

Chapter 170. Zoning

[HISTORY: Adopted by the Town Board of the Town of South Bristol 12-23-1969; amended in its entirety 7-9-2001 by L.L. No. 1-2001. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 3.

Planning Board — See Ch. 45.

Adult uses and entertainment — See Ch. 55.

Agriculture — See Ch. 56.

Docking and mooring — See Ch. 73.

Fire prevention and building construction — See Ch. 84.

Flood damage prevention — See Ch. 88.

Junkyards — See Ch. 99.

Logging — See Ch. 106.

Subdivision of land — See Ch. 149.

ATTACHMENTS

Attachment 1 - Schedule of District Regulations 

Article I. Enactment and Intent

§ 170-1. Title.

This chapter shall be known as the "Zoning Law of the Town of South Bristol, Ontario County, New York State."

§ 170-2. Purpose.

The purpose of this chapter is to promote the health, safety and general welfare of the Town of South Bristol by regulating and restricting the height and size of buildings, number of stories and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, commerce, industry, residence, agriculture, essential services or other purposes, after reasonable consideration, among other things, of the character of the Town and its peculiar suitability for particular uses, in order to conserve and enhance natural resources and land values and to protect the existing properties and environment. This chapter and the Zoning Map are designed to prevent overcrowding of land and to avoid undue concentration of population and to facilitate the efficient and adequate provision of public facilities and services and to establish penalties for the violation of such regulations. It is the further purpose of this chapter to conserve and promote wherever possible the natural beauty of the land, its lakes, streams, forests and hills to the end that they may be enjoyed to the fullest by this and succeeding generations of Town residents and others by encouraging the most appropriate use of land throughout the Town.

§ 170-3. Interpretation and construal.

The provisions of this chapter shall be held to be the minimum standards and requirements for the health, safety and general welfare. If any section, paragraph, subdivision, or provision of this chapter shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the rest of this chapter shall remain valid and effective. This chapter shall be strictly construed to promote the purposes of this chapter as above set forth.

§ 170-4. conflict with other provisions.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or laws, the most restrictive shall govern.

§ 170-5. Authority to amend.

The Town Board may, on its own motion or on petition or on recommendation of the Planning Board, after public notice and hearing, amend, change, or repeal this chapter and/or the Zoning Map, pursuant to the provisions of the New York State Town Law applicable thereto. Every such proposed amendment shall be first referred to the Planning Board for report prior to public hearing thereon.

§ 170-6. Repealer.

The text of the Zoning Ordinance and Zoning Map of the Town, enacted by the Town Board on December 23, 1969, and as amended, are hereby reenacted and amended in their entirety as set forth below, superseding all previous enactments and amendments, and, from their taking effect, all such previous enactments and amendments thereto shall be repealed. Such repeal shall not affect or impact any act, liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be employed, asserted, enforced or prosecuted as fully and to the same extent as if such repeal had not been affected.

§ 170-7. Applicability; pending applications.

- A. **Applicability.** This chapter, and any amendment thereof to which this section is expressly made applicable, shall apply to all applications pending and not yet finally decided on the effective date thereof to which it would apply if filed on such effective date; provided, however, that in any case where a public hearing has been held with respect to such pending application prior to such effective date, the application shall be decided in accordance with the law in effect on the date of such hearing. Applications pending on the date of any amendment of this chapter to which this section is not expressly made applicable shall be decided in accordance with the law in effect on the date such application was filed.
- B. **Duty of Town officials.** Within 20 days following the effective date of this chapter, or any amendment thereof to which this section is expressly made applicable, any Town official, department, bureau, agency, board or commission then having pending before it any application to which this chapter, or such amendment of it, applies pursuant to Subsection **A** of this section shall

transmit a copy of such application to the Code Enforcement Officer.

- C. Duty of Code Enforcement Officer. Within 30 days of the effective date of this section, or any amendment of this chapter to which this section is expressly made applicable, the Code Enforcement Officer shall inform each applicant named on each application referred to him pursuant to Subsection **B** of this section that his application is subject to the provisions of this chapter, as amended, and will be processed in accordance therewith; that he may within 30 days of the mailing of such notice refile, without fee, his application on the basis of this chapter, as amended; and that if he does not so refile, his application may be denied for noncompliance with the provisions of this chapter, as amended.
- D. Duty of applicant. Notwithstanding the foregoing provisions, it shall be the responsibility of each applicant having an application pending on the effective date of this section, or any amendment of this chapter to which this section is expressly made applicable, to modify such application in accordance with the terms and provisions of this chapter, as amended, and the failure to do so may result in denial of such application for failure to comply with this chapter, as amended. Any modification or refile of an application pending on such effective date in order to comply with the provisions of this chapter, as amended, shall be permitted at any time prior to the final disposition of such application and shall be permitted without payment of any additional fee.
- E. Processing of pending applications. Upon the refile of any pending application as herein provided or upon notification from the applicant that he will not refile or modify his application or upon the expiration of 60 days following the effective date of this chapter or any amendment thereof to which this section is expressly made applicable, whichever occurs first, such pending application shall be processed in accordance with the terms of this chapter, as amended, and such date shall be treated as the filing date of such application.

Article II. Definitions and Word Usage

§ 170-8. Word usage.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used or defined in one tense or form shall include other tenses and derivative forms, and the plural includes the singular. The masculine gender shall include the feminine, and the feminine gender shall include the masculine. Wherever the word "he" appears, read "he" or "she."
- B. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.
- C. For words not defined herein, reference shall be made to a current edition of Webster's New International Unabridged Dictionary.

§ 170-9. Terms defined.

When used in this chapter, the following terms shall have the meanings herein ascribed to them:

ACCESSORY

As applied to a building or use which is customarily incidental and subordinate to and serves a principal building or principal use.

AGRICULTURAL IMPLEMENT

Any operable tool, instrument, utensil, device, equipment, machine, or appliance used in the practice of agricultural or farming activities.

AGRICULTURE OR FARMING ACTIVITIES

The use of a parcel of land for gain in raising and production of produce, including but not limited to crops, fruit, livestock, poultry, dairy products, nursery products or horticultural plants.

ALTERATIONS

As applied to a building or structure, the change or rearrangement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, or in the existing facilities; an enlargement of a building or structure, whether by extending on a side or by increasing in height; the moving from one location or position to another; or any change whereby a structure is adapted to another or different use.

ANTENNA

A system of electrical conductors that converts electrical energy into radiated electromagnetic energy for the purpose of transmitting or receiving communications or data.

ANTENNA TOWER, SHORT

A tower that carries one or more antennas and the overall tower height of which is 100.0 feet or less.

ANTENNA TOWER, TALL

A tower that carries one or more antennas and the overall tower height of which is more than 100 feet.

APARTMENT BUILDING

A multiple dwelling comprised of dwelling units which are offered for occupancy for periods of 30 days or more.

AREA VARIANCE

The authorization by the Zoning Board of Appeals of the Town of South Bristol for the use of land in a manner which is not allowed by the dimensional or topographical requirements of the Zoning Law of the Town of South Bristol.

ASSEMBLY OF PRODUCTS

See "fabrication."

BACK YARD

See "yard, rear."

BARN

A building or structure used for the storage or sheltering of vehicles, livestock, crops, machinery or other items accessory to the primary use of the property.

BASEMENT

That space of a building that is partly below grade which has 1/2 or more of its height, measured from floor to ceiling, above the average finished grade.

Battery Energy Storage System - An electronic system that protects batteries from operating outside their safe operating parameters and generates an alarm and trouble signal for off normal conditions.

BATTERY ENERGY STORAGE SYSTEM: A rechargeable energy storage system consisting of batteries, battery chargers, controls, power conditioning systems and associated electrical equipment. The system is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, smoothing and dispatching of intermittent renewable energy sources, or similar capabilities. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System as follows:

- A. Tier 1 Battery Energy Storage Systems include either:
- a) Battery energy storage systems for one to two family residential dwellings within or outside the structure with an aggregate energy capacity that shall not exceed:
 1. 40 kWh within utility closets and storage or utility spaces
 2. 80 kWh in attached or detached garages and detached accessory structures
 3. 80 kWh on exterior walls
 4. 80 kWh outdoors on the ground
 - b) Other battery energy storage systems with an aggregate energy capacity less than or equal to the threshold capacity listed in Table 1

Table 1: Battery Energy Storage System Tier 2 Threshold Quantities

Battery Technology	Capacity
Flow batteries	20 kWh
Lead acid, all types	70 kWh
Lithium, all types	20 kWh
Nickel cadmium (Ni-Cd)	70 kWh
Nickel metal hydride (Ni-MH)	70 kWh
Other battery technologies	10 kWh

- B. Tier 2 Battery Energy Storage Systems include battery energy storage systems that are not included in Tier 1, have an aggregate energy capacity greater than the threshold capacity listed in Table 1, and have an aggregate energy capacity less than 600 kWh
- C. Tier 3 Battery Energy Storage Systems include all the following:
- a) Battery energy storage systems with an aggregate energy capacity greater than or equal to 600kWh

- b) Battery energy storage systems with more than one storage battery technology is provided in a room or indoor area

BED-AND-BREAKFAST

An owner-occupied one-family dwelling used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers, containing not more than five rentable bedrooms for such lodgers.

BOARDINGHOUSE/LODGING HOUSE

A multiple dwelling used primarily for the purpose of furnishing lodging, with or without meals, to not more than 15 transient occupants, for compensation.

BOARD OF APPEALS

The Zoning Board of Appeals of the Town of South Bristol.

BUFFER AREA

Strips of land covered with grass, vegetation, trees, embankments, or berms (excluding any habitable area and intended to provide a neutral land use between other land uses).

BUILD

See "erect."

BUILDING

Anything constructed or erected having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals, or property. Depending upon its applicability, the use herein of "building" shall include the term "structure."

[Amended 1-11-2010 by L.L. No. 1-2010]

BUILDING AREA

The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside dimensions.

BUILDING HEIGHT

The vertical dimension measured from the mean elevation of the finished grade to the highest point of the roof or to the highest point of any structure above the roof. "Mean elevation" shall be determined by adding the highest and lowest elevations and dividing by two.

[Amended 10-14-2002 by L.L. No. 3-2002]

BUILDING LOT

See "lot."

BUILDING OFFICIAL

See "Code Enforcement Officer."

BUILDING PERMIT

The authorization of the development, construction, extension, or use of land and/or buildings in conformance with Article 18 of the Executive Law of New York State (Uniform Code Act) and this chapter.

BUSINESS OFFICE

One or more rooms in a building located in a commercial or industrial zone, or in a dwelling with a home occupation, from which a business is supervised, managed or clerically conducted.

CAMP

A building designed or used for temporary accommodations for one or more persons for recreational purposes, but not meeting the requirements of a "dwelling."

CAMPGROUND

A parcel of land used or intended to be used, let or rented on a commercial basis for transient, vacation and recreational occupancy of cabins, tents, registered travel trailers, campers, recreational vehicles, motor homes, vessels and the motor vehicles propelling or carrying the same, but excluding mobile homes designed for year-round occupancy or as a place of residence unless occupied by the owner of such property or his representative.

[Amended 2-17-2014 by L.L. No. 3-2014]

CELLAR

That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average level of the finished grade adjoining the building.

CERTIFICATE OF COMPLIANCE

A document issued by the Code Enforcement Officer to signify the completion of a permitted construction activity or the installation of equipment and to authorize its use.

CERTIFICATE OF NONCONFORMITY

A document, issued by the Code Enforcement Officer, listing all of the uses, employments or dimensional aspects that do not conform to this chapter at the time of issue.

CERTIFICATE OF OCCUPANCY

A document issued by the Code Enforcement Officer to authorize a permitted activity and/or the use or occupancy of a permitted structure.

CLUSTER DEVELOPMENT

A group of dwellings regulated as a planned development in this chapter.

CODE ENFORCEMENT OFFICER (CEO)

The official designated by the Town Board of the Town of South Bristol to enforce the provisions of the New York State Uniform Fire Prevention and Building Code and this chapter.

COMMERCIAL

Any employment or use of land or structures that has financial profit or gain as its primary purpose.

CONDOMINIUM

A single real estate unit in a multiunit development in which a person has both separate ownership of a unit and an undivided interest in the common elements of the building. Condominium developments are regulated as planned developments, subject to the provisions of § 170-20 of this chapter.

[Amended 2-17-2014 by L.L. No. 3-2014]

CONSTRUCTION YARD

An area where construction equipment and/or materials are being stored for use on the premises and where permitted construction activities are taking place.

CONTRACTOR'S YARD

An area where construction equipment and or materials are being stored for use off the premises.

COUNTY

The County of Ontario, New York.

CUSTOMARY

Anything that is traditionally practiced or used.

[Amended 2-17-2014 by L.L. No. 3-2014]

DEPARTMENT OF HEALTH

The New York State Department of Health or any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

DISH ANTENNA

An antenna which contains a dish-shaped reflector.

DRIVE

A private road.

DRIVEWAY

An access lane used or intended to be used by motor vehicles connecting a structure or any other point in a lot to a street or road.

[Amended 2-17-2014 by L.L. No. 3-2014]

DWELLING

A building designed or used as permanent living quarters for one or more persons.

DWELLING, ATTACHED

A building consisting of two or more dwelling units which are attached by party walls, and which share a common lot line.

DWELLING, DETACHED

A residential building having yard space all around it.

DWELLING, MANUFACTURED

A residential dwelling unit manufactured off site, other than a mobile home, and approved by the New York State Department of State as a factory manufactured home. A modular home is a manufactured dwelling.

DWELLING, MULTIPLE-FAMILY

A residential dwelling unit designed for or occupied by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units

provided.

DWELLING, SINGLE-FAMILY

A residential dwelling unit designed for or occupied by a single-family, with a minimum of 400 square feet of living area.

[Added 5-9-2005 by L.L. No. 1-2005]

DWELLING, TWO-FAMILY

A detached building containing no more than two dwellings.

DWELLING UNIT

A building or portion thereof providing housekeeping facilities for a single family.

EFFICIENCY APARTMENT

An apartment with one habitable room.

ERECT

To raise, to build, to construct a building or structure; also, to excavate for a building or to relocate a building by moving it from one location to another.

ESSENTIAL SERVICES

The erection, construction, alteration, maintenance or utilization by public utilities or any governmental department or commission of underground or overhead gas, electrical or water transmission, distribution, supply or disposal systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare.

EXCAVATION

A hole made in the ground, vertically, horizontally or at any angle in between.

FABRICATION

The manufacture, construction, assembly or building of a single entity or product from component parts.

FAMILY

One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit; or any number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

FARMING ACTIVITIES

See "agriculture or farming activities."

FENCE

A structure of wood, masonry, plastic, metal or other materials, excluding hedges, which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the (street) or public right-of-way and a property, artificially erected for the purpose of privacy or protection or for the purpose of limiting ingress and egress by persons or animals.

FILL

Any activity which deposits natural or artificial materials so as to modify the surface or subsurface conditions of land, lakes, ponds, and watercourses.

[Added 2-17-2014 by L.L. No. 3-2014]

FINISHED GRADE LEVEL

The level where the finished grade of the ground intersects the exterior walls of a building.

FLOOD INSURANCE RATE MAP (FIRM)

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and risk premium zones applicable to the Town of South Bristol.

FLOODPLAIN

Lands that will flood on the average of every 100 years, as depicted on the Federal Emergency Management Agency Flood Insurance Rate Map for the Town of South Bristol.

[Amended 2-17-2014 by L.L. No. 3-2014]

FLOODWAY

See Chapter **88** of this Code.

FRONT LOT LINE

See "lot line, front."

FUEL TANK

A tank used for the storage and/or distribution of liquid or gaseous fuel.

FUNCTIONALLY DEPENDENT USE

Any use which depends on a particular location, in terms of topography or proximity to water, in order to perform its intended purpose.

GARAGE, PRIVATE

A structure or portion thereof used primarily for the shelter and storage of private passenger vehicles owned or used by the occupants on the lot upon which it is erected.

GARAGE, PUBLIC

A structure or portion thereof used primarily for the shelter, storage and/or repair of motor vehicles or other vessel for gain.

GRADE

The finished surface of the ground adjacent to the exterior wall of a building.

GREENHOUSE, COMMERCIAL

An enclosed structure, admitting natural light, used to grow plants for sale.

HEDGE

Planted or naturally grown material that is intended to prohibit or inhibit unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property for the purpose of privacy or protection.

HOME OCCUPATION

An accessory use of a dwelling unit and/or accessory buildings for gainful employment involving the manufacture or sale of goods and/or services. Such uses shall be secondary to the principal use and shall not change the physical character of the principal structure. Such uses shall not employ more than two full-time equivalent employees other than the members of the immediate family.

HOTEL

A multiple dwelling used primarily for the purpose of furnishing lodging, with or without meals, for more than 15 transient guests, for compensation.

HOUSE

An enclosed structure with a roof, usually but not always used as a dwelling.

IMPERVIOUS/IMPERMEABLE

Not allowing fluid to pass through, including but not limited to roads, sidewalks, driveways covered with asphalt, concrete, brick, stone, and gravel.

[Added 7-13-2015 by L.L. No. 4-2015; amended 4-8-2019 by L.L. No. 4-2019]

JUNK

See "waste materials."

JUNK VEHICLE

A motor vehicle, trailer, recreational vehicle or a part thereof which has been rendered inoperable. (See "waste materials.")

JUNKYARD

Any premises where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including automobiles or other vehicles or machinery; wrecking or dismantling yards; house wrecking yards; used lumber yards; places or yards for storage of salvaged house wrecking and structural steel materials and equipment; or where two or more unregistered motor vehicles or any kind of vessel no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all the materials therein or for the purpose of disposing of the same for any other purpose. The term "junkyard" shall not include pawnshops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing or for processing of used, discarded or salvaged materials as part of manufacturing operations. (See "waste materials.") [1]

KENNEL

Any premises on which more than four but no more than eight dogs six months old or older are kept, for any purpose, including boarding and/or breeding.

[Added 2-17-2014 by L.L. No. 3-2014]

LIVESTOCK

Animals such as, but not limited to, cattle, horses, pigs, sheep, chinchillas, mink and/or poultry.

LODGING HOUSE

See "boardinghouse/lodging house."

LOGGING

See Chapter 106.

[Amended 10-14-2002 by L.L. No. 3-2002]

LOT

A parcel of land having a single tax map identification number, devoted to a certain use and occupied or capable of being occupied by a building or group of buildings that are united by common interest or use. The terms "plat" and "parcel" are included in this definition.

LOT AREA

The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a street shall not be included in calculating lot area. Any portion of a lot included in a drive shall be included in calculating lot area.

LOT, CORNER

A parcel of land at the intersection of and fronting on two or more public streets. For purposes of zoning, a corner lot has two front yards, two side yards and no back yard.

LOT COVERAGE

The total area of a lot or parcel covered by impervious and substantially impervious surfaces and/or structures on or proposed to be permanently located on a lot. Impervious and substantially impervious surfaces and structures shall include, but not be limited to, buildings (both primary and accessory), sidewalks, decks, patios, swimming pools, stairs, landings, retaining walls, planters or planting boxes, freestanding solar panels, driveways and parking areas (including gravel, paved, or brick), buildings and roof overhangs, sheds, pavilions, gazebos, awnings, tennis courts, and any other paved, gravel or constructed surface or structure on or proposed to be permanently located on the lot or parcel. Lot coverage will include all areas above the mean high-water mark of

689.4 feet above sea level. NOTE: 50% of all man-made pervious/permeable surfaces will be counted towards total lot coverage.

[Amended 7-13-2015 by L.L. No. 4-2015; 4-8-2019 by L.L. No. 4-2019]

LOT DEPTH

The mean horizontal distance between the front and rear lot lines measured in the general direction of the side lot lines. The mean distance shall be calculated by adding the shortest distance and the longest distance and dividing by two. For a corner lot, the lot depth shall be the distance between the shortest front lot line and the side lot line opposite it.

LOT FRONTAGE

The length of the front lot line or lines.

LOT LINES

The property lines bounding the lot.

A. LOT LINE, FRONT

The line separating the lot from a public road right-of-way. In the absence of a public road right-of-way, it is the line separating the lot from a private road right-of-way. In the absence of

a private road right-of-way, it is the line separating the lot from a right-of-way/easement. In the absence of a right-of-way/easement, it is the lot line where the driveway enters the lot.

[Amended 4-19-2004 by L.L. No. 1-2004]

B. LOT LINE, REAR

The lot line opposite the front lot line.

C. LOT LINE, SIDE

A lot line other than a front or rear lot line.

D. LOT, CORNER

A parcel of land at the intersection of and fronting on two or more public streets. For purposes of zoning, a corner lot has two front yards, two side yards and no back yard.

LOT OF RECORD

A lot described by metes and bounds and recorded in the office of the Ontario County Clerk.

LOT, THROUGH

A lot bordered by two or more public streets, other than a corner lot. For the purposes of zoning, a through lot has two front yards, two side yards and no back yard.

LOT WIDTH

The distance between side lot lines measured along the required front setback line of a lot and parallel to a front lot line. For a corner lot, the lot width shall be the distance between the longest front lot line and the side lot line opposite it.

MARINA

A functionally dependent, commercial establishment providing accommodations or facilities for watercraft, including mooring, docking, storing, leasing, sale or servicing of watercraft, located adjacent to Canandaigua Lake.

MAST

A simple or lattice-work pole, permanently attached to the ground or to a structure, intended to support an antenna or from which a flag may be flown.

MAY

Be permitted to do, but not obligated to do. In contrast to "shall," "may" is permissive.

MEAN HIGH-WATER MARK

The location where the mean high-water level intersects with the shoreline of the adjacent upland parcel.

MINE

Any parcel of land used for excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use.

[Amended 2-17-2014 by L.L. No. 3-2014]

MINERAL

Any naturally formed, usually inorganic, solid material located on or below the surface of the earth.

For the purposes of this chapter, peat and topsoil shall be considered minerals.
[Added 2-17-2014 by L.L. No. 3-2014]

MINING

The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including 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, or construction use, exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.
[Added 2-17-2014 by L.L. No. 3-2014]

MOBILE HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and which has been approved by HUD pursuant to CFR, Title 24 HUD, Chapter XX.

MOBILE HOME LOT

A parcel of land within a mobile home park reserved for placement of a mobile home for the exclusive use of its occupants.

MOBILE HOME PARK

A parcel of land under common ownership on which two or more mobile homes are occupied as residences or which is planned and improved for the placement of two or more mobile homes for non-transient, residential use and as further regulated in this chapter.

MOBILE HOME STAND

That part of a mobile home lot which has been reserved for the placement of a mobile home. The mobile home stand is derived from the area of a mobile home lot which remains after all setbacks are met.

MODULAR HOME

See "dwelling, manufactured."

MOTEL

A multiple dwelling, intended primarily for motorists, not over two stories in height, in which the exit from each dwelling unit or sleeping room is directly to the exterior. Includes but is not limited to the terms "motor court," "motor hotel" and "tourist court."

MOTOR VEHICLE

Any vehicle propelled or drawn by power, other than muscular power, having two or more wheels or at least one track or ski.

MOTOR VEHICLE SERVICE STATION

Any building or land used to dispense, sell or offer automotive fuels, oils or accessories and also

offering the lubrication, washing, waxing, polishing or cleaning and the replacement of minor parts and accessories, including tires, for gain; but not including any major mechanical alterations or repairs, body repair or painting of motor vehicles. (See "garage, public.")

NATURAL GAS

Any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth, and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

[Added 2-17-2014 by L.L. No. 3-2014]

NATURAL GAS AND/OR PETROLEUM EXPLORATION

Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

[Added 2-17-2014 by L.L. No. 3-2014]

NATURAL GAS AND/OR PETROLEUM EXPLORATION AND PRODUCTION MATERIALS

Any solid, semisolid, liquid, semiliquid or gaseous material used in the exploration or extraction of natural gas.

[Added 2-17-2014 by L.L. No. 3-2014]

NATURAL GAS AND/OR PETROLEUM EXTRACTION

The digging or drilling of a well for the purposes of exploring for, extracting, developing or producing natural gas, petroleum or other subsurface hydrocarbons.

[Added 2-17-2014 by L.L. No. 3-2014]

NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES

The construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

[Added 2-17-2014 by L.L. No. 3-2014]

NATURAL GAS EXPLORATION AND/OR PETROLEUM PRODUCTION WASTES

Any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semisolid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

[Added 2-17-2014 by L.L. No. 3-2014]

NONCONFORMITY

A use or employment, a lot or a building or structure that does not conform to the requirements of this chapter for the zoning district in which it is located.

OCCUPANT

A person who occupies, controls, possesses or uses premises.

OCCUPY

To use premises for their intended purposes; to be in possession of or to employ.

OFF-STREET LOADING SPACE

Space located for public pickups and deliveries. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking areas.

OFF-STREET PARKING SPACE

A space for parking an automobile, located on a lot, the use of which requires the parking of one or more automobiles, such parking space having access to a street.

OUTDOOR RECREATION

Any recreational use or activity not located within a building.

OVERALL TOWER HEIGHT

The greater distance from the ground to the tip of the tower, or to the tip of any antenna mounted on top of the tower. If the tower is mounted on a building or structure, the height of that building or structure is included in overall tower height, and overall tower height shall be measured from the lowest elevation of the finished grade adjoining the exterior walls of such building or structure.

OVERBURDEN

All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.
[Added 2-17-2014 by L.L. No. 3-2014]

OVERLAY DISTRICT

An area designated for which special requirements are established over and above those already specified for the zoning district or districts on which the overlay district is imposed.

PARTY WALL

A wall on an interior lot line used or adapted for joint service between two buildings or structures.

PERCENTAGE OF LOT COVERAGE

The total area meeting the definition of lot coverage divided by the total area of that portion of the parcel that is above the mean high-water mark of 689.4 feet above sea level.
[Added 7-13-2015 by L.L. No. 4-2015]

PERSON

Any individual, association, partnership, corporation or firm.

PERSONAL SERVICE SHOP

Any place where work is done by one person upon another for that second person's benefit, for pay, such as beauty shops, barbershops, tanning parlors, licensed massage parlors and similar services.

PERVIOUS/PERMEABLE

Allowing fluid to pass through into the soil and filter out pollutants, plus recharging the water table and not allowing runoff.
[Added 7-13-2015 by L.L. No. 4-2015; amended 4-8-2019 by L.L. No. 4-2019]

PLANNED DEVELOPMENT

An integrated and coordinated development of a tract of land under single ownership or control which includes one or more principal buildings and uses or combination thereof and is developed in accordance with the regulations prescribed under provisions of this chapter.

PLANNING BOARD

The Planning Board of the Town of South Bristol.

POULTRY

Domestic fowl, kept for use on a farm or raised for sale and profit, such as, but not limited to, chickens, turkeys, geese and ducks.

PREMISES

A lot and all buildings and structures thereon.

PRINCIPAL

Main, primary or chief, as in principal use, principal building and similar conjunctions.

PUBLIC USE

A publicly owned project or a privately owned project that is available for use by the public.

RECREATIONAL VEHICLE

A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle.

RELOCATE

To move from one location to another.

RESIDENT

A person who has a permanent mailing address in the Town of South Bristol.

RESTAURANT

Any establishment where food is prepared, served at a table or served at a counter, served from a counter, or sold for carry-out, for profit.

RETAIL

Sale to the final consumer for direct consumption or use and not for resale.

ROAD

An open way for vehicles, persons or animals.

ROADSIDE STAND

A retail outlet, with all related structures, for the sale of horticultural or agricultural products grown primarily on the premises upon which such stand is located, or for the sale of home occupation products.

SAWMILL, PORTABLE

A sawing machine designed to be transportable and to be employed for the sawing of logs into lumber for a period of not more than 30 days on any lot, except in the Lake Residential (LR) and One-Acre Residential (R-1) Districts where it shall be for a period of not more than 14 days on any lot.

[Amended 2-17-2014 by L.L. No. 3-2014]

SAWMILL, STATIONARY

A stationary machine or assembly of machines, installed, constructed or built for the commercial purpose of sawing logs into lumber. Such a mill may include accessory spaces, such as log storage areas and lumber storage areas; machinery and equipment used to debark logs, curing lumber, storage and disposal of sawmill wastes; and other structures and machinery necessary to convert raw logs into finished lumber.

SCENIC VISTA

A long or panoramic view of a picturesque natural landscape.

SEQR (STATE ENVIRONMENTAL QUALITY REVIEW)

The State Environmental Quality Review Act adopted pursuant to the New York State Environmental Conservation Law (NYCRR Part 617) to incorporate the consideration of environmental factors into the planning, review and decision making processes of governmental agencies.

SETBACK

The shortest horizontal distance from the lot line to the part of the structure or of the story, respectively, which is nearest to such lot line, excluding eaves. In no case shall an eave project more than two feet into the setback.

[Amended 1-11-2010 by L.L. No. 1-2010]

SHALL

Intended to be mandatory without exception.

SHOP

A place where goods and/or services are offered for sale or remuneration, such as a store or a workshop.

SHOPPING CENTER

Two or more independent commercial enterprises that are located on a single lot or on one or more adjacent lots, or two or more commercial buildings developed as part of a single, integrated development.

SIGN

Any device intended to attract attention for the purpose of conveying information, including, but not limited to, lettering, numerals, emblems, trademarks, announcements, advertisements and directions. For the purposes of zoning, the term "sign" shall include the message area, surrounding framework and any supporting structures.

SITE PLAN

An area map, showing the parcel and proposed developments to be reviewed.

SLENDERNESS RATIO

The number that is obtained when specific tower height is divided by tower width.

SPECIAL EVENTS VENUE

The commercial use of a parcel or part of a parcel of land, for celebratory, cultural or educational activities such as conferences, banquets, festivals, weddings, or other similar activities.

SPECIAL USE

A use that is allowed in a particular district, but only if it meets the conditions and requirements of this chapter.

SPECIFIC TOWER HEIGHT

The distance from the base of the tower to the tip of it, not including the height of any antenna mounted on top of it and not including the height of any building or structure on which the tower may be mounted.

STABLE

A building or use of land in which any livestock are kept for remuneration, hire or sale.

STAIRWAY

Anything constructed or erected that consists of one or more flights of stairs, with or without landings, providing access to a building, to a structure, to Canandaigua Lake or to the shore of Canandaigua Lake. Stairways providing access to Canandaigua Lake or to the shore of Canandaigua Lake shall not have any landing exceeding 75 square feet. Stairways, or portions thereof, within 25 feet of the mean high-water line of Canandaigua Lake shall be exempt from rear setbacks. All other stairways shall comply with all setback requirements.

[Added 1-11-2010 by L.L. No. 1-2010]

STORAGE

Any place designed for, intended for or used for the keeping, warehousing, putting aside, safekeeping or accumulating of things or materials.

STORY

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

STREET

A public road.

STRUCTURE

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground or that creates an impervious surface on the ground.

"Structure" includes, but is not limited to: any buildings, paved or blacktopped driveways, parking lots and parking areas, sidewalks, foundations, fences, steps, stairs, decks, patios, aboveground or below-ground storage tanks, wells and well components, both in-ground and aboveground swimming pools, tennis courts, towers, billboards, poster panels, walls, retaining walls of any height, mortared or dry-laid stonework and trams and tram systems.

[Amended 1-11-2010 by L.L. No. 1-2010; 9-14-2015 by L.L. No. 5-2015]

STRUCTURE LINE

The line around a structure projected to the ground that is generated by the vertical downward projections from any part of the structure, excluding eaves projecting two feet or less.

[Added 1-11-2010 by L.L. No. 1-2010]

SWIMMING POOL

A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials, having a depth capacity of over 24 inches and provided with a recirculating and/or controlled water supply.

TEMPORARY

Referring to a specific, limited period of time. Examples are temporary use, temporary construction office or similar terms.

TOWER

A structure that has a slenderness ratio of greater than 5.

TOWER WIDTH

The widest horizontal dimension of a tower, not including any antennas mounted on the tower and offset horizontally from it, and not including any guy wires or cables used to stabilize the tower.

TOWN

As used in this chapter, the Town of South Bristol, Ontario County, State of New York.

TOWNHOUSE

A one-family dwelling joined together by a party wall with more than one other such one-family dwelling but having entrances and exits to exterior yards independent of such other dwellings.

TRAIL

A path through private or public lands, established and maintained for recreational purposes.

TYPICAL

A representative example, an accepted standard, model or pattern.

USE

The employment of land or structures.

USE VARIANCE

The authorization by the Zoning Board of Appeals of the Town of South Bristol for the use or employment of land or structures in a manner that is not allowed by the Zoning Law of the Town of South Bristol.

WAREHOUSE

A commercial structure or building used for storage.

WASTE MATERIALS

Any discarded or unwanted material, such as but not limited to appliances, machinery, vehicles, equipment, cans or other containers, debris, refuse, garbage, trash and rubbish.

WATERSHED INSPECTOR

The duly appointed person designated by § 1101 of the Public Health Law to inspect and report possible violations under this chapter.

WHOLESALE

Sale to an intermediary, for resale to another intermediary or to a retail establishment.

WINDMILL

A device that converts the kinetic energy of the wind, by the use of a set of rotating blades, into electrical or mechanical power and is usually elevated from ground level on a tower.

[Amended 8-11-2003 by L.L. No. 2-2003]

A. WINDMILL, RESIDENTIAL

A windmill that provides electrical or mechanical power to an individual residence and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

B. WINDMILL, COMMERCIAL

A windmill that provides electrical or mechanical power to an individual home occupation, farm, or other single commercial enterprise and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

C. WINDMILL, INDUSTRIAL

A windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.

WINDMILL HEIGHT

The total height of the structure including blades.

[Amended 8-11-2003 by L.L. No. 2-2003]

YARD

The open space of a lot between the principal building(s) and the lot lines.

YARD, FRONT

The open space bounded by a front lot line, the line parallel to the front lot line and passing through the point on the building line closest to the front lot line, and the side lot lines.

YARD, REAR

The open space bounded by a rear lot line, a line parallel to that rear lot line and passing through that point on the building line that is closest to the rear lot line, and the side lot lines.

YARD, SIDE

The open space bounded by a side lot, the front yard, the rear yard and the building line.

ZONING OFFICER

(See "Code Enforcement Officer.")

ZONING PERMIT

The authorization of the development, construction, extension or use of land and/or buildings in conformance with this chapter.

[1] *Editor's Note: The former definitions of "kennel, commercial" and "kennel, private," which immediately followed this definition, were repealed 2-17-2014 by L.L. No. 3-2014. The former definition of "line, building," which followed this definition, was repealed 1-11-2010 by L.L. No. 1-2010.*

Article III. Establishment and Designation of Districts

§ 170-10. Establishment of districts.

To carry out the foregoing purpose, the Town of South Bristol is hereby divided into districts which shall be designated as follows:

Lake Residential	LR	170-15
One-Acre Residential	R-1	170-16
Three-Acre Residential	R-3	170-16.1
Five-Acre Residential	R-5	170-16.2
Neighborhood Commercial	NC	170-16.3
Light Commercial	C-1	170-17
Commercial	C-2	170-17.1
Land Conservation Overlay District	LC	170-19
Planned Development	PD	170-20
Tower Overlay District	TD	170-21
Agricultural Overlay District	AG	170-21.1
Adult Use Overlay District	AU	170-19.1

§ 170-11. Zoning Map.

- A. The location and boundaries of the foregoing districts are hereby established and delineated on the Zoning Map, as amended and filed with the Town Clerk of the Town, which said map is hereby made a part of this chapter and declared to be the Official Town Zoning Map of the Town of South Bristol.^[1] The boundaries of the Land Conservation District shall be determined by the appropriate Flood Insurance Rate Map that may hereto be adopted by the Town and be on file in the Town Clerk's office.

[1] *Editor's Note: The Zoning Map is on file in the Town offices and may be examined there during regular office hours.*

- B. Official Town Zoning Map: definition, purpose, effect and amendments.

- (1) The Official Town Zoning Map shall be a subsidiary part of the Comprehensive Plan which shall be developed, adopted and amended in accordance with the procedures hereinafter established.
- (2) The Official Town Zoning Map shall show the streets, parks, sewerage and drainage systems and Zoning Districts laid out, adopted and established in the Town and shall be final and conclusive with respect to the location and width of roads and sewerage and drainage systems and the location of zoning districts and parks shown thereon.

(3) Amendment.

- (a) An amendment of the Official Town Zoning Map may be initiated by the Town Board, by the Planning Board, by the owner/owners of property affected by the provisions of the Official Town Zoning Map sought to be amended or by any association of such property owners.
- (b) Amendments initiated by the owner of affected property or association of owners shall be initiated by an application addressed to the Town Board and filed with the Code Enforcement Officer. A nonrefundable application fee to help defray administrative costs and the costs of hearing shall accompany each such application.

[1] The application shall be in such form and contain such information as may from time to time be established by general rule of the Code Enforcement Officer, but shall in no event contain less than the following information:

- [a] The name and address of the owner-applicant.
- [b] The name, residence and nature and extent of the interest, as defined by § 809 of the General Municipal Law of New York, of any state officer or any officer or employee of the Town of South Bristol or the County of Ontario in the owner-applicant or the subject property if known to the applicant.
- [c] The address of the affected property.
- [d] A map showing the proposed change in the Official Town Zoning Map.
- [e] A statement of the reason and necessity for the proposed change.
- [f] A statement of any other applications relating to the affected property which have been or are intended to be filed pursuant to this chapter.
- [g] A statement of the present use of the affected property and any proposed change in such use.
- [h] Such other and further information as the Code Enforcement Officer or the Planning Board may deem to be necessary or appropriate to a full and proper consideration and disposition of the particular application.

[2] Upon receipt of a completed application by the Code Enforcement Officer, an information meeting shall be conducted by the Planning Board.

[3] Within 30 days following the conclusion of such hearing, the Planning Board shall make its recommendation to the Town Board with respect to the proposed amendment.

[4] Within 30 days following the receipt of such recommendation, the Town Board shall set, advertise and conduct a public hearing and shall, by resolution duly enacted, either adopt or reject such amendment. At least 10 days' notice of such public hearing shall be published at least once in a newspaper of general circulation. Also, the Town shall give written notice of said public hearing to any housing authority, city, village, Town, county or state park or highway agency owning property that is within 500 feet of the property affected by such proposed amendment.

- (c) Amendments initiated by the Town Board, or the Planning Board shall be processed in accordance with procedures of this section, except that no application shall be required.
- (d) Plan filing. The amendment to this chapter adopting the Official Town Zoning Map amendment shall provide that the Code Enforcement Officer shall cause certified copies thereof to be placed on file in the offices of the Planning Board and Code Enforcement Officer and shall cause a certificate evidencing the adoption of such plan, or part thereof, to be filed with the County Clerk of Ontario County.

§ 170-12. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any zoning district, as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following center lines of any streams or other water bodies shall be construed as following such center lines.
- D. Boundaries indicated as parallel to or extensions of features indicated in Subsections **A** through **C** above shall be so construed. Distances not specifically on the Official Zoning Map shall be determined by the scale of the map.
- E. Where natural features on the ground are at variance with the Official Zoning Map or in other circumstances not addressed in Subsections **A** through **D** above, the Board of Appeals shall interpret the district boundaries.

§ 170-13. Comprehensive Plan.

- A. Definition. For the purpose of this chapter, the Comprehensive Plan shall include the Town's future land use development goals, policies and/or programs as set forth in the Official Comprehensive Plan adopted in January 2008, as amended from time to time.
[Amended 2-17-2014 by L.L. No. 3-2014]
- B. Purpose and effect. The Comprehensive Plan, or any part thereof, as amended, shall be considered an official statement of the Town of South Bristol with respect to the existing and developing character of various areas of the Town; the proper objectives, standards and direction for the future maintenance, growth and development of the Town; the means to be employed to protect existing character or development and to encourage future development that will be in the best interest of the Town; and the actions and programs to be undertaken by the Town with respect to its future maintenance and development. The Comprehensive Plan shall serve as a guide and resource for Town officials and agencies in the performance of their duties.

- C. Amendment. Because New York State Law requires that all land use regulation must be consistent with the Comprehensive Plan, all amendments shall be reviewed for such consistency before adoption in accordance with the procedures set forth in other parts of this chapter.

Article IV. District Regulations

§ 170-14. Schedule of District Regulations.

- A. The requirements and limitations set forth in this article and the table entitled "Schedule of District Regulations"^[1] and with all explanatory matter herein shall apply to the respective districts.

[1] *Editor's Note: The Schedule of District Regulations is included at the end of this chapter.*

- B. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereunder be erected, constructed, reconstructed, moved or structurally altered unless it is permitted or specially permitted by this chapter and except in conformity with all the regulations herein specified for the district in which it is located.

[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014]

- C. Unless otherwise specifically permitted, no more than one principal use, excluding customary agricultural uses, shall be permitted on any lot, except by special use permit in accordance with the provisions of § **170-22**.

[Amended 10-14-2002 by L.L. No. 3-2002]

- D. In the event that a special use permitted in Article **IV** is not specifically regulated by the provisions of Article **V**, the provisions of § **170-22** shall apply.

§ 170-15. Lake Residential (LR).

- A. Intent. The purpose of this district is to identify areas adjacent to Canandaigua Lake and to promote the optimum use of the lakeshore while, at the same time, promoting shoreline vistas and protecting the health and welfare of residents and the quality of Canandaigua Lake. This district shall extend into Canandaigua Lake 1,500 feet in accord with the Town of South Bristol Canandaigua Lake Docking and Mooring Law.[1] Editor's Note: See Ch. 73, Docking and Mooring, Article I, Canandaigua Lake.

- B. Permitted principal uses.

(1) One single-family dwelling unit, one two-family or one mobile home per lot Editor's Note: Former Subsection B (2), regarding bed-and-breakfasts, which subsection immediately followed, was repealed 2-17-2014 by L.L. No. 3-2014.

- C. Permitted accessory structures/uses:

(1) Home occupation utilizing less than 500 square feet in a dwelling or 1,000 square feet in an accessory building. [See Subsection D (3) of this section.]

(2) Boathouse, dock and mooring facilities located in conformance with the Canandaigua Lake Docking and Mooring Law. (See Chapter 73.)

(3) Swimming pool and tennis court.

(4) Residential storage building, barn, private garage and/or private greenhouse.

- (5) Off-road parking and signs.
 - (6) Storage of recreation vehicles.
 - (7) Fences.
 - (8) Dish antennas.
 - (9) Residential fuel tanks.
 - (10) Outside firewood storage not for sale.
 - (11) Portable sawmill.
 - (12) Construction yard.
 - (13) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.
 - (14) Customary agricultural uses.
 - (15) Logging. [Added 10-14-2002 by L.L. No. 3-2002]
 - (16) Stairways. [Added 1-11-2010 by L.L. No. 1-2010]
- D. Special uses. (See Article V.)
[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014]
- (1) Public uses/essential services
 - (2) Stabling of any livestock within 100 feet of any lot line.
 - (3) Home occupations utilizing more than 500 square feet in a dwelling, 1,000 square feet in an accessory building or conducted outside.
 - (4) Commercial greenhouses.
 - (5) Any additional residential structures (dwelling) on the same lot.
 - (6) Kennels.
 - (7) Antenna towers.

§ 170-16. One-Acre Residential District (R-1).

- A. Intent. The purpose of this district is to promote orderly development of the Town by providing building lots in selected growth areas and areas which provide a transition zone from areas of high density to areas of lesser density.
[Amended 2-17-2014 by L.L. No. 3-2014]
- B. Permitted principal uses.
- (1) One single-family dwelling unit, one two-family or one mobile home per lot.
 - (2) One bed-and-breakfast per lot, containing not more than five rentable bedrooms for 10 or fewer lodgers.
 - (3) Customary agricultural uses, but excluding stabling of any livestock within 100 feet of any lot line [See Subsection **D(2)** of this section.]
- C. Permitted accessory structures/uses.

[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014]

- (1) Home occupation utilizing less than 500 square feet in a dwelling or 1,000 square feet in an accessory building. [See Subsection **D (3)** of this section.]
- (2) Swimming pool and tennis court.
- (3) Residential storage building, barn, private garage and/or residential greenhouse.
- (4) Off-road parking and signs.
- (5) Storage of recreation vehicles.
- (6) Fences.
- (7) Dish antennas.
- (8) Residential fuel tanks.
- (9) Outside firewood storage not for sale.
- (10) Portable sawmill.
- (11) Construction yard.
- (12) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.
- (13) Logging.

D. Special uses. (See Article V.)

[Amended 10-14-2002 by L.L. No. 3-2002; 8-11-2003 by L.L. No. 2-2003; 2-17-2014 by L.L. No. 3-2014]

- (1) Public uses/essential services.
- (2) Stabling of any livestock within 100 feet of any lot line.
- (3) Home occupations utilizing more than 500 square feet in a dwelling, 1,000 square feet in an accessory building or conducted outside.
- (4) Multiple-family dwelling.
- (5) Campground.
- (6) Kennels.
- (7) Mining.
- (8) Commercial greenhouses.
- (9) Any additional residential structures on the same lot.
- (10) Antenna towers.
- (11) Residential windmills.

(12) Commercial windmills.

§ 170-16.1. Three-Acre Residential District (R-3).

A. Intent. The purpose of this district is to promote the orderly development of the Town by promoting low-density growth which will encourage the perpetuation of scenic vistas located within the Town. This district shall extend into Canandaigua Lake 1,500 feet, where appropriate, in accord with the Town of South Bristol Canandaigua Lake Docking and Mooring Law.^[1]

[1] *Editor's Note: See Ch. 73, Docking and Mooring, Article I, Canandaigua Lake.*

B. Permitted principal uses.

- (1) One single-family dwelling unit, one two-family or one mobile home per lot.
- (2) One bed-and-breakfast per lot, containing not more than five rentable bedrooms for 10 or fewer lodgers.
- (3) Customary agricultural uses, but excluding stabling of any livestock within 100 feet of any lot line [See Subsection **D(3)** of this section.]

C. Permitted accessory structures/uses:

- (1) Home occupation utilizing less than 500 square feet in a dwelling or 1,000 square feet in an accessory building. [See Subsection **D (4)** of this section.]
- (2) Boathouse, dock and mooring facility located in conformance with the Canandaigua Lake Docking and Mooring Law. (See Chapter **73**.)
- (3) Swimming pool and tennis court.
- (4) Residential storage building, barn, private garage and/or residential greenhouse.
- (5) Off-road parking and signs.
- (6) Storage of recreation vehicles.
- (7) Fences.
- (8) Dish antennas.
- (9) Residential fuel tanks.
- (10) Outside firewood storage not for sale.
- (11) Portable sawmill.
- (12) Construction yard.
- (13) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.
- (14) Logging.
[Added 10-14-2002 by L.L. No. 3-2002]

(15) Stairways.

[Added 1-11-2010 by L.L. No. 1-2010]

D. Special uses. (See Article V.)

(1) Public uses/essential services.

(2) Boardinghouse/lodging house for up to 15 lodgers.

(3) Stabling of any livestock within 100 feet of any lot line.

(4) Home occupations utilizing more than 500 square feet in a dwelling, 1,000 square feet in an accessory building or conducted outside.

(5) Campground.

(6) Kennels.

[Amended 2-17-2014 by L.L. No. 3-2014]

(7) Multiple-family dwelling.

(8) Commercial greenhouses.

(9) Any additional residential structures on the same lot.

(10) Mining.

(11) Antenna towers.

[Added 10-14-2002 by L.L. No. 3-2002]

(12) Residential windmills.

[Added 8-11-2003 by L.L. No. 2-2003]

(13) Commercial windmills.

[Added 8-11-2003 by L.L. No. 2-2003]

(14) Industrial windmills.

[Added 2-17-2014 by L.L. No. 3-2014]

§ 170-16.2. Five-Acre Residential District (R-5).

A. Intent. The purpose of this district is to promote orderly development of the Town by protecting large tracts of land and open space to ensure low density and encourage the preservation of forested land.

B. Permitted principal uses.

(1) One single-family dwelling unit, one two-family or one mobile home per lot.

(2) One bed-and-breakfast per lot, containing not more than five rentable bedrooms for 10 or fewer lodgers.

(3) Customary agricultural uses but excluding stabling of any livestock within 100 feet of any lot line. [See Subsection **D (4)** of this section.]

C. Permitted accessory structures/uses.

- (1) Home occupation utilizing less than 500 square feet in a dwelling or 1,000 square feet in an accessory building. [See Subsection **D (5)** of this section.]
- (2) Swimming pool and tennis court.
- (3) Residential storage building, barn, private garage and/or residential greenhouse.
- (4) Off-road parking and signs.
- (5) Storage of recreation vehicles.
- (6) Fences.
- (7) Dish antennas.
- (8) Residential fuel tanks.
- (9) Outside firewood storage not for sale.
- (10) Portable sawmill.
- (11) Construction yard.
- (12) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.
- (13) Logging.
[Added 10-14-2002 by L.L. No. 3-2002]

D. Special uses. (See Article **V**.)

[Amended 10-14-2002 by L.L. No. 3-2002; 8-11-2003 by L.L. No. 2-2003; 2-17-2014 by L.L. No. 3-2014]

- (1) Public uses/essential services.
- (2) Boardinghouse/lodging house for up to 15 lodgers.
- (3) Stabling of any livestock within 100 feet of any lot line.
- (4) Home occupations utilizing more than 500 square feet in a dwelling, 1,000 square feet in an accessory building or conducted outside.
- (5) Campground.
- (6) Kennels.
- (7) Multiple-family dwelling.
- (8) Mobile home park.
- (9) Commercial greenhouses.
- (10) Any additional residential structures on the same lot.

- (11) Mining.
- (12) Antenna towers.
- (13) Residential windmills.
- (14) Commercial windmills.
- (15) Industrial windmills.

§ 170-16.3. Neighborhood Commercial District (NC).

- A. Intent. The purpose of this district is to provide for a mixture of residential and low-impact commercial uses primarily intended to service the needs of the uses located in the immediate neighborhood.
- B. Permitted principal uses.
 - (1) One single-family dwelling unit, one two-family or one mobile home per lot.
 - (2) One bed-and-breakfast per lot, containing not more than five rentable bedrooms for 10 or fewer lodgers.
 - (3) Customary agricultural uses but excluding stabling of any livestock within 100 feet of any lot line. [See Subsection **D (9)** of this section.]
- C. Permitted accessory structures/uses.
 - (1) Home occupation utilizing less than 500 square feet in a dwelling or 1,000 square feet in an accessory building. [See Subsection **D (10)** of this section.]
 - (2) Swimming pool and tennis court.
 - (3) Residential storage building, barn, private garage and/or residential greenhouse.
 - (4) Off-road parking and signs.
 - (5) Storage of recreation vehicles.
 - (6) Fences.
 - (7) Dish antennas.
 - (8) Residential fuel tanks.
 - (9) Outside firewood storage not for sale.
 - (10) Portable sawmill.
 - (11) Construction yard.
 - (12) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.
 - (13) Logging.

[Added 10-14-2002 by L.L. No. 3-2002]

D. Special uses. (See Article V.)

- (1) Personal service shops.
- (2) Drugstores, liquor stores, food markets, clothing stores, garden and nursery supply, rental shops, arts/crafts and similar retail uses.
- (3) Business and professional offices.
- (4) Restaurants, hotels and motels.
- (5) Dry-cleaning establishments and self-service, coin-operated laundry facilities.
- (6) Multiple-family dwellings.
- (7) Public uses/essential services.
- (8) Boardinghouse/lodging house for up to 15 lodgers.
- (9) Stabling of any livestock within 100 feet of any lot line.
- (10) Home occupations utilizing more than 500 square feet in a dwelling, 1,000 square feet in an accessory building or conducted outside.
- (11) Fabrication or assembly of products.
- (12) Outside storage and display of goods incidental to the principal business.
- (13) Kennels.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (14) Mining.
- (15) Campgrounds.
- (16) Commercial greenhouses.
- (17) Antenna towers.
[Added 10-14-2002 by L.L. No. 3-2002]
- (18) Residential windmills.
[Added 8-11-2003 by L.L. No. 2-2003]
- (19) Commercial windmills.
[Added 8-11-2003 by L.L. No. 2-2003]
- (20) Special events venue

§ 170-17. Light Commercial District (C-1).

- A. Intent. The purpose of this district is to provide for areas of the Town that will serve the commercial needs of the residents and general public. This district shall extend into Canandaigua Lake 1,500

feet, where appropriate, in accord with the Town of South Bristol Canandaigua Lake Docking and Mooring Law.^[1]

[1] *Editor's Note: See Ch. 73, Docking and Mooring, Article I, Canandaigua Lake.*

B. Permitted principal uses.

- (1) Customary agricultural uses but excluding stabling of any livestock within 100 feet of any lot line. [See Subsection **D (8)** of this section.]
- (2) Personal service shop.
- (3) Drugstore, liquor store, food market, clothing store, garden and nursery supply, rental shop, arts/crafts and similar retail use.
- (4) Business and professional office.
- (5) Marinas.

C. Permitted accessory structures/uses.

- (1) Private garages and storage buildings which are necessary to store vehicles, equipment or materials on the premises which are used in conjunction with a permitted use on that particular lot.
- (2) Docking and mooring facilities located in conformance with the Canandaigua Lake Docking and Mooring Law. (See Chapter **73**.)
- (3) Swimming pool and tennis court.
- (4) Accessory storage building.
- (5) Off-road parking and signs.
- (6) Indoor storage of recreation vehicles.
- (7) Fences.
- (8) Dish antennas.
- (9) Fuel tanks.
- (10) Outside firewood storage.
- (11) Portable sawmills.
- (12) Construction yard.
- (13) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.
- (14) Logging.
[Added 10-14-2002 by L.L. No. 3-2002]

D. Special uses. (See Article **V**.)

- (1) Motor vehicle service station, new/used motor vehicle sale, public garage, boat/marina sale or

service and farm implement sale, service and repair.

- (2) Fabrication or assembly of products.
- (3) Outside storage and display of items for sale as a principal business, such as, but not limited to boats, trailers, mobile homes or modular homes.
- (4) Outside storage and display of goods incidental to the principal business.
- (5) Restaurant.
- (6) Hotel or motel.
- (7) Public use/essential service.
- (8) Stabling of any livestock within 100 feet of any lot line.
- (9) One single-family dwelling unit.
- (10) Multiple-family dwellings.
- (11) Kennels.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (12) Mining.
- (13) Campgrounds.
- (14) Commercial greenhouses.
- (15) Antenna towers.
[Added 10-14-2002 by L.L. No. 3-2002]
- (16) Residential windmills.
[Added 8-11-2003 by L.L. No. 2-2003]
- (17) Commercial windmills.
[Added 8-11-2003 by L.L. No. 2-2003]

§ 170-17.1. Commercial District (C-2).

- A. Intent. The purpose of this district is to provide for wider commercial uses than those provided for in the C-1 Commercial District, which will create a balanced local economic base and local job opportunities.
- B. Permitted principal uses.
 - (1) Customary agricultural uses but excluding the stabling of any livestock within 100 feet of any lot line. [See Subsection **D (8)** of this section.]
 - (2) Personal service shop.
[Added 2-17-2014 by L.L. No. 3-2014]
 - (3) Drugstore, liquor store, food market, clothing store, garden and nursery supply, rental shop,

arts/crafts and similar retail use.

[Added 2-17-2014 by L.L. No. 3-2014]

(4) Business and professional office.

[Added 2-17-2014 by L.L. No. 3-2014]

C. Permitted accessory structures/uses.

(1) Office which is an integral part of the principal use.

(2) Private garages and storage buildings which are necessary to store vehicles, equipment or materials on the premises which are used in conjunction with a permitted use on that particular lot.

(3) Temporary offices which are part of a construction of a project, but which must be removed within 30 days after completion of the project.

(4) Swimming pool and tennis court.

(5) Off-road parking and signs.

(6) Storage of recreation vehicles.

(7) Fences.

(8) Outside firewood storage.

(9) Dish antennas.

(10) Fuel tanks.

(11) Logging.

[Added 10-14-2002 by L.L. No. 3-2002]

D. Special uses. (See Article V.)

[Amended 10-14-2002 by L.L. No. 3-2002; 8-11-2003 by L.L. No. 2-2003; 2-17-2014 by L.L. No. 3-2014]

(1) Motor vehicle service station, new/used motor vehicle sale, public garage, boat/marina sale or service and farm implement sale, service and repair.

(2) Fabrication or assembly of products.

(3) Outside storage and display of items for sale as a principal business, such as, but not limited to boats, trailers, mobile homes or modular homes.

(4) Outside storage and display of goods incidental to the principal business.

(5) Restaurant.

(6) Hotel or motel.

(7) Public use/essential service.

(8) Stabling of any livestock within 100 feet of any lot line.

- (9) Junkyard.
- (10) Warehouse.
- (11) Mining.
- (12) Sawmills.
- (13) Contractor's yard.
- (14) Antenna towers.
- (15) Residential windmills.
- (16) Commercial windmills.

§ 170-19. Land Conservation Overlay District (LC).

- A. Intent. Due to the fragility of the environment and natural resources of the Town and the potential for flooding along specified streams, waterways and Canandaigua Lake, there is hereby established a Land Conservation District. The LC District shall be established by the Federal Flood Insurance Administration utilizing the Flood Insurance Rate Map (FIRM) and Flood Insurance Study. This district has been established as an overlay district over other districts as shown on the Town of South Bristol Land Conservation District Map.^[1]

[1] *Editor's Note: The Land Conservation District Map is on file in the Town offices and may be examined there during regular office hours.*

- B. Permitted principal and accessory structure/uses none.
- C. Special uses shall be as follows:
- (1) Any permitted or accessory uses permitted in the established district.
 - (2) Any sewage system or replacement of an existing system.
- D. Areas of special flood hazard (floodways). The following regulations apply to areas located within the floodway:
- (1) No encroachment, fill, new construction, substantial improvement or other development shall be permitted unless certified by a licensed engineer demonstrating that such encroachment, fill, construction, improvement or other development shall not result in any increase in flood levels during the occurrences of the base flood discharge.
 - (2) If such certification is satisfied by a licensed engineer, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
- E. Provisions for flood hazard reduction. Reference is made to Chapter **88**, Flood Damage Prevention.

§ 170-19.1. Adult Use and Entertainment Overlay District.

Uses within this district shall be governed by Chapter **55** of the Code of the Town of South Bristol.

§ 170-20. Planned Development District (PD).

- A. Intent. Within existing districts or districts that may be established in the future, it is intended to permit establishment of new PD Planned Development Districts. These districts are intended for specialized or multi-use purposes where tracts of land suitable in location, area and character for the uses and structures proposed are to be planned and developed on a unified basis. PD Districts shall be related to the general development pattern and the objectives of this chapter.
- B. Relation of PD regulations to other regulations. The PD regulations that follow shall apply generally to the initiation and regulation of all planned development districts. Where there are conflicts between the special PD regulations herein and general zoning, subdivision or other regulations or requirements, these regulations shall apply unless the Town Board shall find, in the particular case, that provisions herein do not serve public purposes to a degree at least equivalent to such general zoning, subdivision or other regulations or requirements.
- C. PD Districts: where and how permitted.
 - (1) Planned development districts may hereafter be established by amendment to the Official Zoning Map according to the requirements and procedures set forth herein.
 - (2) PD Districts may be approved in all districts. Property proposed as PD Districts must contain a minimum of 25 contiguous acres.
 - (3) PD Districts shall be appropriately located with respect to intended functions as they relate to existing and proposed public/private facilities as well as the following specific requirements:
 - (a) Relation to major transportation facilities. PD Districts shall be located near arterial and collector streets and shall be so designed as to provide direct access without creating traffic along adjacent streets/roads in the residential neighborhoods outside the district.
 - (b) Relation to public utilities, facilities and services. PD Districts shall be located in relation to sanitary sewers, waterlines, storm and surface drainage systems and other utility systems and installations in such a way that neither extension nor enlargement of such systems will be required resulting in higher net public cost or earlier incursion of public cost than would similar development permitted under current zoning for the area. However, location of PD Districts may be approved if applicants will provide private facilities, utilities and/or services approved by appropriate public agencies or make provisions acceptable to the Town for offsetting any added net cost or early commitment of public funds made necessary by such development. In computing the net public costs, the difference in anticipated public installation, operation and maintenance costs and difference in anticipated public revenue from such sources shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Final determination shall be made by the Town Board.
 - (c) If a proposed PD District will be located within an approved area of a corporation formed

pursuant to the New York State Transportation Corporation Law, the applicant may propose to have the applicable transportation corporation provide the PD District whatever utility, facility or service such transportation corporation is authorized to provide so long as proof is submitted, satisfactory to the Town, that the PD District would be wholly located within such approved area, that the transportation corporation has sufficient capacity to provide the utility, facility or service to the PD District and that the transportation corporation has agreed to provide the utility, facility or service to the PD District if the rezoning and the site plan are both approved.
[Added 7-13-2015 by L.L. No. 4-2015]

- D. Physical character of the site: relation to surrounding property.
- (1) Property. The site shall be suitable for development in the manner proposed, without creating hazards to persons or property from probability of flooding, erosion or other dangers, annoyances or inconveniences. The condition of soil, groundwater level, drainage and topography shall all be appropriate to both type and pattern of use intended. If appropriate to the type of planned development, properties to be included in PD Districts may be divided by streets, alleys, rights-of-way or easements, waterways or other separation but shall be so located, dimensioned and arranged as to permit proper planning and development of the properties as well as to provide necessary protection against conflicting uses in the district and uses in surrounding areas.
 - (2) Reduction and addition to minimum areas generally required. In connection with particular PD rezoning proposals, the Planning Board may recommend and the Town Board may approve as part of the amending action lesser areas to be rezoned upon a finding in the particular case that special circumstances exist, such as impracticality of coordinating development of small remaining portions that might otherwise be required with the planned development, and that other requirements can be met in such lesser areas.
- E. Addition to PD Districts. Where there are proposed additions to existing PD Districts that have similar uses of the existing district, PD amendments allowing such additions may be made without regard to the minimum area requirements set forth herein.
- F. Application and procedures for PD amendments. Applications shall be submitted as for other amendments to the Town Board. Materials submitted with the application shall include all plans, maps, studies and reports that may reasonably be required to make the determination called for in the particular case, with sufficient copies for necessary referrals and records. In addition, the following shall be required:
- (1) A precise statement describing the type of PD District amendment being requested.
 - (2) A preliminary development concept plan (sketch plan) drawn to scale which shall show: the location of the various uses and their areas in acres; existing watercourses; the general outlines of the interior roadways and all existing private/public rights-of-way and easements; overall layout of and principal ties to the community's transportation, water supply, sewage disposal and drainage systems; and if the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and manner of units or types of uses or activities completed per phase.
 - (3) An area map showing the applicant's entire adjacent holdings, that portion of the applicant's property under consideration, all properties, subdivisions, streets and easements within 500

- feet of the applicant's property and uses of abutting lands.
- (4) If residential in nature, a delineation of the number of residential units, their dwelling type, the density of each dwelling type and the overall density of the proposal; if multiple use in nature, a delineation of all such uses, i.e., commercial, industrial, outdoor recreation, etc., including density, etc.
 - (5) A general description of the provisions of community facilities, such as schools, fire protection, services and cultural facilities, if any, or an indication of how these needs are proposed to be accommodated.
 - (6) An economic analysis of the proposal, including projected costs, tax impacts, potential market area and preliminary development schedule.
 - (7) A report identifying all property owners within the area of the proposed district and giving evidence of unified control of its entire area. The report shall state agreement of all present property owners and/or their successors in title:
 - (a) According to the regulations in effect when the map amendment creating the PD District is passed, with such modifications as are set by the Town Board in the course of such action.
 - (b) To provide bonds, dedications, guaranties, agreements, contracts and deed restrictions acceptable to the Town Board for completion of such development according to approved plans and for continuing operation and maintenance of such areas, facilities and services as are not to be provided, operated or maintained at general public expense and such dedications, contributions or guaranties as are required for provision of needed public facilities and services.
 - (c) To bind further successors in title to any commitments made under Subsection **F (7) (a)** or **(b)** above.
 - (8) Evidence as required by the Town Board of the applicant's ability to complete the proposed development.
 - (9) A statement by the applicant setting forth reasons why, in his opinion, the proposal would be in the public interest.
- G. Preliminary review of application. On receipt of the application from the Town Board and preliminary concept plan and proposals as indicated above, the Planning Board shall study the proposal to determine conformity with the zoning and other regulations applicable in the case.
- H. Preliminary conferences with applicants. Following such study, unless complete conformity is found, the applicant shall be notified, in writing, of the discrepancies and offered the opportunity to meet with the Planning Board to review the proposal in order that it may be brought, as nearly as possible, into conformity with requirements and/or define specifically modifications of regulations that seem justified in view of equivalent service of public purposes by the proposal. Changes may be made in the original proposal and additional material may be requested to guide in determinations. In the course of such preliminary conferences, any recommendations for changes shall be recorded in writing, with reasons therefor, and shall become part of the record in the case. Applicants shall indicate, in writing, their agreement to such recommendations or their disagreement and reasons therefor, and such responses by applicants shall also be included in

the record.

- I. Planning Board recommendations. At such time as further conferences appear unnecessary or as requested any time by the applicant, the Planning Board shall prepare a report to the Town Board containing findings which shall include the following:
 - (1) Suitability of the tract for the general type of PD zoning proposed physical characteristics of the land and relation of the proposed development to surrounding areas and existing and probable future development.
 - (2) Suitability in relation to major roads, utilities and other facilities and services.
 - (3) Recommendations relating to adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guaranties or other instruments or the need for such instruments or for amendments in those proposed.
 - (4) Recommendations as to the desirable specific modifications in regulations, based on determinations that such modifications are necessary or justified in the particular case, by demonstration that the public purposes of PD or other regulations would be met to at least an equivalent degree by proposals of the applicant. Based on these findings, the Planning Board shall either recommend approval of the PD amendment as proposed, approval conditioned on specific stated modifications or its disapproval, with reasons recorded therefor.
[Amended 2-17-2014 by L.L. No. 3-2014]
- J. Action by the Town Board. The action taken by the Town Board shall be in the same manner as for other zoning amendments. The Town Board may grant the application in accord with PD and other applicable regulations and with any specific modifications thereto or may deny the application. If the amendment is granted, the Town Board shall approve the preliminary development concept plan or indicate required modifications, with these modifications being binding in any determinations concerning final development plans. If modifications are required, the Town Board shall officially state its reasons therefor in the record. If the amendment is granted, the development shall be required to be in accord with final development plans meeting the requirements of these and other regulations as supplemented or modified by the Town Board in the particular case as part of the amending action and shall conform to any time or priority limitations established by the Town Board on beginning and completion of the development as a whole or in specified stages. At the time of amendment, the Town Board shall pass upon the adequacy and substance of any agreements, contracts, deed restrictions, sureties or other instruments involved, and, before development may proceed, such instruments shall be approved by appropriate officers and agencies.
- K. Planning Board action on approval of final plans.
 - (1) Approval of final plans and reports. After a PD District has been established, no building permit shall be issued unless the Planning Board has approved final plans and reports for the development as a whole or in stages which it deems satisfactory in relation to the total development. The form and content of such final plans and reports shall be as prescribed in this chapter, subdivision regulations or other regulations involved or for the particular PD District.
 - (2) The approval of final plans and reports shall be based on substantial compliance with the concept plan and with any modifications required by the Town Board applying at the time the

land was zoned to PD status. Upon approval of final plans and reports, building permits shall be issued, provided that any requirements concerning the order and location in which building permits are to be issued in the particular PD District shall be observed. Except as provided below, final plans and reports approved shall be binding on the applicants and any successors in title so long as PD zoning applies to the land.

L. Changes in approved final plans.

- (1) Additional changes in the approved final plans, including setbacks and other dimensional requirements, may be approved by the Planning Board upon findings identical to those required for original approval.
- (2) Other changes shall be approved subject to further amendatory action by the Town Board.

M. Expiration of time limits on PD amendments. If actions required in any amendment establishing a PD District are not taken within any time limits established by the Town Board or Planning Board as part of its review process, the Planning Board shall review the circumstances and prepare a written report to the Town Board specifying the circumstances and recommending:

- (1) That PD zoning for the entire area be continued with revised time limits.
- (2) That PD zoning be continued for part of the area, with or without revised time limits, and the remainder be rezoned to an appropriate category.
- (3) That the entire district be rezoned from PD to an appropriate category; or
- (4) That other appropriate amendments be made, or actions taken. Such recommendations shall include proposals for appropriate action in respect to any legal instruments in the case.

§ 170-21. Tower Overlay District (TD).

- A. Intent. The Tower District (TD) is intended to protect and enhance other existing zoning districts within the Town and promote the health, safety and general welfare of the Town and its residents by recognizing that the Town has within its geographical boundaries certain areas of high elevation which are a particularly suitable environment for antenna towers and that such areas are not normally located along major and secondary thoroughfares or within close proximity to residential, commercial, cultural and/or employment areas.

§ 170-21.1. Agricultural Overlay District (AD).

This district has been established as an overlay district over other districts as shown on the Town of South Bristol Agricultural Overlay District Map.^[1] (See Chapter 56.)

[1] *Editor's Note: The Agricultural Overlay District Map is on file in the Town offices and may be examined there during regular office hours.*

Article V. Special Use Requirements

§ 170-22. Intent.

[Amended 10-14-2002 by L.L. No. 3-2002; 8-9-2010 by L.L. No. 2-2010]

A. Because of their unique characteristics, it is recognized that certain uses require special consideration by the Planning Board before a permit is issued for the use of land within the Town. The uses that require special permits are listed in Article **IV**, District Regulations. The Planning Board is also authorized to consider any use not listed in Article **IV** to determine its similarity to other permitted uses. All special uses shall conform to the requirements enumerated in § **170-22B**. Additional and specific requirements are listed for some special uses in the remaining sections of Article **V**.

B. Special use permits. Pursuant to Town Law § 274-b, the Planning Board shall hear all special use permit applications, to decide such questions as are involved in determining whether special use permits should be granted and to grant special use permits with such conditions and safeguards as are appropriate under this chapter or to deny special use permits when not in harmony with the purposes and intent of this chapter.

[Added 8-9-2010 by L.L. No. 2-2010^[1]]

[1] *Editor's Note: This ordinance also provided for the redesignation of former Subsection C as Subsection D.*

C. The applicant for a special use permit shall show to the satisfaction of the Planning Board that the proposed special use:

- (1) Is consistent with the Comprehensive Plan of the Town.
- (2) Is in harmony with the purposes of the Zoning Law and with the regulations for the zoning district in which the proposed special use is to be located.
- (3) Will not adversely affect the character of the neighborhood.
- (4) Will not be detrimental to nearby properties.
- (5) Will have no adverse impact on the physical or environmental conditions of the neighborhood or district.
- (6) Meets all the conditions for land conservation districts, or any other restrictive overlay districts, if appropriate.
- (7) Meets all the conditions that may be required under SEQR.

D. Establishment of conditions.

- (1) The Planning Board may attach such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use.
- (2) The planning board may limit the duration of a special use permit, provided that the specific time limit is reasonable and directly related to and incidental to the proposed special use permit.

[Added 2-17-2014 by L.L. No. 3-2014^[1]]

[1] *Editor's Note: This local law also renumbered former Subsection C (2) as Subsection C (3).*

- (3) Any violation of the conditions imposed upon a special use permit shall constitute grounds for revocation by the planning board.

E. Procedures.

- (1) The Planning Board shall hold a public hearing before it issues a special use permit, as required by the New York State Town Law § 274-b, Subdivision 6. Owners of adjacent properties, or of properties that are likely to be impacted by the proposed special use shall be notified by regular mail of the subject, the date and place of the public hearing.
- (2) If the Planning Board rejects an application for a special use permit, it must state its reason for the rejection in writing to the applicant. The applicant may appeal that decision to the zoning board of appeals.
- (3) If a property changes hands, then any special use permits held at the time of sale by the seller of the property shall be transferred to the buyer of the property by the Zoning Officer. All such transfers shall be without fee.

F. Site plan approval. As some of the special uses defined herein may have significant impact upon the Town in terms of development, construction or use of properties, it shall be required that the following special use proposals shall also be submitted to the Town Planning Board for site plan review and approval:

- (1) § **170-23**, Special Use Permit Application Procedures
- (2) § **170-24**, Mobile home parks.
- (3) § **170-25**, Kennels.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (4) §**170-26**, Reserved
- (5) §**170-27**, Essential Services
[Added 2-17-2014 by L.L. No. 3-2014]
- (6) § **170-28**, Public uses.
- (7) § **170-29**, Multiple-family dwellings, Dwelling - Two-Family.
- (8) § **170-30**, Mining.
- (9) § **170-31**, Campgrounds.
- (10) §170-32, Reserved
- (11) § **170-33**, Motor vehicle service stations and public garages.
- (12) § 170-34, Outside storage and display for sales and service business.
- (13) § 170-35, Junkyards
- (14) § **170-36**, Towers outside the Tower District.
- (15) § 170-37, Home Occupations

- (16) § **170-38**, Additional residential structures on the same lot.
- (17) § **170-39**, Commercial greenhouses.
- (18) § **170-40**, Residential windmills.
[Added 8-11-2003 by L.L. No. 2-2003]
- (19) § **170-41**, Commercial windmills.
[Added 8-11-2003 by L.L. No. 2-2003]
- (20) Section **170-42**, Industrial windmills.
[Added 2-17-2014 by L.L. No. 3-2014]
- (21) § 170-43, Special Events Venue
- (22) § 170-44 - §170-49, Reserved

- (23) All applications for the filling of land in all districts that will result in an obstruction of a scenic view.
[Added 2-17-2014 by L.L. No. 3-2014]
- (24) All special uses in all commercial districts.
[Added 2-17-2014 by L.L. No. 3-2014]
- (25) All uses in the, C-1, R-3, LR and PD Districts, including uses not requiring a zoning/building permit.
[Added 2-17-2014 by L.L. No. 3-2014; amended 5-14-2015 by L.L. No. 3-2015]

§ 170-23. Special Use Permit Application Procedures.

[Amended 10-14-2002 by L.L. No. 3-2002; 8-9-2010 by L.L. No. 2-2010; 2-17-2014 by L.L. No. 3-2014]

A. Special use permit applications.

- (1) All applications for special use permits shall be made to the Code Enforcement Officer on forms provided by him.
- (2) As part of the application, the owner must provide written consent to allow the Planning Board members to enter onto the subject property for purposes of inspecting it relative to the special use permit application.
- (3) The Code Enforcement Officer, after determining that an application is complete and in proper form, shall transmit copies of the application and all supporting documents to the Planning Board, as provided for in Article **V**, for action thereon. Some special uses shall also require site plan review and approval by the Planning Board per § **170-22E** of this chapter. In those instances, the application and all supporting documents shall also be transmitted to the Planning Board.
- (4) The applicant shall prepare a site plan of the special use and subject parcel, in accordance with this chapter, and shall comply with the review process under SEQR.
- (5) A copy of the complete application and supporting documents shall also be transmitted to the County Planning Board for review when required under Article 12-B, § 239-m, of the General

Municipal Law.

- (6) The Planning Board shall fix a time and place for a public hearing thereon and shall provide for the giving of notice as required by law by publishing a notice in the official newspaper of the Town at least five days prior to the date thereof. The Clerk of the Board shall mail a copy of such notice thereof to the applicant.
- (7) The Planning Board shall, within 62 days after the public hearing at which the application was considered, advise the applicant, the Code Enforcement Officer and the Town Clerk of its findings regarding the factors considered and other problems which can be anticipated from the proposed activity and of its approval, with any condition the Planning Board may find necessary, or of its disapproval, with its reasons in writing. A copy of the appropriate minutes may suffice for this notice. Whenever the Planning Board, after hearing all the evidence presented upon an application for a special use under the provisions of this chapter, denies or rejects the same, said Board shall refuse to hold further hearings on the same or substantially similar application by the same applicants, their successors or assigns for a period of one year, except as provided for in Town Law § 267 et seq.

§ 170-24. Mobile home parks.

Mobile home parks may be permitted as a special use in the R-5 District, provided that:

A. General provisions.

- (1) The minimum site area of proposed mobile home parks shall be not less than 10 acres.
- (2) Mobile home lots shall have an area of not less than 7,200 square feet. Each mobile home lot shall front on an interior park roadway and have a minimum width of 60 feet. An iron stake shall be located and maintained by the park owner at each corner of each mobile home lot.
- (3) Minimum front setbacks for mobile homes shall be 20 feet from the private right-of-way; minimum side setbacks shall be five feet in one side with a total of 20 feet on both sides; and minimum rear setbacks shall be 10 feet.
- (4) The minimum setbacks of every mobile home, building or other structure in a mobile home park from the nearest public right-of-way line shall be 75 feet and from every other major lot line of the mobile home park shall be 40 feet.
- (5) Not more than one mobile home shall be located on any one mobile home lot. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
- (6) At least one service building shall be constructed in each mobile home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.
- (7) All mobile home lots shall be provided with a patio of cement or concrete at least eight feet by 20 feet and four inches in depth. Such patio shall not be used as a parking space, and no portion of the mobile home shall be located on such patio.

- (8) Each mobile home lot must have not fewer than two off-street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by a paved sidewalk having a minimum width of 24 inches and a minimum depth of 3 1/2 inches of concrete or two inches of compacted asphalt.
- (9) No boats, campers, travel trailers, recreational vehicles, vessel, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site development plan approval.
- (10) Every roadway within a mobile home park shall have a minimum pavement width of 22 feet and a minimum right-of-way of 50 feet. If a cul-de-sac exist, they shall have a minimum diameter of 70 feet.
- (11) A complete water distribution system approved by the New York State Health Department, Department of Environmental Conservation or other appropriate agencies, including a water service pipe for each mobile home lot and appropriately spaced fire hydrants, shall be installed.
- (12) A sanitary sewage disposal system approved by the New York State Health Department, Department of Environmental Conservation or other appropriate agencies shall be installed, including a connection for each mobile home lot.
- (13) An adequate storm drainage system shall be installed.
- (14) All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- (15) Appropriate lighting shall be installed on interior roadways, with the minimum number of lights being one at each intersection of interior roadways with each other or with abutting public roads and at least every 200 feet where such intersections are more than 200 feet apart.
- (16) A landscape plan shall be prepared and carried out which will assure that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- (17) No mobile home shall be located in a mobile home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site development plan for the mobile home park.
- (18) Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent number which shall be noted on the mobile home lot in a location clearly visible from the roadway.
- (19) All fuel tanks within a mobile home park, including all fuel tanks used for heating within mobile homes, shall be installed underground in accordance with the New York State standards.
- (20) Every mobile home shall have a recreational area or open space area for use by the occupants of the mobile home park. Such areas shall be as centrally located as the topography and design of the park permit. Such areas shall be not less than 1,000 square feet per mobile home lot in the park.

- (21) The park owner shall provide for the regular collection and disposal of garbage, trash and rubbish.
 - (22) Not more than one accessory building shall be permitted on any mobile home lot.
 - (23) Each mobile home shall be enclosed at the bottom with either a metal, wood or vinyl skirt or enclosure within 30 days after the placement of the mobile home on the lot.
 - (24) No enclosure or addition having a ground area greater than 50% of the ground area of the mobile home shall be constructed on or added or attached to the exterior of any mobile home. Any enclosure or addition shall have a concrete floor or other suitable floor on a concrete base. Such enclosure must be constructed of wood or metal frame and siding and must be portable as a unit or in sections. The foregoing provisions of this subsection shall not apply to carports. A zoning permit must be obtained from the Code Enforcement Officer prior to construction of any such enclosure or addition, and the application therefor must show a detailed plan of the proposed construction, showing compliance with the terms of this chapter. Such structure must be completed or entirely removed from the mobile home park within two months of the date of issuance of such permit.
 - (25) No mobile home shall be offered for sale, displayed for sale or sold within a mobile home park unless such mobile home is located on a mobile home space and is connected to an electric public utility supply and to a sewer and water system.
 - (26) Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times, as reasonably possible, for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal.
- B. Register of occupants. The owner of every mobile home park shall keep a record of the occupants and the mobile homes located within the park. A copy of such register shall be made available to the Code Enforcement Officer upon demand. Such register shall contain the following:
- (1) The name and last address of each occupant.
 - (2) The make, model, year and serial number of each mobile home and the mobile home lot within the park on which the same is located.
 - (3) The dates of arrival and departure of each mobile home.
- C. Sale of lots. Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the Town, shall thereupon immediately invalidate the permit for such park approved by the Planning Board.
[Amended 8-9-2010 by L.L. No. 2-2010]
- D. A site plan shall be submitted with the application for Planning Board review and approval.
[Amended 10-14-2002 by L.L. No. 3-2002]

§ 170-25. Kennels.

[Added 2-17-2014 by L.L. No. 3-2014^[1]

Kennels may be allowed as a special use in any district, provided that:

- A. Shelters for animals shall not be closer than 100 feet to any lot line.
- B. No outdoor area enclosed by fences shall be located closer than 50 feet to any lot line.
- C. No kennel shall be located closer than 300 feet to an existing residential dwelling on an adjacent lot.
- D. There shall be no incineration of any animal waste/refuse upon the premises.
- E. The application shall contain provisions for:
 - (1) Location of shelter(s) and fenced enclosures on the property. [Note: A copy of the Tax Map is acceptable for these purposes.]
 - (2) Approximate location of neighboring homes. [Note: A copy of the Tax Map is acceptable for these purposes.]
 - (3) Adequate measures to prevent offensive noise and odor.
 - (4) Disposal of all animal wastes.
 - (5) Disposal of dead animals.
 - (6) Adequate measures to control rodents.

Regular veterinary care shall be required, and a record of such care shall be maintained and available for inspection.

All applications for this special use permit are subject to site plan review and approval by the Planning Board.

As part of the application process for this special use permit, the applicant shall provide written consent for the Code Enforcement Officer to enter upon the subject premises for the purpose of inspecting the subject premises for compliance with the special use permit as issued as well as for any code violations.

Kennels with more than eight dogs six months or older are contrary to the Comprehensive Plan and general intent of the Zoning Code of the Town of South Bristol and are not compatible with the health, safety, or general welfare of the citizens of the Town and are, therefore, not permitted within the boundaries of the Town of South Bristol.

Editor's Note: This local law also repealed former § 170-25, Private kennels, as amended.

§ 170-26. (Reserved)

[1] *Editor's Note: Former § 170-26, Commercial kennels, as amended, was repealed 2-17-2014 by L.L. No. 3-2014.*

§ 170-27. Essential services.

Essential services may be permitted as a special use in any district, provided that:

- A. The proposed installation in a specific location is necessary for the efficiency of the essential service.
- B. The design of any building associated with the service shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. Adequate and attractive fences and appropriate safety devices will be provided.
- D. A buffer strip of at least 10 feet in depth shall be provided around the perimeter of the lot.
- E. Adequate off-street parking shall be provided.

§ 170-28. Public Uses.

- A. A public use is defined as a publicly owned project or a privately owned project that is available for use by the public. Public uses may be permitted as a special use in all districts
- B. The application shall include adequate evidence that the proposed use/building is eligible as a public use, as defined by this chapter, and all appropriate licenses and certifications that may be required by regulating agencies are provided.
- C. The application shall contain a detailed description of the types of uses to be provided.
- D. A site plan showing location of all proposed structures, uses, parking, landscaping, lighting, fencing, etc., must be provided for Planning Board review and approval. [Amended 10-14-2002 by L.L. No. 3-2002; 8-9-2010 by L.L. No. 2-2010]

§ 170-29. Multiple-family dwellings and Two-Family Dwellings.

- A. Multiple-family dwellings may be permitted as a special use in the R-1, R-3, R-5, NC and C-1 Districts, provided that:
 - (1) Apartment buildings shall contain no more than 12 dwelling units.
- B. Minimum habitable floor area requirements.
 - (1) Apartment unit:
 - (a) minimum square footage: 320 square feet.
 - (b) additional 100 square feet of living space required per occupant.

- C. Setback requirements. Minimum area and yard requirements for each multiple-family dwelling shall be as follows:
 - (1) Setback:
 - (a) Front and rear: 75 feet.
 - (b) Side: 50 feet.
 - (2) Minimum distance between buildings: 50 feet.
 - (3) Every building shall have a minimum setback of 30 feet from all interior roads and a minimum setback of 10 feet from parking areas.
- D. Services/utilities.
 - (1) All public utilities shall be installed underground.
 - (2) All sewage/water facilities shall comply with the regulations of the appropriate agencies, and all plans shall be approved prior to the issuance of a zoning permit.
- E. Recreation/open space. A minimum of 10% of the total area shall be designated as common recreational area. Required setbacks, parking areas, streets and roads cannot be counted as part of the recreational area.
[Amended 2-17-2014 by L.L. No. 3-2014]
- F. A site plan shall be submitted with the application for Planning Board review and approval.
[Amended 10-14-2002 by L.L. No. 3-2002]

§ 170-30. Mining.

Mining operations may be permitted as a special use in the R-1, R-3, R-5, NC, C-1 and C-2 Districts, provided that:

- A. The minimum lot area for any such use shall be 10 acres.
- B. All buildings and excavations shall be located or shall occur not less than 100 feet from any lot line. The setback area shall not be used for any use in conjunction with any excavation, storage of material or waste or appurtenant activities.
- C. All equipment used for excavation and processing shall be constructed, maintained and operated in a manner, as far as practicable, to reduce noises, vibrations and dust conditions which may be injurious or a nuisance to any persons living within the vicinity.
- D. All operations shall be conducted between the hours of 7:00 a.m. in the morning and 7:00 p.m. in the evening, except in the case of a public or private emergency or whenever reasonable and necessary repairs to equipment are required to be made.
- E. All lands which have been excavated must be rehabilitated in accordance with reclamation plans which shall be approved by the Planning Board as part of its site plan approval.
- F. The site shall be enclosed by a fence, berm or by other measures to ensure that the health and

safety of the residents are protected.

- G. All topsoil shall be stripped from the excavation area and stockpiled to be used as part of the restoration plan. The location of the stockpiling shall be identified in the site plan. Additionally, the site plan shall show drainage plans and sediment control measures.
- H. No site preparation or construction shall commence until all required permits have been issued by the New York State Department of Environmental Conservation under the New York State Mined Land Reclamation Law and/or any other appropriate governmental agencies.
- I. A site plan shall be submitted with the application for Planning Board review and approval. [Amended 10-14-2002 by L.L. No. 3-2002]

§ 170-31. Campgrounds.

Campgrounds may be permitted as a special use in the R-1, R-3, R-5, NC and C-1 Districts, provided that:

- A. Campgrounds shall be occupied only by travel trailers, pickup coaches, motor homes, camping trailers, recreational vehicles and tents suitable for temporary habitation and used for travel, vacation and recreation purposes. No permanent external appurtenances, such as carports, cabanas or patios, may be attached to any travel trailer or other vehicular accommodation parked in a campground, and the removal of wheels and placement of a unit on a foundation in a campground is prohibited.
- B. The minimum site area shall be 15 acres.
- C. Not more than 10 travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- D. The conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. No portion of the campgrounds subject to flooding or erosion shall be used for the placement of any structure.
- E. Accessory uses, such as management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of campgrounds are permitted as accessory uses to the campgrounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in campgrounds, subject to the following restrictions:
 - (1) Such establishments and the parking areas primarily related to their operations shall not occupy more than 5% of the gross area of the campground.
 - (2) Such establishments shall be restricted in their use to occupants of the camping ground.
 - (3) Such establishments shall present no visible evidence from any street outside the campground of their commercial character which would attract customers other than occupants of the campground.
 - (4) The structures housing such facilities shall not be located closer than 100 feet to any public road and shall not be directly accessible from any public road but shall be accessible only from a road within the campground.

- F. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Departments of Health and/or Environmental Conservation and shall receive approval from said agencies.
- G. Streets in campgrounds shall be private but shall be constructed with a stabilized travel way and shall meet the following minimum stabilized travel way width requirements:

Type	Width (feet)
1-way with or without parking on 1 side or 2-way with no parking	18
2-way with parking on 1 side	27
2-way with parking on both sides	34

- H. Each travel trailer site shall be at least 2,500 square feet in area and have a minimum width of 40 feet.
- I. A minimum of 8% of the gross site area for the campground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site required buffer strip, right-of-way, storage area or utility site shall be counted as meeting recreational purposes.
- J. Entrances and exits to campgrounds shall be designed for safe and convenient movement of traffic into and out of the campground and to minimize friction with movement of traffic on adjacent streets.
- K. Off-street parking and loading. In connection with use of any campground, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public, sidewalk or required buffer or right-of-way or any public grounds or on any private grounds not part of the campground, unless the owner has given written permission for such use.
- L. An adequate lighting system shall be provided for the campground.
- M. All utilities shall be underground.
- N. Not fewer than one covered twenty-gallon garbage receptacle shall be provided for each campsite. Garbage and rubbish shall be collected and disposed of as often as may be necessary to ensure sanitary conditions.
- O. All applicable sanitation standards promulgated by the State of New York shall be met and all necessary permits shall be obtained prior to issuance of a certificate of occupancy.
- P. Overwinter storage shall be prohibited.
- Q. A site plan shall be submitted with the application for Planning Board review and approval. [Amended 10-14-2002 by L.L. No. 3-2002]

§ 170-32. (Reserved)

§ 170-33. Motor vehicle service stations and public garages.

Motor vehicle service stations and public garages may be permitted as a special use in the C-1 or C-2 Districts, provided that:

- A. No motor vehicle service stations shall be located within 1,000 feet of an existing station and no motor vehicle service station shall be located within 500 feet of any entrance to a church, school or place of public assembly.
- B. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- C. Any repair of a motor vehicle shall be performed in a fully enclosed building. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- D. No commercial parking of vehicles shall be allowed on the premises.
- E. No fuel pumps shall be installed within 40 feet of any right-of-way or property line.
- F. No driveway shall be closer than 75 feet to the intersection of two corner lot lines or within 30 feet of an adjacent property line.
- G. There shall be no more than two unlicensed vehicles for sale outside an enclosed building at any one time.
- H. A site plan shall be submitted with the application for Planning Board review and approval.
[Amended 10-14-2002 by L.L. No. 3-2002]

§ 170-34. Outside storage and display for sales and service business.

Outside storage and display of items for sale may be permitted as a special use in the C-1 District, provided that:

- A. There shall be no storage or display within 10 feet of any lot line.
- B. Prior to the issuance of the special use permit, the applicant shall obtain, if required, any permits that may be required from DEC or other agency having jurisdiction.

§ 170-35. Junkyards.

Junkyards may be permitted as a special use in the C-2 District, and shall be governed by the provisions of Chapter 99 of the Code of the Town of South Bristol.

§ 170-36. Antenna towers.

Antenna towers shall be permitted in all zoning districts by special permit, provided that the following conditions are met:

- A. Conditions for all antenna towers.
 - (1) Antenna towers less than 50 feet in overall height shall be permitted in all zoning districts and shall not require a special use permit. However, all towers shall comply with the setback

requirements of Subsection **A(13)** herein.

- (2) Antenna towers shall have a minimum slenderness ratio of five.
- (3) All antenna towers and accessory facilities shall be sited to have the least practical adverse effect on the environment.
- (4) Antenna towers 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). The applicant for an antenna tower special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such antenna tower is in compliance with such standards.
- (5) No antenna tower shall have an overall height greater than 195 feet.
- (6) No antenna tower shall be lighted artificially, unless such lighting is required by a state or federal agency.
- (7) Antenna tower transmissions shall comply with the Federal Communications Commission (FCC) standards for nonionizing radiation in force at the time of application. Proof of compliance with this requirement shall be furnished by the applicant.
- (8) No two antenna towers shall be connected above ground in any manner whatsoever.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (9) 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.
- (10) Antenna towers shall be painted battleship gray, unless an agency of the state or the federal government specifies otherwise.
- (11) There shall be a single sign, not larger than two square feet in size, giving the name, address and telephone number of the antenna tower owner, the name, address and telephone number of the landowner, and the year in which the antenna tower was erected. This sign is to be affixed five feet above the ground to the antenna tower itself or, if there is a site enclosure, to the enclosure at the entrance to the site. There shall be no other signs affixed to the antenna tower, accessory buildings or enclosure, except that signs warning of danger shall not be prohibited.
- (12) The sale or lease of a lot, or part of a lot, or the granting of an easement, for the purpose of erecting an antenna tower shall not result in the creation of a nonconforming lot.
- (13) Setbacks for any antenna tower with a specific tower height greater than 50 feet from any property line shall be measured from the adjacent property line to the antenna structure and shall be as follows, where the greatest setback distance shall govern:
[Amended 2-17-2014 by L.L. No. 3-2014]
 - (a) A distance equal to 1.2 times the specific antenna tower height; or
 - (b) A distance of 50 feet from any anchor point for guy wires or cables.
 - (c) A distance of 50 feet from any enclosure or fence; or
 - (d) The largest front, side or rear setbacks prescribed for the zoning district in question.

- (14) No antenna tower 50.0 feet or more in overall height shall be erected within 100 feet of any existing residence on the same parcel.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (15) The owner of an antenna tower, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the antenna tower is discontinued. The requirements of Subsection **A (17)** below shall apply. This letter of credit or other surety shall be judged adequate and satisfactory by the Town Engineer and the Town Attorney before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in Subsection **A(17)** below.
- (16) If transmission service from an antenna tower is to be discontinued for a period exceeding six months, the owner of such antenna tower shall notify the Code Enforcement Officer within 30 days of the date such discontinuance commenced.
- (17) Any antenna tower which has not been in active and continuous service use for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such antenna tower shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within one year of the cessation of active and continuous use of such antenna tower.
- (18) Any special use permit for antenna towers shall be issued to the landowner. For purposes of public safety, the tower owner shall submit to the Code Enforcement Officer, every three years, a structural analysis report and certification prepared by a professional engineer licensed in the State of New York attesting to the structural soundness of the tower and that it meets all standards. In addition, a list containing all antennas on said tower and the owners of said antennas shall accompany said report. Per Chapter **84**, Fire Prevention and Building Code Administration, § **84-14A**, Compliance orders, if the Code Enforcement Officer finds the structural report to be indicative of any structural problems, he shall take whatever action deemed necessary to insure that any structural problems are remedied.
[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014]
- (19) If the ownership of an antenna tower operating under a special use permit change, the special use permit shall remain in force. However, the change in ownership shall be registered with the Code Enforcement Officer, and the sign required under Subsection **A(11)** shall be changed accordingly.
- (20) Any and all modifications, additions, deletions or changes to antenna towers that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such antenna tower or become necessary as a result of natural forces, such as wind or ice.
- (21) If the Planning Board requires professional consulting services in connection with antenna tower applications, the provisions of § **170-96** shall apply.
[Amended 10-14-2002 by L.L. No. 3-2002; 8-9-2010 by L.L. No. 2-2010]

B. Procedures and special requirements.

- (1) Applications for tower construction shall be received by the Code Enforcement Officer. No

application shall be forwarded to the applicable Town agency or board until the application is complete and in conformity with all applicable ordinances, laws, codes, rules and regulations.

- (2) The Code Enforcement Officer shall forward the application, together with comments and recommendations, to the Planning Board.
[Amended 10-14-2002 by L.L. No. 3-2002; 8-9-2010 by L.L. No. 2-2010]
- (3) The Planning Board shall conduct a SEQR review for all applications, as specified in NYCRR Section 617.6, and shall determine significance as specified thereunder.
[Amended 10-14-2002 by L.L. No. 3-2002; 8-9-2010 by L.L. No. 2-2010]
- (4) The construction of any tall antenna tower shall be defined as a Type I action under SEQR.
- (5) Regardless of the requirements of SEQR, the Planning Board shall require:
[Amended 8-9-2010 by L.L. No. 2-2010]
 - (a) For short antenna towers:
 - [1] A copy of the service provider's FCC license (for transmission towers only).
 - [2] A zone of visibility map, showing those areas within a one-mile radius from the location of the proposed antenna tower in which the proposed antenna tower is expected to be visible to an ordinary person with 20/20 vision, during the hours of daylight and when aeronautical visibility is three miles or more.
 - [3] Other documentation as may be requested by the Planning Board.
 - (b) For tall antenna towers:
 - [1] A copy of the provider's FCC license.
 - [2] Proof that adequate and safe service cannot be rendered from the Tower District.
 - [3] Proof that adequate and safe service can only be provided from the proposed site and not from any other site. If such proof is not submitted, then the choice of two or more sites is to be submitted, and the Planning Board shall determine which of these sites is the least objectionable.
 - [4] A zone of visibility map, showing those areas within a five-mile radius of the location of the proposed antenna tower in which the proposed antenna tower is expected to be visible to an ordinary person with 20/20 vision at any time of the year, during the hours of daylight and when aeronautical visibility is five miles or more.
 - [5] A coverage map showing those areas that, within a three-mile radius, will not receive safe and adequate service from the proposed antenna tower.
 - [6] A zone of visibility map, as required in Subsection B(5)(b)(4) above, is to accompany each proposed site, regardless of how many sites are proposed.
 - [7] The items required in Subsection **B(5)(b)[4]** and **[5]** above shall be prepared under the supervision of a professional engineer licensed by the State of New York and shall be signed by such engineer.
 - [8] Pictorial before and after views from key viewpoints within two miles of the proposed

antenna tower location shall be submitted if requested by the Planning Board.

[9] A site plan that shall show all existing and proposed structures and improvements, including roads, driveways, buildings, towers, guy wire anchors and parking areas, including grading plans for the new facilities and roads. The site plans shall also include a statement about the proposed intent and capacity of use.

[10] The site plan review by the Planning Board shall consider the off-site visual impact of the proposed antenna tower, shall scrutinize the design and layout, and shall study the potential impact, including visual impact, on the environment and the neighborhood.

[11] Upon approval of the special use permit, the Code Enforcement Officer shall issue a nontransferable building permit to the applicant.

[1] Editor's Note: Former Subsection B (6) and (7), regarding action by the Zoning Board of Appeals, were repealed and former Subsection B (8) and (9) were renumbered as B (6) and (7), respectively, 10-14-2002 by L.L. No. 3-2002.

(6) Construction pursuant to such permit must commence within six months of the issuance of the building permit.

§ 170-37. Home occupations.

[Amended 2-17-2014 by L.L. No. 3-2014]

Home occupations occupying more than 500 square feet in a dwelling or more than 1,000 square feet in an accessory building or attached garage or conducted outside are allowed by special use permit only.

- A. The operator must reside on the premises on which the home occupation is located.
- B. The application shall define and fully describe the proposed home occupation, and any special permit granted shall be valid for that use and no other.
- C. If the home occupation is to be performed outside, no activity, storage of supplies, equipment or product, loading, unloading, parking, advertising or sales shall be permitted within 10 feet of any property line or public right-of-way boundary.

§ 170-38. Additional residential structures on same lot.

The intent of this section is to provide for close family members or guests to be accommodated in reasonable proximity to the primary residence. The following conditions shall apply:

- A. The owner of the lot must own all structures on the lot.
- B. Additional residential structures permitted as a special use shall not be leased or rented.
- C. All such structures shall have the same postal address.
- D. All such structures shall be served by the same access road or driveway for emergency vehicles.

- E. A site plan shall be submitted with the application for Planning Board review and approval.
[Amended 10-14-2002 by L.L. No. 3-2002]
- F. Landscaping, when found necessary by the Planning Board, shall be provided.
[Added 2-17-2014 by L.L. No. 3-2014]

§ 170-39. Commercial greenhouses.

Commercial greenhouses shall be permitted in all districts in which customary agriculture is a permitted use.

- A. Setbacks and height limitations.
 - (1) Commercial greenhouses shall not be located closer than 100 feet to any lot line, nor closer than 300 feet to an existing residential dwelling on an adjacent lot.
 - (2) Height limitations shall be as prescribed for the zoning district in which the commercial greenhouse is located.
- B. Off-street parking shall be required, pursuant to the provisions of § **170-53**.
- C. Storage of all equipment and supplies shall be screened from public view.
- D. All signs shall be subject to the provisions of § **170-58**.
- E. Roadside stands are permitted, subject to the provisions of § **170-54**.
- F. A site plan shall be submitted with the application for Planning Board review and approval. Such site plan shall include adequate provisions to prevent offensive noise and odor.
[Amended 10-14-2002 by L.L. No. 3-2002]

§ 170-40. Residential windmills.

[Added 8-11-2003 by L.L. No. 2-2003]

- A. Application process.
 - (1) Special use permit. A special use permit shall be required. Therefore, § **170-22** of the South Bristol Code will apply.
 - (2) Site plan review. A site plan review is required before a building permit may be issued for a residential windmill.
 - (3) SEQR. SEQR review is required.
- B. Placement.
 - (1) Setbacks; ice and blade throws. Setbacks from adjacent property lines, rights-of-way, easements, public ways or power lines (not to include individual residential feed line) shall be two times the maximum structure height or 1 1/4 times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater. Setbacks shall

be measured from the nearest edge of the supporting structure not including guy wires.
[Amended 2-17-2014 by L.L. No. 3-2014]

- (2) Districts allowed in: R-1, R-3, R-5, NC, C-1, C-2, PD.
- (3) Number of windmills allowed per parcel: one. Multiple parcels, owned, controlled or beneficially managed by a person or persons, entity, or related entities, shall be considered to be one parcel.
- (4) Noise level limit: Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of 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.
- (5) 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. Setbacks for any windmill tower from any property line shall be a distance of 50 feet from any anchor point for guy wires or cables.
- (6) Lighting:
 - (a) No windmill tower 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 shall be subject to on-site field testing before the Planning Board, as a prerequisite to that Board's approval, with specific respect to Subsection B(6)(b) as it applies to existing residential or commercial uses within 2,000 feet of each tower for which such strobe lighting is proposed.^[1]

[1] *Editor's Note: Former Subsection B(6)(b), regarding tower facilities blocking the scenic view, was repealed 2-17-2014 by L.L. No. 3-2014.*
- (7) Scenic view impact: No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character. Final determination of permissible tower height and location on a lot shall be decided by the Planning Board as part of the site plan review. No individual tower facility shall be installed in any location that would substantially detract from or block 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 South Bristol.
- (8) Broadcast interference:
 - (a) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
 - (b) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication 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 Planning Board within 60 days of any complaint.

[Amended 8-9-2010 by L.L. No. 2-2010]

(9) Location on lot: Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

C. Specifications.

(1) Maximum height limit: Maximum height limit shall be no greater than 100 feet.

(2) KW limit: 10 KW.

(3) Color: Residential windmills must be battleship gray unless an agency of the state or federal government mandates something different.

(4) Structure: Lattice or solid tube.

(5) Type: All types of windmills will be allowed.

(6) Design and specifications: Detailed design and specification will be required during site plan review.

(7) Bird migration study: No bird migration study shall be required for residential windmills.

(8) Ice buildup sensors: Ice buildup sensors are not required for residential windmills.

(9) Connecting cables: All power transmission lines from the windmill electricity generation facilities shall be underground.

(10) Blade to ground distance: The lowest portion of the blade may not be closer than 25 feet to the ground.

D. Notice and safety considerations.

(1) Signs.

(a) Caution signs: Caution signs shall be placed at the setback limits, warning of ice and blade throws. Signs shall be placed at one-hundred-foot intervals and be four to six feet high (at eye level). Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words CAUTION: FALLING OBJECTS printed thereon. In addition, the owner's name and address shall be printed thereon.

(b) Other signs: There shall be no other signs affixed to the windmill, accessory buildings or enclosure.

(2) Fencing: Access to the tower shall be limited either by means of a fence six feet high around the tower base with a locking gate or by limiting tower-climbing apparatus to no lower than 12 feet from the ground.

(3) Limit tip speed: No wind turbines shall 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, and turbine components.

E. Operating considerations.

- (1) Removal if not operational: Any windmill which has not been in active and continuous service for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six months of the cessation of active and continuous use of such windmill.
- (2) Landscaping: Upon completion of installation, the site shall be returned as close as possible to its natural state.
- (3) Building and grounds maintenance: Any damaged or unused parts shall be removed from the premises within 30 days or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc., shall also be kept in said on-site storage building.
- (4) Ownership changes: If the ownership of a windmill operating under a special use permit change, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner, will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer, and the sign required under § 170-40D(1)(a) shall be changed accordingly.
- (5) Windmill modifications: Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

F. Certifications.

- (1) Routine inspection report. An inspection report prepared by an independent professional engineer licensed in the State of New York will be required at the time of installation. The inspection report required at the time of installation will be for the structure and the electronics and will be given to the Code Enforcement Officer. Per Chapter 84, Fire Prevention and Building Code Administration, § 84-14A, Compliance orders, if the Code Enforcement Officer finds the inspection report to be indicative of any electronic or structural problems, he shall take whatever action deemed necessary to insure that any electronic or structural problems are remedied.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (2) Liability insurance: Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.
- (3) National and state standards. The applicant shall show that all applicable manufacturers', New York State, and United States standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills 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). The applicant for a windmill special use permit shall furnish evidence, over the signature of a

professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards or equivalent standards based on the best professional judgment of the professional engineer of record.

[Amended 2-17-2014 by L.L. No. 3-2014]

- (4) Performance bond (removal).
 - (a) The owner of a windmill, prior to final special use permit approval and before a building permit is issued, shall provide a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of Subsection **F(4)(c)** below shall apply. The Town Engineer shall judge the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. The Attorney to the Town shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in Subsection **F(4)(c)** below.
[Amended 2-17-2014 by L.L. No. 3-2014]
 - (b) If transmission service from a windmill is to be discontinued for a period exceeding six months, the owner of such windmill shall notify the Code Enforcement Officer within 30 days of the date such discontinuance commenced.
 - (c) Any windmill which has not been in active and continuous service for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six months of the cessation of active and continuous use of such windmill.
- (5) Lightning strike/grounding: The applicant shall show that all applicable manufacturers', New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.
- (6) Environmental contamination by oil. A performance bond will be required to deal with environmental contamination by oil. The owner of a windmill, prior to final special use permit approval and before a building permit is issued, shall provide the maximum amount letter of credit or other acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Engineer shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. The Attorney for the Town shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (7) Wind speed/wind load: Certification is required by a registered professional engineer or a manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.
- (8) Continuing obligations: All requirements detailed in § **170-40F(1)** through **(7)** above remain in force for the life of the special use permit.

§ 170-41. Commercial windmills.

[Added 8-11-2003 by L.L. No. 2-2003]

A. Application process.

- (1) Special use permit: A special use permit shall be required. Therefore, § **170-22** of the South Bristol Code will apply.
- (2) Site plan review: A site plan review is required before a building permit may be issued for a commercial windmill.
- (3) SEQR: SEQR review is required.

B. Placement.

- (1) Setbacks; ice and blade throws. Setbacks from adjacent property lines, rights-of-way, easements, public ways, power lines, or areas or structures customarily used by the public shall be two times the maximum structure height or 1 1/4 times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater. Setbacks shall be measured from the nearest edge of the supporting structure not including guy wires.

[Amended 2-17-2014 by L.L. No. 3-2014]

- (2) Districts allowed in: R-1, R-3, R-5, NC, C-1, C-2, PD.
- (3) Number of windmills allowed per parcel: one. Multiple parcels owned, controlled or beneficially managed by a person or persons, entity, or related entities, shall be considered to be one parcel.
- (4) Noise level limit: Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of 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.
- (5) 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. Setbacks for any windmill tower from any property line shall be a distance of 50 feet from any anchor point for guy wires or cables.
- (6) Lighting:
 - (a) No windmill tower 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 shall be subject to on-site field testing before the Planning Board, as a prerequisite to that Board's approval, with specific respect to Subsection B(6)(b) as it applies to existing residential or commercial uses within 2,000 feet of each tower for which such strobe lighting is proposed.^[1]

[1] *Editor's Note: Former Subsection B(6)(b), regarding tower facilities blocking the scenic view, was repealed 2-17-2014 by L.L. No. 3-2014.*

- (7) Scenic view impact: No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character. Final determination of permissible tower height and location on a lot shall be decided by the Planning Board as part of the site plan review. No individual tower facility shall be installed in any location that would substantially detract from or block 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 South Bristol.
- (8) Broadcast interference:
 - (a) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
 - (b) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication 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 Planning Board within 60 days of any complaint.
[Amended 8-9-2010 by L.L. No. 2-2010]
- (9) Location on lot: Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

C. Specifications.

- (1) Maximum height limit: Maximum height limit shall be no greater than 100 feet.
- (2) KW limit: 20 KW.
- (3) Color: Commercial windmills must be battleship gray unless an agency of the state or federal government mandates something different.
- (4) Structure: lattice or solid tube.
- (5) Type: All types of windmills will be allowed.
- (6) Design and specifications: Detailed design and specification will be required during site plan review.
- (7) Bird migration study: No bird migration study shall be required for commercial windmills.
- (8) Ice buildup sensors: Ice buildup sensors are not required for commercial windmills.
- (9) Connecting cables: All power transmission lines from the windmill electricity generation facilities shall be underground.
- (10) Blade to ground distance: The lowest portion of the blade may not be closer than 25 feet to the ground.

D. Notice and safety considerations.

(1) Signs.

(a) Caution signs: Caution signs shall be placed at the setback limits warning of ice and blade throws. Signs shall be placed at one-hundred-foot intervals and be four to six feet high (at eye level). Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words CAUTION: FALLING OBJECTS printed thereon. In addition, the owner's name and address shall be printed thereon.

(b) Other signs: There shall be no other signs affixed to the windmill, accessory buildings or enclosure.

(2) Fencing: Access to the tower shall be limited either by means of a fence six feet high around the tower base with a locking gate or by limiting tower-climbing apparatus to no lower than 12 feet from the ground.

(3) Limit tip speed: No wind turbines shall 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, and turbine components.

E. Operating considerations.

(1) Removal if not operational: Any windmill which has not been in active and continuous service for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six months of the cessation of active and continuous use of such windmill.

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

(3) Building and grounds maintenance: Any damaged or unused parts shall be removed from the premises within 30 days or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc., shall also be kept in said on-site storage building.

(4) Ownership changes: If the ownership of a windmill operating under a special use permit change, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer, and the sign required under **§ 170-40D(1)(a)** shall be changed accordingly.

(5) Windmill modifications: Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

F. Certifications.

(1) Routine inspection report. An inspection report prepared by an independent professional

engineer licensed in the State of New York will be required at the time of installation. The inspection report required at the time of installation will be for the structure and the electronics and will be given to the Code Enforcement Officer. Per Chapter **84**, Fire Prevention and Building Code Administration, § **84-14A**, Compliance orders, if the Code Enforcement Officer finds the inspection report to be indicative of any electronic or structural problems, he shall take whatever action deemed necessary to insure that any electronic or structural problems are remedied.

[Amended 2-17-2014 by L.L. No. 3-2014]

- (2) Liability insurance: Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.
- (3) National and state standards. The applicant shall show that all applicable manufacturers', New York State, and United States standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills 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). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards or equivalent standards based on the best professional judgment of the professional engineer of record.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (4) Performance bond (removal).
 - (a) The owner of a windmill, prior to final special use permit approval and before a building permit is issued, shall provide a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of Subsection **F(4)(c)** below shall apply. The Town Engineer shall judge the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. The Attorney to the Town shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in Subsection **F(4)(c)** below.
[Amended 2-17-2014 by L.L. No. 3-2014]
 - (b) If transmission service from a windmill is to be discontinued for a period exceeding six months, the owner of such windmill shall notify the Code Enforcement Officer within 30 days of the date such discontinuance commenced.
 - (c) Any windmill which has not been in active and continuous service for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months of the cessation of active and continuous use of such windmill.
- (5) Lightning strike/grounding: The applicant shall show that all applicable manufacturers', New

York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

- (6) Environmental contamination by oil. A performance bond will be required to deal with environmental contamination by oil. The owner of a windmill, prior to final special use permit approval and before a building permit is issued, shall provide the maximum amount letter of credit or other acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Engineer shall judge the form of letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. The Attorney to the Town shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued.
[Amended 2-17-2014 by L.L. No. 3-2014]
- (7) Wind speed/wind load: Certification is required by a registered professional engineer or a manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.
- (8) Continuing obligations: All requirements detailed in § **170-41F(1)** through **(7)** above remain in force for the life of the special use permit.

§ 170-42. Industrial windmills.

[Added 8-11-2003 by L.L. No. 2-2003; amended 2-17-2014 by L.L. No. 3-2014]

A. Application process.

- (1) Special use permit. A special use permit shall be required. Therefore, § **170-22** of the South Bristol Code will apply.
- (2) Site plan review. A site plan review is required before a building permit may be issued for industrial windmills.
- (3) SEQR. SEQR review is required.

B. Placement.

- (1) Road access and maintenance. If the proposed site is such that a Town road has to be improved to facilitate the installation of equipment for the windmill operation, the applicant will be responsible for the cost of any such improvements necessary.
- (2) Setbacks; ice and blade throws. Setbacks from adjacent property lines, rights-of-way, other units, all residential structures, easements, public ways, power lines (not to include individual residential feed line) and structures not ancillary to the windmill operation shall be two times the maximum structure height or 1 1/4 times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater. Setbacks shall be measured from the nearest edge of the supporting structure not including guy wires.
- (3) Districts allowed in: R-3 and R-5.
- (4) Noise level limit. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA,

- measured at the boundaries of all of 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.
- (5) Lighting. No windmill tower 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 shall be subject to on-site field testing before the Planning Board, as a prerequisite to that Board's approval, with specific respect to Subsection **B(6)** below as it applies to existing residential or commercial uses within 2,000 feet of each tower for which such strobe lighting is proposed.
- (6) Scenic view impact. No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character. Final determination of permissible tower height and location on the lot shall be decided by the Planning Board as part of the site plan review. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a scenic view, as viewed from any public road right-of-way, publicly owned land or privately owned land with the Town of South Bristol.
- (a) The following views cape analysis material shall be submitted to the Planning Board for industrial wind power electricity generation and/or transmission facilities:
- [1] Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations to a distance radius of five miles from the center of the project. Scale used shall depict five-mile radius as no smaller than 4.5 inches, and the base map used shall be a published topographic map showing cultural features.
- [2] No fewer than four and no more than the number of proposed individual wind turbines plus three color photos, no smaller than three inches by five inches, taken from locations within a five-mile radius from it and to be selected by the Planning Board, and computer-enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.
- (7) Broadcast interference.
- (a) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- (b) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication 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 Planning Board within 60 days of any complaint.
- (8) Location on lot. Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

C. Specifications.

- (1) Maximum height limit. Maximum height limit shall be no greater than 400 feet.
- (2) Color. Industrial windmills must be battleship gray unless an agency of the state or federal government mandates something different.
- (3) Structure: solid column.
- (4) Type. All types of windmills will be allowed.
- (5) Design and specifications. Detailed design and specification will be required during site plan review.
- (6) Bird migration study. A bird migration path study will be required.
- (7) Ice buildup sensors. A sensor will be required for industrial windmills that will shut the windmills down during icing conditions.
- (8) Connecting cables. All power transmission lines between the windmill electricity generation facilities and on-site substations shall be underground.
- (9) Blade-to-ground distance. The lowest portion of the blade may not be closer than 25 feet to the ground.

D. Notice and safety considerations.

- (1) Signs.
 - (a) Caution signs. Caution signs shall be placed at the setback limits warning of ice and blade throws. Signs shall be placed at one-hundred-foot intervals and shall be four feet to six feet high (at eye level). Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words "CAUTION: FALLING OBJECTS" printed thereon. In addition, the owner's name and address shall be printed thereon.
 - (b) Other signs. There shall be no other signs affixed to the windmill, accessory buildings or enclosure.
- (2) Fencing. Access to the tower shall be limited either by means of a fence six feet high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than 12 feet from the ground.
- (3) Limit tip speed. No wind turbines shall 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, and turbine components.

E. Operating considerations.

- (1) Removal if not operational. Any windmill which has not been in active and continuous service for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six months of the determination of

cessation of active and continuous use of such windmill.

- (2) Landscaping. Upon completion of installation the site shall be returned as close as possible to its natural state.
- (3) Building and grounds maintenance. Any damaged or unused parts shall be removed from the premises within 30 days or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc., shall also be kept in said on-site storage building.
- (4) Ownership changes. If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner, will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer, and the sign required under **§ 170-42D(1)(a)** shall be changed accordingly.
- (5) Windmill modifications. Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

F. Certification.

- (1) Routine inspection report. An inspection report prepared by an independent engineer licensed by the State of New York will be required at the time of installation. The inspection report required at the time of installation will be for the structure and the electronics and will be given to the Code Enforcement Officer. Additional inspection reports for industrial windmills will be required on an annual basis. Copies of all reports shall be given to the Code Enforcement Officer. Per Chapter **84**, Fire Prevention and Building Code Administration, **§ 84-14A**, Compliance orders, if the Code Enforcement Officer finds any of the inspection reports to be indicative of any electronic or structural problems, he shall take whatever action deemed necessary to insure that any electronic or structural problems are remedied.
- (2) Insurance; liability. Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.
- (3) National and state standards. The applicant shall show that all applicable manufacturers', New York State, and United States standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills 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). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards or equivalent standards based on the best professional judgment of the professional engineer of record.
- (4) Performance bond (removal).

- (a) The owner of a windmill, prior to final special use permit approval and before a building permit is issued, shall provide a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of Subsection **F(4)(c)** below shall apply. The Town Engineer shall judge the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. The Attorney to the Town shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in Subsection **F(4)(c)** below.
 - (b) If transmission service from a windmill is to be discontinued for a period exceeding six months, the owner of such windmill shall notify the Code Enforcement Officer within 30 days of the date such discontinuance commenced.
 - (c) Any windmill which has not been in active and continuous service for a period of one year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six months of the cessation of active and continuous use of such windmill.
 - (d) Proof of insurance for road repair purposes shall also be required as follows: The applicant shall deliver to the Code Enforcement Officer, as part of the building permit process and prior to the issuance of a building permit, a certificate of insurance naming the Town of South Bristol as a certificate holder and an additional insured, which shall be kept on file in the Code Enforcement office. Such insurance shall provide for a minimum of \$250,000/\$500,000 property damage and personal liability insurance coverage in favor of the Town. Such insurance shall provide specifically for coverage of damage to roadways and culverts.
- (5) Lightning strike/grounding. The applicant shall show that all applicable manufacturers', New York State, and United States standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.
- (6) Environmental contamination by oil. A performance bond will be required to deal with environmental contamination by oil. The owner of a windmill, prior to final special use permit approval and before a building permit is issued, shall provide the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Engineer shall judge the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued. The Attorney to the Town shall judge the form of the letter of credit or other acceptable surety adequate and satisfactory prior to final special use permit approval and before a building permit is issued.
- (7) Wind speed/wind load. Certification is required 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 Building Code of New York State.
- (8) Continuing obligations. All requirements detailed in § **170-42F(1)** through **(7)** above remain in force for the life of the special use permit.

§ 170-43. Special events venue

Special events venues shall be permitted in the Neighborhood Commercial (NC) and Planned Development (PD) District by special use permit, provided that the following conditions are met:

A. Use standards.

A special events venue must demonstrate compliance with the following standards:

1. The special events venue shall be located on a site with a minimum of ten contiguous (10) acres.
2. The site of the special events venue shall have at least two means of egress, at least one of which is adequate for emergency vehicles, as determined by the Planning Board in consultation with emergency responders based on its width, length, surface and ability to support the gross vehicle axle weight of emergency vehicles.
3. The maximum number of attendees at a special events venue shall be set by the Planning Board based on their review of the application material. The Planning Board may set a lower or higher maximum number for a special events venue based on the health, safety, and welfare of the attendees and/or the neighborhood and surrounding community.
4. The applicant shall demonstrate that all required parking can be accommodated onsite. This requirement shall not preclude a special events venue from utilizing shuttle buses or other methods of guest transportation.
5. All events shall be provided with adequate potable water and sanitary system as determined by the Code Enforcement Officer and/or the Department of Health.
6. The Planning Board shall require appropriate buffers between the special events venue and adjoining properties, given the size of parcel, the natural topography, and vegetative cover.
7. Seating for events may occur outdoors, under a fabric structure temporarily constructed on the property, or in an event barn meeting the standards below.
8. Locations for proposed temporary fabric structures must be included on the site plan. All buildings and structures, including fabric structures, to be used as part of the special events venue shall, where required, obtain a certificate of occupancy for their intended uses, including an event barn meeting the standards in the section below.
9. Events shall commence no earlier than 10:00 am and shall terminate no later than 11:00 pm. However, the Planning Board shall have the power to modify the commencement and termination times for a particular site based upon the health, safety and welfare of the neighborhood and the surrounding community. All events must conform to all provisions contained in the noise ordinance for the Town of South Bristol. An event management plan shall be prepared and submitted to the Planning Board for review and approval. The plan shall include the following:
 - a. Provisions for traffic and parking management

- b. Hours of operation
- c. Noise abatement
- d. Plans for toilet facilities, water and plumbing. If portable bathroom facilities are to be used this should be detailed in the plans.
- e. Licensed vendors and where they are to set up, park and clean up
- f. Detail of site clean-up post event
- g. Emergency vehicle access
- h. Maximum number of guests
- i. A list of contacts for specific distress or emergency situations to be used by the guests shall be provided at each event and the legal name and address of an emergency contact person at the site shall be provided.
- j. Detailed plans for internal storage and collection of refuse, including provisions for the disposal and cleaning of property and immediate surrounding properties within 48 hours of the event.
- k. Detailed plans for food service, including a description of food sources, refrigeration and food handling and dispensing, according to Ontario County Department of Public Health standards.
- l. If alcoholic beverages will be served, evidence of liquor license, security provisions and proper insurance coverage.
- m. Detailed plans for security enforcement, including prevention of the unlawful use of alcohol, narcotics and dangerous drugs at the site, and methods for limiting the use of the proposed function to the number of participants for which the facilities are designed and external as well as internal crowd control, including proof of sufficient security for crowd control and security enforcement.
- n. Detailed plans for amplifying equipment designed to control the noise level at the perimeter of the site to no more than 75 decibels on the A-scale of a sound-level meter which meets the specifications of the American National Standards Institute.

The Planning Board may in its discretion require that events with two hundred (200) or more attendees provide for adequate on-site ambulance coverage. The event management plan shall be incorporated into the special use permit and site plan approval.

10. The application, site plan and event management plan shall be referred by the Planning Board to the appropriate fire district, fire department or other fire and safety provider for comment and recommendations with regard to fire and safety issues associated with the operation of the special venue and the use of an event barn, if proposed.

B. Event barns.

Special events venues may utilize former agricultural or accessory structures as a place of public assembly, such as a barn, provided the following criteria are satisfied:

1. The use of an event barn shall be permitted only after issuance of a building permit and a certificate of occupancy for public assembly by the Town's Code Enforcement Officer.
2. The applicant shall provide the Code Enforcement Officer with a plan prepared by a registered licensed design professional to improve the event barn to enable it to obtain a certificate of occupancy for an assembly area, where none exists. A copy of the plan shall also be submitted to the Planning Board as part of site plan review.

3. The occupancy of the event barn shall not exceed occupancy load and exiting provisions of the New York State Uniform Code and those occupancy load limits shall be posted at the premises by the Town's Code Enforcement Officer.

C. Special use permit.

1. The special use permit and site plan for a special events venue must include:

- a. The maximum number of attendees permitted during any event.
- b. The hours of operation of the special events venue and whether amplified sound is permitted.
- c. Any other conditions on operation, design and layout reasonably necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town.
- d. Items in Subsection 1. a. through c. above shall be determined by the Planning Board based on the size of the parcel, location, topography, parking, proximity of neighbors, emergency access and the ability of existing and proposed buffers to provide sound attenuation.

D. Events following the issuance of a special events venue special use permit.

1. Once a special use permit has been granted to permit a special events venue at a particular site, individual events may be held at the site without further review by the Planning Board so long as such events are compliant with the limitations in the event management plan and special use permit.

2. Notice of individual events shall be provided via electronic mail to the Town Code Enforcement Officer, County Sheriff and State Police departments and the applicable fire district thirty (30) days before each event, or as soon as possible for events scheduled on less than thirty (30) days' notice.

E. Any person who violates or causes to be violated any provision of this chapter shall be guilty of a violation and shall be punishable as outlined in §170-97.

F. All structures, except for those specifically exempted, shall be removed from the premises within 30 days of the discontinuance of such use. A bond or letter of credit for restoration of the site may be required as a condition of approval.

G. Liability and property damage insurance. No permit shall be issued unless the applicant shall furnish the Town with a comprehensive liability insurance policy insuring the Town against liability for damage to person or property with limits of not less than what the Town carries for bodily injury or death and the same coverage as the Town carries for property damage, to hold the Town harmless from any and all liability or cause of action which might arise by reason of the granting of the permit, which policy shall not be cancelable without 10 days' prior written notice to the Town and which shall be in effect during the entire period of said event. Failure to keep such policy in effect will result in automatic revocation of the permit without hearing.

H. Proof of financial resources. The applicant shall submit a statement of financial resources prepared by a certified public accountant, showing finances sufficient to execute the plans as

submitted.

§ 170-44. through § 170-49. (Reserved)

Article VI. Supplementary District Regulations

§ 170-50. Applicability.

- A. The basic regulations governing the use and buildings within each zoning district are established in this chapter. For certain specific uses or exceptional situations, these basic regulations are supplemented by other provisions of this chapter.
- B. Regulations governing the specific use of land within the various zoning districts shall be set forth in regulations governing uses in that specific district, except as noted herein.

§ 170-51. Lot area.

[Amended 2-17-2014 by L.L. No. 3-2014]

- A. No lot in any district shall be altered in size so that its area or any of its dimensions or open spaces shall be smaller than required by law, and no permit shall thereafter be issued for the erection or maintenance of any building or structure or for any other use regulated by this chapter.
- B. No lot shall be divided which was nonconforming prior to the date of adoption of this chapter.

§ 170-52. Height.

[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014]

The building height of any structure, except for farm use and except for buildings, towers and other structures permitted as a special use hereunder, shall not be higher than 35 feet, as measured from the mean average of the adjacent finished grade to the highest point of the roof or to the highest point of any portion of a structure above the roof.

§ 170-53. Off-street parking.

[Amended 2-17-2014 by L.L. No. 3-2014]

For purposes of this section, a parking space shall be a minimum of 160 square feet with a width of eight feet. All required parking spaces shall be provided and satisfactorily maintained by the owner, off the public right-of-way. Minimum standards are as follows:

- A. At least two parking spaces for each dwelling unit.
- B. Home occupations: two parking spaces in addition to those required in Subsection **A** above.

- C. Places of public assembly: at least one parking space for each three seats based on maximum seating capacity, except for adult use and entertainment establishments. (See Subsection **M** of this section.)
- D. Hospital, sanitarium, nursing home, etc.: at least one parking space for four patients and one parking space for each employee, attendant or member of the staff employed during the day.
- E. Commercial districts: All uses in commercial districts, except office buildings, shall provide parking spaces as deemed necessary in the site plan review.
- F. Office buildings: at least one parking space for each 250 square feet of office floor area.
- G. Retail: at least one parking space for each 250 square feet of floor area.
- H. Service stations: at least one parking space for each 250 square feet of floor area.
- I. Restaurants/taverns/bars: at least one parking space for each three seats and at least one parking space per employee at the maximum shift.
- J. Commercial storage buildings: at least one parking space per 1,000 square feet of floor area.
- K. Beauty parlors/barbershops: at least two parking spaces per each chair and at least one parking space per employee at the maximum shift.
- L. Adult use and entertainment establishments: Provision shall be made for at least one parking space for each two persons based upon maximum occupancy capacity.

§ 170-54. Roadside stands.

Any person within any district may erect a roadside stand and sell from the same horticultural or agricultural products grown primarily on his premises or home occupation products produced on his premises. Any such stand of permanent construction shall comply with all the conditions and regulations prescribed for structures in the district in which the stand is located. Any such stand of temporary construction may be erected not nearer to a lot line than 20 feet, and such stand may be erected and maintained between April 1 and November 30 of any year but must be removed on or before November 30 of the same year. There must be provided for any roadside stand an off-street parking area sufficient to accommodate vehicles of customers and to eliminate traffic hazards. Temporary roadside stands for the purpose of the sale of Christmas trees, wreaths, Christmas decorations and the like are permitted under the same conditions as above set forth from November 20 through December 31. Roadside stand signs may be placed against the stand. Further, such signs may be placed up to 100 yards in each direction from the stand, as long as the signs are not placed in the road right-of-way and are on the property or lot of the owner where the stand is located.

§ 170-55. View of intersecting streets.

No obstruction to view between a height of 2 1/2 feet and 10 feet, measured perpendicularly from the grade, shall be maintained on the premises in the angle formed by intersecting streets so as to interfere with the view of traffic approaching the intersection within a distance of 100 feet, measured along the center line of each from the intersection of such center line. The provisions herein shall not

be construed as to require the cutting or removal of an existing stand of trees within the prescribed area. Such area shall, however, be kept free of underbrush and other plants which obstruct the view of approaching traffic.

§ 170-56. Fences and hedges.

Except as otherwise provided, no fence or hedge over four feet in height shall be erected or maintained where such fence or hedge constitutes an unreasonable obstruction of a scenic view from neighboring premises or from the highway. Fencing for the purpose of enclosing farmland, horses, cattle or other animals shall not exceed eight feet in height. All other fences in residential districts shall not exceed six feet. All fences in a C-1, C-2 or NC District zone shall not exceed eight feet in height. All fences must be erected within the property lines, and no fences shall be erected as to encroach upon a public right-of-way. All fences shall be maintained in a safe, sound and upright condition.

§ 170-57. Wrecks.

When motor vehicles, wrecks or vehicles of any description are lawfully kept upon premises for repair, the same shall be housed in a fully enclosed structure or kept upon the rear 1/2 of the lot occupied by a building for the repair of such wrecks or for the storage of such vehicles. This, however, shall not be construed as to prevent the storage of unlicensed vehicles in private garages on the premises of the owner thereof. (Ref: § 136 New York State General Municipal Law, § 82 New York State Highway Law)

§ 170-58. Billboards and signs.

No billboards or signs shall be hereinafter erected, placed or maintained at any place in the Town unless a permit therefor has been obtained in compliance with the provisions of this section.

A. Exceptions. The following shall not be subject to the regulations herein.

- (1) Signs not exceeding one square foot in area, bearing only property numbers, post box numbers, names of occupants or other identification of the premises for noncommercial purposes.
- (2) Flags and insignia of any government.
- (3) Legal notices or other signs required or erected by governmental bodies.
- (4) Integral, solely decorative or architectural of features of buildings, other than commercial trademarks, emblems or lettering.
- (5) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

B. Design and location of signs.

- (1) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. All signs shall employ only light sources emitting light of constant intensity, and no luminous sign shall be placed or directed so as to cause glaring upon any public highway or sidewalk or adjacent premises or otherwise to cause glare or reflection that may constitute a

traffic hazard or nuisance. No sign shall, in its construction, employ any mirror or mirror-like surface.

- (2) Signs may be erected or maintained upon the roof of any building or structure but shall not exceed the peak of the building. No signs shall project more than three feet from the wall of any building. No sign shall project from the roof of any building or into any public way.
- (3) No vehicle on which is placed or painted any sign shall be parked or stationed in a manner primarily intended to display the sign.
- (4) No permanent sign shall be erected or maintained within the right-of-way.

C. Area and height of signs.

- (1) No sign, unless otherwise provided for herein, shall be erected or maintained having an area greater than 32 square feet per side, and no sign shall have more than two sides.
- (2) No sign shall exceed 20 feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.
- (3) No sign located within the front setback requirement of any district, but not closer than 20 feet to any public or highway right-of-way, shall exceed 32 square feet in area.

D. Number of permitted signs where more than one principal activity is being conducted.

Notwithstanding the standard governing the number of signs permitted to be erected or maintained on any lot set forth herein, the following standards shall guide in the review of all private signs associated with the project, such as in the case of a shopping center, plaza or mall or other multiple-commercial-use facility. All signs shall reflect a reasonable uniformity of design, lighting and materials.

- (1) A single ground sign not in excess of 100 square feet in area may be erected identifying the center of a facility as a whole but shall not contain advertising matter.
- (2) One individual wall sign not in excess of 40 square feet in sign area may be erected for each separate principal activity, such as a shop or store.

E. Off-premises directional signs. Notwithstanding the provisions of Subsections **A** and **C** to the contrary, one directional sign advertising an industry or business having its principal place of business within the Town may be located upon premises other than the premises of the principal place of such industry or business, provided that:

- (1) Such industry or business is not fronting on a state highway and the principal purpose of such sign is to direct motor vehicles to the location of such business or industry.
- (2) Such sign is located no closer than 20 feet nor more than 60 feet from the highway boundary.
- (3) Such sign has a maximum area of not more than 16 square feet on either side, and it shall have no more than two sides, and no part of such sign shall be more than 12 feet above the highest point of ground within five feet of such sign.

F. Temporary signs.

- (1) Temporary signs, other than real estate sales signs, not exceeding 25 square feet advertising

any political, educational, charitable, civic, professional, religious or like campaign or event may be erected for a consecutive period not to exceed 45 days in any calendar year. No temporary sign shall in any way obstruct or impair vision or traffic in any manner or create a hazard or disturbance to the health and welfare of the general public.

- (2) A temporary sign not exceeding 25 square feet in area, the height of which is not greater than 10 feet shall be permitted for a period of three years from the time of final subdivision approval for advertising the sale of property within such subdivision.
 - (3) No more than two such signs shall be permitted on the original parcel, and all signs shall be placed no closer than 20 feet from the front and side lot lines.
- G. Outmoded signs. Any sign which no longer advertises a bona fide business being conducted on the premises or within the Town shall be removed from said premises by the record owner or beneficial user of the premises within 10 days from the receipt of a written order to do so from the Code Enforcement Officer. In default of said removal, the Code Enforcement Officer is authorized to effectuate the removal of said sign and to charge all costs incident to the removal to the record owner and/or the beneficial user of the premises.
- H. Additional requirements for signs in residential districts.
- (1) A sign indicating the name and address of the occupant or a permitted home occupation may be displayed, provided that it shall not be larger than six square feet in area per side and, if freestanding, shall not exceed four feet in height above the ground level at the sign's location and shall be no closer than 10 feet to any side or rear lot line or five feet to the highway right-of-way, and shall not be illuminated except indirectly.
 - (2) For farms and multiple-family dwellings, a single identification sign not exceeding 16 square feet in area and indicating only the name and address of the building may be displayed. Such signs shall not be closer to any lot line than 1/2 the required setback and shall not project more than six feet in height above grade and shall not be illuminated except indirectly.
 - (3) No more than one sign on any given road frontage advertising the sale, lease or rental of the premises upon which the sign is located may be displayed; such sign shall not exceed 16 square feet in area, provided that such sign is erected or displayed not less than five feet inside the property line and shall not project more than seven feet in height.

§ 170-59. Dumping of waste material.

No lot shall be used for the storage or disposal of solid or liquid waste or dust-producing substance, except, however, duly approved individual sewage disposal systems, and further provided that this provision shall not prohibit the storage of animal waste upon any farm, provided that such storage does not constitute a nuisance and such storage shall not be within 100 feet of any lot line. Nothing herein shall be construed to be contrary to or to supersede the Agricultural District Law of New York State, as amended from time to time.

§ 170-60. Accessory structures.

Accessory structures shall comply with all dimensional requirements of this chapter.

§ 170-61. Private swimming pools.

Private swimming pools shall be permitted and shall comply with all applicable New York State Codes.

§ 170-62. Tennis & Pickle Ball courts.

Tennis and pickle ball courts shall be permitted, provided that the following conditions are met:

- A. All lights used to illuminate a tennis or pickle ball court or tennis, or pickle ball court area shall be shielded so as to prevent their shining upon the property of any adjacent property owner and becoming a nuisance or annoyance to adjacent premises.
- B. The fences surrounding, either partially or wholly, the courts shall be set back at least 15 feet from the rear and side lot lines.
- C. All fences shall not be more than 12 feet in height and shall principally be of an open chain link construction.
- D. If there is any charge for tennis or pickle ball lessons or instruction or for the use of the court, the tennis or pickle ball court shall either be a home occupation or commercial use as defined by this chapter.

§ 170-63. Preservation of natural features.

- A. No structure shall be constructed within 25 feet of the nearest point of last erosion of a stream, creek or dry creek with the ability of carrying water, except for private bridges, drainage conduits, embankments and similar structures as are necessary to permit access to the lot or as are incidental to the lawful use of the lot. Such structure shall not adversely affect the flow of the stream nor substantially increase the likelihood of flood or overflow in the area.
[Amended 4-8-2019 by L.L. No. 4-2019]
- B. Existing natural features, such as trees, brooks, drainage channels and views, shall be maintained. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of the property shall be required.
- C. All structures shall be designed so as to minimize the amount of cutting into any slope of an embankment or of any hill or gully.

§ 170-64. Storage and use of recreational vehicles.

[Amended 2-17-2014 by L.L. No. 3-2014]

- A. Storage. Not more than two recreational vehicles owned by the owners of the property, or a member of the family thereon may be stored upon the premises, provided that:
 - (1) The vehicle is not connected to any electrical or water supply.

- (2) The vehicle is not stored in the front yard of the principal dwelling and is located no closer than 10 feet to a side lot line or 15 feet to a dwelling.
- B. Use. Unless otherwise provided herein, residents of the Town may have located upon their lots a recreational vehicle of a guest as long as:
- (1) The length of stay is no longer than three weeks.
 - (2) The recreational vehicle has been provided with water supply, electrical services and an adequate self-contained sewage disposal system.
 - (3) The recreational vehicle is not located closer than 15 feet to any building on a neighboring lot and no closer than 10 feet to the side or rear lot line.

§ 170-65. Mobile homes on individual lots.

- A. The mobile home shall have a minimum living area of 720 square feet.
- B. The mobile home shall comply with all minimum lot size requirements and other requirements applicable to the zoning district in which it is located.
- C. The mobile home shall have an adequate potable water supply and sewage disposal system which shall comply with all applicable state and local requirements prior to occupancy.
- D. The mobile home shall be securely fastened in place with tie-downs approved by H.U.D. (See Subsection **E** below.), and the bottom portion shall be enclosed with either a metal, wood or vinyl skirt or enclosure prior to the issuance of certificate of occupancy.
- E. All mobile homes shall be certified by the United States Department of Housing and Urban Development (HUD).

§ 170-66. Solar energy systems.

[Amended 11-13-2017 by L.L. No. 4-2017]

- A. Authority. This solar energy section is adopted pursuant to §§ 261 through 263 of the New York State Town Law, which authorizes the Town of South Bristol to adopt zoning parameters that advance and protect the health, safety, and welfare of the community, and to make provisions for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.
- B. Purpose and intent.
 - (1) The vision statement from the Comprehensive Plan of 2008 is to "preserve and protect our safe, clean, naturally beautiful rural and scenic environment with carefully and fairly planned commercial, residential, agricultural and recreational development."
 - (2) Solar energy is a renewable and nonpolluting energy resource that can reduce fossil fuel emissions and lower a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is

generated.

(3) It is the policy of the Town of South Bristol to encourage the use of solar energy sources.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS

A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

COLLECTIVE SOLAR

Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

FLUSH-MOUNTED SOLAR PANEL

Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is directly installed on the ground and is not attached or affixed to an existing structure.

LARGE-SCALE SOLAR ENERGY SYSTEM

A solar energy system that is ground mounted and produces energy primarily for the purpose of off-site sale or consumption, or which exceeds 1,000 square feet based on the perimeter occupied by the solar panels.

NET METERING

A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

PHOTOVOLTAIC (PV) SYSTEMS

A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER

A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved, who is certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be a qualified solar installer for the purposes of this definition. Persons who are not on NABCEP's list of certified installers are deemed to be qualified solar installers if the Town of South Bristol Code Enforcement Officer determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM

A solar power system in which solar panels are mounted on top of the structure or a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SMALL-SCALE SOLAR ENERGY SYSTEM

A solar energy system that produces energy primarily for the purpose of on-site use and does not exceed 1,000 square feet based on the perimeter occupied by the solar panels.

SOLAR ACCESS

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

SOLAR COLLECTOR

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT

An easement recorded pursuant to New York Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT/SYSTEM

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

SOLAR PANEL

Allows for an energy transfer from light energy to heat and electrical.

SOLAR STORAGE BATTERY

A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

D. Applicability

- (1) The requirements of this section shall apply to all solar energy systems modified or installed after its effective date. No solar energy system or device shall be installed or operated in the Town of South Bristol except in compliance with this section.
- (2) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations, and standards of the Town of South Bristol, and, where applicable, the State of New York.

E. Small-scale solar energy systems less than 1,000 square feet based on the perimeter occupied by the solar panels.

(1) Permitting.

- (a) To the extent practicable, and in accordance with Town law, the accommodation of small-scale solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of South Bristol Code.
- (b) Small-scale solar energy systems 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 collective solar installations or the sale of excess power through a net billing or net metering arrangement.
- (c) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed. A photograph of the site is also required.
- (d) Building-integrated photovoltaic (BIPV) systems: BIPV systems that meet the definition of small-scale solar energy system are permitted outright in all zoning districts as accessory uses.

(2) Permits for rooftop or building-mounted solar systems.

- (a) This subsection applies to the installation of solar panels for commercial buildings and residences for small rooftop or building-mounted solar systems that meet the definition of a small-scale solar energy system and that do not exceed 25 kW in size.
- (b) Building permits are required for the installation of all rooftop and building-mounted solar systems, and all building permit applications for the installation of rooftop or building-mounted solar systems on residential and commercial buildings shall be reviewed by the Town of South Bristol's Code Enforcement Officer, who has the authority to grant or deny permits for such systems.
- (c) Rooftop and building-mounted solar systems: Rooftop and building-mounted solar systems that meet the definition of a small-scale solar energy system and that do not exceed 25 kW in size are permitted as an accessory use in all zoning districts in the Town of South Bristol when attached to any lawfully existing and lawfully permitted building, subject to the following conditions:
 - [1] Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:
 - [a] Solar energy systems shall be color-compatible with the primary structure.
 - [b] Panels must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and the highest edge of the system.

(3) Permits for freestanding or ground-mounted solar energy systems.

- (a) Freestanding or ground-mounted solar energy systems that meet the definition of a small-scale solar energy system are permitted as accessory structures in all zoning districts of the Town of South Bristol, subject to the following conditions:
 - [1] Building permits are required for the installation of all freestanding and ground-mounted solar energy systems. All building permit applications for the installation of freestanding and ground-mounted solar energy systems on residential and commercial property shall be reviewed by the Town of South Bristol's Code Enforcement Officer, who has the authority to grant permits for such systems.
 - [2] The location of the solar collector meets all applicable setback requirements for accessory structures in the zoning district in which it is located.
 - [3] The height of the solar collector and any part of the solar energy equipment/system shall not exceed eight (8) feet when oriented at maximum tilt.

- (b) Lot Coverage
 - [1] Freestanding and ground-mounted solar energy systems shall not exceed 1,000 square feet based on the perimeter occupied by the solar panels without obtaining a special use permit as a large-scale solar energy system pursuant to Subsection F hereof.
 - [2] All such systems in residential or commercial zoning districts may be installed on all areas of a parcel in accordance with local planning and zoning regulations and lot coverage requirements.
 - [3] Freestanding and ground-mounted solar energy systems shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area and do not impact the effective amount of solar energy to be produced.

- (c) Solar-thermal systems. Solar-thermal systems that meet the definition of a small-scale solar energy system are permitted as accessory structures in all zoning districts upon grant of a building permit.

- (d) Solar energy equipment/systems shall be permitted only if they are determined by the Code Enforcement Officer not to present any unreasonable safety risks, including, but not limited to the following:
 - [1] Weight load.
 - [2] Wind resistance.
 - [3] Firefighting and other emergency access.

- F. Large-scale solar energy systems greater than 1,000 square feet based on the perimeter occupied by the solar panels.
 - (1) Permitting.
 - (a) Large-scale solar energy systems are permitted through the issuance of a special use permit in R-1 R-3, R-5, C-1, C-2 and NC Districts, subject to the requirements set forth in

this section, including site plan approval, and provided that no large-scale solar energy system shall be permitted to operate within the Canandaigua Lake Watershed as shown on the Ontario County Canandaigua Lake Watershed Inspection Map (www.ontswcd.com). Applications for the installation of a large-scale solar energy system shall be reviewed by the CEO and referred with comments to the Planning Board for its review and action, which can include approval, approval with conditions, or denial.

- (b) Special use permit application requirements. In addition to the requirements set forth in § 170-91 of this chapter, the following information must be included with an application for a special use permit for large-scale solar energy systems.
- [i] If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - [ii] Plans showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required. A photograph of the site is also required.
 - [iii] Plans must demonstrate compliance with Chapter 148 (Steep Slopes) of the Code of the Town of South Bristol, and where required the issuance of a steep slopes permit.
 - [iv] The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - [v] All large-scale solar energy systems shall include a drainage and stormwater management plan that is acceptable to the Planning Board.
- (c) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, safety concerns, and access. The property operation and maintenance plan shall include details about the proposed use or uses of the remaining property not used for the large-scale solar energy system, as well as ingress and egress to all portions of the property.
- (d) Decommissioning plan. To ensure the proper removal of a large-scale solar energy system, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section.
- [i] In the event that the owner or lessee of any large-scale solar energy system ceases for a period of six months to use or operate the said system or in the event the said system fails to generate electrical energy, as supported by metered use thereof, for a period of six months, then in either event such facility shall be dismantled and removed from the site and the site shall be restored to the condition the property was in prior to the installation of such system by the owner or lessee. If the owner or lessee does not voluntarily dismantle the facility and remove the same from the site upon the occurrence of either event, the CEO may recommend to the Town Board that the Town Board declare the system abandoned based on either or both events and the Town Board, upon receiving the recommendation of

the CEO and holding a hearing on due notice to the property owner and operator of the facility, may declare the system abandoned and order the dismantling and removal of the system by the owner and/or operator or, after the passing of 30 days from the date the Town Board declares the facility abandoned, by Town staff or by a third party on contract with the Town. Failure to dismantle and remove a facility and restore the site to its natural state within 30 days after said facility has been declared abandoned by the Town Board upon recommendation of the Code Enforcement Officer will result in forfeiture or the filing of a claim against the letter of credit, cash bond, or surety posted by said owner or lessee of said facility, as provided in § **170-66F(1)(d)[4]** herein. The Town may also impose a lien on the property to cover removal costs, plus a service charge of 25% thereof, to cover the cost of supervision and administration, to the Town, and such amount shall be assessed against the property on which the facility was situate. The amount so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town taxes and charges. If a website has been established to monitor the activity of the array, it shall be provided to the Code Enforcement Office to prove the ongoing operation of the facility. If there is no monitoring system, the CEO may demand proof of operation from the owner, and the owner shall provide the same within five business days of receiving the demand.

- [ii] The plan shall demonstrate how the removal of all infrastructure both above and below ground and the remediation of soil and vegetation shall be conducted to return the parcel to the condition the property was in prior to the installation of the large- scale solar energy system.
 - [iii] The plan shall also include an expected timeline for execution.
 - [iv] A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer. Cost estimations shall take into account inflation. A letter of credit, bond, or surety shall be issued to the Town of South Bristol in that amount and shall remain in effect for as long as the large-scale energy system is in existence.
 - [v] Removal of large-scale solar energy systems must be completed in accordance with the decommissioning plan.
 - [vi] If the large-scale solar energy system is not decommissioned after being considered abandoned, the Town may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality and collect such amounts in the same way as other Town taxes, in addition to any other remedies available to the town.
- (e) Construction schedule. Applicants must submit a proposed schedule for the completion of the project, including the proposed start date and proposed date of substantial completion, the expected date of connection to the power grid, and the expected date on which operation of the photovoltaic system shall commence.

- (f) Special use permit standards. No special use permit for a large-scale solar energy system shall be issued unless the Planning Board specifically finds that the proposed project is in compliance with each of the following:
- (g) Setbacks. Large-scale solar energy systems shall adhere to the setback requirements of the underlying district.
- (h) Height. No part of the large-scale solar energy systems shall exceed eight feet in height when oriented at maximum tilt.
- (i) Lot coverage. A large-scale solar energy system that is ground mounted shall not exceed 50% of the lot on which it is installed, as measured by the perimeter occupied by the large-scale solar energy system.
- (j) All large-scale solar energy systems shall be enclosed by a berm and fencing 10 feet in height to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the property and of the solar energy system at locations acceptable to the Planning Board.
- (k) Large-scale solar energy systems shall be located on lots with a minimum size of one acre. Regardless of the size of the lot on which a large-scale solar energy system is located, the large-scale solar energy system shall not occupy an area greater than eight acres.
- (l) Transfer of ownership. If there is a transfer of ownership of the solar energy system or its lease, the new owners will comply with all original conditions as well as being responsible for bringing the solar array current with regulations in place at the time of sale or lease transfer.

§ 170-67. Townhouses, condominiums and cluster developments.

Townhouses, condominiums and cluster developments shall be permitted only as planned developments, subject to the provisions of § 170-20.

§ 170-68. Driveway entrance construction.

[Added 12-13-2010 by L.L. No. 1-2011]

- A. Purpose. It is the purpose hereof to establish minimum acceptable standards for installation, construction, relocation or modifications of driveways entering Town highways of the Town of South Bristol, for reasons of public safety and protection of Town highways.
- B. Permit required. No person, firm or corporation shall, after the effective date hereof, install, cut, construct, locate, relocate or modify the location of any driveway entrance or exit to any Town highway of the Town of South Bristol without having first received a permit to do so from the Superintendent of Highways of the Town of South Bristol.

- C. Application for permit. Any person, firm or corporation desiring to install, cut, construct, locate, relocate or modify the location of a driveway entrance or exit onto a Town highway of the Town of South Bristol shall make application for a permit to do so to the Superintendent of Highways of the Town of South Bristol. In addition to the general standard driveway entrance and exit crossing requirements set for in Subsection **D** hereof, the Superintendent of Highways of the Town of South Bristol may impose special requirements which the particular situation at the location where such driveway is sought to be located requires, in his sole judgment.
- D. Entrance and exit crossing requirements. The standard driveway entrance and/or exit requirements shall be as follows:
- (1) The applicant shall furnish and bear the cost for any culvert pipe that will be required. Any other materials will be supplied by the Town of South Bristol.
 - (2) No alteration or addition shall be made to any driveway heretofore or hereafter constructed, nor shall any such driveway be relocated without first securing a permit from the Superintendent of Highways.
 - (3) No more than two driveways to a single commercial establishment entering on one highway shall be permitted.
 - (4) The angle of the driveway with respect to the highway pavement shall not be less than 45°.
 - (5) No driveway shall be permitted within 100 feet of the centerline intersection of two public highways.
 - (6) No driveway will be permitted where the sight distance would create a driving hazard, in the sole judgment of the Superintendent of Highways.
 - (7) A fully dimensioned plan of the proposed driveway shall be attached to the application for a permit required hereunder and must be approved by the Highway Superintendent.
 - (8) Any culvert pipe required to be installed at a driveway entrance or exit shall be of corrugated plastic pipe with a smooth interior of a diameter specified by the Superintendent of Highways.
 - (9) Driveway entrances, curbing, gutter, drainage ditch and roadway interface shall be constructed so as not to:
 - (a) Channel drainage water from a driveway onto or across a highway.
 - (b) Channel drainage water from a highway onto or across another driveway.
 - (c) Interfere with drainage flow along any curbing, gutter or drainage ditch.
 - (10) Driveways shall be graded to the satisfaction of the Superintendent of Highways.

§ 170-69. Filling of land.

[Added 2-17-2014 by L.L. No. 3-2014]

A building permit shall be required for filling of land if it will result in an obstruction of a scenic view. Before a permit shall be issued, a site plan review by the Planning Board shall be required. The application to the Planning Board shall include such information as how much fill will be brought in,

what materials will be involved, the duration of the fill operation, etc. Once a fill permit has been issued and before any future building on the site begins, a geological test shall be conducted to determine if the site is stable enough to support any proposed structure.

§ 170-70. Prohibited uses.

[Added 2-17-2014 by L.L. No. 3-2014]

- A. Prohibition against the exploration for or extraction of natural gas and/or petroleum. No land in the Town shall be used:
- (1) To conduct any exploration for natural gas and/or petroleum.
 - (2) To drill any well for natural gas and/or petroleum.
 - (3) To transfer, pipeline, store, process or treat natural gas and/or petroleum;
[Amended 4-8-2019 by L.L. No. 4-2019]
 - (4) To dispose of natural gas and/or petroleum exploration or production wastes.
 - (5) To erect any derrick, building, or other structure or to place any machinery or equipment for any such purposes.

- B. Prohibition against the storage, treatment and disposal of natural gas and/or petroleum exploration and production materials. No land in the Town shall be used for the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production materials.
- C. Prohibition against the storage, treatment and disposal of natural gas and/or petroleum exploration and production wastes. No land in the Town shall be used for the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production wastes.
- D. Prohibition against natural gas and/or petroleum support activities. No land in the Town shall be used for natural gas and/or petroleum support activities.
- E. Invalidity of permits. No permit issued by any local, state or federal agency, commission or board for a use, which would violate the prohibitions of this section or of this chapter, shall be deemed valid within the Town.

§ 170-71. Short-term rentals.

[Added 3-9-2020 by L.L. No. 2-2020]

- A. Legislative intent. The purpose of this section is to control and regulate the use of short-term rentals within the Town. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods where such uses may exist and to mitigate the adverse effects of short-term rentals.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ADJACENT PROPERTIES

- (1) Other than as defined in paragraph (2) of this definition, this shall mean properties, parcels, lots or units situated near or next to, adjoining, contiguous or abutting the subject property, whether on the same side of the road, across the road or behind the subject property; and
- (2) When the subject property is a condominium unit that is a portion of a building containing condominium units on multiple floors with multiple condominium units on each floor, this shall mean all condominium units on the same floor as the subject property and also those condominium units adjoining directly above and below the subject property.

HABITABLE SPACE

The spaces in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, storage or utility spaces, garages, halls and laundry rooms are not considered habitable spaces.

OWNER

Person(s) and/or entity(ies) that hold(s) legal and/or equitable title to the short-term rental.

SHORT-TERM RENTAL

- (1) A dwelling unit or part thereof rented for compensation for lodging by individuals for a period of not more than 31 consecutive days.

- (2) For the purpose of this chapter, the term "short-term rental" shall not include a bed-and-breakfast, boarding/lodging house, hotel or motel.
- (3) Presumption of dwelling unit as short-term rental property.
 - (a) The presence of the following shall create a presumption that all or a part of a dwelling unit is being used as a short-term rental:
 - [1] All or a part of the dwelling unit is offered for lease on a short-term rental website, including, but not limited to, Airbnb, HomeAway, VRBO and the like, for a period of less than 31 days: and/or
 - [2] All or a part of the dwelling unit is offered for lease in any medium for a period of 31 days or less.
 - (b) The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the dwelling unit is not a short-term rental.
- (4) Ongoing month-to-month tenancies are not short-term rentals.

C. Required permit.

- (1) An owner shall obtain a revocable short-term rental permit prior to any dwelling unit being used for short-term rental purposes.
- (2) A short-term rental permit shall be valid for two years and must be renewed upon expiration as long as the unit is used as a short-term rental.
- (3) The short-term rental permit is not transferable to a new owner. The new owner of property subject to a short-term rental permit must file a new application in accordance with the terms of this section as if such property is not subject to a short-term rental permit.
- (4) No dwelling unit that was constructed as a single-family dwelling, two-family dwelling, multiple-family dwelling, dwelling with a business or dwelling above a first-floor business after the enactment of this section shall be eligible to apply for a short-term rental permit for two years after the issuance of the certificate of occupancy unless, at the time the application for the initial building permit for such dwelling is filed, an application for a short-term rental is also filed.
- (5) Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this section takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals but must apply, within 30 days of the effective date, for all future short-term rental commitments. In the event such application is denied, all commitments must be canceled.

D. Short-term rental permit application requirements.

- (1) Applications for a short-term rental permit may be obtained at the Town of South Bristol Code Enforcement office. A completed application for or renewal of a short-term rental permit shall be submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable permit fee to be determined from time to time by resolution of the Town Board, and contain at least the following:
 - (a) The signatures of all tenants and/or residents of the dwelling unit to which the short-term

rental permit would apply and the signatures of all owners.

- (b) A copy of the current vesting deed showing how title to the subject property is currently held.
 - (c) Permission for a property inspection by the Code Enforcement Officer.
 - (d) An acknowledgement of present and ongoing compliance with the short-term rental standards as defined in this section, including, but not limited to, the demonstration of adequate off-road parking spaces for the dwelling unit with proposed short-term rental.
 - (e) A list of all the existing property owners, tenants and/or residents of the dwelling unit that is or contains the short-term rental, including names, addresses, telephone numbers and email addresses of each.
 - (f) The name, address, telephone number and email address of a contact person who shall be responsible, and authorized, to act on the owners' behalf to promptly remedy any violation of the standards outlined in this section. The contact person may be an owner, or an agent designated by the owner(s) to serve as a contact person.
 - (g) An accurate, suitable floor plan measuring at least 8.5 inches by 11 inches, drawn to scale, and certified by the applicant. The floor plan need not be prepared by a professional but must include the following:
 - [1] The location of buildings and required parking.
 - [2] Basement: to include house utilities, all rooms including bedrooms, windows and exits.
 - [3] First floor: all rooms with exits, windows, bedrooms and any heating/cooling units.
 - [4] Second floor: all rooms including exits, windows, bedrooms and any heating/cooling units.
 - [5] Attic, if any: with all rooms including exits, windows, bedrooms and any heating/cooling units.
 - (h) A statement that none of the owners of the subject property has had a short-term rental permit revoked within the previous year.
- (2) All completed applications are subject to a floor plan review and approval by the Planning Board. Upon approval of the application, the Code Enforcement Officer shall grant a short-term rental permit.
- E. Short-term rental standards. All short-term rentals shall meet the following standards:
- (1) Property requirements.
 - (a) Smoke and carbon monoxide detectors. There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
 - (b) Emergency evacuation procedures. Evacuation procedures must be posted in each

sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.

(c) ABC fire extinguishers:

[1] There shall be an ABC fire extinguisher on each floor and in the kitchen.

[2] Fire extinguishers shall be inspected monthly by the permit holders.

(d) The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.

(e) Exterior doors shall be operational, and all passageways to exterior doors shall be clear and unobstructed.

(f) Electrical systems shall be inspected by a third-party electrical inspector to ensure no visual defects or unsafe conditions prior to the initial rental permit application.

(g) All fireplaces shall comply with all applicable laws and regulations.

(h) The property containing the proposed short-term rental must have a minimum of one off-road parking space for every bedroom shown on the floor plan included with the application. The maximum occupancy for each short-term rental unit shall not exceed two people per bedroom shown on the floor plan included with the application, and the maximum occupancy of any dwelling unit that is or contains a short-term rental shall not exceed 12 people total, based on the calculation of two people per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.

In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any dwelling unit that is or contains a short-term rental unit exceed 12 people, based on the calculation of two people per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.

(2) Insurance and registration standards.

(a) All applicants and permit holders must provide an evidence of property insurance and a certificate of liability insurance indicating the premises is rated as a short-term rental and maintain such insurance throughout the term of the short-term rental permit.

(3) Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors and placed where they are not clearly visible from the road except around pickup time.

(4) Rental contract. All applicants and permit holders must have a rental contract, which includes the following policies/statements:

(a) Maximum property occupancy.

(b) Maximum on-site parking provided.

(c) Good neighbor statement stating:

- [1] That the short-term rental is in a residential area in the Town of South Bristol and that renters should be conscious of the residents in neighboring homes.
- [2] A statement that guests must comply with the Noise Law of the Town of South Bristol as set forth in Chapter **113** of the Code of the Town of South Bristol;
- [3] All renters will be subject to New York Penal Law § 240.20 or any successor statute regarding disorderly conduct.
- [4] A statement that littering is illegal; and
- [5] A statement that all fires must be attended.

F. Procedure upon filing application.

- (1) Short-term rental permit applications shall be filed with the Town of South Bristol Code Enforcement Officer with all supporting documentations and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:
 - (a) Application and documentation required by this section was not included or the full permit fee paid.
 - (b) If the Town of South Bristol issued a short-term rental permit to any of the owners needing to sign the short-term rental permit application and any of such owners had a short-term rental permit revoked within the previous year.
- (2) Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this section and the application fee, the Code Enforcement Officer shall have 30 days to conduct a property inspection to certify and approve that all short-term rental requirements have been met.
- (3) Within 30 days of inspection and certification of the short-term rental application by the Code Enforcement Officer, the Code Enforcement Officer will schedule with the Town of South Bristol Planning Board a floor plan review.
- (4) The Town of South Bristol Planning Board will review the short-term rental application/preliminary floor plan and feedback from the Code Enforcement Officer to ensure that it meets all requirements as outlined in this section.
- (5) Upon review of the accepted completed short-term rental application by the Town of South Bristol Planning Board, the Planning Board will schedule a public hearing as outlined in § **170-94** of this chapter within 30 days. Public hearings will be advertised at least five days prior to the hearing date in a newspaper of general circulation as outlined in § **170-94** of this chapter.
- (6) Upon completion of the public hearing the Town of South Bristol Planning Board will approve, with or without conditions, or disapprove the short-term rental permit. In issuing a short-term rental permit, the Town Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for short-term rentals so long as such conditions and restrictions are consistent with the requirements of this chapter and are imposed for the purpose of minimizing any adverse impact the short-term

rental unit may have on the neighborhood or community.

- (7) Upon approval of the floor plan review/short-term rental application by the Town of South Bristol Planning Board, the Code Enforcement Officer will issue the applicant a short-term rental permit. Short-term rental permits issued pursuant to this section shall state the following:
 - (a) The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented.
 - (b) The maximum occupancy and vehicle limits for the short-term rental unit.
 - (c) Identification of the number of and location of parking spaces available.
 - (d) Any conditions imposed by the Planning Board and/or Code Enforcement Officer.
- (8) The short-term rental permit holder shall provide a copy of the short-term rental permit to the owners on record of all properties adjacent to the short-term rental property by either personally delivering or sending by first-class mail such copy to such owners at the address the Town Assessor has on file for each such adjacent property for the sending of property taxes. Regardless of the number of owners of any adjacent property, the short-term rental permit holder shall only need to serve one copy for each adjacent property by a method provided in the preceding sentence. The short-term rental permit holder shall provide to the Code Enforcement Officer within 30 days of when the permit is issued a statement of compliance with this provision, stating the owners served and the method of service (e.g., mail, personal delivery).

G. Conformity and display of permit.

- (1) A short-term rental permit is subject to continued compliance with the requirements of these regulations.
- (2) If the Code Enforcement Officer has probable cause to believe that the homeowner is not in compliance with the provisions of the Zoning Law, the Code Enforcement Officer may petition a court of competent jurisdiction for a search warrant to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. Alternatively, the Code Enforcement Officer may request permission from an owner of the short-term rental permit to come onto the property and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section, which permission the owners of the short-term rental are under no obligation to give. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.
- (3) Prior to any tenants coming onto the short-term rental property:
 - (a) The current short-term rental permit shall be prominently displayed inside and near the front entrance of the short-term rental; and
 - (b) A copy of the current list of short-term rental properties will be provided by the Code Enforcement Officer to the Fire Department having jurisdiction.
- (4) The owners must ensure that current and accurate information is provided to the Code

Enforcement Officer and that they notify the Code Enforcement Officer immediately upon any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit, the owners must immediately replace the permit displayed inside and near the front entrance of the short-term rental with the amended permit and must immediately provide a copy of the amended permit to every adjacent property owner as required in Subsection **F(8)** herein.

- (5) The short-term rental permit holder must conspicuously display the short-term rental permit number in all advertisements for the applicable short-term rental.

H. Compliance, hearings and penalties.

- (1) Violations of this section or of any short-term rental permit issued pursuant to this section shall be subject to enforcement and penalties prescribed in this chapter, as amended.
- (2) If the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this section or of any short-term rental permit issued pursuant to this section, the Code Enforcement Officer shall refer such matter to the Planning Board along with a copy of the complaint, if applicable, a written report, if any, pertaining to any investigation and/or inspection conducted relative to the alleged violation, and any other facts or documents pertaining thereto. The Planning Board shall schedule a hearing to be held within 30 days and mail, by first-class mail to the address(es) provided on the short-term rental application, written notice thereof to the owners and residents of the subject property no less than 10 days prior to the date of the hearing. At the conclusion of the hearing, the Planning Board shall determine if the terms of the short-term rental permit or the regulations contained in this section were violated; and, if it finds that there was a violation or violations, the Planning Board may take the following actions:
 - (a) Attach reasonable conditions to the existing short-term rental permit.
 - (b) Suspend the short-term rental permit; and/or
 - (c) Revoke the short-term rental permit. Should a permit be revoked, none of the owners of the short-term rental unit may obtain any short-term rental permit sooner than one year after the date of revocation.

I. Application for renewal of permit.

- (1) Application for renewal of the short-term rental permit is due 30 days prior to expiration and requires payment of the renewal fee.
- (2) At the time of application for renewal, the landlord, owner, or designated agent, if applicable, must present the previous permit for short-term rental.
- (3) The property must have undergone an inspection performed by the Code Officer, and all violations must be remedied prior to renewal of a permit for short-term rental.
- (4) Upon completion of the above items, the Code Enforcement Officer will issue a two-year permit renewal.

J. Grounds for suspension or revocation of permit. The Planning Board may suspend or revoke a short-term rental permit by application from the Code Enforcement Officer based upon, among others, any of the following grounds:

- (1) The applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property, or registration of property owner.
- (2) The applicant violated any provision of this section during the term of the short-term rental permit.
- (3) The applicant or any tenant violated any provisions of the Code of the Town of South Bristol.
- (4) The applicant or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of, the short-term rental unit.
- (5) Any conduct on the premises which is unreasonable under the circumstances, and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
- (6) Removal or disrepair of any safety devices, such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

§ 170-72. Brush, grass and weeds.

[Added 12-14-2020 by L.L. No. 4-2020]

- A. The purpose of this section is to control the spread of weeds to surrounding lots and the spread of allergy-irritating pollen to adjoining lots, to protect property values, to prevent blight and the spread thereof and to ensure Town-wide, uniform yard maintenance standards that will promote the health, safety and general welfare of the residents and business owners in the Town of South Bristol, their employees, patrons, guests and invitees and any travelers within the Town of South Bristol.
- B. Maintenance.
 - (1) The owner of every improved lot within the Town of South Bristol shall maintain such lot to ensure that no growth of weeds or grass shall exceed 10 inches in length or height and to ensure that there is no accumulation of dead weeds, grass or brush.
 - (2) The owner of every improved lot within the Town of South Bristol shall maintain such lot to ensure that all hedges, bushes and trees are kept trimmed and free from becoming overgrown and unsightly where exposed to public view or where the same may constitute a blighting factor thereby depreciating adjoining property.
 - (3) It is prohibited to allow hedges, shrubs or trees to encroach onto public sidewalks and lines of sight of public roadways.
- C. Administration and enforcement. The Town of South Bristol Code Enforcement Officer is hereby charged with the responsibility and duty to administer and enforce this section.
- D. Abatement of violations.
 - (1) If the provisions of the foregoing sections are not complied with, the Town of South Bristol Code Enforcement Officer shall serve, by regular, first class mail, written notice upon the owner, occupant or any person having the control of any such lot or land of such violation of this section and which advises such owner, occupant or person having the control of any such

ion within 10 days of the date such notice of violation is mailed.

(2) If the person upon whom the notice is served fails, neglects or refuses to cure the violation within 10 days of the date such notice is mailed, or if no person can be found in the Town of South Bristol who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the Town of South Bristol Code Enforcement Officer shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed, and the actual cost of such cutting and removal plus a service charge of 50% thereof to cover the cost of supervision and administration shall be certified by the Town of South Bristol Code Enforcement Officer to the Town Supervisor and such certified amount shall thereupon be charged and assessed against the owner, tenant or occupant of the property that was the subject of the violation. The expense, so assessed, shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town taxes and charges.

(3) The owner, occupant or any person having control over any lot, land or property found in violation of this section shall be notified in writing only once in any given year for a particular violation. Subsequent violations of a similar nature at the same location during the same year shall be corrected by the Town or its agent without notice to the owner, occupant or person having control of said property. After initial notification, such owner, occupant or person having control of said property will be presumed to have been given sufficient notice of infraction for the entire season. The costs incurred by the Town in curing any subsequent violations shall be collected in the same manner as set forth in Subsection **D(2)**.

§ 170-73. through § 170-79. (Reserved)

Article VII. Nonconforming Uses

§ 170-80. Intent and continuance.

[Amended 2-17-2014 by L.L. No. 3-2014]

Except as otherwise provided for in this article, the lawful use of buildings or properties existing at the date of the adoption of this chapter may be continued. It is the intent of this article that all nonconforming uses or lots shall not be enlarged upon, expanded or extended except in conformance with this chapter. For purposes of this section, an enlargement, expansion or extension is defined as an increase in the footprint. The following provisions shall apply to all nonconformities.

§
170-81. Certificate of nonconformity.

A. Upon written application by the owner of record of a nonconforming property, structure, parcel of

land or use, the Code Enforcement Officer shall issue a certificate of nonconformity. The Town Board shall set the fee for such certificate.

- B. Preexisting nonconformities. It shall be the duty of the applicant to provide sufficient documentation and other proof reasonably required by the Code Enforcement Officer to demonstrate that the property, structure, parcel of land or use became nonconforming upon the effective date of this chapter and solely because of the adoption of this chapter.
- C. Error caused nonconformities. If it is found at any time that a past error by a Town official has created a nonconformity, and if that nonconformity exists at present, then a certificate of nonconformity shall be issued. This action shall be without fee to the applicant.
- D. Other nonconformities. Unless the Code Enforcement Officer invokes powers under § 170-90, any property owner who has caused a nonconformity on his property because of ignorance or willful disregard of this chapter, may be issued a certificate of nonconformity only after all appropriate fees, fines and/or penalties have been paid.
- E. Nonconformity by variance. When a variance is issued to a conforming property, a nonconformity automatically results. Such nonconformity shall not also require a certificate of nonconformity, and the variance itself shall be sufficient.

§ 170-82. Certification.

- A. Prior to the issuance of a certificate of nonconformity, a written application for said certificate shall be completed by the property owner and filed with the Code Enforcement Officer. Said written application shall include a description of the lot and its uses, the location of all structures and property boundaries and a list of all existing nonconformities. Two copies of the certificate of nonconformity shall then be prepared, one for the property owner, and the other shall be filed in the office of the Code Enforcement Officer.
[Amended 10-14-2002 by L.L. No. 3-2002]
- B. Upon issuance of the certificate of nonconformity, the subject property shall become the equal of any other property, and the existence of the recognized and certified nonconformities shall not be a hindrance to the issuance of any building permits, variances or special use permits to the property in the future, except as otherwise provided herein.

§ 170-83. Change of nonconforming use.

[Amended 10-14-2002 by L.L. No. 3-2002]

Change of nonconforming use (employment): No change of a preexisting, nonconforming use of a structure or land to another nonconforming use shall be permitted, except by use variance.

§ 170-84. Abandonment.

If a nonconforming use or employment has been intentionally discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished.

§ 170-85. Restoration and alterations.

- A. Any nonconforming use or employment that exists when a certificate of nonconformity is issued may not thereafter be further enlarged or altered without a use variance.
- B. Normal maintenance and repair shall be permitted; provided, however, that they do not expand the area occupied by the nonconforming use.
[Amended 2-17-2014 by L.L. No. 3-2014]
- C. Any nonconforming building or structure that is destroyed intentionally or by natural causes such as fire, may be rebuilt within one year of such destruction, provided that any nonconformities of the building or the structure or its use do not exceed the nonconformities of the destroyed building or structure.
- D. Nothing herein shall prevent the strengthening or restoring to a safe condition of any wall, roof or structural part of a building or structure which has been declared unsafe by the Code Enforcement Officer of the Town Board of Health.

§ 170-86. Nonconforming signs.

Any nonconforming sign in existence at the time of the adoption of this chapter shall be allowed to continue, except as follows:

- A. Nonconforming signs shall not be altered unless in conformance with this chapter.
- B. Failure to keep a nonconforming sign in good repair within one year after notification by the Code Enforcement Officer shall constitute abandonment.

§ 170-87. District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein or created thereby.

§ 170-88. Prior construction.

Nothing herein shall require any change in the plans, construction or designated use of a structure for which a permit has been duly granted before the adoption of this chapter.

§ 170-89. (Reserved)

Article VIII. Administration and Enforcement

§ 170-90. Administrative and enforcing officer; powers and

duties.

[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014]

- A. This chapter shall be administered by the Code Enforcement Officer appointed by the Town Board. It shall be the duty of the Code Enforcement Officer to ensure the enforcement of this chapter, subject to the rules, regulations, resolutions, laws and ordinances of the Board of Appeals, Planning Board and Town Board and as set forth in Chapter **84**, Fire Prevention and Building Code Administration, as amended.
- B. In addition to the duties and powers of the Code Enforcement Officer as set forth in Chapter **84**, Fire Prevention and Building Code Administration, the Code Enforcement Officer shall have such additional duties and powers set forth herein. He shall order discontinuance of illegal uses of land or structures, removal of illegal structures or illegal additions, alterations, or structural changes; or discontinuance of any illegal work being done or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
- C. The Code Enforcement Officer shall provide the Board of Appeals or Planning Board, in writing, with all facts pertaining to his refusal to issue zoning/building permits and certificates whenever such information shall be requested by said Board.
- D. At the time an applicant applies for a zoning/building permit, the Code Enforcement Officer shall also make a determination as to whether or not the proposed use or construction which is being applied for is subject to action under SEQR. Excluded, exempt or Type II actions shall not be subject to the SEQR review process. If the Code Enforcement Officer determines that the proposed use or construction is subject to review, the procedures established by the Town, in accordance with regulations under SEQR, shall be followed prior to the issuance of a permit.

§ 170-92. Powers and duties of Zoning Board of Appeals.

- A. The Zoning Board of Appeals shall establish such rules and regulations as are required by New York State Town Law and the provisions of this chapter for the transaction of its business and may amend, modify and repeal the same from time to time.
- B. Administrative review. The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative officer or body in the enforcement of this chapter. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in accordance with New York State Town Law § 267 et seq.
- C. Variances.^[2]
 - (1) The Zoning Board of Appeals is empowered to authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest.

- (2) As used in this chapter, a variance is authorized for height, area, size of structure, size of yards and open spaces or establishment or expansion of a use otherwise prohibited.
- (3) A variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in other zoning districts.
- (4) In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable to preserve public health, safety and welfare.

D. Variance application Procedure.

- (1) All applications for variances shall be made to the Code Enforcement Officer on forms provided by him.
- (2) As part of the application, the owner must provide written consent to allow the Zoning Board of Appeals members to enter onto the subject property for purposes of inspecting it relative to the variance application.
- (3) The Code Enforcement Officer, after determining that an application is complete, shall transmit copies of the application and all supporting documents to the Board of Appeals for action thereon.
- (4) A copy of the complete application and supporting documents shall also be transmitted to the County Planning Board for review when required under Article 12-B, § 239-m, of the General Municipal Law.
- (5) The applicant shall prepare a site plan of the subject parcel for submission to the Board of Appeals, in accordance with this chapter, and shall comply with the review process under SEQR.
- (6) The Board of Appeals shall fix a time and place for a public hearing thereon and shall provide for the giving of notice as required by law by publishing a notice in the official newspaper of the Town at least five days prior to the date thereof. The Clerk of the Board shall mail a copy of such notice thereof to the applicant.
- (7) The Board of Appeals shall, within 62 days after the public hearing at which the application was considered, advise the applicant, the Code Enforcement Officer and the Town Clerk of its findings regarding the factors considered and other problems which can be anticipated from the proposed variance and of its approval, with any condition the Board of Appeals may find necessary, or of its disapproval, with its reasons in writing. A copy of the appropriate minutes may suffice for this notice. Whenever the Board of Appeals, after hearing all the evidence presented upon an application for appeal under the provisions of this chapter, denies or rejects the same, said Board shall refuse to hold further hearings on the same or substantially similar application for appeal by the same applicants, their successors or assigns for a period of one year, except as provided for in New York Town Law § 267 et seq.
- (8) Variances granted shall be the minimum which will accomplish the purpose of providing for reasonable use of land or buildings. Variances shall be granted only in conformity with the provisions of Town Law § 267-b. *Editor's Note: Former Subsection C, regarding special use permits, was repealed and former Subsection D was renumbered as C 10-14-2002 by L.L. No. 3-2002.*

§ 170-93. Appointment of Planning Board; powers and duties.

[Amended 10-14-2002 by L.L. No. 3-2002]

- A. Pursuant to the provisions of the New York State Town Law applicable thereto, the Town Board shall appoint a Planning Board consisting of the number of members and for the term of the years set forth in New York Town Law. Said members are hereby vested with powers and duties and made subject to the limitations set forth in §§ 271, 274-a, 276, 277, 278, 279 and 280-a of the New York State Town Law, as the same may be amended, modified or changed from time to time, or any sections subsequently adopted pertaining to the Planning Board.^[1]

[Amended 2-17-2014 by L.L. No. 3-2014]

[1] *Editor's Note: Former Subsection B, regarding the review of special use permits by the Planning Board, was repealed 8-9-2010 by L.L. No. 2-2010. This local law also provided for the redesignation of former Subsections C and D as Subsections B and C, respectively.*

- B. The Planning Board shall conduct a site plan review of applications for those special use permits specified in Article V.
- C. The Planning Board is hereby empowered to review site plans as authorized by New York State Town Law and in conformance with Article V and § 170-94 of this chapter.

[Amended 4-9-2018 by L.L. No. 3-2018]

§ 170-94. Site plan review.

[Amended 10-14-2002 by L.L. No. 3-2002; 2-17-2014 by L.L. No. 3-2014; 5-14-2015 by L.L. No. 3-2015; 11-14-2016 by L.L. No. 2-2016; 4-9-2018 by L.L. No. 3-2018]

- A. Uses and structures requiring site plan review. The following uses and structures shall require site plan review in accordance with this section:
- (1) All special uses in all Commercial Districts.
 - (2) Review of all other special uses shall be governed by the provisions of Article V. (See § 170-22E.)
 - (3) All uses on lots adjoining Canandaigua Lake in the R-3 District and all uses on every lot in the, C-1, LR and PD Districts, including uses not requiring a zoning/building permit.
[Amended 5-14-2015 by L.L. No. 3-2015; 11-14-2016 by L.L. No. 2-2016]
 - (4) All applications for the filling of land in all districts that will result in an obstruction of a scenic view.
 - (5) In the Lake Residential (LR) District and any parcel in the Three-Acre Residential (R-3), Planned Development (PD) and Light Commercial (C-1) District adjoining Canandaigua Lake:
 - (a) Seawalls, lake shore decks, or permanent docking structures.
 - (b) All new construction, additions to existing structures, and/or expansion of any impervious surface greater than 144 square feet, such as, but not limited to, sidewalks, driveways,

walkways, retaining walls, patios, and decks as required by Subsection **G** herein.

B. General procedural requirements.

- (1) Applications for site plan review and approval, with or without a sketch plan conference, shall be submitted to the Code Enforcement Officer in writing, in a form acceptable to the Planning Board. If the Code Enforcement Officer determines the application to be complete, the application shall be referred to the Planning Board at the next duly called meeting, provided that the materials to be submitted are received at least 10 business days in advance of said meeting. If the Code Enforcement Officer determines the application to be incomplete, the application shall be returned to the applicant and the Code Enforcement Officer shall inform the applicant of the deficiencies of the application.
- (2) The applicant may prepare a sketch plan for informal discussion with the Planning Board prior to submitting the official site plan for review. If the applicant does prepare a sketch plan, the Planning Board shall hold a sketch plan conference between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the site plan. Any determinations, which the Planning Board makes at this sketch plan conference, shall in no way limit what the Planning Board may require upon receipt and review of the actual site plan.
- (3) The Planning Board may, when requested by the applicant in writing and when reasonable, waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular site plan. In the event there is a request for a waiver of any item, a separate statement shall be attached to the application detailing the reason(s) for such a waiver. If the Planning Board shall deny the request for such waiver, the applicant shall submit an amended site plan within 30 days from such date of denial incorporating all such information required by this Section. An application shall not be deemed complete until such amended site plan is submitted and accepted by the Planning Board as being complete.
- (4) Ten Three stamped, signed and dated copies of the site plan shall be submitted to the Planning Board along with an electronic copy of all application material.
- (5) Fees in accordance with the current fee schedule adopted by the Town shall be paid at the filing of the application.
- (6) The Planning Board shall conduct a public hearing within 62 days from the day the Planning Board receives a complete site plan application. The Planning Board shall mail notice of said hearing to the applicant at least 10 days before said hearing, shall mail notice thereof to the County Planning Board, if required by § 239-m of the New York State General Municipal Law, which notice to the County Planning Board shall be accompanied by a full statement of such proposed action, as defined in § 239-m of the New York State General Municipal Law, shall give public notice of said hearing in the official Town newspaper at least five days prior to the date thereof and shall give notice in conformance with Subsection **G** of this section. The cost of preparing, publishing and mailing any required notices shall be borne by the applicant.
- (7) Reservation of parkland. In conjunction with its review of a site plan containing residential dwelling units, the Planning Board shall make findings and a determination that a proper case exists for requiring set-aside of parkland or payment of a fee in lieu thereof, such fee to be

determined by the Town Board, in compliance with New York State Town Law.

- (8) Prior to taking action on the final site plan, the Planning Board shall refer the complete application for site plan approval to the County Planning Board, when required, for advisory review and recommendation in accordance with the provisions of § 239-m of the New York State General Municipal Law, as amended.
- (9) Final site plan approval cannot be granted for any project until the provisions of § 239-m of the New York State General Municipal Law have been followed, if required, all necessary variances from the Town Zoning Board of Appeals have been granted and the requirements and regulations of the State Environmental Quality Review Act have been followed.
- (10) Within 62 days after the public hearing, the Planning Board shall render a decision on the site plan application by approving, approving with conditions or disapproving the site plan. An extension of time may be granted if mutually agreed to by both the Planning Board and the applicant.
- (11) Within five business days of the Planning Board resolution approving, conditionally approving or disapproving a final site plan, the Secretary of the Planning Board shall certify said resolution, shall file a copy of the certified resolution with the Town Clerk, and shall mail another copy of said certified resolution to the applicant.
- (12) In the event the final plan is approved with conditions, said conditions must be satisfied prior to the issuance of any building permits, certificates of occupancy or any other permits issued by the Town of South Bristol.

C. Site plan requirements.

- (1) Site plans shall be prepared by a New York State licensed professional engineer and/or surveyor.
- (2) The owner or owners of the property, which is the subject of the application for site plan approval, shall sign the application verifying that the application is made with their consent and that all information contained therein is true and correct.
- (3) The site plan shall be at a scale of not more than 40 feet to the inch.
- (4) Site plans shall show or be accompanied by the following information:
 - (a) An affidavit that the applicant is the owner or equitable owner of the land proposed to be developed or his or her legal representative.
 - (b) Information shown on the site plan shall be organized to clearly depict existing and proposed conditions and assist the Planning Board's understanding of potential impacts as well as proposed mitigation.
 - (c) The site plan shall show all of the following information:

D. General content.

- (1) All dimensions shall be shown in feet and in hundredths of a foot. Name of the owner of the property.
- (2) Names of owners of all abutting land.

- (3) Name and seal of the New York State licensed professional engineer or surveyor responsible for the plan.
- (4) Date, North point and scale. The site plan shall be at a scale of no more than 40 feet to the inch.
- (5) A legible location map. A map revision box.
- (6) A map legend/key.
- (7) A signature block for the Planning Board Chairperson and others as may be required.
- (8) An area for general map notes.
- (9) Existing conditions.
 - (a) Required building setback lines on each lot.
 - (b) The boundaries and nature of all existing easements, deed restrictions and other encumbrances.
 - (c) Existing contours at vertical intervals of two feet, including the source of the information. In the case of steep or unusual tracts, the Planning Board may require contours at such lesser intervals as it finds necessary for study and planning of the tract.
 - (d) Existing vegetative land cover.
 - (e) Delineation of natural features, including:
 - [i] Existing watercourses, drainageways, surface water features or other bodies of water abutting, running through or running along the boundary of the subject property.
 - [ii] Tree masses and other significant land cover.
 - [iii] Land exceeding a slope of 10%. The applicant shall show anything 15% or greater plus contours in ten-foot increments.
 - [iv] New York State Department of Environmental Conservation or federally regulated wetland.
 - [v] FEMA special flood hazard zone boundaries and designations, including the flood hazard zone, Community Map panel number and the effective date of the flood insurance mapping as shown.
 - [vi] Other natural features identified in the Natural Resources Inventory.
 - [vii] Floodplain certificate.
 - (f) All existing significant man-made features, including but not limited to:
 - [i] Buildings with property line setbacks.
 - [ii] Width, location, and sight distances for all private driveways.
 - [iii] Limits of pavement and parking areas.

- [iv] Existing streets on or adjacent to the subject lot, including names, right-of-way widths and pavement widths.
 - [v] Sanitary and storm sewers.
 - [vi] Wastewater treatment systems.
 - [vii] Public and private wells, water mains and fire hydrants.
 - [viii] Drainage features, including stormwater ponds, swales, culverts, and known underground drain tiles.
 - [ix] Location of all other existing utility lines and related facilities, including, gas, electric and telephone.
 - [x] Agricultural infrastructure including surface and access lanes for farm equipment.
- (g) Proposed conditions: development.
- [i] Delineation of all proposed sections or phases if any.
 - [ii] Delineation of limits of any land to be disturbed in any manner including areas to be cleared of vegetation, cut, filled, excavated, or graded. The delineation shall include dimensions and other references needed to allow efficient field verification.
 - [iii] Existing and proposed contours, at vertical intervals of no more than two (2) feet.
 - [iv] The boundaries and nature of all proposed easements, deed restrictions and other encumbrances.
 - [v] The proposed building setback from each property line and other buildings on the same lot.
 - [vi] Location and dimension of all areas to be protected as open space.
 - [vii] Location and dimensions of all public buildings, public areas and other parcels of land proposed to be dedicated to or reserved for public use.
 - [viii] Proposed location, boundaries, design, exterior dimensions and uses of all lot coverage items. The percent of lot coverage shall also be provided.
 - [ix] Identification of any proposed uses of the subject property and whether such uses will require any permanent or temporary structures or improvements or any approvals from the Town of South Bristol or from any New York State or federal agency.
 - [x] Location description, and plan for of all swales, ponds, basins, fences, dikes, retaining walls or other devices required to control soil erosion and sedimentation. Erosion control measures must be equivalent to the latest version of the New York State Standards for Erosion and Sediment Control.

- [xi] Location, design and type of construction of all parking, pavement, loading and unloading areas, showing access and egress and the number and dimensions of parking spaces.
 - [xii] Location and width of all proposed streets, alleys, rights-of-way and easements. The Planning Board shall have the right to name new developments and streets in accordance with historic characteristics of the community and the Ontario County 911 addressing policy.
 - [xiii] Typical cross-sections, street profiles and drainage details for all streets. Such profiles shall at least show the following: existing grade along the proposed street center line; existing grade along each side of the proposed street right-of-way; proposed finished center-line grade or proposed finished grade at top of curbs; sanitary sewer mains and manholes; and storm sewer mains, inlets, manholes and culverts.
 - [xiv] Location, design, type of construction and widths of all proposed driveway intersections with streets and sight distances therefrom. Suitable means of access in accordance with Town Code.
 - [xv] Location and size of all proposed water mains, laterals, hydrants, meters, and valves.
 - [xvi] Location of any public or private wells.
 - [xvii] Location, size and invert elevations of all proposed sanitary and storm sewers and location of all manholes, inlets and culverts.
- (h) Location, size and design of proposed on-site wastewater treatment systems. Site plan approval will not be granted until the Watershed Inspector or relevant government agency has reviewed and approved the location and design of the on-site wastewater treatment system.
 - (i) Location of all other proposed utility lines and related facilities, including, gas, electric and telephone.
 - (j) Proposed vegetative land cover and landscaping. Outdoor lighting.
 - (k) Location and design of all signs. Location of any outdoor storage, if any. Location of refuse/trash facilities, if any.
 - (l) A description of all approvals required from outside agencies.
 - (m) Schedule for development, including a detailed sequence of construction and estimated dates for start and completion.
 - (n) The Planning Board may require an applicant to submit additional information as may be needed to assess the potential impacts from the proposed development.
- E. Planning Board Review. The Planning Board's review of a site plan shall ensure that the proposed development provides for, as appropriate, the following, which said list shall not be all inclusive:
- (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 convenience.
 - (3) Location, arrangement, appearance and sufficiency of on-site parking, loading and unloading.
 - (4) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - (5) Adequacy of stormwater and drainage facilities, including ownership, maintenance provisions, etc.
 - (6) Adequacy of water supply and wastewater treatment system.
 - (7) When a site plan must include a wastewater treatment system, site plan approval will not be granted until the authority having jurisdiction to review and approve such system has made such review and issued approval relative to the location and design of the on-site wastewater treatment system.
 - (8) 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 and including provisions for maintenance and ownership of these areas.
 - (9) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 - (10) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - (11) Adequacy of fire lanes, emergency access and other emergency zones and the provision of fire hydrants.
 - (12) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- F. No modification of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with a moderate susceptibility to erosion or excavation for construction of site improvements shall begin until the developer has received final site plan approval. Construction within the floodplain will require that cut and fill must be balanced within the limits of the one-hundred-year floodplain as identified on the most recently released Flood Rate Insurance Maps published by the Federal Emergency Management Agency. Principal buildings and other structures shall be construed as fill for the purposes of this section. Failure to comply shall be construed as a violation of this chapter, and, where necessary, final site plan approval may require the modifications, restoration or removal of unapproved site changes.
- G. Site plan approval expiration.
- (1) Where a site plan approval is granted with conditions, it shall automatically terminate one year from the date of the decision granting conditional approval unless all of the conditions therein are satisfied. The applicant may make a written request to the Planning Board for an extension of this requirement. Upon its receipt of any such extension application, the Planning

- Board may extend the time for the applicant to satisfy all such conditions by up to one additional year from the date the approval would have expired. Site plan approval shall automatically terminate after the passing of such extended period unless all of the conditions therein are satisfied.
- (2) When a site plan is approved without conditions and when a site plan is approved with conditions and all such conditions have been satisfied within the time period established by Subsection **A** of this section, site plan approval will automatically expire six months after the same is granted unless a building permit has been issued and there is physical evidence that significant site preparation, such as excavation or foundation work, has commenced. In the event that a site plan approval has expired pursuant to this section, the Planning Board can grant a six-month extension only once upon written application by the permit holder.
- H. Site plan requirements applicable to the Lake Residential (LR) District and any parcel in the Three-Acre Residential (R-3), and Light Commercial (C-1) District adjoining Canandaigua Lake.
- (1) In addition to all other requirements of § **170-94**, in the Lake Residential (LR) District and any parcel in the Three-Acre Residential (R-3), and Light Commercial (C-1) District adjoining Canandaigua Lake, site plan review and approval of seawalls, lake shore decks, permanent docking structures, all new construction or additions to existing structures greater than 144 square feet, and/or expansion of any impervious surface greater than 144 square feet, such as, but not limited to, sidewalks, driveways, walkways, retaining walls, patios, and decks shall also be in conformance with this Subsection **G**.
- (a) Administrative review through the Zoning Officer shall be required for all such construction not subject to site plan review by the Planning Board or listed as exempt from site plan review herein.
- (b) Planning Board review. Any proposed disturbance totaling more than 400 square feet in area shall require site plan review and approval by the Planning Board.
- [1] In addition to the standards of review contained in § **170-94**, the Planning Board shall consider the aesthetics and impacts of a seawall in regard to adjacent properties and the seawall's appearance from the lake. The applicant must demonstrate that natural stone and/or vegetation is not a viable option, before the Planning Board grants approval.
- (c) The applicant shall provide a site plan in accordance with § **170-94**. In addition to the specified requirements, applications for site plan approval for onshore boat storage structures shall include a written description and/or drawings adequately demonstrating compliance with the Docks and Moorings Law ^[1] along with describing the general appearance and exterior finish of the structure or any other new construction.
- [1] *Editor's Note: See Ch. 73, Docking and Mooring.*
- (d) The Planning Board shall mail notice of the public hearing on such site plan review application required by this Subsection **G** at least ten days before such public hearing to the owners of all properties adjoining the property(ies) that is/are the subject of such application [including those directly across a public highway or private access right-of-way from the subject property(ies)].
- (2) Nonconforming buildings and lots.

- (a) Full zoning compliance. Where more than 50% of an existing building is to be reconstructed (by floor area) or expanded (by building footprint), the entire building shall be brought into compliance with lot coverage and setbacks. Where such standards cannot be reasonably met, a variance may be sought and reviewed by the Zoning Board of Appeals in accordance with §§ **170-91** and **170-92**.
- (b) Multiple residences on a single lot. Where more than one residence is located on a single lot and more than 50% of an existing building is to be reconstructed (by floor area) or expanded (by building footprint), the owner shall be required to eliminate the other residence(s) on the property, unless the applicant can show to the satisfaction of the Planning Board that the lot is of sufficient size and the buildings distributed in such a manner so that the property can be subdivided into conforming lots with a single residence on each.
- (3) Site plan required. Construction that exceeds the thresholds in Subsections **G(1)** or **(2)** shall require a site plan in accordance with § **170-94**, including any additional requirements of this Subsection **G**. Where the removal of one or more residences on a lot is required, the Planning Board shall specify a time frame for such removal of no more than two years upon approving a site plan and shall make such removal a condition of the issuance of an occupancy permit on the premises.
- (4) Minimum floor area. Year-round single-family residences shall be no less than 720 square feet. Where a preexisting lot is nonconforming due to lot size and lot width, and a year-round single-family residence of 720 square feet cannot be built without a variance from the lot coverage requirement, a seasonal residence of less than 720 square feet, but no less than 400 square feet may be constructed.
- (5) Demolitions and reconstruction of existing structures. Where a legally existing, nonconforming residence or seasonal dwelling is proposed to be demolished and where such residence is the only dwelling on the parcel, said dwelling may be reconstructed. The reconstructed lot coverage shall not exceed the original lot coverage.
- (a) The replacement dwelling shall be designed and constructed in accordance with the lot and building requirements set forth in the Schedule of District Regulations^[2] included as part of this Chapter and referred to in § **170-14A**.
- [2] *Editor's Note: The Schedule of District Regulations is included as an attachment to this chapter.*
- (b) Property owners will be permitted to replicate the former footprint of the demolished dwelling if the following requirements are met:
- [1] The dimensions of the proposed dwelling are the same as those of the original dwelling prior to demolition (habitable floor area, width, depth, etc.). The height of the new structure must be in accordance with the maximum height established for this district.
- [2] The replacement dwelling shall be sited to be a minimum of 10 feet from the property lines.

The regulations governing bisected lots are set forth in the Schedule of District Regulations.^[3]
Editor's Note: The Schedule of District Regulations is included as an attachment to this chapter.

- I. Reimbursable costs. 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 in accordance with the fee schedule then in effect. [See Subsection E (2) of this section.]
- J. Performance guaranty. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Code Enforcement Officer, Town Engineer, Town Attorney or other competent persons and approved by the Town Board.
- K. Inspection of improvements. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town Engineer and other officials and agencies, as appropriate.
- L. Integration of procedures. Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this chapter or the requirements of the Town subdivision regulations or SEQR regulations, or if a variance is required, the Planning Board shall attempt to integrate the site plan review as required by this section with the procedural and submission requirements for such other compliance.

§ 170-95. Fees.

- A. Fees, charges and expenses shall be assessed as part of the application for zoning permits, special use permits, variances, appeals, site plan approval, certificate of occupancy, certificate of compliance, certificate of nonconformity and amendments to defray expenses incurred in processing such applications.
- B. The Town Board shall establish a schedule of fees, charges and expenses and a procedure for their collection.
 - (1) The schedule of fees, charges and expenses shall be conspicuously posted in the Town Hall.
 - (2) The schedule of fees, charges and expenses may be altered or amended by resolution duly adopted by the Town Board.
 - (3) No action shall be taken on any application or appeal until all applicable fees, charges and expenses have been paid in full and notice thereof forwarded to the appropriate Board along with the application.

§ 170-96. Consulting fees.

- A. The Town Board, Code Enforcement Officer, Planning Board and Board of Appeals shall have the right to determine whether he or it needs to consult with professional outside consultants, including but not limited to attorneys, engineers, accountants, appraisers or other outside professional consultants, in order to properly review or evaluate any application submitted under this chapter for zoning permits, special use permits, variances, appeals, site plan approval, certificates of occupancy, certificates of compliance, certificates of nonconformity or Official Town

Zoning Map or Comprehensive Plan amendments. The costs incurred by said officer, by the Town Board, by the Planning Board, by the Zoning Board of Appeals or by any officer of the Town of South Bristol on behalf of the Town for such consultation fees or costs incurred in enforcing or complying with this Code, including but not limited to the costs of meeting the requirements of Article 6 of the Environmental Conservation Law (SEQRA), shall be reimbursed by the real property owner before a building permit, certificate of occupancy, or other permit, may be issued. If the real property owner fails to fully reimburse such costs, then said reimbursement costs levied pursuant to this chapter shall constitute a lien and charge on the real property that was the subject of review until paid or otherwise satisfied or discharged; and, if the same are not paid within 30 days after they shall be deemed payable, they shall be collected and enforced in the same manner and at the same time as other Town taxes and charges are permitted to be collected. [Amended 4-9-2018 by L.L. No. 3-2018]

- B. All of such consulting fees assessed to the applicant shall be paid in full to the Town by the applicant before the Code Enforcement Officer shall issue the applicable building permit, zoning permit, special use permit, variance, site plan approval, certificate of compliance, certificate of occupancy, certificate of nonconformity or Official Town Zoning Map or Comprehensive Plan amendments.

§ 170-97. Penalties for offenses.

- A. Criminal penalty.

[Amended 6-14-2021 by L.L. No. 3-2021]

- (1) Any person who violates or causes to be violated any provision of this chapter shall be guilty of a violation and shall be punishable as follows:

- (a) For a first offense, by a fine not exceeding \$350.

- (b) For a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 nor more than \$700.

- (c) For a third or subsequent offense, all of which occurred within a period of five years, by a fine of not less than \$700 nor more than \$1,000.

- (2) For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed violations. Each week's continued violation shall constitute a separate additional violation.

- B. However, the Town shall have the option of seeking a civil penalty not exceeding \$350 for a first offense; for a conviction of a second offense, both of which were committed within a period of five years, a civil penalty of not less than \$350 nor more than \$700, and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a civil penalty of not less than \$700 nor more than \$1,000.

- (1) In the event the penalty sought is within the jurisdiction of the justice court, as established in Article 18 of the Uniform Justice Court Act, such action to recover such penalty may, as shall be determined by the Town Attorney, be commenced as a small claim pursuant to the provisions of Article 18 of the Uniform Justice Court Act.