the adoption of this chapter.

C. The provisions for fences shall not apply to aboveground pools, but if the pool is more than 24 inches in depth, there shall be a fence around the steps leading to the pool which shall comply with the above fencing requirements, except that if there are removable steps or foldaway steps with locking device, no fence shall be required.

§ 160-52. Temporary Events

A. No tent or other structure shall be erected, constructed, or maintained which is intended for a single event and is intended to be removed thereafter to which it is intended to invite the public in general or some portion thereof and which is intended to bring together a number of people unless a certificate of occupancy shall be granted hereunder. Such certificate shall be temporary and granted only for the event sought and shall not be granted until suitable and proper accommodations for sanitary and water facilities are provided.

B. Such events shall be subject to a mass gathering permit from Rensselaer County Health Department. No person shall hold or promote, by advertising or otherwise, a mass gathering unless a permit has been issued for the gathering by Rensselaer County Health Department,

C. Such events shall be limited in duration to four (4) days.

§ 160-53. Timber Harvesting, Commercial

A. Purpose. The purpose of this is to promote the health and safety of the residents of the Town by protecting the natural environment as affected by timber harvesting. The Town recognizes that the timber resource in the Town is of significant value and will be harvested. The Town also recognizes that if timber harvesting practices are poorly carried out, they can result in significant environmental damage to the land and to adjacent lands and waters. Thus, the following requirements are intended to regulate those harvesting activities that most readily render environmental damage, such as stream crossings and the location of landings, haul roads and skid trails; to require reclamation efforts that can limit subsequent environmental damage, particularly to control soil erosion and sediment-laden runoff; and to utilize professional forest management expertise in the preparation and evaluation of timber harvest plans.

B. Special Use Permit requirement. It is hereby required that a timber harvesting special use permit be obtained from the Planning Board by anyone desiring to harvest timber in quantities greater than 20 standard cords of

wood or 1,600 cubic feet of timber as measured by the International Log Rule in any one year in the Town. Such permit shall be applied for jointly by the property owner and the logger. If the owner of the property on which said timber is located is an active cooperator under the New York State Cooperative Forest Management Program or the Forest Practice Act *Editor's Note: See § 9-0301 of the Environmental Conservation Law* Program or if the property is currently receiving tax benefits under the provisions of § 480-a of the Real Property Tax Law, the Planning Board, in its discretion, may waive this permit requirement provision. However, the Town shall enforce all other provisions of this Article in pertaining to the application procedure.

C. Standards for operation. All commercial timber harvesting shall comply to the following standards:

(1) No forest haul road or skid trail shall be constructed to exceed a slope of 25% for a distance of more than 200 feet. The applicant shall take appropriate measures to divert running water from the roads at intervals in order to minimize erosion.

(2) Slopes that are designated in yellow on the map adopted with this chapter may be harvested if a permit is issued but shall have no haul roads or constructed skid trails located on them. One haul road may be constructed across a critical slope solely for the purpose of connecting a noncritical harvestable area to a town road if no other access is available and upon such conditions as may be imposed by the Town Board. Random individual tree skidding will be allowed.

(3) All streams shall be crossed by temporary culverts or bridges and such crossings shall be made in a direction at a right angle to the flow of the stream unless, under the provisions of the Stream Protection Law, Editor's Note: See § 15-0501 et seq. of the Environmental Conservation Law. A Department of Environmental Conservation permit requires more stringent measures, which more stringent measures shall be complied with by the logger and the landowner.

(4) There shall be no skidding in any stream channel, and all logging slash and debris shall be promptly removed from any stream channel.

(5) The Planning Board may require placement and maintenance of waterbars to protect streams at such points as landings or other areas of considerable disturbance.

(6) Buffer strips shall be retained at least 50 feet wide along streams and at least 100 feet wide along pubic roads. Within such buffer strips, no trees of less than 12 inches' stump diameter shall be harvested unless the property is in the Cooperative Forest Management Program and the trees have been marked by a Department of Environmental Conservation forester. No landings shall be located within buffer strips abutting streams. Landings located within buffer strips abutting roads shall be properly graded and waterbarred to prevent sediment from washing into the drainage ditches along the public road.

(7) The entrance of haul roads onto town roads shall be done in compliance with Town regulations.

(8) Site reclamation.

(a) Upon completion of the harvesting activity, reclamation of the site shall be performed by the applicant. Haul roads shall have waterbars placed at the following intervals:

Road Grade (percent)	**Spacing (feet)**
2 to 5	300 to 500
6 to 10	200 to 300
11 to 15	100 to 200

Road Grade (percent)	Spacing (feet)
16 and greater	100

(b) Haul roads and skid trails shall be smoothed, sloped, ditched and seeded with perennial grasses, as needed. Landings shall be smoothed, seeded and protected with waterbars, as needed. At stream crossings, temporary stream culverts and bridges shall be removed, and stream banks shall be restabilized and protected with waterbars. All reclamation efforts shall be subject to inspection by the town to assure compliance with this provision.

D. Permit approval procedure; fees; bond.

(1) No commercial timber harvesting shall be undertaken until granted a special use permit, as approved by the Planning Board, in accordance with procedures outlined in § 160-64 herein.

(2) An application for a special use permit shall include:

(a) An application fee in accordance with the Town's adopted fee schedule.

(b) A description of the proposed harvesting activity, including a description of the type of harvesting, i.e., clearcutting, diameter limit cutting (in which case the minimum stump diameter shall be designated), thinning or selection cutting.

(c) The dates between which such harvesting activity will occur.

(d) Sufficient information to determine that the proposed harvesting activity will comply with the standards for harvesting set forth herein.

(e) A map showing the specific areas to be harvested and the location of proposed forest haul roads, landings and stream crossings. The map shall be at a scale of 1:24,000 (such as a United States Geological Survey Topographic Map, a New York State Department of Transportation Planimetric Map or Town Tax Map) or any scale of a smaller ratio such that a larger map is produced.

(f) A bond or certified check as required herein.

(3) Upon receipt of an application for a special use permit, the Planning Board shall, at its option, submit the application to the Department of Environmental Conservation and request a review of the application by a Department of Environmental Conservation forester or to a professional forester selected by the Planning Board for review. In a case where the timber is being harvested for the purpose of clearing the land for conversion to agricultural use, building purposes or for utility line rights-of-way, the Planning Board may, in its discretion, waive this review requirement.

(4) Performance bond. Applicants shall post a performance bond or surety in an amount and form acceptable to the Town for the purposes of restoration of the site to a condition approved by the Planning Board.

§ 160-54. Wind Energy Conversion

A. Intent and purpose. The Town of Brunswick recognizes that wind energy is a potentially abundant, renewable and nonpolluting energy resource of the Town and that the conversion of wind energy to electricity could reduce dependence on nonrenewable energy resources and decrease air and water pollution that result from the use of conventional energy sources. The purpose of these regulations for wind energy conversion systems (WECS) is to ensure that development of these facilities will have a minimal impact on adjacent properties and to protect the health, safety and welfare of residents of the Town.

B. General regulations.

(1) WECS of any kind are only allowed in accordance with the District Schedule of Use Regulations. WECS shall be permitted on lots of two acres or more.

(2) Prior to construction of any WECS, the applicant must first obtain a special use permit and site plan approval from the Town of Brunswick Planning Board and, thereafter, a building permit from the Buildings and Code Inspector.

(3) Applicants for the proposed development of a WECS facility shall submit with the application a plan showing the information required for site plan approval, as set forth in Article 7 of this Chapter. In addition, the plan must contain (either on the plan itself or as a separate submission) information as described herein:

C. Regulations for small WECS. The purpose of this section is to provide standards for small wind energy conversion systems designed for home, farm and small commercial use on the same parcel and that are primarily used to reduce consumption of utility power at that location. Applications for approval of small WECS WECS must adhere to the following standards:

(1) The minimum lot size is two acres.

(2) The total height shall be no more than 45 feet.

(3) The minimum setback shall be a distance equal to 110% of the WECS height from all adjacent property lines. Additionally, no portion of the WECS system, including guy wire anchors, may extend closer than 10 feet to the property line. The use of guy wires is disfavored.

(4) The WECS shall maintain a circular clear zone that has a radius which is equivalent to 110% of the WECS height. The clear zone shall be maintained free of any occupied structures, tanks containing combustible/flammable liquids, and aboveground utilities/electrical lines.

(5) WECS shall not exceed 60 dBA, as measured at the property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

(6) Any climbing apparatus must be located at least 12 feet above the ground, and the tower must be designed to prevent climbing within the first 12 feet. It may be recommended that the tower be enclosed with an appropriate fence.

(7) WECS shall not be artificially lighted with accent lighting.

(8) No tower should have any sign, writing or picture placed or painted on the tower, rotor, generator or tail vane that may be construed as advertising.

(9) Only one WECS shall be allowed per lot.

(10) The WECS shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.

(11) The WECS shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that the system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

(12) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.

(13) A map showing all utility lines, both above and below ground, within a radius equal to the proposed tower height, including blades.

(14) The map must also denote surrounding land use and all structures within 500 feet of WECS location.

(15) Dimensional representation of the various structural components of the tower construction, including the base and footing.

(16) Design data indicating the basis of design, including manufacturer's dimensional drawings and installation and operation instructions.

(17) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and New York State Building Code.

(18) Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures as established by the New York State Building Code.

(19) Shadow flicker and ice and blade throw may need to be mitigated if neighboring residences are within 1,000 feet of a WECS.

(20) The Planning Board may determine that not all of the above requirements are necessary for a particular proposed project. However, they may determine that additional requirements must be met for a particular proposed project.

(21) Any WECS which has not been in active and continuous use for a period of 12 months shall be removed from the premises to a place of safe and legal disposal. Additionally, all structures, guy cables, guy anchors and/or enclosures accessory to such WECS shall also be remove. The site shall be restored to a natural condition. Such removal shall be completed at the owner's expense within six months of cessation of active and continuous use. Failure to remove the WECS in accordance with these regulations shall be a violation of this chapter.

D. Application process for commercial WECS. Applicants for approval of commercial WECS must submit a plan containing, at a minimum, the following:

(1) A map showing all existing lot lines, easements, rights-of-way and proposed road access, including provisions for paving, if any; proposed transmission lines and accessory facilities; and location of all existing and proposed utility systems to the facility.

(2) A map showing existing and proposed topography at five-foot contour intervals.

(3) A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material and erosion control measures.

(4) Photography assessing the visibility of the WECS from key viewpoints, existing treelines, and proposed elevations. Pictures shall be digitally enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from distances within a three-mile radius of such WECS. Pictures from specific locations may be required by the Planning Board, and all pictures shall be no smaller than five inches by seven inches. Proposed mitigation measures for visual impacts of the WECS should also be submitted. In addition, the applicant should submit a digital-elevation-model-based project visibility map showing the impact of visibility of the project from other locations to a distance radius of three miles from the WECS. The base map used shall be a published topographic map showing natural and constructed features.

(5) Documentation of the proposed intent and capacity of energy generation as well as a justification for the height of any WECS facility and justification for any clearing required.

(6) Proposed safety measure to mitigate WECS failure.

(7) Elevation map showing the WECS's height and design, including a cross section of the structure and components; hardware compliance with applicable structural standards; and the WECS's abilities in terms of producing energy.

(8) If any license, approval, permit, certification or any type of registration or similar type of endorsement is required from any other agency, the applicant shall notify the Planning Board of such requirement, and the Board shall coordinate the review as deemed appropriate.

(9) Noise analysis. A noise analysis shall be furnished which shall include the following:

(a) A description and map of the project's noise-producing features, including the range of noise levels expected; manufacturer's noise design and field testing data, both audible (dBA), and low frequency (deep bass vibration); and the tonal and frequency characteristics expected from the proposed structure.

(b) A description and map of the noise-sensitive environment, including any sensitive noise receptors, i.e., residences, hospitals, libraries, schools, places of worship and similar facilities, within 1,500 feet of the WECS and/or other sensitive receptor points that may be identified by the Planning Board.

(c) A survey and report that analyzes the preexisting ambient noise (including seasonal variation) and the effects of the WECS when added to the ambient noise.

(d) A description of the project's proposed noise-control features and specific measures proposed to mitigate noise impacts for sensitive receptors consistent with the requirements of this chapter.

(10) Engineer's report, prepared by a professional engineer licensed in New York State that provides information regarding the following potential risks. The results of the engineer's report shall be used to determine the adequacy of setbacks from the property line to mitigate any effects from potential ice throw, tower failure, or blade throw.

(a) Ice throw calculations. A report that calculates the maximum distance that ice from the turbine blades could be thrown and the potential risk assessment for inhabitants and structures. (The basis of the calculation and all assumptions must be disclosed.)

(b) Blade throw calculations. A report that calculates the maximum distance that pieces of the turbine blades could be thrown and the potential risk assessment for inhabitants and structures. (The basis of the calculation and all assumptions must be disclosed.)

(c) Catastrophic tower failure. A report from the turbine manufacturer stating the wind speed and conditions that the turbine is designed to withstand and the potential risk assessment for inhabitants and structures (including all assumptions).

(d) Certification by a licensed New York State professional engineer that the tower's design is sufficient to withstand wind loading requirements for structures or as established by the New York State Building Code.

(11) Lighting plan. The applicant shall submit a commercial wind energy facility lighting plan that describes all lighting that will be required, including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it does not spill over onto neighboring properties.

(12) Shadow flicker study. The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and other structures and describe measures that shall be taken to eliminate or mitigate the problem.

(13) A decommissioning and site restoration plan.

(14) FAA notification. A copy of written notification to the Federal Aviation Administration.

(15) Utility notification. Utility interconnection data and a copy of a written notification to the utility of the proposed interconnection.

(16) Notification to microwave communications link operators, if the WECS is located within two miles of any microwave communications link.

(17) Other information. Such additional information as may be reasonably required by the Town Engineer, Planning Board Attorney or Planning Board for an adequate assessment of the proposed project.

(18) State Environment Quality Review Act (SEQRA). A long-form EAF for the SEQRA review is required to be presented initially to the Town Planning Board for review. The Planning Board will determine whether the application is a Type 1 or Unlisted action for purposes of SEQRA and will proceed with the SEQRA review in accordance with such determination.

(19) The Planning Board may determine that not all of the above requirements are necessary for a particular proposed project. Any requirements the Planning Board determines are not necessary must be fully documented with the reasons clearly noted.

E General regulations for commercial WECS.

(1) Placement: setbacks, ice and blade throw, shadow casting and flicker. Setbacks from adjacent property lines, rights-of-way, easements, public ways or power lines (not to include individual residential feed lines) shall be 1.5 times the maximum WECS height or 1.5 times the maximum calculated ice or blade throw distance to the maximum point of impact, whichever is greater. Such calculation shall be determined by a licensed professional engineer at the applicant's expense. In areas subject to shadow casting and flicker, WECS facilities shall be no closer than 1,500 feet from an occupied building. Individuals living within 1/2 mile of any WECS must be advised in advance of construction of the potential for flicker/shadow and the time of day when that would occur. The WECS shall be designed such that the project shall minimize shadow flicker onto adjacent existing residences and businesses. Mitigation measures, which may include landscaping, shall be incorporated into any special use permit and site plan approval. The required shadow flicker study shall identify areas where shadow flicker may interfere with residences and businesses and describe measures that shall be taken to eliminate or minimize the problem.

(2) Noise level limit. Individual WECS facilities shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed the average nighttime ambient noise levels, measured at the boundaries of all the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.

(3) Guy wires and anchors. All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point 10 feet above the ground.

(4) Lighting. No WECS shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration (FAA) shall be subject to on-site field testing before the Planning Board, as a prerequisite to that Board's approval.

(5) Scenic viewshed impact. No WECS shall be installed in any location where the Planning Board determines the WECS to be detrimental to the general neighborhood character. No individual WECS shall be installed in any location that would substantially detract from or block the view of a portion of a scenic view, as viewed from any public road, right-of-way, publicly owned land or privately owned land within the Town of Brunswick or that extends from the Town of Brunswick. Placement of support buildings must be placed behind ridges or vegetation, if possible, to screen visibility. Clearcutting will not be allowed.

(6) Broadcast interference.

(a) No WECS shall be installed in any location along the major access of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

(b) No WECS shall be installed in any location where its proximity to existing fixed broadcast transmission or reception antenna (including residential reception antenna) for radio, television, wireless phone, or other personal communications systems would produce electromagnetic interference with signal transmission or reception.

(c) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Town's Buildings and Code Inspector within 60 days of any complaint.

(7) Specifications.

(a) Maximum height limit. The maximum height of a WECS shall be no greater than 100 feet.

(b) Tower output limit. Maximum 0.3 megawatt – maximum operating output.

(8) Color. WECS color will be determined by the Town of Brunswick Planning Board unless an agency of the state or federal government mandates otherwise.

(9) Structure. Solid tube as per manufacturer's engineered specifications.

(10) Design and specification. Detailed design and specifications will be required during the review of the application for site plan approval and special use permit.

(11) Ice build-up sensors. Ice build-up sensors shall be required for industrial and commercial WECS.

(12) Transmission lines. All power transmission lines from the WECS electricity generation facilities shall be underground.

(13) Blade to ground distance. The lowest portion of the blade may not be closer than 30 feet to the ground.

(14) Notice and safety considerations.

(a) Signs. Caution signs shall be placed at the setback limits warning of ice and blade throws. Signs shall be placed in accordance with the approved site plan and contain emergency telephone numbers.

(b) Fencing. Access to the WECS shall be limited by means of a fence eight feet high with a minimum six inches of security wire on top surrounding the tower base with a locking gate monitored by a security device and tower climbing apparatus to no lower than 15 feet from the ground or a locked door to internal stairs if so equipped.

(c) Limit tip speed. No WECS facilities will be permitted that lack an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, or turbine components.

(d) Emergency shutdown procedures. Emergency shutdown procedures shall be filed with the Town's Buildings and Code Inspector.

(15) Operating considerations:

(a) Removal if not operational. Any WECS which has not been in active service for a period of 12 months shall be removed from the premises to a place of safe and legal disposal. Additionally, all structures, guy cables, guy anchors and/or enclosures accessory to such WECS shall also be removed. The site shall be restored to a natural condition to a minimum depth of three feet or as otherwise instructed by the Town's Buildings and Code Inspector or as required by the Planning Board. Such removal shall be completed within 18 months of cessation of active use and at the owner's expense.

(b) Landscaping. Upon completion of installation, the site shall be returned as close as possible to its natural state.

(c) Building and grounds maintenance. Any damaged or unused parts shall be removed from the premises within 30 days. All maintenance equipment, spare parts, oil, etc., shall also be removed within 30 days. All tools and materials related to WECS operations must be removed from the site or stored while the site is active or inactive.

(d) Ownership changes. If the ownership of a WECS operating under a special use permit and site plan approval changes, the special use permit and site plan shall remain in force. All conditions of the site plan and special use permit, including performance and maintenance guarantees such as a letter of credit, or continuing certification requirements of the original owner will continue to be obligations of the succeeding owner. However, the change in ownership shall be registered with the Town's Buildings and Code Inspector. The Town of Brunswick will retain the performance and maintenance guarantees throughout the property transfer. The letter of credit will not be returned to the previous owner, unless replaced by a comparable letter of credit or cash in form and content satisfactory to the Attorney for the Town.

(e) WECS modification: Any and all modifications, additions or deletions to WECS that operate under a special use permit and site plan approval, whether structural or not, shall be made only with specific approval by the Town's Planning Board, except that such approval shall not be required for repairs which become necessary in the normal course of use of such WECS or become necessary as a result of natural forces, such as wind or ice.

(16) Certification.

(a) Inspection. An inspection report prepared by a professional engineer licensed in the State of New York will be required at the time of installation and every three years thereafter. The inspection report will be for the structure and the electronics and will be given to the Town's Buildings and Code Inspector.

(b) National and state standards. The applicant shall show that all applicable manufacturers', New York State, and U.S. standards for the construction, operation and maintenance of the proposed WECS are being complied with. All WECS shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI) or any successor organization. The applicant for a WECS special use permit and site plan approval shall furnish evidence from a professional engineer licensed to practice in the State of New York that such WECS is in compliance with the standards.

(c) Wind speed/wind load. Certification is required from a professional engineer licensed by the State of New York or manufacturer's certification, stating the WECS design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State and will shut down when wind speeds exceed manufacturer's maximum acceptable speed specifications.

(17) The regulations set forth above may be modified by the Planning Board for commercial WECS, at the Planning Board's sole discretion.

F. Liability/indemnity.

(1) Insurance; liability. Prior to issuance of a building permit for a WECS, the applicant shall provide the Town in the form of an insurance policy or a certificate of coverage issued by an insurance company for liability insurance in an amount to be determined by the Town Board and the Attorney for the Town, in consultation with the Town's insurer. This policy or certificate shall be to cover damage or injury which might result from the failure of a tower or any other part(s) of the WECS generation and transmission facility or for any other damage caused by the construction, maintenance or operation of the WECS. In addition, prior to construction of any WECS, the owner of such WECS must provide cash or a letter of credit, in amounts and form satisfactory to the Town Engineer and the Attorney for the Town, to guarantee the proper performance and maintenance of the WEC for three years after construction is completed.

(2) Performance guarantee (removal).

(a) The owner of a WECS, after such application has been approved and before a building permit is issued, shall submit acceptable surety sufficient to ensure the removal of the WECS. Said surety shall be forfeited if removal is not completed by the deadline as previously specified in this article. This estimate will be reviewed and updated every two years by the Town, and the owner of a WECS must increase the amount of such guarantee if required by the Town.

(b) If transmission services from a WECS are to be discontinued for a period exceeding 12 months, the owner of such WECS shall notify the Town's Buildings and Code Inspector within 30 days of the date of such discontinuance.

(c) Any WECS which has not been in active and continuous service for a period of 12 months shall be removed from the premises to a place of safe and legal disposal. Additionally, all structures, guy cables, guy anchors and/or enclosures accessory to such WECS shall also be removed. The site shall be restored to a natural condition. Such removal shall be completed at the owner's expense within six months of cessation of active and continuous use of such WECS, or the owner shall forfeit the surety posted. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter, and the cost of removing the WECS and accessory structures shall be placed as a lien on the property owner's tax bill.

(d) As a condition of the building permit and certificate of occupancy for the WECS, applicants, owners, and/or lessees shall post a surety in an amount and form acceptable to the Town for the purposes of removal or abandonment. The security shall be maintained by the applicant, owner, and/or Lessee until the WECS and all associated equipment is removed and the site restored. The amount shall be determined by an estimate of total cost of removal of the WECS and all associated equipment and restoration of the site. Acceptable forms shall include, in order of preference: cash, letter of credit, or a renewable bond that must remain in full force and effect, or a combination thereof. Such surety will be used to guarantee removal of the WECS and all associated equipment, should the system be discontinued or abandoned, and site restoration. If the owner, applicant, or lessee fails to remove the WECS and/or any associated equipment or restore the site, all costs incurred by the Town to cause compliance with this section for removal and site restoration shall be paid using the surety provided by the applicant.

(e) Continuing obligations. All requirements detailed above shall remain in force for the life of the special use permit.

ARTICLE 7: SITE PLAN REVIEW

§ 160-55. Site Plan General Provisions

A. The Planning Board of the Town of Brunswick is hereby authorized to review and approve, approve with modifications or disapprove site plans pursuant to the rules and specifications set forth herein. This review is necessary to insure the orderly, efficient and economic development of the Town of Brunswick. The intent of such review is to consider such elements as parking, means of access, screening, signs, landscaping features, location and dimension of buildings, impact of the proposed use on adjacent land, uses, availability and location of water and sewer service, locations or buildings of historical significance and such other elements as may be reasonably related to the health, safety and general welfare of the community.

B. No building permit shall be issued and no use shall be established or continued without first obtaining a site plan approval from the Planning Board, except for a single-family dwelling and related accessory uses or agricultural uses permitted by right.

C. The following facilities require Planning Board review and site plan approval except as exempted above:

(1) All structures which are to be newly constructed, including, but not limited to all public facilities such as schools, firehouses, religious institutions, government buildings, etc.

(2) All additions, deletions and structural or site changes to existing commercial or industrial areas.

(3) All changes in use.

§ 160-56. Site Plan Procedures

A. Prior Approvals. Prior to submission of an application for site plan review, the applicant must have received any required approval(s) from the Zoning Board of Appeals.

B. Sketch Plan Conference. An owner, or lessee of land to which this law is made applicable, prior to the submission of an application for site plan review, shall submit to the clerk of the Planning Board, a written narrative description and a sketch plan for preview purposes. Such submission shall provide the Planning Board with a flexible design that may be changed as deemed necessary prior to the work required for a detailed site plan. Such submission shall include the following as minimum requirements:

(1) Seven copies of a written narrative description of the proposed project addressing its scope of operation, purpose, and impact on the immediate area of influence and the Town in general (schools, traffic generation, population, utilities, aesthetics, land use compatibility). Photographs of the immediate area and site are appropriate.

(2) At least two copies of a sketch plan outlining the proposed design concept shall be submitted to the Planning Board locating the general massing of buildings (height and bulk), location of parking, circulation routes (roads and walks), features of historic concern, landscaping elements, watercourses, drainage ditches and other natural features.

(3) During the Sketch Plan Conference, the applicant will be advised of any requirements that will be waived. The Planning Board reserves the right to reinstate a requirement should there be a change in circumstances.

C. Procedures for Site Plan Approval.

(1) An Application for Site Plan Review is complete when a “Request for Site Plan Review” has been made in writing on forms provided to the applicant by the Buildings and Code Inspector, and filed with said Buildings and Code Inspector along with a Filing Fee, and the requirements as set forth in this Article have been met, except as waived by the Planning Board.

(2) Either a short or full environmental assessment form (EAF), as required by SEQR, Article 8 of the New York State Environmental Conservation Law and Title 6, Part 617 NYCRR shall be submitted with the Application for Site Plan Review.

(3) Fees. Payment of the applicable fees in accordance with the Town's fee schedule, established and annually reviewed by the Town Board.

§ 160-57. Specific Site Plan Requirements

A. Site plans shall be required to include the following:

(1) Site plan drawn to an acceptable scale, i.e. 1" =40' or less. Site plan must be a print on linen before final approval will be granted although initial plans can be on paper.

(2) Site plan to indicate existing zoning and special districts.

(3) Location, design and type of construction, proposed use and exterior dimensions of all buildings.

(4) A lighting plan shall delineate the type of lighting fixtures to be used and the proposed lighting pattern.

(5) Site plan to include floor elevations of buildings so as to assure positive surface drainage and proper elevation relationship to adjacent developments.

(6) Site plan to include a small-scale location map.

(7) A landscape plan shall be prepared in accordance with Section 160-40 Landscaping Standards.

(8) Site plan to include existing and finished grade contours so as to assure the adequate disposal of on-site water.

(9) Site plan to include the location of all existing and proposed utilities.

(10) Site plan to include location of and required test borings. Ground water elevation and soil profiles shall be required.

(11) Traffic flows shall be shown so as to provide for the safety and the ease of vehicular movement, including denotation of fire lanes where applicable. A traffic engineer report may be required upon request of the Planning Board.

(12) A parking plan shall delineate the number of parking spaces and the parking arrangements, with the size of each space to be in accordance with § 160-44 of this Chapter. No on-street parking is permitted.

(13) All site plans shall have affixed thereto the stamp and signature of either a land surveyor, professional engineer or an architect (licensed to practice in New York State).

(14) An interior design plan (seating plan) shall be required upon request.

(15) Pedestrian walkways, entrances and exist designed for use by the handicapped shall be required upon request.

(16) A written engineering report shall be required describing the watershed area, projected runoff and velocities thought proposed storm sewer systems, including any downstream impacts. A quantitative projection of sanitary sewage flow and where other non-domestic discharge is anticipated, a qualitative projection shall also be required. If the site is not serviced by the municipal sanitary sewer system an engineering report on the existing septic system servicing the site shall be required, or, if no septic system presently exists on the site an engineering plan of the proposed septic system shall be required.

(17) Service, storage and utility areas shall be designed to the side or rear yard of the building and shall be approximately screened by walls, earth berms, and/or vegetation, subject to approval by the Planning Board.

(18) Paving, parking or storage shall not be permitted within seven (7) feet of any side or rear line of the site plan presented and no parking or paving except for entrances will be permitted within ten (10) feet of the front line of said site plan. These areas shall be maintained as a landscaped area. Where such a requirement restricts the effective development of a site, the Planning Board may take any appropriate action it deems necessary to modify these requirements while maintaining the intent of this provision.

(19) A scaled elevation drawing of the exterior of all buildings on the site shall be required, which shall include any and all signs to be displayed on the site whether affixed to a structure or free standing.

(20) The dimensions of outdoor display areas will be clearly designated on the plans and shall not infringe upon green areas. The plans shall also indicate the items to be displayed.

(21) A Stormwater Pollution Prevention Plan (SWPPP) for all land disturbance activities (excluding agricultural activities) on the site that results in land disturbance of 1 acre or more. It shall be at the discretion of the Planning Board as to whether a SWPPP shall be required for land disturbance of less than 1 acre.

(22) Other elements integral to the proposed development as considered necessary by the Planning Board.

§ 160-58. Scope of Planning Board's Review of a Site Plan

The Planning Board's review of a site plan shall include, as appropriate, but is not limited to, the following:

A. General Considerations:

(1) Adequacy and arrangement of vehicular traffic, access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

(2) Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian conveniences.

(3) Location, arrangement, appearance and sufficiency of off-street parking and loading.

(4) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

(5) Adequacy of stormwater and drainage facilities.

(6) Adequacy of water supply and sewage disposal facilities.

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

(8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.

(9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

(10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

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

(12) Consideration of the location and preservation of historical sites or landmarks.

(13) Compatibility of site plan with Town Comprehensive Plan.

B. Agency and consultant review. In its review, the Planning Board may consult with the Town Buildings and Code Inspector, the Superintendent of Highways, other local and county officials and its designated private planning and engineering consultants, in addition to representatives of county, state and federal agencies, including but not limited to the Rensselaer County Departments of Health, Public Works, Planning and Development, the New York State Departments of Transportation, Health, Agriculture and Markets, Office of Parks, Recreation and Historic Preservation, Secretary of State, and Environmental Conservation, and the United States Army Corps of Engineers, United States Fish and Wildlife Service, and United States Department of Agriculture's Natural Resources Conservation Service.

C. Public Hearing. The Planning Board may conduct a public hearing on the proposed site plan. If a public hearing is considered desirable by the majority of the members of the Planning Board, the following shall apply:

(1) The Planning Board shall, within sixty-two (62) calendar days of the receipt of the complete application, conduct a public hearing on the site plan. The Planning Board, by resolution at a stated meeting, shall fix the place, date, and time of the public hearing. The Planning Board shall provide a copy of this notice of said hearing to the applicant, and at which hearing he or she shall appear in person or by agent. The Planning Board shall additionally provide notification as follows. All notices and mailings shall be paid for by the applicant. Such notices and mailings shall be as follows:

(a) By publishing at least ten (10) calendar days prior to the date thereof a legal notice in a newspaper of general circulation in the Town.

(b) Posting. Notice shall be posted at least ten (10) days prior to the date of the hearing as follows:

[1] On the bulletin board of the Town Hall; and

[2] On the Town of Brunswick website.

(c) By requiring notice of the public hearing regarding the substance and location of the site plan application to the owners of all property abutting that held by the applicant and all other owners within 300 feet of the exterior boundaries of the land involved in such application or such additional distance as the Planning Board may deem advisable, or as otherwise required by state law. Notice shall be mailed at least ten (10) calendar days prior to the hearing, with compliance with the notification procedure certified to by the clerk of the Planning Board.

(d) By providing notice of the public hearing regarding the substance and location of the site plan application to all involved agencies under SEQR at least ten (10) calendar days prior to the hearing.

(e) If the land involved lies within 500 feet of a farm operation located in a New York State agricultural district, such owners shall be sent, at least ten (10) calendar days prior to the public hearing, an agricultural data statement on forms supplied by the Town of Brunswick and prepared by the applicant.

(f) If the land involved in the application lies within 500 feet of the boundary of any other municipality, the applicant shall also mail, at least ten (10) calendar days prior to the public hearing, to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.

(g) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

(h) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying a site plan application.

D. Planning Board Action on Site Plan Approval. The Planning Board will maintain a record of all waived requirements, available for inspection by the applicant. Within sixty-two (62) days of the receipt of a completed application, as defined in § 160-56 Site Plan Procedures, except as waived by the Planning Board, the Planning Board shall act on it. If no decision is made within said sixty-two (62) day period, the site plan shall be considered approved. The Planning Board's minutes shall record the official action of the Board stating whether or not the site plan is approved, disapproved or approved with modification.

E. Modifications or Disapproval. The Planning Board's minutes may include recommendations of desirable modifications to be incorporated in the site plan, and conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's minutes will contain the reasons for such finding. In such a case, the Planning Board will recommend further study of the site plan and new submission to the Planning Board after it has been revised or redesigned.

§ 160-59. Documentation Required Prior to Approval

A. Required Referral. Prior to giving approval on the site development plan, the Planning Board shall refer the plan to appropriate county agency for advisory review and a report in accordance with section 239-M of the General Municipal Code.

B. Record of application for and Approval Status. All necessary permits from state and county officials, including but not limited to: NYS Department of Transportation, NYS Department of Environmental Conservation, Rensselaer County Health Department, the Rensselaer County Planning Department, and Rensselaer County Highway Department.

C. Material Specifications. Detailed sizing and final material specification of all required public improvements.

D. Construction Schedule. An estimated project construction schedule.

§ 160-60. Planning Board Action on Detailed Site Plan

A. Planning Board Shall Endorse its Approval. Upon approval of the site plan and payment by the applicant of all reimbursable costs due to the town, the Planning Board shall endorse its approval on a linen copy of the site plan and shall forward such copy to the Buildings and Code Inspector, with these considerations:

(1) Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, as may be deemed appropriate with regard to the size, complexity and proposed value of the site.

(2) No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Buildings and Code Inspector or Planning Board Engineer.

(3) The Buildings and Code Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board Engineer and other officials and agencies, as appropriate.

(4) Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this Zoning Law or the requirements of the Town Land Subdivision regulations, the Planning Board shall integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

B. Disapproval of Site Plan. Upon disapproval of a site plan, the Planning Board shall so inform the Buildings and Code Inspector and the Buildings and Code Inspector shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

§ 160.61. Expiration

A. A site plan shall expire if the site plan use or uses cease for more than twelve (12) consecutive months for any reason, if the applicant fails to obtain the necessary building permit(s) for the approved use within twelve (12) months of the site plan approval, or if its time limit expires without renewal.

§ 160.62. Reimbursable Costs

A. Reimbursable costs. Reasonable and necessary fees and expenses incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a site plan application shall be charged to the applicant.

B. Establishment of Escrow Account. A non-interest bearing escrow account shall be established and maintained by the Town for payment of private consultant fees as follows:

(1) Each private consultant retained by the Planning Board shall forward a review estimate setting forth the estimated cost for professional services.

(2) The Town shall cause the applicant to deposit the full amount of such estimate(s) with the Town, which will be placed in a non-interest bearing escrow account in the name of the Town, and shall keep a separate record of all such monies deposited in the name of the applicant and project.

(3) Upon receipt and approval by the Town of itemized vouchers from such professional consultant(s) for services rendered in the review of such application, the Town shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant upon receipt thereof by the Town.

(4) The Town shall review all such vouchers and shall approve payment of such professional consultant fees and expenses as are reasonable in amount and necessarily incurred in connection with the review, consideration and action upon the application. For purposes of this sub-section, a fee or expense is reasonable in amount if it bears a reasonable relationship to the average charge by other professional consultants to the Town performed in connection with the review and consideration of similar applications and in this regard, the Town may take into account the nature and complexity of the application, and any other special considerations as the Town may deem relevant. For purposes of this sub-section, a fee or expense is necessarily incurred if it was charged by the professional consultant for a service which was rendered in connection with the review, consideration and action upon the application for the purpose of protecting or promoting the health, safety or other vital interests of the residents of the Town, protect public or private property, protect the legal interest of the Town and avoid claims and liability, and such other interests as the Town may deem relevant.

(5) If any time during or after the processing of such application, there shall be insufficient monies on hand to the credit of such applicant to pay the approved professional consultant vouchers in full, or it shall reasonably appear to the Town that such monies will be insufficient to meet vouchers yet to be submitted, the Town shall cause the applicant to deposit such additional sums as the Town deems necessary or advisable to meet such professional consultant fees or expenses or anticipated fees or expenses.

(6) In the event the applicant fails to deposit such funds or such additional funds, any further application review or action shall be suspended until such monies are deposited.

(7) After all proceedings with respect to such application are completed, and all approved vouchers submitted regarding such application have been paid, any sums remaining on account to the credit of the applicant shall be returned to the applicant, together with a statement of the vouchers so paid..

ARTICLE 8: SPECIAL USE PERMITS

§ 160-63. Special Use Permit General Provisions

A. The Planning Board of the Town of Brunswick is hereby authorized to review and approve, approve with modifications or disapprove special use permits pursuant to the rules and specifications set forth herein. The purpose of this article is to allow a variety of uses of land provided that such uses do not adversely affect neighboring properties, the natural environment, or the character of the area in which they are located, and provided that such land uses are consistent with the goals and polices stated in the Town of Brunswick Comprehensive Plan. While a particular use may be generally suitable within a Zoning District as indicated herein, it is recognized that each physical site and each specific land use is unique, and that a particular use may not be compatible in a specific location.

B. Applicability. All uses designated by the notation "SP" in the District Schedule of Use Regulations in Article 4 shall require a Special Use Permit by the Planning Board in accordance with § 274-b of the Town Law and shall require Site Plan approval in accordance Article 7, shall conform to any applicable supplemental regulation of this chapter, and shall conform with the general objectives, requirements and procedures included herein. In addition accessory uses or structures used in connection with a special use permit shall be subject to the same approval requirements as the principal structure or use.

C. The intent of these regulations is to ensure that the development and use of individual parcels is in harmony with the Zoning Law and will not have an adverse effect on adjacent lands, the immediate neighborhood, or on the character of the community. Such regulations are designed to:

(1) Protect the community from traffic congestion and conflicts, flooding, and excessive soil erosion, unnecessary noise, lighting and odors, wasteful energy use and other forms of pollution.

(2) Protect the community from inappropriate design and other matters of scenic and aesthetic significance.

(3) Ensure that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is proposed.

(4) Ensure that its impacts can be mitigated by compliance with reasonable conditions.

(5) Ensure that new development conforms with the Town's planning goals and objectives as expressed in the Comprehensive Plan.

D. The Planning Board may require modifications to development proposals, submission of alternative design and layout proposals, and may attach reasonable conditions and safeguards to eliminate or minimize potential impacts as a precondition of its approval of a special use permit.

§ 160-64. Special Use Permit Application Procedures.

The Planning Board shall review and act on all special use permit applications in accordance with the procedures specified herein:

A. Application and fee. All special use permit applications are made to the Town Buildings and Code Inspector in writing, on forms, and in accordance with the review procedures prescribed by this section of the Zoning Law. In the event that the Town Buildings and Code Inspector determines that the application meets all of the requirements of the Zoning Law, the application shall be forwarded, accompanied by such written determination, by the Town Buildings and Code Inspector to the Planning Board for further review. Payment of the applicable application fees in accordance with the Town's fee schedule, established and annually reviewed by the Town Board shall be made by the applicant.

B. Procedures for Special Use Permit Approval.

(1) An Application for a Special Use Permit is complete when a "Request for Special Use Permit" has been made in writing on forms provided to the applicant by the Buildings and Code Inspector, and

filed with said Buildings and Code Inspector along with a Filing Fee, and the requirements as set forth in this Article and Article 7 Site Plan Review have been met, except as waived by the Planning Board.

(2) In the event the Town Buildings and Code Inspector finds the application does not comply in one or more respects with the provisions of the Zoning Law, the application shall be denied by the Town Buildings and Code Inspector, with leave to appeal the Town Buildings and Code Inspector's determination to the Zoning Board of Appeals in accordance with the provisions of Article 17 of this chapter.

C. Public notice and hearing. The Planning Board shall, within sixty-two (62) calendar days of the receipt of the complete application, conduct a public hearing on any such special permit application. The Planning Board, by resolution at a stated meeting, shall fix the place, date, and time of the public hearing. The Planning Board shall provide a copy of this notice of said hearing to the applicant, and at which hearing he or she shall appear in person or by agent. All notices and mailings shall be the responsibility of the applicant, shall be paid for by the applicant. Such notices and mailings shall be as follows:

(1) By publishing at least ten (10) calendar days prior to the date thereof a legal notice in a newspaper of general circulation in the Town.

(2) Posting. Notice shall be posted at least ten (10) days prior to the date of the hearing as follows:

(a) On the bulletin board of the Town Hall;

(b) On the Town of Brunswick website.

(3) By requiring notice of the public hearing and data regarding the substance and location of the special use permit application to the owners of all property abutting that held by the applicant and all other owners within 300 feet of the exterior boundaries of the land involved in such application or such additional distance as the Planning Board may deem advisable, or as otherwise required by state law. Notice shall be mailed at least ten (10) calendar days prior to the hearing, with compliance with the notification procedure certified to by the Secretary.

(4) By providing notice of the public hearing and data regarding the substance and location of the special use permit application to all involved agencies under SEQR at least ten (10) calendar days prior to the hearing.

(5) If the land involved lies within 500 feet of a farm operation located in a New York State agricultural district, such owners shall be sent, at least ten (10) calendar days prior to the public hearing, an agricultural data statement on forms supplied by the Town of Brunswick and prepared by the applicant.

(6) If the land involved in the application lies within 500 feet of the boundary of any other municipality, the applicant shall also mail, at least ten (10) calendar days prior to the public hearing, to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.

(7) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

(8) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying a special permit application.

D. Agency and consultant review. In its review, the Planning Board may consult with the Town Buildings and Code Inspector, the Superintendent of Highways, other local and county officials and its designated private planning and engineering consultants, in addition to representatives of county, state and federal agencies, including but not limited to the Rensselaer County Departments of Health, Public Works, Planning and Development, the New York State Departments of Transportation, Health, Agriculture and Markets, Office of Parks, Recreation and Historic Preservation, Secretary of State, and Environmental Conservation, and the

United States Army Corps of Engineers, United States Fish and Wildlife Service, and United States Department of Agriculture's Natural Resources Conservation Service.

E. Required referral. A full statement of any special use permit application, including all applicable SEQR documentation, that meets the referral requirements of § 239-l and 239-m of the General Municipal Law shall be referred prior to the public hearing to the Rensselaer County Economic Development and Planning for its review. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the Rensselaer County Department of Economic Development and Planning or 30 calendar days have elapsed since the Department received such full statement. In the event that the Rensselaer County Economic Development and Planning recommends disapproval of the proposal or recommends modification thereof within such time period or at a later date prior to final action by the Planning Board, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within 30 calendar days after such final action, the Planning Board shall file a report of the final action it has taken with the Rensselaer County Economic Development and Planning.

F. Decisions. Every decision of the Planning Board with respect to a special use permit application shall be made by resolution within 62 calendar days of the close of the public hearing, which resolution shall clearly state the decision, including findings, and any modifications attached thereto. The time within which the Planning Board shall render its decision may be extended by mutual consent of the applicant and the Planning Board. Each such decision shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy thereof shall also be mailed to the applicant. No time periods for decision-making in this subsection shall begin to run until the lead agency has either accepted a draft environmental impact statement as complete or adopted a negative declaration under SEQR.

G. Reimbursable costs. Reimbursable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a special use permit application shall be charged to the applicant.

H. Establishment of Escrow Account. A non-interest bearing escrow account shall be established and maintained by the Town for payment of private consultant fees as follows:

(1) Each private consultant retained by the Planning Board shall forward a review estimate setting forth the estimated cost for professional services.

(2) The Town shall cause the applicant to deposit the full amount of such estimate(s) with the Town, which will be placed in a non-interest bearing escrow account in the name of the Town, and shall keep a separate record of all such monies deposited in the name of the applicant and project.

(3) Upon receipt and approval by the Town of itemized vouchers from such professional consultant(s) for services rendered in the review of such application, the Town shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant upon receipt thereof by the Town.

(4) The Town shall review all such vouchers and shall approve payment of such professional consultant fees and expenses as are reasonable in amount and necessarily incurred in connection with the review, consideration and action upon the application. For purposes of this sub-section, a fee or expense is reasonable in amount if it bears a reasonable relationship to the average charge by other professional consultants to the Town performed in connection with the review and consideration of similar applications, and in this regard, the Town may take into account the nature and complexity of the application, and any other special considerations as the Town may deem relevant. For purposes of this sub-section, a fee or expense is necessarily incurred if it was charged by the professional consultant for a service which was rendered in connection with the review, consideration and action upon the application for the purpose of protecting or promoting the health, safety or other vital interests of the residents of the Town, protect public or private property, protect the legal interests of the Town and avoid claims and liability, and such other interests as the Town may deem relevant.

(5) If at any time during or after the processing of such application, there shall be insufficient monies on hand to the credit of such applicant to pay the approved professional consultant vouchers in full, or it

shall reasonably appear to the Town that such monies will be insufficient to meet vouchers yet to be submitted, the Town shall cause the applicant to deposit such additional ums as the Town deems necessary or advisable to meet such professional consultant fees or expenses or anticipated fees or expenses.

(6) In the event the applicant fails to deposit such funds or such additional funds, any further application review or action shall be suspended until such monies are deposited.

(7) After all proceeding with respect to such application are completed, and all approved vouchers submitted regarding such application have been paid, any sums remaining on account to the credit of the applicant shall be returned to the applicant, together with a statement of the vouchers so paid.

I. Effect of special use permit approval.

(1) In addition to compliance with all other applicable sections of this chapter, and all other local, county and state laws, rules and regulations, no building permit shall be issued for any structure regulated by this section until such special use permit has received Planning Board approval and a copy of a resolution to that effect has been presented to the Town Buildings and Code Inspector.

(2) No certificate of occupancy or building permit shall be issued for any structure or use of land covered by this section until the structure is completed or the land developed in strict accordance with the Planning Board resolution of special permit approval and other applicable requirements of this chapter.

(3) Any use for which a special permit may be granted shall be deemed a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.

(4) The Planning Board may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon specific determination by the Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. If the Town Buildings and Code Inspector finds a violation of the special use permit, he or she may refer the application to the courts or to the Planning Board for further proceedings. In such cases, a period of 60 calendar days shall be granted for full compliance by the applicant prior to revocation of the special use permit.

(5) A special use permit shall expire if the use or uses cease for more than one year for any reason, if the applicant fails to obtain the necessary building permits, fails to comply with the conditions of the special use permit, or if the time limit imposed on certain special uses expires without renewal.

J. Expiration of special use permit. A special use permit shall be deemed to authorize only the particular use or uses expressly specified in the resolution approving the special use and shall expire if the use permitted by the special use permit activity ceases for more than twelve (12) consecutive months for any reason, if the applicant fails to obtain the necessary building permit(s) for the approved use within twelve (12) months of the site plan approval, or if its time limit expires without renewal.

K. Amendments to special use permits. The terms and conditions of any special use permit may be amended in the same manner as required for issuance of a special permit, following the criteria and procedures of this subsection.

L. Integration of procedures. Whenever a particular application requires both the consideration of a special use permit and site plan review and approval by the Planning Board, the Planning Board shall integrate, to the extent practicable and consistent with applicable law, special use permit review, as required by this section, with the site plan review and approval process. Such integration of procedures may require, upon mutual written consent of the Planning Board and applicant, reasonable modification of the time schedules otherwise stated in this section or in Article 7, as related to site plan review and approval, provided that such integration shall not extend the time limit for the full implementation of the special use activity, for the stamping and

signature of the Chairman on the site plan, or for the submission of a completed application for either a building permit or certificate of occupancy beyond the time periods specified in § 160-64(f).

§ 160-65. Special Use General Standards.

The Planning Board shall carefully review the specific requirements set forth in this article for the special use permit, the applicable supplementary regulations enumerated in Article 6 of this chapter, and the following general standards for any use requiring special use permit authorization by the Planning Board:

A. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets and roads providing access shall be in harmony with the orderly development of the district.

B. The location, nature and height of the buildings, walls and fences and the nature and intensity of the intended operations will not discourage the appropriate development and use of adjacent land and buildings nor impair the value thereof.

C. All proposed traffic access ways shall be adequate but not excessive in number, adequate in width, grade, alignment and visibility, be sufficiently separated from street intersections and places of public assembly, and meet similar safety considerations.

D. Adequate provision for safe and accessible off-street parking and loading spaces shall be provided to avoid parking in public streets of vehicles or persons connected with or visiting the use. With the exception of single-family detached dwellings, shared parking is encouraged where the peak parking demands of different uses occur at various times of the day. Use of a widely accepted means of projecting demand for shared use, such as the Urban Land Institute's Shared Parking Report, shall be employed to demonstrate shared parking effects.

E. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the maximum extent practicable. Roadside plantings shall be in accordance with the Town's design standards as outlined in Article 6, § 160-40 herein.

F. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire, emergency services and police protection.

G. The character and appearance of the proposed use, buildings, structures, lighting, and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood. These shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or light than would the operations of any permitted principal use. In addition, they shall not adversely affect the general welfare of the inhabitants of the Town of Brunswick, such determination to be made by the Planning Board.

H. Except for preexisting nonconforming lots of record, the use shall meet the prescribed area and bulk requirements for the district in which it is located and as further specified in the supplementary regulations, including but not limited to setbacks, maximum height, environmental and open space standards, required off-street parking, lighting, noise, and sign regulations.

I. The level of municipal and other services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface water or groundwater.

J. The proposed use shall not have an unmitigated significant adverse environmental impact as defined by the New York State Environmental Quality Review Act (SEQR). Such determination shall be made by the Planning Board or other designated lead agency.

K. The use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site under review and in adjacent areas.

L. The use shall be consistent with the Town's Comprehensive Plan and other applicable planning documents adopted by the Town.

M. The Planning Board shall impose additional conditions and safeguards to the special use permit as are directly related to and incidental to the proposed special use permit and which may be necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced.

ARTICLE 9: PERSONAL WIRELESS TELECOMMUNICATION SERVICE FACILITIES

§ 160-66. Purpose.

A. The purpose of these regulations is to promote the health, safety, and general welfare of the citizens of the Town of Brunswick; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of Telecommunications Towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; to minimize adverse visual effects from Telecommunications Towers by requiring careful sitng, visual impact assessment, and appropriate landscaping; and to protect and preserve the scenic beauty, aesthetic character, natural features and property values of the Town of Brunswick.

B. These regulations are intended to be consistent with the Telecommunications Act of 1996 in that:

(1) The regulations do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services;

(2) The regulations are not intended to be used to unreasonably discriminate among providers of functionally equivalent services/

(3) The regulations do not seek to regulate Personal Wireless Telecommunications Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with Federal Communications commission (FCC) Regulations concerning such emissions.

§ 160-67. General Standards for Personal Wireless Telecommunications Service Facilities

A. The siting, placement, construction and modification of all Personal Wireless Telecommunications Service Facilities within the boundaries of the Town of Brunswick shall be permitted only upon the issuance of a special use permit and site plan approval by the Planning Board, and the issuance of a building permit by the Buildings and Code Inspector, subject to all of the provisions of this Article and all other applicable laws, Zoning Laws, and regulations.

B. All Personal Wireless Telecommunications Service Facilities lawfully existing as of the effective date of this local law shall be allowed to remain and continue in their current use.

C. No existing or approved Personal Wireless Telecommunications Service Facilities shall be hereafter used, erected, moved, reconstructed, changed, or altered except in conformity with the requirements of this Article. This provision does not require approval for routine maintenance of Personal Wireless Telecommunications Service Facilities.

D. No existing structure shall be modified to serve as a Personal Wireless Telecommunications Service Facilities except in conformity with this Article.

E. Minor Personal Wireless Telecommunications Service Facilities may be approved in all Zoning Districts within the Town, upon the issuance of a special use permit, site plan approval and issuance of a building permit, as hereinbefore provided.

F. Major Personal Wireless Telecommunications Service Facilities may be approved in accordance with the District Schedule of Use Regulations found in § 160-18, upon issuance of a special use permit, site plan approval and issuance of a building permit, as hereinbefore provided. No Major Personal Wireless Telecommunications Service Facilities may be approved in any other District.

§ 160-68. Application for Minor Personal Wireless Telecommunications Service Facility.

At all times, Minor Personal Wireless Telecommunications Service Facilities shall be preferred Major Personal Wireless Telecommunications Service Facilities.

A. An applicant proposing to construct a Minor Personal Wireless Telecommunications Service Facility shall be required to submit:

(1) A completed application for a special use permit;

(2) Documentation of intent from the owner of the existing building or existing structure upon which the applicant proposes to locate to allow the shared use;

(3) Site plan meeting the requirements of this Article and other applicable laws and regulations of the Town of Brunswick. Without intending to limit the foregoing, the site plan shall show all existing and proposed structures and improvements including antennas, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any proposed methods to conceal the modification of the existing facility shall be indicated on the site plan.

(4) A report by a licensed professional engineer certifying that the proposes Minor Personal Wireless Telecommunications Service Facility will not diminish the structural integrity and safety of he existing building or structure, and detailing what modifications to the exiting building or structure or to the Minor Personal Wireless Telecommunications Service Facility being proposed will be required in order to certify the above;

(5) A completed long form EAF with Visual Addendum;

(6) A copy of its Federal Communications Commission (FCC) license;

(7) A certified report by a qualified RF Engineer, as well as calculated data, demonstrating that all radio-frequency emissions from the Minor Personal Wireless Telecommunications Service Facility are in full compliance with FCC Regulations in effect at the time of the application.

B. If an applicant proposing to construct a Minor Personal Wireless Telecommunications Service Facility submits complete and satisfactory documentation in accordance with 5.A, above, and if the proposed modifications to the existing building or structure are deemed insignificant by the Planning Board, and after the Planning Board conducts a public hearing and complies with all SEQRA requirements, the Planning Board shall grant a special use permit without further review under this Article. If the Board determines that the proposed modifications are significant, it may require further review as hereinafter provided in this Article.

§ 160-69. Application for a Major Personal Wireless Telecommunications Service Facility.

The Planning Board may consider an application for a Major Personal Wireless Telecommunications Service Facility only where it is established that for physical, technical or financial reasons a Minor Personal Wireless Telecommunications Service Facility which does not include the construction of a new Telecommunications Tower is impractical or will not meet the reasonable needs for the applicant. In all cases where a new Telecommunications Tower is proposed to be constructed, the placement of the new tower on a site already developed with an existing Telecommunications Tower(s) shall be preferred.

A. Applicants for a special use permit to site, place or construct a Major Personal Wireless Telecommunications Service Facility shall submit the following information to the Planning Board:

(1) A completed application for a special use permit;

(2) A completed long form EAF with Visual Addendum;

(3) A site plan meeting the requirements of this Article and other applicable laws and regulations of the Town of Brunswick, prepared to scale and in sufficient detail and accuracy showing at the minimum:

(a) The exact location of the proposed Major Personal Wireless Telecommunications Service Facility;

(b) If a new Telecommunications Tower is proposed, the location of guy wires and guy anchors, if applicable, and the maximum height of the tower;

(c) Preliminary construction drawings or sketches sufficient to allow the Planning Board to identify the type of construction proposed;

(d) The color or colors of any proposed Telecommunication Tower or antenna(s);

(e) The location, type and intensity of any proposed lighting on any proposed Telecommunication Tower;

(f) Surveyed boundaries of the leased or owned property upon which the proposed facility is to be located;

(g) Proof of the landowner's consent if the applicant will not own the property upon which the proposed facility is to be located;

(h) The location of all other structures within the 100% clear zone together with the distance to those structures;

(i) The names and mailing addresses of all landowners who own land adjacent to the property upon which the Facility will be placed, as well as those non-adjacent landowners who own land within the 100% clear zone;

(j) The location, nature and extent of any proposed landscaping, screening and buffering;

(k) The location of any proposed utility easements and access roads;

(l) Building elevation of any accessory buildings or structures.

(4) A Preliminary Report prepared by a licensed professional engineer describing:

(a) In substantial detail, the precise reasons why a Minor Personal Wireless Telecommunications Service Facility is not practical or will not meet the reasonable needs of the applicant;

(b) The applicant's full map and grid coverage in the Town;

(c) Surrounding topography and relation to line of sight transmission;

(d) Available road access, electric power and land-based telephone lines, and/or microwave link capability;

(e) Required improvements or construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Brunswick;

(f) Identity of the location, ownership and usage of currently existing Personal Wireless Telecommunications Service Facility within the Town of Brunswick;

(g) Plans for construction of telecommunications accessory equipment buildings or structures, and a landscaping plan;

(h) Proposed mitigation measures for visual impacts;

(i) Proposed safety measures;

(j) Compatibility with existing telecommunications networks, public safety and emergency networks, fire, police, ambulance and 911.

(5) In t he case where a new Telecommunications Tower is proposed, additional detailed information shall be provided describing: the tower height and design, including a cross section of the structure; the tower's compliance with applicable structural standards; the tower's capacity, including the number and type of Telecommunications Antennas it can accommodate and the basis of calculation of capacity; detailed justification of the proposed height of the tower.

(6) In the case where a new Telecommunications Antenna is proposed to be mounted to an existing structure, additional information shall be provided indicating: the existing structure's suitability to accept the telecommunications antenna; the proposed method of affixing the telecommunications antenna to the structure; complete details of all fixtures and couplings; and the precise point of attachment shall be indicated.

(7) "Before" and "After" propagation studies prepared by a qualified Radio Frequency Engineer demonstrating the applicant's existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed Facility.

(8) A "Search Ring" prepared by a qualified Radio Frequency Engineer and overlaid on an appropriate background map demonstrating the area within which the proposed Facility needs to be located in order to provide signal strength and coverage to the target area.

(9) Demonstration of the need for the proposed Facility showing the impracticality of utilizing a Minor Personal Wireless Telecommunications Service Facility.

(10) Demonstration that the proposed site is the most appropriate site for the proposed Facility. In cases where a new Telecommunications Tower is proposed on a site not previously developed with an existing Telecommunications Tower, the applicant shall further demonstrate hat siting the new tower on a sit previously developed with an existing Telecommunications Tower is impractical or will not meet the applicant's reasonable needs.

(11) Inventory of existing Personal Wireless Telecommunications Service Facilities within the Town, outlining opportunities for shared use as an alternative to the propped Major Personal Wireless Telecommunications Service Facility. The applicant must demonstrate that its needs cannot reasonably be met by way of a Minor Personal Wireless Telecommunications Service Facility as an alternative to the proposed Facility.

(12) A line of sight or visual impact assessment as follows:

(a) A "Zone of Visibility Map" shall be provided in order to determine locations from which the proposed Facility may be seen;

(b) Drawings, photographs or computer generated graphic representations of the views from 1,000 feet away from the north, south, east and west and all natural and manmade features and structures within those views including the proposed Facility;

(c) Pictorial representations of "before" and "after" view from key viewpoints both inside and outside the Town, including, but not limited to, state highways or other major roads, state and local parks, other public land, preserves and historic sites, and from any other location where the proposed Facility is visible to a large number of visitors, travelers or tourists.

(d) An analysis prepared and sealed by a licensed professional engineer, architect, or landscape architect detailing the potential visual and aesthetic impacts the proposed Facility is likely to have on the surrounding community, scenic vistas and viewsheds, and the use and enjoyment of public and private property.

(e) Assessment of alternative tower designs and color schemes.

(13) Identification of the effects siting and operation of the proposed Facility will have on existing Personal Wireless Telecommunications Service Facilities, other communications equipment or electromagnetic devices within one thousand (1000) feet of the proposed Facility.

(14) Description of the applicant's long range plans which project market demand and long-range expansion needs within the Town.

(15) A certified report from a qualified RF Engineer as well as calculated data demonstrating that all radio-frequency emissions from the Facility will be in compliance with FCC Regulations in effect at the time of the application.

(16) Such other additional information, studies, identification and analysis of alternative site, and assessments as may be required by the Planning Board or its consultants to fully review and evaluate the potential impact and location of the proposed Facility.

§ 160-70. Specific Standards for Personal Wireless Telecommunications Service Facilities.

A. The Planning Board shall apply the specific standards hereinafter set forth in its consideration of any application for a special use permit for a Personal Wireless Telecommunications Service Facility, such standards to be considered supplemental and in addition to any general standards for special use permits set forth in Article 8, Section § 160-65.of the Zoning Law, or elsewhere in the laws, Zoning Laws and regulations of the Town of Brunswick:

(1) Minimum Lot Area. The minimum lot area upon which a Major Personal Wireless Telecommunications Service Facility involving a new Telecommunications Tower may be located is 150,000 square feet. Notwithstanding the foregoing, depending upon the configuration of the proposed site and its relationship to neighboring properties, a site in excess of the minimum lot area may be required to ensure the protection of the public health, safety and welfare through both substantial setback from neighboring properties, with special consideration given to properties on which pre-existing residential dwellings are located, and proper visual screening of the proposed Facility from those properties.

(2) Minimum Setbacks. The minimum setback of a Telecommunications Tower shall be a distance equal to the height of the proposed tower plus thirty (30) feet from any adjoining property line. Setbacks shall apply to all tower parts including guy wires, guy anchors and any accessory facilities. The foregoing notwithstanding, the minimum distance of any Telecommunication Tower including guy wires and anchors from any single-family or two-family dwelling as measured from the nearest point to nearest point shall be seven hundred fifty (750) feet.

(3) Maximum Height. No Personal Wireless Telecommunications Service Facility shall exceed two hundred (200) feet in height. Notwithstanding the foregoing, all Personal Wireless Telecommunications Service Facilities shall be designed at the minimum height necessary to achieve the communication need and function they are intended to fulfill.

(4) Personal Wireless Telecommunications Service Facilities shall be located on a single lot.

(5) Any new Telecommunication Tower must be designed so as to be structurally capable of reasonably accommodating future shared use.

§ 160-71. Site Requirements.

A. The following site requirements shall be applied by the Planning Board in its consideration of any application for the issuance of special use permit for a Personal Wireless Telecommunications Service Facility and by the Planning Board in its consideration of any application for site plan approval for Personal Wireless Telecommunications Service Facility.

(1) Minimal Visual Impacts. Personal Wireless Telecommunications Service Facilities shall be designed and sited so as to have the least possible practical visual impact on the environment. Accessory buildings or other structures shall employ building materials, colors, textures that are both durable and selected to blend with the natural surroundings. Scenic vistas should not be impacted.

(2) Lighting. Telecommunications Towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration, or other federal, state, or local authority.

(3) Materials and Paint. Telecommunication Towers and Telecommunications Antennas shall be of a galvanized finish or painted gray above the surrounding tree line, and painted gray, green, black or similar colors designed to blend into the natural surroundings below the tree line, unless otherwise required by Federal Aviation Administration standards.

(4) Signs. No Telecommunications Tower or Telecommunications Antenna shall support any advertising messages or other commercial signs. Non-ionizing warning signs and other signs necessary to meet the requirements of the applicant's FCC license to operate shall be permitted.

(5) Screening. Existing on-site vegetation shall be preserved to the maximum extent practicable to both mitigate the visual impact of the Personal Wireless Telecommunications Service Facility and to maintain the stability of soils within the site. Where a Personal Wireless Telecommunications Service Facility abuts a residential or public property, the following vegetative screening will be required: one row of native evergreen shrubs or trees capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting shall be provided to effectively screen the Telecommunications Tower base and any accessory buildings or structures. Additional vegetative screening may be required by the Planning Board when necessary to screen portions of the Personal Wireless Telecommunications Service Facility from nearby residential property or important views.

In addition to vegetative screening, the use of creative architectural design methods and measures to camouflage facilities by integrating them with existing structures and among other existing uses is preferred.

(6) Telecommunications Accessory Structures. Telecommunications support facilities such as vaults and equipment rooms, utilities, and other support structures, should be screened, placed underground, depressed, earth-bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.

(7) Telecommunication Antennas. Due to their high visibility, dish and parabolic telecommunications antenna should be located at as low an elevation as possible without compromising the function of the device, preferably on the sides of buildings or ground mounted on slopes below the ridgeline wherever possible, rather than elevated on Telecommunications Towers. Microwave and satellite dishes should be of mesh construction wherever possible.

(8) Utility Service. Electrical and land-based telephone and/or microwave utilities extended to serve Personal Wireless Telecommunications Service Facilities shall be underground.

(9) Safe Zone. Telecommunications Towers should be designed so that in the event of failure they will fall within the setback area of the site and/or away from adjacent development.

(10) Security. Each Personal Wireless Telecommunications Service Facility should have a security program, including physical features such as fencing, anti-climbing devices or elevating ladders on the Telecommunications Tower, and/or monitoring, either by staff or electronic devices, to prevent unauthorized access or vandalism. The fencing shall be, at minimum, eight (8) feet in height, with locking gates, and shall be installed to fully surround the base of the Telecommunications Tower, including all of its components, and any accessory buildings or other improvements of the Facility.

(11) Access and parking. Adequate access to, and parking a, the Personal Wireless Telecommunications Service Facility site shall be provided for both service and emergency vehicles, with maximum use made of existing roadways, either public or private. Any access road to a Personal Wireless Telecommunications Service Facility site shall be improved and maintained at no less than the design standards for private roadways asset forth in the Town Code of the Town of Brunswick. Moreover, to the extent practicable, any roadway construction required to access Personal Wireless Telecommunications Service Facility shall be carried out in a manner that minimizes ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

As a condition of the special use permit and for maintaining a certificate of occupancy or certificate of compliance, once issued, any such access roadway shall be maintained throughout the useful life of the Personal Wireless Telecommunications Service Facility in a workmanlike manner, including the plowing of snow, periodic trimming of vegetation that may obstruct the cartway, and undertaking of repairs in a timely manner to address any roadway defects, drainage problems, erosion conditions or

other circumstances that may develop so as to ensure the roadway is at all times in a safe and passable condition for both service and emergency vehicles.

(12) Noise. Noise producing equipment should be sited and/or insulated to minimize noise impacts on adjacent and nearby properties.

§ 160-72. New Telecommunications Towers and Future Shared Use.

A. The applicant shall design a proposed new Telecommunications Tower to accommodate future demand for reception and transmitting facilities The applicant shall submit to the Planning Board, in the context of any application for a Major Personal Wireless Telecommunications Service Facility which involves the construction of a new Telecommunications Tower, a letter of intent committing the owner of eh proposed new Telecommunications Tower, and any successor in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. The letter shall be filed with the Buildings and Code Inspector prior to the issuance of a building permit for the new Telecommunications Tower. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new Telecommunications Tower owner, or any successor in interest, to:

(1) Respond within ninety (90) days to a request for information from a potential shared-use applicant;

(2) Negotiate in good faith concerning future request for shared use of the new Telecommunications Tower by other telecommunications providers;

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

§ 160-73. Post-Installation Field Report.

A. A post-installation field report identifying the Facility's coverage area, the Telecommunication Towers maximum capacity and unused capacity if any, and co-located users of the Facility, shall be submitted to the Planning Board within sixty (60) days of the issuance of a Certificate of Occupancy or Certificate of Compliance.

§ 160-74. Removal.

A. All Personal Wireless Telecommunications Service Facilities, and all parts and components thereof, and any accessory buildings or other structures appurtenant thereto, shall be dismantled and removed from the site when they have been inoperative or abandoned for a period of eighteen (18) consecutive months. Intention on the part of any person to resume the use or operation of the Facility at some future time shall not provide an exemption from this requirement. Applicants shall post a bond or other suitable undertaking as a condition of the special use permit in order to guarantee removal of the abandoned structures. The bond or undertaking shall be continued in effect during the life of the Facility. The amount of the bond or undertaking shall be set by the Planning Board at the time of issuance of the special use permit.

§ 160-75. Evaluation by Independent Consultants.

A. Upon submission of an application for the issuance of a special use permit for a Personal Wireless Telecommunications Service Facility, the Planning Board shall retain an independent consultant, at a reasonable rate to the be paid by the applicant, to assist the Planning Board in the technical review of the application. The consultant shall be qualified professional in the field of (a) telecommunications engineering, (b) structure engineering, (c) landscape architecture, or (d) other relevant field deemed appropriate by the Planning Board. The consultant may reasonably engage the services of other professionals, at reasonable rates to be paid by the applicant, to assist in the review of aspects of the application in which it has no expertise.

B. Establishment of Escrow Account. A non-interest bearing escrow account shall be established and maintained by the Town for payment of private consultant fees as follows:

(1) Each private consultant retained by the Planning Board shall forward a review estimate setting forth the estimated cost for professional services.

(2) The Town shall cause the applicant to deposit the full amount of such estimate(s) with the Town, which will be placed in a non-interest bearing escrow account in the name of the Town, and shall keep a separate record of all such monies deposited in the name of the applicant and project.

(3) Upon receipt and approval by the Town of itemized vouchers from such professional consultant(s) for services rendered in the review of such application, the Town shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant upon receipt thereof by the Town.

(4) The Town shall review all such vouchers and shall approve payment of such professional consultant fees and expenses as are reasonable in amount and necessarily incurred in connection with the review, consideration and action upon the application. For purposes of this sub-section, a fee or expense is reasonable in amount if it bears a reasonable relationship to the average charge by other professional consultants to the Town performed in connection with the review and consideration of similar applications, and in this regard, the Town may take into account the nature and complexity of the application, and any other special considerations as the Town may deem relevant. For purposes of this sub-section, a fee or expense is necessarily incurred if it was charged by the professional consultant for a service which was rendered in connection with the review, consideration and action upon the application for the purpose of protecting or promoting the health, safety or other vital interests of the residents of the Town, protect public or private property, protect the legal interests of the Town and avoid claims and liability, and such other interests as the Town may deem relevant.

(5) If at any time during or after the processing of such application, there shall be insufficient monies on hand to the credit of such applicant to pay the approved professional consultant vouchers in full, or it shall reasonably appear to the Town that such monies will be insufficient to meet vouchers yet to be submitted, the Town shall cause the applicant to deposit such additional ums as the Town deems necessary or advisable to meet such professional consultant fees or expenses or anticipated fees or expenses.

(6) In the event the applicant fails to deposit such funds or such additional funds, any further application review or action shall be suspended until such monies are deposited.

(7) After all proceeding with respect to such application are completed, and all approved vouchers submitted regarding such application have been paid, any sums remaining on account to the credit of the applicant shall be returned to the applicant, together with a statement of the vouchers so paid.

§ 160-76. Required Inspections.

A. All Major Personal Wireless Telecommunications Service Facilities which include a Telecommunications Tower shall be inspected annually by a licensed professional engineer, and a copy of the certified inspection report filed with the Town Buildings and Code Inspector. The said certified inspection report shall be filed within sixty (60) days of the first and each succeeding anniversary of the issuance of the original Certificate of Occupancy or Certificate of compliance authorizing the use of the Facility.

B. All Major Personal Wireless Telecommunications Service Facilities which do not include a Telecommunication Tower and all Minor Personal Wireless Telecommunications Service Facilities shall be inspected bi-annually by a licensed professional engineer, and a copy of the certified inspection report filed with the Town Buildings and Code Inspector. The said certified inspection report shall be filed within sixty (60) days of the first and each succeeding bi-annual anniversary of the issuance of the original Certificate of Occupancy or Certificate of Compliance authorizing the use of the Facility.

§ 160-77. Intermunicipal Notification.

A. In order to keep neighboring municipalities informed and to facilitate the possibility of directing that an existing tall structure or existing Telecommunication Tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County E-911 services, the Planning Board shall require that:

(1) An applicant whose application entails a new Telecommunication Tower shall notify in writing the legislative body of each municipality that borders the Town of Brunswick, the Rensselaer County Bureau of Economic Development &Planning, and the Director of the Rensselaer County Bureau of Emergency Services. Notification shall include the exact location of the proposed Telecommunication Tower and its capacity for future shared use. The applicant shall provide proof of compliance with this provision to the Planning Bard at the time of the submission of the application.

§ 160-78. Notification of Nearby Landowners.

A. The applicant shall be required to mail notice of the public hearing on any application for the issuance of a special use permit for a Personal Wireless Telecommunications Service Facility directly to all landowners whose property is located within seven hundred fifty (750) feet of the property line of the parcel on which the Personal Wireless Telecommunications Service Facility is proposed. Notice shall also be mailed to the administrator of any state, federal, or municipal parklands, or any building or structure having historical significance, form which the proposed Personal Wireless Telecommunications Service Facility would be visible. Notification, in all cases, shall be made by certified mail. Documentation of such notification shall be submitted to the Planning Board prior to the public hearing.

B. Such notice shall be supplemental and in addition to any other public notice or notifications otherwise required by law.

§ 160-79. Certificate of Insurance Required.

A. Adequate and sufficient liability insurance shall be maintained during the construction period and throughout the life of any Personal Wireless Telecommunications Service Facility erected within the Town of Brunswick. The minimum acceptable amount of liability insurance shall be established by the Planning Board in its review of the application for a special use permit. Prior to the issuance of the special use permit, documentation that such liability insurance has been secured shall be submitted to the Town in the form of a Certificate of Insurance naming the Town of Brunswick, its boards, agents, servants, and employees, as additional insureds, and in at least the minimum amount specified by the Planning Board. Maintenance without interruption of liability insurance in like or greater amount and with the Town named as an additional insured shall be required as continuing condition of the special use permit and related Certificate of Occupancy and/or Certificate of Compliance.

§ 160-80. Continuing Compliance with FCC Radio-Frequency Emission Standards.

A. It shall be the continuing responsibility of any person owning or operating a Personal Wireless Telecommunications Service Facility within the Town of Brunswick, and a condition of any special use permit granted in connection therewith, to comply with any and all new or superseding regulations pertaining to radio-frequency emissions that may be adopted by either the FCC or other federal regulatory agency. A copy of each report filed with the FCC or any other federal regulatory agency in connection wit the Personal Wireless Telecommunications Service Facility pertaining to radio-frequency emissions shall be simultaneously filed with the Town Buildings and Code Inspector. This requirement shall apply for the life of the facility.

§ 160-81. Permitted Actions by the Planning Board.

A. The Planning Board may grant the special use permit, deny the special use permit or grant the special use permit with written stated conditions.

B. Without intending to limit the foregoing, the Planning Board is specifically authorized to require, as a condition of the granting of a special use permit for a Personal Wireless Telecommunications Service Facility, that the Facility be designed and built to blend into the surrounding area, including, but not limited to, facilities, commonly referred to as ‘stealth installations”. Examples of such facilities are Telecommunication Towers and/or Telecommunications Antennas designed to resemble trees and silos.

C. Denial of the special use permit shall be by written decision based upon substantial evidence submitted to the Planning Board.

§ 160-82. Exempted Telecommunications Facilities.

A. The following are exempted from the requirements of this Article:

(1) A. Fire, police and other emergency dispatch services where the telecommunications facilities are less than fifty (50) feet above the ground, or are less than twenty-five (25) feet above the average roof line, if originating from the roof of the building;

(2) Non-business television or radio reception, private citizen band, amateur radio, and other similar communications systems utilizing a tower and antenna, which do not exceed thirty-five (35) feet above the ground, or which do not exceed twenty (20) feet above the average roof line, if originating on the roof. For the purposes of this provision, “non-business” shall mean a use for which money, property or something of value is not charged, earned or received by the owner, operator, lessee or person(s) in control of the facility>

§ 160-83. Application Fee.

A. An Application for a Personal Wireless Telecommunication Service Facility shall be filed with said Buildings and Code Inspector and shall include a fee payment in accordance with the fee schedule established and annually reviewed by the Town Board.

ARTICLE 10: SIGNS

§160-84. Purpose.

A. The purpose of this Article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate and enhance and protect the physical appearance of the community. It is further intended hereby to reduce distractions and obstructions which may contribute to traffic accidents, to reduce hazards caused by signs overhanging or projecting over public right-of-way, to provide more open space and to curb the deterioration of natural beauty and community environment.

B. No sign, as herein defined, shall be constructed, set or erected upon any premises or fastened to, erected upon or painted on the exterior of any building or other structure except as provided herein.

C. Exception. For the purpose of this chapter, the term “sign” does not include any sign erected and maintained pursuant to and in the discharge of any government function or required by any law, Zoning Law or governmental regulation.

§160-85. General Regulations; Permitted Signs.

The prohibitions contained in this section shall apply to all signs and all use districts, regardless of designation, of the Town of Brunswick:

A. Any illuminated sign or related lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. Signs which are mechanically animated, such as moving, rotating or revolving signs, are prohibited as constituting a traffic hazard and nuisance.

B. No projecting letter or image shall be erected from the face of a building extending out a distance more then 12 inches. No sign letter shall be over 36 inches in height.

C. No sign shall extend above the roof ridge of any building, except in the case of a flat-roofed, single-storied building, which may support a single sign limited to three feet in height above the roofline by the building frontage in length.

D. No portable or temporary sign shall be placed on a building or on any premises, except as provided in §160--86 herein.

E. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Said devices, as well as strings of lights or colored neon tubes, shall not be used for the purpose of advertising or attracting attention when not part of a sign.

F. Signs, as defined, are specifically prohibited except as herein provided:

(1) In any district, a sign not exceeding two square feet per side is permitted which announces the names, address, profession or home occupation of the occupant of the premises on which the sign is located.

(2) A bulletin board not exceeding 32 square feet per single surface is permitted in connection with any church, school or similar public structure and if it is located on the premises of such institution.

(3) A temporary single-sided real estate development or construction sign, not exceeding 32 square feet, is permitted on the property being sold, leased or developed and is to be erected parallel to the fronting highway, set back 35 feet or attached to the building face. The sign permit shall be limited to a period of one (1) year but may be extended by the Town Board.

(4) In a commercial or industrial district or permitted commercial site, not more than two signs per person, as defined, and meeting the following requirements shall be permitted:

(a) All signs shall be attached to the building front but may include a single freestanding sign of 70 square feet (35 square feet per side) where the building is set back more than 50 feet and the property has a road frontage of over 150 feet.

(b) The total cumulative area of all signs permitted a person shall be calculated at the rate of one square foot of sign area per foot of building front, plus ¼ square foot per foot of lot frontage, plus ¼ square foot per foot of front setback of the main building on the property, but in no case shall exceed 300 square feet, whichever is less.

(c) A minimum total sign area of 32 square feet shall be permitted any person, regardless of building size.

(d) The primary purpose of each sign shall be for identification and may state the owner's name, trade names, trademarks, products sold and/or commercial activity conducted on the premises on which the sign is located. Except for Subsection F(4)(g) following, all signs must be located on the premises of the business activity.

(e) In addition, gasoline service stations shall be permitted two price, product or promotional signs, each not exceeding 12 square feet nor six square feet per side, if located on the pump island or set not closer than 10 feet to the edge of the pavement and which shall not exceed eight feet above grade.

(f) Where groups of four or more stores are located together in a planned shopping center, one common freestanding identification sign not exceeding 120 square feet (60 square feet per side) with the bottom panel not lower then eight feet above grade shall be permitted in the complex. All other signs shall be attached to buildings. The total sign area permitted for the entre shopping center shall be calculated at the rate of one square foot of sign per foot of building front, plus ¼ square foot per foot of lot frontage, plus 1/10 square foot per foot of each store's setback, but in no case shall exceed 800 square feet in total.

(g) The Town may erect such community directional signs as it deems necessary and in the public interest.

(h) A motel shall be permitted a single freestanding sign not to exceed 50 square feet (25 square feet per side) from a total sign area permitted, computed at the rate of five square feet per motel unit. A second sign may be attached to the office building.

§160-86. Temporary Signs.

A. All signs of a temporary nature, such as political posters, banners and signs of similar nature, including school and religious use or civic functions, shall be permitted for a period not exceeding 45 days, without permit or fee, provided that such signs are not attached to fences, trees, utility poles or the like, and further provided that such signs are not placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Such signs may not represent a commercial product, activity or enterprise and shall not exceed 32 square feet per side.

(1) Temporary window signs shall be permitted without permit or fee, provided that they do not exceed 25% of the window surface.

(2) Temporary "for sale" real estate signs, and signs of similar nature, not exceeding four square feet per side in area, shall be permitted without permit or permit fee.

(3) Temporary roadside stands selling agricultural produce in season shall be permitted a sign area of 3 square feet without permit or fee.

§160-87. Computation of number and sign area.

A. For the purpose of determining the number of signs, a sign shall be considered to be a display surface or device containing elements organized, related and composed to form a unit. Where advertising material is

displayed in a random manner without an organized relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entre area within a regular geometric form or combinations of regular forms, comprising all of the display area of the sign and including all of the elements of the material displayed. Frames, structural members and other surfaces which do not bear matter included within the definition of the word “sign” shall not be included in the computation of surface area. A sign having a given number of sides or faces shall have each side area added to determine the total surface area of the sign. Projecting letter signs attached to the building surface or to a freestanding masonry wall shall be computed by multiplying the average height of the letters by the linear distance from the first letter through the last letter of the sign.

§160-88. Height limitations.

A. Where permitted, signs not attached to any building shall not exceed 30 feet in height above the finished grade nor overhang property lines or roadways and shall be set back a distance equal to the height of the sign but no closer than 15 feet to the abutting road right-of-way, highway or street or eight feet from the bottom of the sign to grade level. Masonry-wall-type signs shall not exceed four feet in height and shall be placed so as not to interfere with driver vision of other traffic.

§160-89. Nonconforming signs.

A. In the event that a sign erected prior to the effective date of this chapter does not conform to the provisions and standards of this chapter, then such sign shall be modified to conform or removed according to the following.

(1) If the preexisting sign includes such features as flashing lights or revolving panels as described in §160-85, then such sign shall be immediately modified by its owner to conform within 10 days of the effective date of this chapter.

(2) Any existing on premises sign defined herein which was erected legally under the 1958 Zoning Law or under a written variance granted by the Zoning Board of Appeals or prior to 1958 may be continued and maintained; provided, however, that such sign may not be moved or enlarged unless changed to a conforming sign and, once changed, shall not be changed back to a nonconforming type; and provided, further, that the Town Board may require the removal of such sign upon the unamortized value of said sign if the Town Board, in its judgment, feels that the sign in question detracts from the general appearance of the community or endangers public safety.

(3) All other signs in existence on the effective date of this chapter shall be made to conform to the standards herein or shall be removed within 60 days after receipt of written notice from the Buildings and Code Inspector to the owner to comply.

B. Any illegal sign erected after the effective date of this chapter shall be immediately subject to the penalties specified in §160-117 of this chapter.

§160-90. Permit required.

A. After the effective date of this chapter and except as otherwise provided herein, no person shall erect any sign without first obtaining a permit therefore from the Buildings and Code Inspector. Within 30 days following the effective date of this chapter, a permit must also be obtained for any existing sign located within the Town.

§160-91. Application information.

A. Application for a sign permit shall be made in writing, on forms prescribed and provided by the Sign Administrator, and shall contain the following information:

(1) The name, address and telephone number of the applicant,

(2) The location of the building, structure or land upon which the sign is to be erected or now exists.

(3) If a new sign is to be erected, a scaled drawing or blueprint must accompany the application showing:

(a) The lettering and/or pictorial matter composing the sign.

(b) The position of lighting or other extraneous devices.

(c) A location plan showing the position of the sign on any building or land.

(d) Its position in relation to nearby buildings and to any private or public street or highway.

B. Written consent of the owner of the building or land on which the sign is to be erected, in the event that the applicant is not the owner.

§160-92. Fee; tag.

A. A fee, in accordance with the fee schedule established and annually reviewed by the Town Board, shall be charged to the applicant for the issuance of a sign permit and number tag for each sign. The tag shall be affixed to the approved sign or on the building in close proximity to the sign for identification purposes. No inspection or permit fees shall be required for small directional, safety or public service signs, bulletin boards or temporary signs as provided in §160-86

§160-93. Maintenance; Revocation of Permit.

A. No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this chapter, The sign must be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.

B. In the event of a violation of any of the foregoing provisions, the Sign Administrator shall give written notice, specifying the violation, to the owner of the sign and the named owner of the land upon which the sign is erected, sent to the addresses as stated in the permit application, to conform or to remove the sign. The sign shall thereupon be conformed by the owner of the sign within 15 days from the date of said notice, or the permit shall be revoked, and the owner shall be subject to the penalties specified in §160- -117 of this chapter.

§160-94. Removal of Obsolete and Perilous Signs.

A. Any sign existing on or after the effective date of this chapter which advertises a business no longer conducted on the premises shall be removed by the owner of the premises upon which the sign is located within 30 days after receiving written notice from the Sign Administrator to remove said obsolete sign.

B. The Sign Administrator may cause any sign which he considers a source of immediate physical peril to persons or property to be removed summarily and without notice.

§160-95. Stormwater.

A. All land development activities and redevelopment activities must comply with Town of Brunswick Local Law No 5 of 2007 Establishing Regulations Regarding Erosion, Sediment Control, and Stormwater Management, as may be amended from time to time, and the Town of Brunswick Municipal Stormwater Management Plan as may be amended from time to time.

ARTICLE12: PLANNED DEVELOPMENT DISTRICTS

§160-96. Authority.

A. The Town of Brunswick recognizes the need to allow for innovative development proposals in keeping with the current local and regional markets as well as the overall Town character. This includes providing flexible land use design regulations, such as Planned Development Districts (PDDs), which are necessary to promote and encourage appropriate development that incorporates a variety of residential types and/or nonresidential uses which may contain both individual building sites and common property planned and developed as a unit. The authority of the Town to review and approve PDDs will put the Town in a better position to encourage innovative development and avoid undesirable changes to the character of the areas of the Town where development will occur in the future as well as the character of the Town as a whole. In addition, a PDD provides greater flexibility for the integration of appropriate commercial space in residential development or provide for a more efficient use of land for residential projects thereby providing an effective mechanism for increasing the Town's tax base and maintaining maximum control over the size, type and design of new development.

B. Further, the Town acknowledges that the standard zoning function (use and bulk) and the subdivision function (platting and design) represent a type of traditional regulatory rigidity and uniformity which can be contrary to the techniques of land development contained in the PDD concept. Additionally, a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Without flexible development techniques available within the Town of Brunswick it will be difficult to encourage appropriate and innovative development proposals in the Town. It is the Town's goal that the PDD technique will encourage innovative development proposals in ways or locations that may not be anticipated or allowed at the present time. Such proposals, if properly designed and reviewed on a case-by-case basis, will be in furtherance of the Town's character while at the same allow for responsible economic growth.

C. Timeframes are for administrative purposes only and do not alter or in any manner affect the legislative discretion of the Town of Brunswick Town Board.

§160-97. PDD - Purpose, Effect, Authorized Uses, Applicability

A. Purposes. The regulations for Planned Development Districts ("PDDs") as set forth below are intended to provide a recognized and innovative zoning and planning technique for potential new development of relatively large areas located in all zoning districts within the Town of Brunswick that are specifically chosen by property owners or developers for well-designed projects that incorporate a mixture of compatible uses, open space, economies of scale, environmental and community sensitivity, and creative architectural or planning concepts that are in accordance with the Town's economic and land use policies and goals. It is the intent of the PDD to provide for flexibility of use, area and site development restrictions in order to encourage responsible and high-quality developments that will be a lasting asset to the Town. Each application for a PDD will be reviewed in detail and approved on a case-by-case basis to ensure that the purposes and intent of these regulations are met. In this regard, the following goals and objectives shall be sought with each application:

(1) Creation of a more desirable community environment than what would be possible via a strict application of zoning regulations set forth elsewhere in the Town's zoning regulations.

(2) Encourage the permanent preservation of open space for conserving natural areas and native wildlife habitats and for active and passive recreational use, including the provision of neighborhood parks and trails.

(3) Preservation, enhancement and limiting the unnecessary fragmentation of local natural resources such as water bodies, wetlands, forest, significant topographic and geologic features and other areas of scenic and ecological value.

(4) Efficient use of a site to facilitate adequate and economical construction and maintenance of street and drainage facilities, water supply and sewerage systems.

(5) Encourage a less sprawling and more efficient forms of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.

(6) Meaningful integration of environmentally sensitive building design and sustainable development practices to help mitigate the environmental, economic and social impacts of development.

(7) Minimize the total amount of disturbance on the site and total new impervious areas.

(8) Innovation and variety in the type and design of residential development, providing a wide choice of living environment, occupancy tenure and housing costs.

(9) Further the policies and goals set forth in the Town of Brunswick Comprehensive Plan.

B. Effect of PDD Review and Action. The decision to review and act upon a PDD is a legislative decision. No PDD applicant is entitled to a proposed PDD project unless and until the Town Board approves it. The approval of a PDD will create a new zoning district on the parcel or parcels of property for which it is proposed that will be governed by the terms, restrictions and conditions of the Town Board's approval for that particular PDD district, and also amends the Town of Brunswick Zoning Map to place the PDD on the Zoning Map. Further, the timeframes set forth herein are procedural in nature only, and failure to meet any such timeframe set forth herein shall not result in any default approval.

C. Authorized Uses within PDD. No use shall be established and no development shall be permitted in the PDD district unless specifically approved pursuant to the procedures and standards set forth in this Section. The specific uses to be allowed in the PDD shall be approved by the Town Board. No use shall be approved as an allowable use within a PDD if it is found by the Town Board to be: (1) contrary to the health, safety or general welfare of the residents of the Town; (2) inconsistent with the community character in the area where the PDD is proposed or the character of the Town in general; or (3) not in accordance with the Town's Comprehensive Plan. The general categories of allowable uses that can be incorporated in any PDD are as follows:

(1) Commercial – including but not limited to lodging, sale of retail products and services (excluding any industrial use).

(2) Office – including professional and business.

(3) Single-Family Dwellings – including townhouses/condominiums.

(4) Multifamily Dwellings – including apartments and condominiums

(5) Recreational – including outdoor and indoor facilities.

(6) Mixed Uses and mixed-use buildings (including any combination of above uses)

(7) Open space.

(8) Senior Citizen Housing & Community.

D. Applicability. A PDD is allowed in any zoning district of the Town and must comprise at least ten (10) contiguous acres of land. No application for a PDD shall be accepted or approved unless all of the property included in the application is under unified ownership and/or control by the applicant.

§160-98. General Requirements and Design Standards

A. Development Density. The density of a proposed PDD development shall be set forth initially by the applicant as part of the PDD plan and application process and determined in the final instance by the Town Board as part of the approval process. Generally, density of structures, infrastructure such as roads and parking lots, and other developed areas shall be appropriate for the site and the neighborhood in which the site is situated taking into account availability, capacity and suitability of services, such as schools, emergency response, and public roads, community sewer and water systems, and ability to mitigate or contain environmental impacts. The allowable density as determined by the Town Board can be based on a variety of additional factors such

as: environmentally sensitive building or site design, preservation of important environmental features, the extent and usability of recreational and open spaces, public access to open space; connections to adjoining or nearby open spaces, preservation of historic structures or sites, provision for public facilities or services; or any other community benefits that may be included in the proposal.

B. Ratio of Mixed Uses. It is preferred that the proposed PDD have a suitable ratio of mixed uses or variety of residential dwelling types that is appropriate and sustainable for its location, Town needs and market considerations. The actual ratio of mixed uses shall be specified by the applicant as part of the PDD application and approved by the Town Board as part of the approval process.

C. Preservation of Significant Environmental Features and Habitats. Significant environmental features and habitats of a proposed site for a PDD shall be preserved whenever possible for purposes of:

(1) Enhancing the quality of development.

(2) Providing adequate screening and buffering between new development and surrounding properties.

(3) Preserving the character of existing neighborhoods or improving such character.

(4) Protecting important environmental resources.

(5) Providing for natural channels and water quality filters for storm water such as vegetation along stream corridors, wetlands, and permeable surfaces.

D. Preservation of Historic Resources. Whenever a proposed site for a PDD has existing historic buildings, structures or sites of significance located thereon, such resources shall be preserved and incorporated in the design wherever possible.

E. Integrated Architectural Design. If a mixture of uses is proposed, the PDD and the plan for its development should integrate the architectural design for buildings, structures, landscaping, infrastructure facilities and common areas so that the development is of a cohesive design and that such design is appropriate for the Town and the area where the proposed PDD site is located.

F. Pedestrian System. Provision shall be made for a pleasing and accessible pedestrian system within the proposed site and access from without.

G. Streets. The PDD and the plan for its development shall provide an appropriately designed traffic system that allows for ease of access to and circulation within the PDD. Such system shall take into account the needs of emergency services response, snow removal, current traffic flows and volume as well as additional traffic which may be generated by the PDD. Access points shall be designed to provide smooth flow, controlled turning movements and minimum hazard to vehicular and pedestrian traffic.

H. Off-street Parking and Loading. The proposed development shall comply with the off-street parking and loading standards set forth in Section 106-44 of this Zoning Law unless it is shown that a deviation from those standards is warranted and is specifically approved during the PDD approval process. Generally, adequate parking and loading facilities must be provided on-site with minimum disruption to traffic circulation and with no increase to off-site parking.

I. Utilities. On-site utilities including telephone, electric, cable, water sources and distribution laterals and sanitary sewer treatment and collection laterals must be shown to be available to the proposed PDD site. It is preferred that all utilities for the PDD site be located underground and the Town Board may require underground utilities for all or a portion of the PDD site if such requirement is practicable.

J. Lighting. All lighting shall be arranged so as to prevent direct glare or hazardous interference from the lighting for the proposed development to adjoining streets or properties.

K. Solid Waste. Provision shall be made for the collection and removal of solid waste and any solid waste bins, dumpsters or community collection areas shall be located at an appropriate distance from habitable structures and suitably fenced or screened.

L. Common Areas, Open Space, Recreation Areas.

(1) Depending on the size of the proposed PDD and the number of residential units or square footage of commercial space proposed, provision shall be made for common areas, open space and recreational amenities for residents, tenants and invitees of the PDD. Pedestrian walkways, recreational buildings and facilities, natural open space areas, sitting areas, natural habitats, parks and playgrounds are considered suitable amenities depending on the density and mixture of uses of the proposed development. Integration of various amenities throughout the development plan is encouraged.

(2) Additional requirements:

(a) Some percentage of the gross area of the proposed PDD project site shall be devoted to open space.

(b) Integration of open space in site and neighboring properties is strongly encouraged.

(c) Integration of passive and active recreation areas and facilities compliant with ADA is also strongly encouraged.

(d) Ownership & Maintenance. All common open space areas and amenities shall be owned and operated by the owner of the PDD parcel or an appropriate legal entity that will exist in perpetuity. The conveyance of individual parcels within a PDD may be acceptable provided provision is made for continuity of restrictions and controls in the form of deed covenants, restrictions and easements. The post-development ownership and maintenance plan shall be part of the application and approval process. Said post-development plan shall include a mechanism that will provide unified control and authority over the operations of the development so that there is one entity or individual that is responsible for enforcing the terms and conditions of the PDD approval for all tenants, homeowners, business owners and other users of the PDD.

M. Development Phasing. The development of a PDD may be proposed and approved in phases. However, the review of a PDD (including the SEQRA review) must take into account the entire project and shall not be segmented by phase. A phasing plan shall be submitted to the Town Board as part of the PDD application materials if development phasing is contemplated by the applicant. The Town Board shall have the authority to approve, with or without modifications and/or conditions, or deny the phasing plan based on the following standards. The Town Board, in its discretion, may delegate such authority to the Planning Board as part of the Planning Board's site plan review and approval.

(1) Each phase must be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases will not adversely affect those areas or facilities.

(2) Each phase when completed must be able to fully function on its own or in conjunction with prior phases without dependence on subsequent phases and each phase shall be fully completed prior to the final approval of subsequent phases.

(3) The infrastructure, as installed, shall be sufficient to accommodate each planned phase of development.

(4) Where applicable, each phase shall have an appropriate ratio of the various uses (residential and non-residential) proposed for the development.

N. Construction Schedule. The applicant shall propose and the Town Board shall review and approve a construction schedule for the development of an approved PDD. Generally, commencement of development of the PDD, or the first phase if a phased PDD is approved, shall occur within two (2) years of the date that the final site plan of the PDD is approved or the PDD approval shall expire. However, it is recognized that depending on the scale and complexity of the development, consideration may be made with respect to the reasonable time necessary for the applicant to obtain construction financing, insurance and bonds, executing construction contracts, and other such aspects involved in a development project. Thus, the Town Board may modify the time-period allowed for commencement of construction depending on the circumstances of each

PDD. The applicant may request an extension of the time-period for commencement of construction by submitting such request in writing to the Town Board with the reasons supporting such request. The Town Board, in its sole discretion and after consideration of such request, may extend such time-period as requested or set such other time-period it deems appropriate under the circumstances.

§160-99. PDD Application Procedures

A. Sketch Plan. An application for a PDD approval starts with submission of and review of a sketch plan by the Town Board pursuant to the requirements and procedures set forth below. If the Town Board determines that the proposal does not merit further review because it does not meet the objectives of this Article for a PDD, no further action on the application shall be taken.

(1) Required submissions for sketch plan conference. One original and six (6) copies of the following:

(a) Sketch plan drawn to at least approximate scale of the proposed PDD showing at least the following:

[1] Parcel or parcels to be included in PDD.

[2] The location of the various uses and their areas.

[3] Approximate location of significant natural and man-made features of land, such as wetlands, streets, easements, buildings, etc.

[4] Proposed layout of structures, roads and other features.

(b) Current owners of parcel(s) to be included in PDD.

(c) Written narrative or statement of what is to be proposed and the merits of such proposal. Said statement to be of sufficient detail and scope to provide a well developed concept of the proposal and must include, at a minimum, the following:

[1] Total number of acres proposed for the PDD.

[2] Type of uses proposed and ratio of mixed uses.

[3] Number of residential and commercial units.

[4] Preliminary density calculations (dwelling units per acre/square footage of commercial space per acre).

[5] An explanation of how the developer's particular mix of land uses meets existing community needs and goals.

[6] A summary of the operation and ownership arrangements during development and post-development phases.

[7] A summary of the infrastructure needed and/or available with respect to transportation, roads, water, sewer, stormwater control and solid waste management.

[8] A general description of the provisions of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.

[9] Recreational facilities and/or amenities that will be included in the PDD plan.

[10] General description of type of architectural and planning design standards to be proposed as part of PDD plan.

[11] General description of existing land uses on parcels adjacent to proposed PDD site.

(d) A nonrefundable Sketch Plan Fee in accordance with the Schedule of Fees as adopted by the Town Board and may be amended from time to time.

(e) The above requirements are the minimum requirements necessary in order for the Town Board to schedule a conference. The applicant may provide more detail than that indicated above.

(f) The Town Board may require the applicant to meet with the Planning Board, any Town staff and/or consultants that the Board deems appropriate in order to facilitate the submission of a complete and suitable application.

(2) Sketch plan conference.

(a) In this initial stage of review the applicant must meet with the Town Board in order to discuss the proposed project and to allow the Town Board and the developer to reach an understanding on basic requirements prior to detailed design investment. The Town Board shall schedule a conference with the applicant within 31 days of the submissions as set forth above.

(b) The applicant shall attend the sketch plan conference and make a presentation to the Town Board describing the PDD proposal. The intent of this conference is to provide the Town Board with sufficient information and description of the proposal in order for the Board to preliminarily decide whether the proposal has merit for a PDD and whether to allow the applicant to proceed to the next stage of review. The Town Board, in its discretion, may refer the sketch plan materials to the Planning Board for its comment and input.

(3) Sketch Plan Decision. The Town Board shall, within 62 days from the date of the conference, make a preliminary determination as to whether the applicant may move on to next stage of the application process and submit a PDD application pursuant to subsection B below. The time in which the preliminary determination must be made may be extended upon consent from the applicant.

The Town Board may provide the applicant comments and direction in whatever detail it deems appropriate regarding the content, design, allowed uses, ration of mixed uses, project size and scope that the Board will find appropriate for the formal application stage. Although said preliminary determination will not commit the Town Board to any specific course of action on the PDD to be requested, the sketch plan process is intended to advise the applicant as to what may be generally acceptable and not acceptable to the Board so that the applicant has a general understanding of what is expected in the next stage of review. Generally, said preliminary determination may include any one or more of the following:

(a) An identification of issues or PDD features that must be addressed in the PDD design and application materials such as specific infrastructure, design, open space, and environmental issues.

(b) A recommendation of what uses and ratio of mixed uses that may be acceptable in the location proposed.

(c) A general recommendation on the appropriateness of the density sought by the applicant in relation to the community and environmental benefits offered as part of the PDD.

(d) A recommendation of the types of supporting documentation and studies that will be required for submission and their general breadth and scope.

(e) A preliminary identification of involved agencies and the approval jurisdiction that each may have with respect to aspects of the proposal.

(f) A preliminary assessment of issues and/or recommendations regarding compatibility or potential incompatibility with surrounding existing land uses and/or neighborhoods and proposed uses.

(4) Effect of Decision. If it is determined by the Town Board that the sketch plan proposal does not have merit for further review as a PDD, the applicant may submit a new proposal for another sketch plan conference pursuant to the requirements of A.1 above but may not submit a formal PDD application. If it is determined by the Town Board that the sketch plan proposal does have merit for further review, the applicant may proceed to the next stage by submitting a formal PDD application that meets the submission requirements set forth below and is consistent with the preliminary determination of the Town Board pursuant to the sketch plan conference.

B. PDD Application.

(1) Required submissions for a PDD application. The following is intended to set forth a comprehensive list of required submissions for a PDD proposal of significant complexity, size and scope. The Town Board shall have the authority to waive certain requirements that it deems unnecessary or inappropriate given the size, scope and complexity (or lack thereof) of the PDD actually proposed. It is intended that the required submissions be tailored to the actual proposal so that unintended and/or unnecessary costs in preparing submission materials are eliminated in the application process to the extent practicable. The submission materials, however, are to be complete and comprehensive with respect to the particular PDD project proposed, so that the Town Board and Planning Board have the opportunity to make its decision on an appropriate record of information. One original and sixteen (16) copies of all application materials must be submitted.

(a) PDD Preliminary Site Plan. A schematic site plan, of one or more sheets, drawn to scale of not less than 1 inch to 100 feet which shall show at a minimum the following information:

[1] Boundaries and total acreage of proposed area to be considered for the PDD

[2] Location of environmental features of land comprising the proposed PDD including but not limited to wetland areas, ponds, streams and drainage ways, tree stands and hedgerows, topography (of minimum contour intervals of not more than 10 feet), and any other existing natural features with identification of what is to be preserved and/or removed.

[3] Location and description of all existing man-made features on the site proposed for the PDD and on all properties adjacent to the proposed PDD such as land uses, structures, driveways or streets, wells, sidewalks, easements and common areas with identification of what is to be maintained, altered and/or removed.

[4] Layout of proposed development including the location, areas and dimensions of proposed uses, structures, access and internal roads, parking areas and spaces, water and sewer system facilities and laterals, and all other site development features.

[5] Location, area and features of each development phase if the development is proposed to be constructed in phases.

[6] Identification and description of the proposed open space component of the development.

[7] Drawings/Guidelines: Either proposed architectural drawings or general architectural guidelines or renderings applicable for all structures proposed within the PDD including a general narrative description of the type of architecture proposed and how it compares to the existing architectural features of nearby areas and proposed signage and/or signage regulations.

[8] Landscape Plan: a general but complete plan of the significant landscape features including buffer areas, screening and aesthetic features.

[9] Storm Water Pollution Prevention Plan (SWPPP) with supporting engineering documentation prepared pursuant to the requirements of the NYS SPDES.

[10] Traffic studies and plans.

[11] General lighting plan.

[12] Utility plan and report establishing either that existing capacity exists for the PDD or the required improvements proposed.

[13] A written description (written narrative and visual) that includes the following:

[a] Request for PDD with signatures of all parties having an interest in the subject property or properties.

[b] Existing ownership of land proposed to be included in PDD.

[c] Proposed ownership of post-development PDD including description of organization(s) to be utilized to own, maintain and manage common areas,

commercial space, residential units, and infrastructure improvements and whether certain structures or parcels within the PDD will be offered for sale or conveyance to third parties.

[d] The proposed mixture of uses.

[e] Density calculations.

[f] Phasing plan, if any, including timing of phases proposed offers of dedication of land, improvements and/or easements.

[g] Post-development deed covenants, conditions and/or restrictions applicable to individual properties within the PDD or to the entire PDD.

[h] Schedule of general improvements to constitute a part of the development, including without limitation, signage, lighting, utilities, off-site improvements and features designed to address noise, visual screening, drainage, etc., if not already addressed in other submission materials.

[i] An assessment of whether the proposed uses within the PDD are compatible with surrounding properties and uses (providing support for such conclusion) or, if not compatible, what measures or design features are included in the design of the PDD to enhance compatibility or mitigate incompatibility.

[j] An assessment of whether the proposed PDD is consistent or compatible with the overall character of the surrounding area and Town and, if not consistent or compatible, the reasons why or what measures are included in the PDD proposal to enhance compatibility or mitigate incompatibility.

[k] Proposed local law that amends Town zoning map.

[14] Full EAF or draft Environmental Impact Statement.

[15] Application fee. A nonrefundable fee as indicated on a Schedule of Fees adopted by the Town Board from time to time plus a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs including fees of consultant(s) to be retained by the Town Board in order to assist the Town Board and Planning Board in reviewing the PDD application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s). The Town Board shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the PDD proposal. The consultant retained shall provide the Town Board with invoices showing the services rendered for the time-period billed. Upon request, the applicant may have an opportunity to review said invoices. Additional deposits may be required as the review process continues.

(2) Procedures.

(a) First Meeting. The Town Board shall review the application materials submitted and make a determination as to whether the application is complete for commencement of the PDD review process. In order for an applicant to be on the agenda of a special or regular Town Board meeting, all application materials must be submitted at least 10 days prior to the next scheduled meeting.

(b) Determination of Completeness. The Town Board shall have 62 days from the first meeting at which the PDD application is on the agenda in which to determine whether the submitted materials and documents constitute a complete application. The Town Board may forward the application submissions to the Planning Board for its review and recommendation on the completeness and adequacy of the application submissions. If the Town Board determines that the application is incomplete, it shall advise the applicant in writing as to what documents or materials are missing or what the deficiencies in the submitted materials or documents are. Upon

resubmission of the application or missing materials, the Board shall have the same time-period as set forth above in which to determine completeness of the application materials.

(c) If the Board determines that the application is complete, it shall:

[1] Refer a complete copy of the application materials to the Planning Board for its recommendation and the Planning Board shall have 62 days of its receipt of the application materials in which to make a recommendation to the Town Board with respect to the proposal,

[2] Refer a complete copy to the Rensselaer County Department of Planning and Development, if applicable, and any other agency that has approval jurisdiction over any aspect of the proposal,

[3] If not already performed, identify or retain a consultant or consultants in which to assist the Board in reviewing the application and advise the applicant as to the estimated cost of consultant fees, the fee schedule and scope of services of the consultants selected and the amount of deposit to be submitted for payment of such consultant fees.

(d) SEQRA shall be completed.

(e) Planning Board Recommendation. The date of Planning Board receipt of the application shall be the next regular meeting of the Planning Board. The applicant shall attend such meeting in order to explain the proposal and answer any questions the Planning Board may have. The Planning Board shall review the proposal and provide the Town Board with its recommendation as to whether or not the proposal should be approved as a PDD and any issues or concerns the Planning Board has on any aspect of the proposed PDD. The Planning Board shall forward its recommendation to the Town Board within 62 days of its receipt of the application referral. The Town Board shall consider the Planning Board recommendation but need not follow it. If the Town Board does not follow the Planning Board recommendation, it shall set forth its rationale for not following said recommendation in writing.

(f) Public Hearing. The Town Board shall schedule and notice a public hearing on the proposed zone change of the property to PDD in the same manner as a local law together with a mailing, at least 10 days prior to the hearing date, of the public hearing notice to owners of real property within 200 feet of the property that is the subject of the PDD application. The public hearing shall be scheduled within 31 days of its receipt of the Planning Board referral recommendations or within the time-frames specified in the SEQRA regulations after the acceptance of a DEIS, whichever last occurs. The public hearing may be scheduled prior to completion of the SEQRA process or in conjunction with the public hearing on the draft environmental impact statement if the lead agency finds that the public hearing may assist in its environmental review.

(g) Decision on PDD proposal. Within 62 days after the close of the public hearing on the proposed PDD proposal the Town Board shall decide whether to grant approval of the proposed PDD pursuant to the reasonable terms, conditions and requirements it deems appropriate. The decision to grant approval of the PDD shall amend the Town Zoning Map as a PDD for the subject property subject to the terms and conditions of its approval. In rendering its decision on whether to disapprove or to grant approval of the proposed PDD, the Town Board may consider the following guidelines:

[1] The need for, or suitability of, the proposed land use or uses in the subject location.

[2] The compatibility of the proposed PDD with the surrounding area or neighborhood and the existing uses located on the adjacent properties in which the PDD will be located.

[3] The safeguards provided or conditions required so as to minimize possible detrimental effects or impacts that the proposed PDD may have on adjacent properties, the surrounding area in general and the Town at large.

[4] Adequacy of drainage, water supply and sewerage disposal facilities, traffic access and municipal services that may be required.

[5] Whether a positive or beneficial increase in tax base can be expected when compared with cost of municipal services (including but not limited to education, emergency response, public roads, to be provided).

[6] Whether the proposed PDD will further the general welfare of Town residents with sufficient protection for the health and safety of Town residents.

[7] Whether the proposed PDD is in accordance with the Town of Brunswick Comprehensive Plan.

[8] Any other factor deemed appropriate by the Town Board in its legislative discretion.

(h) Conditions. The Town Board, as part of its decision and approval of the PDD, may set forth any conditions that are reasonably related and incidental to the proposed project, to the mitigation of potential impacts and/or in furtherance of the guidelines set forth above or specified in rendering its decision.

(i) Instructions for Final Site Plan review and approval. As part of its decision, the Town Board shall specify with sufficient detail, the modifications to the site plan, if any, that the Board requires, the construction drawings or engineering plans for the infrastructure for the project, the phasing of construction of the project and any other aspects of the project requiring further review. The Town Board shall delegate the further review and approval of the final site plan and other associated drawings to the Planning Board and may include specific instructions as to the scope of the Planning Board review.

(j) Effect of Decision. The Town Board decision to approve the PDD has the effect of amending the Zoning Map with respect to the property approved for the PDD so that the conditions, restrictions and terms of the PDD decision replace the zoning regulations for that PDD district. Such terms, conditions and restrictions run with the land and are enforceable by the Town in the same manner as any other zoning regulations and approval conditions so that all future owners, operators, managers and occupiers shall be subject to same. Such approval and any of its terms, conditions and restrictions may only be amended or modified pursuant to an application for a PDD amendment which shall follow the procedures and guidelines set forth in this section. It is the intention of the PDD procedures that at the time of the Town Board's decision to approve the PDD and rezone the property as set forth above, the Town and the applicant has committed to the PDD in sufficient detail in which to review and administer the actual development of the PDD site pursuant to the terms, conditions and restrictions of the PDD approval.

§160-100. PDD Final Site Plan Procedures

The final site plan review and approval process is to ensure that the planned construction and operation are in compliance with the PDD approval with respect to all of the development details.

A. Submission requirements. The applicant shall submit final plans, drawings and materials as specified by the Town Board as part of its PDD approval or as required by the Planning Board pursuant to its site plan review authority if the Town Board does not specify submission requirements for the site plan stage of review. Generally, these will include construction drawings and details for the either the first phase or entire project as well as such other information that is specified by the Town Board or the applicant during the PDD application process. The applicant shall submit such final site plan within six months of the PDD approval or the PDD approval shall expire and the PDD designation shall revert back to the zoning district designation that existed prior to the PDD approval. The time for submission may be extended at the discretion of the Town Board.

B. Consultant fees. The applicant shall submit the site plan review fee pursuant to the Town's fee schedule for site plan review and shall reimburse the costs of Town consultants for the final site plan review and inspection fees, if any, as set forth in section §160-62 (a)) above.

C. First Meeting. The Planning Board shall review the application materials submitted and make a determination as to whether the application is complete for commencement of the final site review process. In order for an applicant to be on the agenda of a special or regular Planning Board meeting, all application materials must be submitted at least 10 days prior to the next scheduled meeting.

D. Review Process. The Planning Board shall schedule a public hearing on the site plan within 62 days of its determination that the site plan application and materials are complete. The Planning Board shall review and approve, approve with modifications, or deny the final site plan and all of its components within 62 days from the date that the public hearing is closed. The applicant shall attend the meetings held on the final site plan.

E. Phases. The final site plan may be reviewed and approved in phases pursuant to the standards set forth in section §160-98(M) and the specific requirements of the PDD approval.

F. Approval. The Planning Board shall approve the final site plan if the final site plan, for the entire project or a particular phase of the project, is in accordance with the PDD approval. Further reasonable conditions or modifications may be placed on the final site plan approval consistent with the PDD approval. Also, the Planning Board may approve minor changes to the site plan that are requested by the applicant, as necessary and/or appropriate, based on site conditions that are found subsequent to the PDD approval. Such minor changes may include the minor re-alignment of roads, infrastructure, and building sites and/or minor reduction in the number of residential units or commercial space. Any major modification or increase in residential units or commercial space will have to be referred to Town Board for its review and consent.

G. Filing of Site Plan. Once the final site plan is approved, it shall be endorsed by the Planning Board Chairman and filed with the Town Clerk and the Town Building Department within 60 days of the Planning Board approval.

H. Commencement of Development. The construction and/or implementation of the PDD development shall not commence until the final site plan is approved and all conditions that are to be satisfied prior to construction are satisfied.

§160-101. Infrastructure, Inspection and Security.

A. General. All infrastructure improvements required or proposed pursuant to a PDD approval shall be constructed and completed to the standards set forth in all applicable state and local laws, rules and regulations as well as the standards or specifications, if any, specified by the Town Board and/or Planning Board as part of the PDD approval process. For purposes of this section the term infrastructure improvements includes all roads, drainage facilities, water and sewer facilities, and any other aspect of a PDD for which an improvement will or is intended to benefit the public or the future occupants or users of the PDD. The construction or installation of any infrastructure improvement shall be completed pursuant to the schedule of construction for infrastructure that is approved by the Planning Board during the site plan review phase of the PDD approval. If a specific schedule is not otherwise indicated by the Planning Board, all infrastructure must be completed within two years of the site plan approval.

B. Inspection fees. At least ten (10) days prior to commencing construction of required infrastructure improvements, the applicant shall pay to the Town Clerk the inspection fee required to reimburse the Town for the cost of inspecting the construction and installation of the infrastructure improvements. Such fee shall be set during the site plan review phase of the PDD approval process. The applicant shall also notify the Town of the date and time when construction of infrastructure improvements is to commence by submitting written notification to the Town Clerk at least seven days before such commencement. The Town shall cause inspections to be made to insure that all applicable specifications and requirements are met in the construction and installation of such infrastructure improvements as required by the Planning Board or the Town Board during the PDD approval process.

C. Completion or Required Financial Security. All infrastructure improvements must be either completed prior to final site plan approval or must be subject to financial security as a condition of final approval in an amount sufficient to guarantee the installation of the infrastructure improvements. Acceptable financial security shall be provided to the Town in an amount equal to the cost of construction of the infrastructure improvements plus all necessary costs and expenses that may be incurred or expended by the Town in causing any all such work to be completed in one of the following ways: (1) by a bond executed by a highly rated security company

acceptable to the Town in a form acceptable to the Town Attorney; (2) the applicant shall present a certified check to the Town Clerk; or (3) the applicant shall present an irrevocable letter of credit payable to the Town in a form acceptable to the Town to be reviewed annually.

D. Review and Acceptance of Financial Security. For each of the options set forth in section 8(C) above, the amount of the estimated construction costs shall be certified by a New York State licensed professional engineer. The proposed financial guarantee shall be reviewed by the Planning Board and its consultants for financial adequacy as a guarantee of construction and reasonable performance during any proposed period of construction. The Planning Board and the Town Attorney (or legal counsel retained by the Town for such purpose) shall jointly review the guarantee for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

E. Schedule of Improvements. Prior to or simultaneous with the negotiation and acceptance of the financial guarantee, the applicant shall provide and the Planning Board shall review and approve a written schedule for the construction, installation and completion for all required and proposed infrastructure improvements as part of the final site plan process. Such schedule shall also include the estimated cost of construction and installation for each improvement. Whenever feasible, costs and schedule of completion shall be organized by logical phases of work completion in order to facilitate the partial release of financial security held by the Town to the applicant as work is satisfactorily completed. There shall be at least a 90-day period between the completion date of all improvements and the expiration date of any bond, deposit of money, or letter of credit. Said 90-day period shall give the Town the opportunity to collect the financial performance guarantee so that it will be able to complete the necessary improvements in case (a) the developer is unable to do so; and/or (b) the Planning Board denies any requests for an extension of time. Failure to complete all improvements within the time allotted shall cause the Planning Board: to (a) draw upon the financial performance guarantee in order to complete the Improvements; and/or (b) schedule a Public Hearing in coordination with the Town Board in order to rescind related previous approvals or extend the completion date.

F. Stage Release of Guarantees. At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a given date together with a proposed amount to be released from the financial guarantee provided by the applicant. This statement shall follow the schedule of improvements as set forth in paragraph E above. The applicant shall submit such statement to the Planning Board for review and approval. The Planning Board may request review and comment from the Town Board or any of its consultants that it believes is appropriate to determine the accuracy of the statement. The Town's project inspector must also provide, in writing, proof that pursuant to inspections made, the improvement has been satisfactorily completed pursuant to the approved project plans. Once approved by the Planning Board, the Planning Board may direct the appropriate Town official to notify, in writing, the security company or financial institution having custody of the guarantee funds to release to the applicant the approved amount of those funds.

G. Modification of Required Improvements. If, at any time before or during the construction of the required improvements as set forth in the Town Board approved PDD, it is demonstrated to the satisfaction of both the Town Board and Planning Board that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Board shall, upon approval by the Planning Board, authorize modifications to the PDD approval. If such modification affects the scope of work covered by a performance bond, any agreement to modify the required improvements by the Town Board and Planning Board shall be contingent upon receipt by the third-party guarantor a written statement that the third-party guarantor agrees to the proposed modification of the required improvements and that such modification shall not relieve or affect the liability of the third-party guarantor.

H. Extension of Financial Guarantee. The time period specified for the completion of all required improvements, as set forth in the financial guarantee, may be extended only by resolution of the Planning Board upon request in writing by the applicant, setting forth in detail the amount of work which has been completed, reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested. The Planning Board resolution agreeing to an extension shall be affixed to the financial guarantee. In the case of a performance bond, such an agreement for an extension shall not be effective until the third-party guarantor delivers to the

Planning Board a written statement that the third-party guarantor agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the third party guarantor.

I. Acceptance of Public Infrastructure Improvements. When any infrastructure or other aspect of the PDD is to be offered for dedication to the Town as a public improvement, and the Town's project inspector, following final inspection of the completion of that improvement and the PDD project, the Town Board may act by resolution to accept dedication of the public improvements.

J. Maintenance Guarantee. Upon acceptance of required public improvements or upon certification that infrastructure improvements have been satisfactorily completed, the Town may require the establishment of a maintenance guarantee. All such guarantees shall be for a minimum of 10% of the financial guarantee originally required by the applicant or such amount required by the Town to sufficiently ensure that the improvements will be adequately maintained for the period specified by the Planning Board. The maintenance guarantee shall be provided by one of the methods set forth in section §160-101(C) above and reviewed and accepted pursuant to section §160-101(D) above. All maintenance guarantees shall commence immediately upon acceptance of the public improvements or upon certification of completion of all other infrastructure improvements and be in place prior to release of the previous performance guarantees.

§160-102. Effect of Conditions.

A. Effect of Conditions. All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any Certificate of Occupancy or Use issued for any use or structure in such development.

§ 160-103. Expiration, Revocation, and Amendments.

A. All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any Certificate of Occupancy or Use issued for any use or structure in such development.

B. Any planned development district that is not commenced and diligently pursued within two year of the date of approval from the Planning Board for any reason shall have the approval revoked unless upon prior written request to the Planning Board, the time period to commence the planned development district may be extended for a maximum period of one additional calendar year for a total of twelve (12) months from the date of the resolution approving the planned development district, either through a single extension of one calendar year or the combination of two or more extensions.

C. Amendments to planned development district. The terms and conditions of any planned development district may be amended in the same manner as required for issuance of a planned development district, following the criteria and procedures of this subsection.

§ 160-104. Regulations regarding nonconforming buildings, lots and uses.

A. It shall be the intent of this Chapter to provide for the regulation of such existing uses, lots and structures by specifying the circumstances and conditions under which they may continue.

B. Continuation. The lawful use of any structure, uses or lots existing at the time of the enactment of this Chapter may be continued although such use does not conform to the provisions of this chapter.

C. Any building for which a building permit has been issued prior to the enactment or amendment of this Chapter and erection of which is in conformity with the plans submitted prior to the enactment shall be commenced within 90 days after the effective date of such enactment or amendment. If such building does not conform to the provisions of this chapter, it shall be a nonconforming use.

D. Use of existing nonconforming lots of record. If a lot of record duly existed prior to the adoption of this Zoning Law, or any applicable amendment thereto, fails to meet applicable density, setback, or lot size standards as set forth in this Zoning Law, the lot may be developed with any allowable use listed for the Zoning District in which such nonconforming lot is located provided that:

(1) Such lot has sufficient width, depth, and area to undertake the proposed development and will meet at least two-thirds (2/3) of each of the minimum yard setbacks and other dimensional requirements of this Zoning Law provided that the requirements of all other laws or regulations, which may be applicable, are also met. The development of a nonconforming lot of record shall require site plan approval from the Planning Board.

(2) Any abutting nonconforming lots which are owned by the same owner or owners, notwithstanding any subsequent conveyance(s), shall be considered as one merged lot for the purpose of this chapter, unless more than one livable structure exists on the merged lot.

E. Nonconforming structures. Any structure, which lawfully existed on the effective date of this article and fails to meet the bulk regulations as set forth in Schedule B or other applicable requirements of the chapter, shall be considered a legal nonconforming structure.

(1) Restoration. If a nonconforming structure is destroyed or damaged by fire, flood, explosion or other casualty, said structure may be restored in the same form and location but without enlargement or extension. Such restoration shall be completed within one year of casualty.

(2) Enlarging, extending or altering. No nonconforming structure shall be enlarged, extended or altered except for the following:

(a) Such alteration, maintenance and repair work as required to keep said structure in a safe condition.

(b) Such alterations or construction which would bring the structure into conformity with the requirements of this chapter.

F. Nonconforming uses.

(1) Nonconforming use of land where no structure is involved. A nonconforming use of land where no structure is involved may be continued, provided that:

(a) Enlarging or extending use. Such nonconforming use shall not be enlarged or increased, nor shall it be extended to occupy a greater area of land than occupied by such use at the time of the adoption of this chapter.

(b) Reduction in size. The lot on which such nonconforming use is located shall not be reduced in size.

(c) Moving. Such nonconforming use shall not be moved in whole or in part to another portion of the lot or parcel.

(d) Changes. A nonconforming use shall not be changed to any use which is substantially different in nature and purpose from the former nonconforming use except to those uses which are permitted in the district in which the use is located.

(e) Discontinuance. For any reason whatsoever, if the nonconforming use of land is inactive or ceases for a period of one year, or is changed to a conforming use, any future use of such land shall be in conformity with all the provisions of this chapter.

(2) Nonconforming use of structures. The nonconforming use of a structure may be continued subject to the following restrictions:

(a) Enlarging or extending structure. Such structure shall not be enlarged or extended beyond the present structure.

(b) Reduction in size. The lot on which such nonconforming use is located shall not be reduced in size.

(c) Alterations or reconstruction of structure. Such alteration, maintenance and repair work as required to keep said structure in a safe condition.

(d) Changes. A nonconforming use shall not be changed to any use which is substantially different in nature and purpose from the former nonconforming use except to those uses which are permitted in the district in which the use is located.

(e) Restoration. If a structure housing a nonconforming use is destroyed or damaged by fire, flood, explosion or other casualty, said structure may be restored in the same form, use and location but without enlargement or extension. Such restoration shall be completed within one year of the casualty.

(f) Moving. No building or structure containing a nonconforming use shall be moved unless the result is to terminate the use.

(g) Discontinuance. When a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with this chapter.

G. Previously approved construction. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been issued and the construction of which shall have been started within 90 days of the date of the adoption of this Chapter even though such proposed building, structure or use does not conform to one or more provisions of this chapter.

H. District changes. Whenever the boundaries of a zoning district are changed so as to transfer an area from one district to another of a different classification, the provisions of this section shall also apply to any nonconforming uses existing therein.

I. Title. No change in title, possession or right of possession shall be deemed to affect the right to continue a nonconforming use, building or structure.

J. Violations; discontinuation of nonconforming status. In addition to other penalties prescribed by law, any of the following violations shall immediately terminate the right to operate the nonconformity:

(1) The owner of the nonconformity has taken action increasing the nonconformity of the land, structure or use, not in compliance with the provisions of this chapter.

(2) The owner of nonconformity has abandoned the land, structure or use of the structure for a period greater than one year.

(3) A nonconforming use has been changed to another nonconforming use.

§160-105. Building Department

A. Establishment of the Building Department.

(1) There is hereby established in the Town of Brunswick a department to be designated as the "Building Department" for the administration and enforcement of the provisions of all the laws, ordinances, rules, regulations and orders applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, use, occupancy, removal and demolition of buildings and structures and their appurtenances located in the Town of Brunswick.

(2) The Department of Buildings shall be headed by a Town Official designated as the "Buildings and Code Inspector".

B. Buildings and Code Inspector.

(1) A Buildings and Code Inspector shall be a person who shall have had at least five years' experience as a licensed professional engineer, or architect, building inspector, building contractor or supervisor of building construction and shall be certified by the state to enforce Uniform Fire Prevention and Building Code.

(2) The Buildings and Code Inspector shall be appointed by the Supervisor with the consent of the Town Board, for the term of one year, at a compensation to be fixed by the Town Board. The Building and Code Inspector shall not be removed from office except for cause, after a public hearing on specific charges before the Town Board.

C. Building inspectors.

(1) The Buildings and Code Inspector, with the consent of the Town Board, may appoint one or more building inspectors, as the need may appear, to exercise, pursuant to the provisions of this chapter, any or all of the duties of the Buildings and Code Inspector. The compensation of such buildings inspectors shall be fixed by the Town Board.

(2) The building inspector shall be a person who has had at least three years of practical experience in the design or construction of buildings or the design, construction or installation of plumbing, heating or electrical equipment.

D. Other employees of the building department.

(1) The Buildings and Code Inspector may appoint such employees as may be designated or authorized from time to time by the Town Board to carry out the functions of the Building Department.

E. Absence or inability of Buildings and Code Inspector to act.

(1) In the absence of the Buildings and Code Inspector, or in the case of his or her inability to act for any reason the Supervisor shall have the power, with the consent of the Town Board, to designate a person to act in his or her behalf and to exercise all of the powers conferred upon him or her by this chapter.

§160-106. Planning Board

A. Establishment of the Planning Board.

(1) The Town Board may select a chairperson of the Planning Board, or on failure to do so, the Planning Board shall elect a chairperson from its own members.

(2) The Planning Board may adopt rules or bylaws for its operation.

(3) The Town Board may provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.

(4) The existing Planning Board, as currently constituted as of the date of this law, shall continue.

B. Powers & Duties of Planning Board. The Planning Board shall have the following powers and duties with respect to this Zoning Law:

(1) Review and approval of Site Plans, subdivisions, and other boundary line adjustments in accordance with the standards and procedures set forth herein.

(2) Review and approval of Special Use Permits in accordance with the standards and procedures set forth herein.

(3) Submittal of an advisory opinion to the Town Board for any proposed amendment to this Zoning Law.

(4) On the request of the Town Board, or on its own initiative, submittal of an advisory opinion to the Town Board in any matter relating to planning and zoning.

(5) Exercise all other powers conferred upon it by the provisions of the New York Town Law and to pass upon all matters which may be referred to it from time to time by resolution of the Town Board.

(6) The Planning Board shall adhere to any State mandated training requirements.

(7) Any other powers and duties as specified elsewhere in this Zoning Law.

C. Meetings of the Planning Board.

(1) Meetings shall be held at such meeting times as the Planning Board may determine, or at the call of the chairperson.

(2) The presence of a majority of its full membership shall constitute a quorum for the conduct of business before the Planning Board. A concurring vote of a majority of its full membership shall be necessary to act on any application for Site Plan Approval.

(3) A member of the Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.

(4) The Planning Board may request and obtain any advice or opinions on the law relating to any matter before the Planning Board from its own attorney, and may request its own attorney to attend its meetings.

(5) The Planning Board may require the Buildings and Code Inspector to attend its meetings to present any facts relating to any matter before the Board.

(6) All meetings of the Planning Board shall be open to the public.

(7) The Planning Board shall keep minutes of all of its meetings. The Town Board shall provide a secretary for the Planning Board.

(8) Every decision or determination of the Planning Board shall be in writing, and shall be filed in the office of the Town Clerk.

§160-107. Zoning Board of Appeals

A. Establishment of the Zoning Board of Appeals Members

(1) The Town Board shall appoint a chairperson of the Zoning Board of Appeals. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson.

(2) The Zoning Board of Appeals may adopt rules or bylaws for its operation.

(3) The Town Board may provide an appropriation to the Board of Appeals to cover necessary expenses including the means for the Board to maintain a written record of its meetings and public hearings.

(4) The existing Board of Appeals, as currently constituted as of the date of this Zoning Law, shall continue.

A. Powers & Duties of the Zoning Board of Appeals. The Zoning Board of Appeals shall have the following powers and duties with respect to this Zoning Law:

(1) Review and decide on requests for variances to this Zoning Law.

(2) Upon appeal from a decision by the Buildings and Code Inspector, decide any question involving interpretation of any provision of this Zoning Law, or the location of any district boundary line on the Zoning district map.

(3) Exercise all other powers conferred upon it by the provisions of the New York Town Law and to pass upon all matters which may be referred to it from time to time by resolution of the Town Board.

(4) The Zoning Board of Appeals shall adhere to any State mandated training requirements.

A. Meetings of the Zoning Board of Appeals

(1) The Zoning Board of Appeals shall hold meetings at the call of the chairperson, or at the request of a majority of its full membership.

(2) The presence of a majority of its full membership shall constitute a quorum for the conduct of business before the Zoning Board of Appeals. A concurring vote of a majority of its full membership shall be necessary to act on any application for variance or appeal.

(3) A member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.

(4) The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Zoning Board of Appeals from its own attorney, and may request its own attorney to attend its meetings.

(5) The Zoning Board of Appeals may require the Buildings and Code Inspector to attend its meetings to present any facts relating to any matter before the Board.

(6) All meetings of the Zoning Board of Appeals shall be open to the public.

(7) The Zoning Board of Appeals shall keep minutes of all of its meetings. The Town Board shall provide a secretary for the Zoning of Appeals.

(8) The Zoning Board of Appeals shall make factual record of all its proceedings.

(9) Every decision or determination of the Zoning Board of Appeals shall be in writing, and shall be filed in the office of the Town Clerk.

§160-108. Building Permits

A. No person, firm, corporation or other legal entity shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion, or change in the nature of the occupancy of any building or structure or excavate or grade land or cause the same to be done without first obtaining a separate building permit from the Building Department for each such building or structure as required pursuant to Chapter 55 of the Code of the Town of Brunswick.

B. Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (a) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

C. Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Buildings and Code Inspector. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Buildings and Code Inspector deems sufficient to permit a determination by the Buildings and Code Inspector that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) A description of the proposed work;

(2) The tax map number and the street address of the premises where the work is to be performed;

(3) The occupancy classification of any affected building or structure;

(4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) At least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

D. Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (c) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Buildings and Code Inspector in writing or by stamp. One set of the accepted construction documents shall be retained by the Buildings and Code Inspector, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

E. Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Buildings and Code Inspector shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

F. Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

G. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Buildings and Code Inspector of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Buildings and Code Inspector determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

H. Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may

be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Buildings and Code Inspector.

I. Revocation or suspension of Building Permits. If the Buildings and Code Inspector determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Buildings and Code Inspector shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

J. Fee. The fee specified in or determined in accordance with the provisions set forth in §160-113 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

§160-109. Certificate of Occupancy & Certificate of Compliance

A. Certificates of Occupancy / Certificates of Compliance required. A Certificate of Occupancy / Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification in accordance with Chapter 55 of the Code of the Town of Brunswick. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.

B. Issuance of Certificates of Occupancy / Certificates of Compliance. The Buildings and Code Inspector shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Buildings and Code Inspector or an Inspector authorized by the Buildings and Code Inspector shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy / Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Buildings and Code Inspector, at the expense of the applicant for the Certificate of Occupancy / Certificate of Compliance, shall be provided to the Buildings and Code Inspector prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

(1) A written statement of structural observations and/or a final report of special inspections, and

(2) Flood hazard certifications.

C. Contents of Certificates of Occupancy / Certificates of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:

(1) The Building Permit number, if any;

(2) The date of issuance of the Building Permit, if any;

(3) The name, address and tax map number of the property;

(4) If the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;

(5) The use and occupancy classification of the structure;

(6) The type of construction of the structure;

(7) The assembly occupant load of the structure, if any;

(8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) Any special conditions imposed in connection with the issuance of the Building Permit; and

(10) The signature of the Buildings and Code Inspector issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.

D. Temporary Certificate. The Buildings and Code Inspector shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Buildings and Code Inspector issue a Temporary Certificate unless the Buildings and Code Inspector determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Buildings and Code Inspector may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Buildings and Code Inspector and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Buildings and Code Inspector determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Buildings and Code Inspector within such period of time as shall be specified by the Buildings and Code Inspector, the Buildings and Code Inspector shall revoke or suspend such certificate.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in §160-113 (Fees) of this local law must be paid at the time of submission of an application for a [Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

§160-110. Records

A. The original or a certified copy of all decisions, approvals, rulings, permits, and certificates of occupancy of any board under this Zoning Law, or of the Buildings and Code Inspector shall be retained as a permanent public record, including records of:

(1) All applications received, reviewed and approved or denied;

(2) All plans, specifications and construction documents approved;

(3) All Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) All inspections and tests performed;

(5) All statements and reports issued;

(6) All complaints received;

(7) All investigations conducted; and

(8) All fees charged and collected.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

§160-111. Conflict of Interest

A. No member of the Zoning Board of Appeals or of the Planning Board shall participate in any decision of any such board in which he/she has a special pecuniary or other personal rather than public interest, whether arising out of the ownership of real property, business, or family interests or otherwise. Each member shall file with the Town Clerk and with such Board a statement of his real property holdings and other business or personal interests which might give rise to a conflict of interest. Such statements shall be available for public inspection at all reasonable times.

§160-112. Notice of Public Hearing

A. Any notice of public hearing which is required to be given under any provision of this Zoning Law shall be given by publishing a notice in the Town's official newspaper, as designated by the Town Board, not less than ten (10) days prior to such hearing and, during the ten (10) days prior to such hearing, by conspicuous posting on the Town bulletin board and Town website.

§160-113. Fees

A. The Town Board shall, by resolution, establish and amend a Schedule of Fees for the applications and permits required or contemplated by this Zoning Law; the current schedule shall be on file with the Buildings and Code Inspector and with the Town Clerk. Such fees shall be payable to the Town Clerk at the time of application or, as appropriate, at the time of issuance of a permit.

§160-114. State Environmental Quality Review Act (SEQRA)

A. All actions taken by the Planning Board or the Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act ("SEQRA") under Article 8 of the New York Environmental Conservation Law and its implementing regulations.

B. Pursuant to SEQRA, the Planning Board or the Zoning Board of Appeals if determined to be the Lead Agency shall in its initial review of an application:

(1) Determine that no further action is necessary to fulfill the requirements of said act, or

(2) Require that the applicant submit an Environmental Assessment Form (EAF) for its review. Upon review of the EAF the Lead Agency shall issue either a negative declaration, a conditioned negative declaration, or a positive declaration. If a positive declaration is issued, the Board shall require that an Environmental Impact Statement be prepared pursuant to SEQRA

C. Time periods set forth in this Zoning Law shall be modified to coordinate with SEQRA review.

ARTICLE 15: ENFORCEMENT

§160-115. Buildings and Code Inspector

A. This Zoning Law shall be enforced principally by the Town of Brunswick Buildings and Code Inspector whom is authorized to enter onto all premises, public or private, consistent with constitutional safeguards and any requisite warrant, in order to effectuate enforcement.

§160-116. Violations & Complaints

A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or portion thereof, in violation of any provision of this Zoning Law, or to construct, alter or use and occupy any building, structure or premises in a manner not permitted by or inconsistent with a permit, approval or variance issued pursuant to this Zoning Law, or to fail to comply with a notice, directive or order of the Buildings and Code Inspector or agent thereof.

B. Where a violation has occurred or exists, the potentially responsible persons shall include the owner of the real property involved or affected; any contractor, subcontractor, builder, construction superintendent, engineer, manager, or other person responsible for undertaking, managing or directing the illegal activity; and any agent of the foregoing.

C. Whenever a violation of this Zoning Law occurs, any person may file a complaint, which may be anonymous, in regard thereto. Complaints shall be submitted in writing, by email, or by phone with the Buildings and Code Inspector, or may be observed directly by the Buildings and Code Inspector, who shall properly record all such complaints or potential violations and immediately investigate and report his findings thereon to the Town Board. The Buildings and Code Inspector shall have authority to serve upon any person owning, leasing, controlling, or managing any building, structure, or land in which a violation of this Zoning Law exists an order to cease or remove such violation.

§160-117. Fines & Penalties

A. Criminal Sanctions.

(1) Any person violating this law shall be guilty of a violation punishable as follows:

(a) First Offense: Conviction of a first offense shall be punishable by a fine not exceeding $350 or fifteen (15) days imprisonment or both;

(b) Second Offense: Conviction of a second offense, both of which were committed within a period of five years, shall be punishable by a fine not less than $350 nor more than $700 or imprisonment for a period not to exceed fifteen (15) days, or both; and

(c) Third Offense: Conviction of a third or subsequent offense, all of which were committed within a period of five years, shall be punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed fifteen (15) days, or both.

(2) Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

(3) The Buildings and Code Inspector or agent may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing information and supporting deposition pursuant to the New York Criminal Procedure Law. In the alternative, the Buildings and Code Inspector or agent or the Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.

(4) Such fines may be compromised or released as part of any disposition.

B. Civil Penalties.

(1) As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:

(a) First Offense: Conviction of a first offense shall be punishable by a fine $350 for a civil penalty;

(b) Second Offense: Conviction of a second offense, both of which were committed within a period of five years, shall be punishable by a fine not less than $350 or more than $700 for a civil penalty; and

(c) Third Offense: Conviction of a third or subsequent offense, all of which were committed within a period of five years, shall be punishable by a fine not less than $700 nor more than $1,000 for a civil penalty.

(2) Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered.

(3) Such penalties may be compromised or released as part of any disposition.

§160-118. Alternative or Additional Actions & Remedies

A. In the case of any violation or threatened violation, the Town may institute any appropriate action or proceeding against the landowner and/or other responsible person(s) to prevent such unlawful action, to restrain, correct or abate such violation, and to compel compliance with the provisions of this Zoning Law and any permit, approval or variance issued pursuant to its provisions. The relief specified herein may be sought in addition to an action or proceeding for criminal sanctions or civil penalties.

B. The Town Board may negotiate appropriate corrective, remediation, abatement, and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner. Such agreements or orders may require the violator and/or owner to pay a monetary penalty which (i) covers exemplary or punitive damages and (ii) reimburses actual costs incurred by the Town in connection with its enforcement action such as attorneys' fees, disbursements and costs of emergency and other corrective and restoration measures.

§160-119. Administrative Actions; Stop-work Orders

A. Authority. The Buildings and Code Inspector has plenary authority and responsibility to take administrative action to enforce this Zoning Law. The Buildings and Code Inspector shall issue a Stop Work Order to halt:

(1) Any work that is determined by the Buildings and Code Inspector to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Buildings and Code Inspector, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) Any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

B. Whenever the Buildings and Code Inspector has reasonable grounds to believe that unlawful development pursuant to this Zoning Law is being undertaken or continued he/she shall notify the owner of the property or any agent of the owner or any other responsible party and direct that all unlawful activity immediately cease and that all related building and construction be suspended until the stop-work order has been rescinded or superseded by a court order. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Buildings

and Code Inspector, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of Stop Work Orders. The Buildings and Code Inspector shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail / certified mail. The Buildings and Code Inspector shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail / certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

D. Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

E. Relief or release from any stop-work order may be obtained in the proper circumstance as follows:

(1) If all provisions of the Zoning law, together with all other reasonable conditions specified by the Buildings and Code Inspector, are satisfied (for site plan review, special use permit, and subdivision review), the Buildings and Code Inspector shall rescind the stop-work order may occur.

(2) Except in matters pertaining to violations of requirements imposed by site plan review, special use permit, or subdivision review, if a variance is granted by the Zoning Board of Appeals granting permission to maintain violations specified in a stop-work order and to continue such circumstances as thereafter allowable, the final administrative determination of the Buildings and Code Inspector or agent shall confirm or rescind the stop-work order in accordance with the requirements of the Zoning Board of Appeals.

F. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under §160-116 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

§160-120. Suspension of Administrative Review

A. Review of any application pursuant to the provisions of this chapter may be suspended and the application deemed incomplete where, with respect to any alleged violation of the provisions of this zoning law or of any permit or approval issued pursuant to this Zoning Law or the Subdivision Regulations of the Town of Brunswick, the following occurs:

(1) A stop work order has been issued by the Buildings and Code Inspector or agent thereof to the property owner or applicant.

(2) Written notice of such an alleged violation has been provided to property owner or applicant, or

(3) A criminal or civil action has been commenced against the property owner or applicant regarding such and alleged violation.

§160-121. Misrepresentation

A. Any permit, approval, certificate, or variance granted under the provisions of this Zoning Law which was based upon or granted in reliance upon the applicant's false or material misrepresentation in an application or the applicant's failure to make known a material fact or circumstance, any permit or approval may be revoked by the Buildings and Code Inspector.

B. Any permit or approval granted under this Zoning Law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void by the Buildings and Code Inspector.

ARTICLE 16: AMENDMENTS

§160-122. Initiation

A. The Town Board, from time to time, may amend this Zoning Law, including the official Zoning Map, as provided in this Article upon its own motion or petition by one or more property owners,. A property owner may apply for amendment to this Zoning Law with respect to changing the zoning classification of his property or the schedule of uses as applied to his or her property by filing one original and seven complete copies of an application with the Town Clerk. The application shall include a petition requesting the Town Board to amend a particular provision or provisions of this Zoning Law and/or the Zoning Map, a description of requested amendment, identification and description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof and the applicable filing fee. In the case of a requested amendment that does not apply to an amendment of the Zoning Map or otherwise affecting specific properties, no properties need be identified as affected.

§160-123. Review by Planning Boards

A. As an aid in analyzing the implications of proposed amendments and to coordinate the effect of such actions on intergovernmental concerns, the Town Board shall refer proposed amendments to the Town Planning Board and the Rensselaer County Economic Development and Planning Department as required by this Article and by the laws of New York State.

(1) Referral to Town Planning Board. The Town Board shall refer each requested amendment, no matter how initiated, to the Planning Board for a recommendation. No action shall be taken on the requested amendment referred to the Planning Board until its recommendation has been received by the Town Board, or 30 days have elapsed after such referral has been made, unless the Planning Board and Town Board agree to an extension beyond the 30-day requirement for the Planning Board's review and recommendation. The Town Board shall consider the Planning Board’s recommendation but need not follow it.

(2) Referral to County.

(a) Any proposed amendment affecting real property within five hundred (500) feet of the boundary of the Town of Brunswick, the boundary of any existing or proposed County or State park or other recreational area, the right-of-way of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Rensselaer County Department of Economic Development and Planning (County Department) before final action is taken pursuant to section 239-m of the General Municipal Law.

(b) No action shall be taken on proposals referred to the County Department until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the full statement of the proposed amendment, unless the County Department and the Town Board agree to an extension beyond the thirty (30) day requirement for the County Department's review.

§160-124. SEQRA Compliance

A. A proposed amendment to this Zoning Law shall comply with the State Environmental Quality Review Act (SEQRA) in all respects.

§160-125. Public Hearing and Notice

A. No proposed amendment shall become effective until after a public hearing thereon, at which the public shall have an opportunity to be heard on the proposed amendment. The Town Board shall set, by resolution at a

duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause public notice to be published, posted and circulated as set forth below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for the costs of publication and circulation of notice.

B. Publication of Notice in Newspaper. Notice of the time and place of the public hearing shall be published at least ten (10) days in advance of such hearing in the official newspaper. This notice shall provide a summary of the proposed amendment in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

C. Notice to Adjacent Municipalities. Written notice of any proposed amendment affecting property lying within five hundred (500) feet of an adjacent town shall be served in person or by mail upon the Clerk of such municipality at least ten (10) days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.

D. Notice to Adjacent Property Owners Where a proposed amendment involves a rezoning of a particular parcel or parcels of property, written notice of any proposed amendment affecting such property shall be mailed to the owners of parcels of property adjacent to the property that is subject of the proposed rezoning.

§160-126. Adoption

A. The Town Board may adopt amendments to this Zoning Law by a majority vote of its membership, except in the case of local protest or disapproval by the County Department as noted below.

(1) Local Protest. The favorable vote of a majority plus one of the Town Board members shall be required for passage of any amendment which is subject to a written protest signed and acknowledged by the owners of twenty percent (20%) or more of land in any of the following areas:

(a) The land area included in the proposed amendment.

(b) The land area immediately adjacent to the area proposed to be changed and extending one hundred (100) feet therefrom.

(c) The land area directly opposite the area proposed to be changed and extending one hundred (100) feet from the road frontage of such opposite land. The land subject to a proposed amendment shall not be reconfigured, subdivided, or be conveyed in such a manner so as to purposely manipulate the land area as set forth above to exclude qualification for protest petitions. This Subsection is intended to apply only to the rezoning of individual parcels and not to an amendment of general application to this Law or that would apply Town-wide. To the extent that this Subsection is in conflict with the provisions of Town Law § 265 with respect to the application of local protest petitions, it is the intent of this Law to supersede said Section 265 as provided in this Subsection.

B. County Disapproval. A majority-plus-one vote of all Town Board members shall be required to pass any proposal which receives a recommendation of disapproval from the County Department because of the referral process specified in section §160-123(A)(2) above, along with a resolution setting forth the reasons for such contrary action.

C. Consideration of Town Comprehensive Plan. The Town Board in deliberating on whether to adopt a proposed amendment to this Zoning Law, including but not limited to, a proposed rezoning of a parcel or parcels of property or any modification to the Zoning Map, shall consider the proposed amendment in relation to the Comprehensive Plan and shall only adopt the proposed amendment if it is consistent and in accordance with the Comprehensive Plan.

§160-127. Effective Date

A. Unless the amendment provides for a different effective date, each amendment adopted by the Town Board shall take effect when filed with the Secretary of State of the State of New York pursuant to the Municipal Home Rule Law of the State of New York.

ARTICLE 17: APPEALS AND VARIANCES

§160.128 General Rules – Interpretations and Variances

A. Appeals from Orders, Decisions, Requirements, Interpretations, Determinations of Buildings and Code Inspector: The Zoning Board of Appeals is vested with the authority to interpret the provisions of the Zoning Law on an appeal from a written decision, determination, order, requirement or interpretation made by the Buildings and Code Inspector. As such, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the written decision, determination, order, requirement or interpretation appealed from, and shall make such decision, determination, order, requirement or interpretation as in its opinion ought to have been made in the matter by the Buildings and Code Inspector. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose written decision, determination, order, requirement or interpretation the appeal is taken.

B. Authorization for Zoning Board of Appeals to Grant Variances: In accordance with Section 267-b of the Town Law of the State of New York, the Zoning Board of Appeals shall have the power, upon appeal from a determination by the Buildings and Code Inspector by referral from the Planning Board (limited to area variances) and after public notice and hearing, to vary or modify the application of any of the provisions of this law relating to the use, construction, or alteration of structure or the use of land, so that the spirit of this law is observed, public safety and welfare secured, and substantial justice done. The specific standards for the grant of use and area variances are set forth below.

C. General Application Requirements for Variances: All applications for variances shall be accompanied by an original and six (6) copies of a plot plan, drawn to scale with accurate dimensions, showing the location of existing and proposed structures on the lot. An application for a use variance may require submission of an Agricultural Data Statement. The Zoning Board of Appeals may also request submission of a sketch plan showing the proposed location of buildings and other improvements and natural features.

D. Termination or Lapse of Variance: Any variance that is not exercised within one (1) year of the date it is issued shall lapse without further hearing by the Zoning Board of Appeals.

§160.129. Use Variances

A. The Zoning Board of Appeals, on appeal from a decision or determination of Buildings and Code Inspector, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed by this law.

B. No use variances shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. To prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the land use area or neighborhood;

(3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) The alleged hardship has not been self-created.

C. The Zoning Board of Appeals shall consider any Agricultural Data Statement and whether the variance would have an undue adverse impact on the farm operations identified by the Agricultural Data Statement.

D. The Zoning Board of Appeals, in granting use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

E. Imposition of Conditions: The Zoning Board of Appeals shall, in granting use variances, impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

§160.130. Area Variances

A. The Zoning Board of Appeals shall have the power, upon an appeal from a determination of the Buildings and Code Inspector that the applicant's proposal can not be approved by reason of its failure to meet the dimensional or area regulations of this Law, to grant area variances from the area or dimensional requirements of this Law.

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

(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance;

(3) Whether the requested area variance is substantial;

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or land use area or overlay area; and

(5) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance.

C. The Zoning Board of Appeals, in granting of the area variances, shall grant the minimum variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

D. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

§160.131. Procedure for Appeals

A. Minutes, Records: The Zoning Board of Appeals 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.

B. Hearing Appeals: The Zoning Board of Appeals' jurisdiction shall be appellate only (except in the case of a referral from the Planning Board for an area variance) and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Buildings and Code Inspector. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the Town.

C. Time of Appeal: Such appeal shall be taken within sixty (60) days after the filing in the Town Clerk's office of any order, requirement, decision, interpretation or determination of the Buildings and Code Inspector. The appeal shall be taken by filing with the Buildings and Code Inspector and with the Town Clerk a notice of appeal, specifying the grounds thereof and the relief sought. One original and six copies of the appeal or application form and all supporting documentation must be filed with the Town Clerk at least seven (7) days prior to a Zoning Board of Appeals meeting in order to be on that meeting agenda. The Buildings and Code Inspector shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon

which the action appealed from was taken. The Zoning Board of Appeals, in its discretion, may request the Planning Board make a recommendation on such matter and such recommendation shall become part of the record but shall not be binding upon the Zoning Board of Appeals.

D. Stay Upon Appeal: An appeal shall stop all proceedings relating to the action appealed from, unless the Buildings and Code Inspector certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a Court of competent jurisdiction. The application for a stay shall be on notice to the Buildings and Code Inspector and with due cause shown.

E. Hearing on Appeal: The Zoning Board of Appeals shall schedule and hold a public hearing on the appeal or other matter referred to it within sixty-two (62) days of the date that the application for the appeal is considered complete by the Zoning Board of Appeals and give public notice of such hearing by publication in a paper of general circulation in the Town at least ten (10) days prior to the date thereof. Notice of the hearing shall be sent to adjacent property owners and to property owners within 300 feet of the exterior boundaries of the land involved in such application or such additional distance as the Zoning Board of Appeals deems advisable, at least ten (10) days before the hearing. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party. Where a use variance application is for property located within five hundred (500) feet of an adjacent municipality, the Zoning Board of Appeals, pursuant to General Municipal Law Section 239-nn, shall give notice of the public hearing to the clerk of the adjacent municipality by mail or electronic transmission at least ten (10) days prior to the hearing. Upon the hearing, any party may appear in person, or by agent or attorney. The time within which the Zoning Board of Appeals must hold a public hearing may be extended by mutual consent of the applicant and the Zoning Board of Appeals.

F. Time of Decision: The Zoning Board of Appeals shall decide the appeal within sixty-two (62) days after the close of said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.

G. Filing of Decision and Notice: The Decision or minutes of the Zoning Board of Appeals on the appeal shall be filed in the office of the office of the Buildings and Code Inspector within ten (10) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

H. Compliance with State Environmental Quality Review Act: The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act.

I. Rehearing: A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

J. Reimbursable costs. Reimbursable and necessary fees and expenses incurred by the Zoning Board of Appeals for private consultation fees or other extraordinary expense in connection with the review of an appeal shall be charged to the applicant.

K. Establishment of Escrow Account. A non-interest bearing escrow account shall be established and maintained by the Town for payment of private consultant fees as follows:

(1) Each private consultant retained by the Zoning Board of Appeals shall forward a review estimate setting forth the estimated cost for professional services.

(2) The Town shall cause the applicant to deposit the full amount of such estimate(s) with the Town, which will be placed in a non-interest bearing escrow account in the name of the Town, and shall keep a separate record of all such monies deposited in the name of the applicant and project.

(3) Upon receipt and approval by the Town of itemized vouchers from such professional consultant(s) for services rendered in the review of such application, the Town shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant upon receipt thereof by the Town.

(4) The Town shall review all such vouchers and shall approve payment of such professional consultant fees and expenses as are reasonable in amount and necessarily incurred in connection with the review, consideration and action upon the application. For purposes of this sub-section, a fee or expense is reasonable in amount if it bears a reasonable relationship to the average charge by other professional consultants to the Town performed in connection with the review and consideration of similar applications and in this regard, the Town may take into account the nature and complexity of the application, and any other special considerations as the Town may deem relevant. For purposes of this sub-section, a fee or expense is necessarily incurred if it was charged by the professional consultant for a service which was rendered in connection with the review, consideration and action upon the application for the purpose of protecting or promoting the health, safety or other vital interests of the residents of the Town, protect public or private property, protect the legal interest of the Town and avoid claims and liability, and such other interests as the Town may deem relevant.

(5) If any time during or after the processing of such application, there shall be insufficient monies on hand to the credit of such applicant to pay the approved professional consultant vouchers in full, or it shall reasonably appear to the Town that such monies will be insufficient to meet vouchers yet to be submitted, the Town shall cause the applicant to deposit such additional sums as the Town deems necessary or advisable to meet such professional consultant fees or expenses or anticipated fees or expenses.

(6) In the event the applicant fails to deposit such funds or such additional funds, any further application review or action shall be suspended until such monies are deposited.

(7) After all proceedings with respect to such application are completed, and all approved vouchers submitted regarding such application have been paid, any sums remaining on account to the credit of the applicant shall be returned to the applicant, together with a statement of the vouchers so paid.

ATTACHMENT 1: SCHEDULE OF USE REGULATIONS

(District Schedule of Use Regulations - intentionally left blank – attached in pdf)

Page 1 of 3

(District Schedule of Use Regulations - intentionally left blank – attached in pdf)

Page 2 of 3

(District Schedule of Use Regulations - intentionally left blank – attached in pdf)

Page 3 of 3

ATTACHMENT 2: SCHEDULE OF AREA AND BULK REGULATIONS

(District Schedule of Area and Bulk Regulations - intentionally left blank – attached in pdf)

Page 1 of 1

ZONING MAP OF TOWN OF BRUNSWICK

(Official Zoning Map - intentionally left blank – attached in pdf)