

**TOWN OF CHATHAM**

**ZONING IMPLEMENTATION COMMITTEE**

**FINAL DRAFT ZONING LAW**

**FOR RECOMMENDATION TO TOWN BOARD**

## Chapter 180, ZONING

### ARTICLE I, General Provisions

#### § 180-1. Purpose.

The purpose of this chapter is to exercise a town's right to protect its citizens by controlling the use of land so as to broadly protect the public health, safety and general welfare and to carry out locally established goals and objectives in accordance with a comprehensive plan designed to preserve and protect, for the benefit of the township as a whole, the basically rural-agricultural nature of the Town. A further purpose is to sustain a viable agricultural economy and protect farmland. Chatham's rural landscape pattern is typically a patchwork of lands shaped by current or past 'countryside' economic activities such as agriculture, forestry, or low density residential uses, interspersed with open spaces left or reverting to a natural state. There are local concentrations of population and structures in hamlets or the Village of Chatham, but these are typically of limited size. The Village of Chatham is a typical rural village in that it is larger than hamlets and has a higher share of structures devoted fully or partially to commercial activity. Rural villages do not have an extensive street grid or transportation network and have a pedestrian scale limited to a few blocks in breadth. Hamlets typically have a fairly well defined border/buffer of undeveloped open spaces and agricultural lands. Hamlets are typically located at key road crossings, near important civic structures such as places of worship, or adjacent to historically important natural features like streams. These areas have a diverse mix of lot size and architectural styles. Historic structures from various periods in the community's life are present. Outside these population 'centers', residents typically occupy a range of residential types such as estates, farmsteads and more modest homes. Features of active or past agricultural activity are often present, including but not limited to: crop fields, hay fields, livestock pasture, corrals, orchards, farm buildings such as barns or silos, stonewalls, windbreaks, hedgerows, or woodlots. Most of Chatham's local roadways tend to be narrow and curvy with limited driveways or crossroads. Many rural roads are lined with trees, fences, or stonewalls. Rural character also embodies a quality of life based upon traditional rural landscapes, activities, lifestyles, and aesthetic values. Rural areas are characterized by a balance between the natural environment and human uses with low-density residential dwellings, farms, forests, mining areas, outdoor recreation and other open space activities. "Rural character" shall also be defined as the patterns of land use and development:

- In which open space, the natural landscape, and vegetation predominate over the built environment
- That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas
- Citizens understand and value the nature of farming and the role it plays within the town
- That provide visual landscapes that are traditionally found in rural areas and communities
- That are compatible with the use of the land by wildlife and for fish and wildlife habitat
- That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development
- That generally do not require extensive municipal services
- That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

#### § 180-2. Title.

This chapter shall be known as the "Zoning Law of the Town of Chatham, New York."

#### § 180-3. Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety or the general welfare. Whenever

the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or those imposing the higher standards shall govern.

§ 180-4. Interpretation; definitions.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

A. Word usage.

- (1) The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (2) The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.
- (3) The word "shall" is mandatory; the word "may" is permissive.
- (4) The words "used or occupied" include the words "intended, designed or arranged to be used or occupied."
- (5) The word "lot" includes the words "plot" or "parcel."

B. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:

ARTICLE II, Definitions and Word Usage

**DEFINITIONS**    *cz* : *current zoning*                      *cp*: *comprehensive plan*        *new*: *added by TGR/ZIC*

**ABANDONMENT** - The discontinuance of use by not performing the normal functions associated with the mining operation for an eighteen-month period. (*cz*)

**ACCESSORY APARTMENT** - A dwelling unit that has been added onto, or created within, a single-family house. (*cz*)

**ACCESSORY USE OR STRUCTURE** - A use or structure on the same lot with and of a nature necessarily incidental and subordinate to the principal use or structure. Accessory uses and structures shall not be located in any required front yard, but structures 15 feet or less in height and 200 square feet or less in ground area may be located within a required side yard or rear yard, provided that such structure is not situated closer than 10 feet to any side or rear lot line. (*cz*)

**ADAPTIVE REUSE** - When an existing building is changed, renovated or adapted from a prior use to a new use. (*cp*)

**AFFECTED AREA** - The sum of that surface area of land or land under water which is to be disturbed by the mine. (*cz*)

**AFFORDABLE HOUSING** - Housing that costs no more than 30% of the buyer's income for principle, interest, taxes, and insurance. For someone making \$50,000 a year, an affordable house costs no more than \$15,000 a year (\$1250 per month). See Work Force Housing. (*cp*)

**AGRICULTURAL USE** - The land and on farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, aqua culture, livestock and livestock products as a commercial enterprise, including commercial horse boarding operations, timber processing, compost, mulch or other biomass crops and the

management and processing of “farm woodland” and at the end of such definition see also farm operation. (*CAP*)

**AGRICULTURAL DATA STATEMENT** - A document which identifies farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an application has been filed with the Planning Board, ZBA, and/or Town Board as provided in section 305-a of Article 23-AA of the NYS Agriculture and Markets Law. (*zic+cap*)

**AGRICULTURE** - All activities directly related to the grazing, growing or raising of crops or livestock, including but not limited to horticultural and fruit production, but not including timber harvesting, provided that such activities are conducted on 10 acres or more and produce a gross income of at least \$10,000 per year. (*ss*)

**AGRI-TOURISM** - Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-tourism activity must be secondary to the primary farm use on a property. Agri-tourism activities may be conducted in an accessory building or structure. Agri-tourism activities include, but are not limited to on-farm Bed and Breakfasts, farm stay programs, u-pick operations, maple sugaring, and pumpkin patches. (*zic+cap*)

**AMBIENT NOISE** - The all-encompassing noise associated with a given environment, being usually a composite of sounds from near and far. (*noise*)

**ANIMAL HOSPITAL** - Any facility dedicated to care and treatment of animals with overnight or short-term treatment, including a veterinary clinic, but shall not include a kennel, boarding, camp or other well-animal housing or care. (*new*)

**ANSI** - The American National Standards Institute, or its successor bodies. (*noise*)

**ANTENNA(S)** - A device used in communications which receives and transmits electromagnetic waves, microwave or other electronic communication signals from or to satellites or other instruments for television, radio, data, imagery, telephone or other forms of telecommunications or broadcast. (*cz*)

**ANTENNA ARRAY** - One or more whips, panels, discs, or similar devices used for the transmission or reception of frequency signals, which include omnidirectional antenna (whip), directional antenna (panel), and parabolic antenna (disc) but does not include the support structure defined hereinbelow. (*cz*)

**APPLICANT** - Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the Code Enforcement Officer or who has an application pending before the Zoning or Planning Boards. (*ss*)

**APPROVING AUTHORITY** - The Planning Board, Zoning Board, Town Board or Code Enforcement Officer or designee. (*ss*)

**ATMOSPHERIC POLLUTION** - Discharging from stacks, chimneys, exhausts, vents, ducts, openings, buildings, structures, premises, open fires, portable boilers, vehicles, processes, or any source, of any

smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other materials in such place, manner or concentration as to cause injury, detriment, nuisance or annoyance to the public, or to endanger the health, comfort, repose, safety or welfare of the public, or in such a manner as to cause or have a natural tendency to cause injury or damage to business or property. *(cz)*

**AUTOMOTIVE REPAIR** - A building other than a private or parking garage used for adjustment, painting, replacement of parts or other repair of motor vehicles or parts thereof, whether or not accessory or incidental to another use. *(cz)*

**AUTO SERVICE STATION** - Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles. A service station is not a sales, major repair or rental agency for autos, trucks or trailers. *(cz)*

**BACKGROUND NOISE** - Level of noise measured, including all sound sources except the specific sound source(s) in question that may be violating the ordinance. *(noise)*

**BANK** - Any structure which houses banks, trust companies, private bankers, savings banks, safe deposit companies, savings and loan associations, credit unions and investment companies or other financial depository activities as defined in the NYS Banking Law. *(new)*

**BED-AND-BREAKFAST** - An owner-occupied residence resulting from a conversion of a one-family dwelling, used for providing overnight accommodations and a morning meal to not more than ten transient lodgers and containing no more than five bedrooms for such lodgers. *(walt)*

**BEST MANAGEMENT PRACTICES (BMPs)** - Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. BMPs also include treatment practices, operating procedures and practices to control runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. *(ss)*

**BUFFER** - Open spaces, landscaped areas, fences, walls, berms or any combination used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances. *(cz)*

**BUILDING** - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind. *(cz)*

**BUILDING OR FACILITY, PUBLIC** - Any structure which is utilized solely for governmental or quasi-governmental activities, including but not limited to municipal buildings, post offices, and firehouses. *(new)*

**BUILDING, SEMI-PUBLIC** - Any structure which is utilized partially for governmental or quasi-governmental activities, including but not limited to municipal buildings, post offices, libraries, and firehouses and partially for other commercial or residential uses. *(new)*

**CAMOUFLAGING** - The construction of facilities to house or support communication towers so that the towers blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging that may be used are silo and barn, windmill and simulated tree. (cz)

**CAMP, DAY** - A use or parcel of land where people attend for any period of time up to year round, participating in organized activities, sports, and arts and crafts, and usually eating together in a central dining facility. Such use is typically targeted at a specific group or population, such as children, demographic or religious group but does not include any overnight accommodations.

**CAMP, OVERNIGHT** - A use or parcel of land where people attend for any period of time up to year round, participating in organized activities, sports, and arts and crafts, and usually eating together in a central dining facility. Such use is typically targeted at a specific group or population, such as children, demographic or religious group and may include overnight accommodations.

**CAMP, SUMMER** - A use or parcel of land where people spend all or part of a season living in tents, barracks, or dormitories, participating in organized activities, sports, and arts and crafts, and usually eating together in a central dining facility. Such use is typically targeted at a specific group or population, such as children, demographic or religious group and is open during the months of May through August.

**CAMPGROUND** - A parcel of land upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes, but shall not include uses limited solely to the personal use of the owner.

**CCSWCD** - The Columbia County Soil and Water Conservation District. (ss)

**CEASE TO OPERATE** - A discontinuance of use, not performing the normal functions associated with the communication tower and its equipment on a continuous and ongoing basis for over 120 days, unless extended by the Zoning Board of Appeals for good cause shown. (cz)

**CEMETERY** - A burial ground or graveyard, whether for private or public use. (new)

**CLEAN WATER ACT** - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and subsequent amendments thereto. (ss)

**CLEAR CUTTING** - Complete cutting and removing of an entire stand of trees replaced by natural or planted regeneration. (ss)

**CLEARING** - Any activity that removes the vegetative surface cover. (ss)

**COLLOCATION** - The mounting of antenna(s) or other telecommunications or broadcast equipment used by two or more providers, persons, firms or corporations on the same antenna support structure, monopole or antenna tower. (cz)

**COMMERCIAL HORSE BOARDING OPERATION** - The use of land for the boarding of horses or production for sale of crops, livestock and livestock products with or through both such boarding and such production. Under no circumstances shall this use be construed to include operations whose primary on site function is horse racing.

**COMMERCIAL EQUINE OPERATION** - The use of land for the provision of commercial equine activities including, but not limited to riding lessons, trial riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such products. Under no circumstances shall this use be construed to include operations whose primary on site function is horse racing.

**COMMON PLAN OF DEVELOPMENT** - Where multiple construction activities are occurring, or will occur, whether in stages or phases on a contiguous area. *(ss)*

**COMMUNICATION OR BROADCAST TOWER** - A structure on which antennas or other telecommunications or broadcast devices are located for television, radio, data, imagery, telephone or other forms of telecommunications. *(cz)*

**COMMUNICATION OR BROADCAST TOWERS AND FACILITIES** - A site development including a structure on which antennas or other telecommunications or broadcast devices are located for television, radio, data, imagery, telephone or other forms of telecommunications and all related structures and improvements necessary for the operation of said facility. *(cz)*

**COMPLETE APPLICATION** - An application which has been declared to be complete by the CEO/ZEO or Applicable lead agency or which has been legally deemed complete as a result of a failure to evaluate it for completeness within the required time period. *(ss)*

**CONDOMINIUM** - Multiple housing units that are individually owned, but that share land and infrastructure. They can be in the form of a multi-family house, multi-family apartment building or town houses. *(cp)*

**CONSERVATION SUBDIVISION** - A design process that allows for the creation of multiple homes on a parcel while setting aside at least 50% of the parcel as undeveloped. The undeveloped area becomes protected, preserved open space. Reduced lot sizes and flexible road standards allow development to take place on the least sensitive parts of the project site. In contrast, a conventional subdivision divides and develops all the land into roads and house lots with no regard for preservation of open space and natural areas. *(cz)*

**CONSTRUCTION ACTIVITY** - Activities such as, but not limited to, construction projects resulting in land disturbance of 20,000 square feet (if residential in nature), or, land development activities equal to or greater than 5,000 square feet (if commercial in nature). Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition. *(ss)*

**CONSISTENT IN SCALE** - The relationship of a particular project or development, in terms of size, height, bulk, intensity, and aesthetics to its surroundings.

**CONTINUING CARE RETIREMENT COMMUNITY (CCRC)** - A facility or facilities established to provide a comprehensive, cohesive living arrangement for the elderly, oriented to the enhancement of the quality of life and which, pursuant to the terms of the continuing care contract, at a minimum:

a. provides independent living units, and provides a meal plan. The independent living unit can be made available either through a non-equity arrangement or through an equity arrangement including, but not limited to a cooperative or condominium.

b. provides a range of health care and social services, subject to such terms as may be included within the contract, which shall include adult care facility services of an on-site or affiliated adult care facility, and at a minimum, sixty days of prepaid services of an on-site or affiliated nursing facility for residents not receiving services under a fee-for-service contract;

c. provides access to health services as defined in the contract, prescription drugs, and rehabilitation services (*zic*)

**DATE OF RECEIPT OF COMPLETE APPLICATION** - A complete application shall be deemed received by the Planning Board on the date of the first regular meeting of the Planning Board following the filing of the complete application and supporting plans with the Planning Board. (*ss*)

**DAY CARE** - Daytime care for the needs of people who cannot be fully independent, such as children or elderly people including such structures and surrounding areas utilized for such purpose. The definitions, approvals and requirements of NYS Social Services Law §390, et seq. (*new*)

**DECIBEL** - A standard unit of acoustic measurement having a zero-reference of two ten-thousandths (0.0002) microbar. (*noise*)

**DENSITY** - The number of families, individuals, dwelling units, households, or housing structures per unit of land. (*cp*)

**DEPOSIT** - To fill, place, eject or dump any material, but not including stormwater. (*ss*)

**DESIGN PROFESSIONAL** - New York State licensed professional engineer, professional land surveyor, licensed architect, certified professional in erosion and sediment control or other duly recognized professional performing service pursuant to said licensure and or certification. (*ss*)

**DIRECT DISCHARGE** - Means that runoff flows from a construction site by overland flow and the first point of discharge is the specific surface waterbody, or runoff flows from a construction site to a separate storm system and the first point of discharge from separate storm system is the specific surface waterbody. (*ss*)

**DISTURBANCE** - Site preparation or removal of vegetation, including but not limited to blasting, grading, excavation and filling and/or construction activities, including but not limited to the building of structures and driveways. (*ss*)

**DRAINAGE** - The gravitational movement of water or other liquids by surface runoff or overland surface flow. (*ss*)

**DRIVE-IN RESTAURANT or REFRESHMENT STAND or DRIVE THRU FACILITY** - Any place or premises used for the sale, dispensing or serving of any retail commodity, food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises, including food trucks or vehicles from which such commodities, food, etc. are sold. (*cz*)+(new)

**DWELLING, ACCESSORY RESIDENTIAL OR CARETAKER DWELLING** - A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only

which is an accessory use to the primary residential dwelling on the property which is subordinate in use and size to such primary residential dwelling.

**DWELLING, MULTIFAMILY** - A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided. *(cz)*

**DWELLING, SINGLE-FAMILY** - A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only. *(cz)*

**DWELLING, TWO-FAMILY** - A detached residential dwelling unit other than a mobile home, designed for and occupied by two families only. *(new)*

**DWELLING UNIT** - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sleeping and toilet facilities. *(cz)*

**ELDER COTTAGE HOUSING (ECHO)** - A modular cottage allowed as a permitted use or by special permit for temporary installation on a single-family residential premises, designed as housing for older persons as defined in the Federal Fair Housing Act, and to be occupied by one or two people who will benefit from living in close proximity to the principal residents of the premises. Mobile Homes may not be utilized as an ECHO unit. *(cp)*

**EMERGENCY** - A public calamity or the exposure of any person or property to imminent danger. *(noise)*

**ENVIRONMENTAL PERMIT or LAND DEVELOPMENT PERMIT** - That form of approval required to conduct regulated activities involving land development, timber harvesting, stormwater, soil erosion and sediment control, and any activity within wetland, watercourse or controlled areas. *(ss)*

**EROSION** - The wearing away of the land surface by action of wind, water, gravity or other natural forces. *(ss)*

**ESSENTIAL SERVICES** - The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs and similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. *(cz)*

**EXCAVATION** - The permanent removal of overburden and minerals, as defined herein, from the ground in the affected area— or any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits. *(ss)*

**FAMILY** - One or more persons related by blood, marriage or adoption, living and cooking together, exclusive of household servants; a number of persons living together as a single housekeeping unit, although not related by blood, adoption or marriage, shall be deemed to constitute a family unit. *(cz)*

FARMLAND - Any real property utilized by or in conjunction with a farm operation. (*zic+cap*)

FARM BREWERY, WINERY, CIDERY OR DISTILLERY - Any place, premises, or use located on a farm, in which New York State labelled beer, wine, cider or liquor is manufactured, stored and sold, as defined in the NYS Alcoholic Beverage Control Law. (*zic+cap*)

FARM OPERATION - The land and on-site buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial, for profit enterprise, including a commercial horse boarding operation and agri-tourism as defined in this Zoning Law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other. (*zic+cap*)

FARM OPERATIONS - All activities and practices which contribute to the growing or raising of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation. (*ss*)

FARM OR RESIDENTIAL POND - A man-made or artificially created body of water to be used for fire protection, recreation, beautification or agricultural purposes. (*cz*)

FILLING - Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds, wetlands or watercourses. (*ss*)

FINAL STABILIZATION - When all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches, riprap or geotextiles) have been employed on all areas not permanently improved by pavement, concrete or structures. (*ss*)

FOREST LAND - An ecosystem supporting a dense growth of trees. Fencerows alone do not constitute a forest system. (*ss*)

FORESTRY - The planting, protecting, thinning, controlled burning, felling, extracting, and/or processing of timber. (*zic+cap*)

GOLF COURSE and/or COUNTRY CLUB with or without clubhouse - A tract of land consisting of a landscaped area for playing golf or other sporting, recreational and social facilities, whether generally open to the public or having a private or semi-private membership including all associated structures. However, motorized vehicle racetracks or courses are not included in this or any other permitted use within the town. (*new*)

GRADING - The alteration or reshaping of the surface or subsurface conditions of land, lakes, ponds, wetlands or watercourses by excavation, filling, or any combination thereof. (*ss*)

GROUP HOME - A dwelling wherein more than one unrelated individuals reside based upon placement or the authority of a local, state or federal agency. (*zic*)

FIRING RANGE, INDOOR - A building utilized for shooting practice or other similar activities of fire arms or other weapons and which is conducted entirely within an enclosed building.

**FIRING RANGE, OUTDOOR** - A building or parcel of land utilized for shooting practice or other similar activities of fire arms or other weapons and which is not conducted entirely within an enclosed building.

**HAULAGEWAY** - All roads utilized for mining purposes, together with that area of land over which material is transported that are located within the permitted area. *(cz)*

**HAZARDOUS MATERIALS** - Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed. *(ss)*

**HISTORIC CHARACTER** - Describes the individual or collective qualities and attributes of Chatham's physical and visual landscape that embody or evoke the events, places, traditions, struggles, fashions, movements, and personalities of its past. Historic character also describes the unique architectural style and scale, including proportion, form, and architectural detail.

**HOME OCCUPATION** - Any occupation, business or professional activity that results in a product or service, that is conducted in whole or in part in a dwelling or residential accessory building (a building accessory to a dwelling) and that is clearly subordinate in space utilization and intensity to the residential use of the lot. *(cz)*

**HOSPITAL OR CLINIC** - An institution for health care providing patient treatment by specialized staff and equipment, and often, but not always providing for inpatient care or longer-term patient stays. *(new)*

**HOTEL or MOTEL** - An establishment that provides paid lodging on long-term or short-term basis, which does not include the provision of food or similar services as part of the cost for such lodging and without regard to whether the premises are owner-occupied. *(new)*

**HOUSE OF WORSHIP (Church, Synagogue, Temple, Mosque, etc.)** - A building, place or location of worship by a religion recognized as such by the State of New York or the United States of America *(new)*

**HUNTING PRESERVE** - The use of buildings and/or lands for the release or containment of animals for the purposes set forth in NYS Environmental Conservation Law Article 19 Title 17.

**IMPERVIOUS SURFACE OR COVER** - Those surfaces in the landscape which do not have a permanent vegetative cover and/or cannot effectively infiltrate rainfall, including but not limited to building rooftops, pavement, sidewalks, driveways and roads with a surface of compacted dirt or gravel, asphalt or concrete, decks and swimming pools. *(ss)*

**IMPORTANT AESTHETIC FEATURES** - Denotes elements of Chatham's architecture and landscape that have been identified by the community as significant to the local quality of life and sense of place. They may be specific elements such as structures, scenic roads, parks, waterways, crossroads, and stonewalls; or they may be more diffuse resources such as open spaces, formal/informal historic districts, and scenic views. This shall include historic structures and landscapes, country roads,

agricultural fields and operations, views of hills and mountains, streams and wetlands, and the hamlet areas. *(cp)*

IMPULSIVE NOISE - A noise of short duration. *(noise)*

INDIVIDUAL SEWAGE TREATMENT SYSTEM - A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility that treats sewage or other liquid wastes for discharges into groundwater of New York State, except where a permit for such a facility is required under the applicable provision of Article 17 of the Environmental Conservation Law (ECL). *(ss)*

INDUSTRIAL ACTIVITY - Activities requiring the SPDES Permit for Discharges from Industrial Activities Except Construction, GP-0-12-001, as amended or revised. *(ss)*

ILLICIT DISCHARGE - Any direct or indirect stormwater or non stormwater discharge without applicable permit(s). *(ss)*

KENNEL, BOARDING FACILITY OR ANIMAL CAMP - Any structure, facility, and grounds operated as site for the short- or long-term keeping of dogs, cats, domestic or farm animals, as those terms are defined in the NYS Agriculture and Markets Law. *(new)*

LAND DEVELOPMENT ACTIVITY - Any land or soil disturbance covered by this chapter. *(ss)*

LIBRARY - A structure or use where literary and artistic materials, such as computer access, books, periodicals, newspapers, pamphlets, prints, records, and tapes, are kept for reading, reference, or lending, including but not limited to the definition of such term as set forth in the NYS Education Law. *(new)*

LIMITED COMMERCIAL FACILITY – A retail shop with a maximum of 3,000 (three thousand) square feet. *(new)*

LOT - A lot is a parcel of land. Except as otherwise provided in this chapter, a lot shall be of sufficient size to meet minimum zoning and requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of: a single lot of record; a portion of a lot of record; a combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; or a parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter. *(cz)*

LOT MEASUREMENTS (See Exhibit A in Town Code for illustration.)

(1) DEPTH OF A LOT

— The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. *(cz)*

(2) WIDTH OF A LOT

— The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between the lot

lines of their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width, except in the case of lots on the turning circle of cul-de-sac where the 80% requirement shall not apply. (cz)

**LOT OF RECORD** A lot which is part of a subdivision recorded in the office of the Columbia County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded. (cz)

**MANUFACTURED HOME** - A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), *Manufactured Home Construction and Safety Standards*, 24 CFR Part 3208, 4/1/93, transportable in one or more sections, which in the traveling mode, is 8 feet (2438mm) or more in width or 40 feet (12192mm) or more in length, or, when erected on site, is 320 square feet (29.7m<sup>2</sup>) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle. (walt)

**MINE** - Any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use; all haulage ways and all equipment above, on or below the surface of the ground used in connection with such excavation, and all lands included in the life of the mine review by the DEC. (cz)

**MINERAL** - Peat, topsoil, sand and gravel shall be considered minerals. (cz)

**MINING FLOATING ZONE** - The area in which mining may occur within the Town's RL-1, RL-2, RL-3 and Industrial Zones and particular solely to each individual application. (cz)

**MINING OPERATION/MINING** - The excavation 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. (cz)

**MINING PLAN** - A description of the applicant's mining operation which shall include maps, plans, written materials and other documents as required by the Town and/or the DEC. (cz)

**MOBILE HOME** - A factory- manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which in traveling mode, is 8 feet (2438 mm) or more in width or 40 feet (12192 mm) or more in length, or when erected on site, is 320 square feet (29.7m<sup>2</sup>) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems

contained therein. The term “mobile home” shall not include travel trailers or any self-propelled recreational vehicle. *(walt)*

**MOBILE HOME PARK** - Any parcel of land which is planned and improved for the placement of two or more mobile or manufactured homes which are used as dwellings and for occupancy of more than 90 consecutive days. *(cz)*

**MODULAR HOME** - A factory-manufactured dwelling unit, conforming to applicable provisions of this code and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system of construction whereby the structure or its components are wholly or ins substantial part manufactured in a manufacturing facility, intended or designed for permanent installation, or assembly and permanent installation. *(walt)*

**MONOPOLE** - Any freestanding pole that serves as a communication or broadcast tower, and upon which an antenna, or antennas or other telecommunications or broadcast equipment, is or has been located. *(cz)*

**MOTORIZED VEHICLE RACE TRACK OR COURSE** - A circuit, a roadway, drag strip, path or similar layout utilized for testing, speed testing, speed contests, or driving of any motorized vehicle including but not limited to cars, trucks, snowmobiles, go carts, or any similar device whether open to the public or for private use, but not including an accessory use to a primary residential use solely for the recreational enjoyment of the residents of the parcel on which the use is conducted.

**MOTOR VEHICLE SALESROOM, GARAGE OR LOT** - Any structure or use of structure for the purpose of exhibiting, selling, leasing or otherwise offering cars, trucks, sport utility vehicles or any vehicle regulated by the NYS Department of Motor Vehicles. *(new)*

**MULCHING** - The application of a layer of organic material such as wood chips, hay, pine bark or other material at a sufficient thickness for the purpose of effectively controlling erosion. *(ss)*

**MUSEUM** - Any structure or use of a structure for the primary purpose of displaying, storing or exhibiting art or historic, scientific or cultural artifacts and/or objects. *(new)*

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)** - The national system for the issuance of wastewater and stormwater permits under the Federal Water Pollution Control Act (Clean Water Act). *(ss)*

**NEIGHBORHOOD COMMERCIAL FACILITY** - Any commercial facility, such as a grocery, general, newspaper or drug store or retail service establishment, intended principally to serve the area in which it is located. *(cz)*

**NONSTORMWATER DISCHARGE** - Any discharge that is not composed entirely of stormwater.

**NURSING OR CONVALESCENCE HOME** - A long-term care facility licensed by the State of New York that offers 24-hour room and board and health care services, including basic and skilled nursing care, rehabilitation, and a full range of other therapies, treatments, and programs. *(new)*

NURSERY and GREENHOUSE - Any operation engaged in the production of any agricultural plant to produce trees, shrubs, bushes, sod, flowers, ferns, plants or associated products that will be used in another location. *(new)*

NYSDEC - New York State Department of Environmental Conservation. *(ss)*

OCTAVE BAND - The range of sound frequencies divided into octaves in order to classify sound according to pitch. *(noise)*

OFFICE - A place in which business, clerical, or professional activities are conducted. *(new)*

OPERATOR and OPERATOR THEREOF - Any person, corporation, firm, partnership or other entity conducting a mining operation as defined herein with the Town of Chatham, Columbia County, New York, and shall include any owner of land or other premises situated within the said Town who permits or consents to the use of such land or other premises by any person, corporation, firm, partnership or other entity for a mining operation unless such other person, corporation, firm, partnership or other entity is conducting the same on such premises under a lease granting him sole occupancy, use and possession of such premises for a term of at least one year and is a permittee hereunder. *(cz)*

OVERBURDEN - All of the earth, vegetation and other materials which lie above or alongside a mineral deposit. *(cz)*

OWNER - Any person who has regular control of a device or site, including but not limited to the owner of a freehold of the premises or lesser estate therein or mortgages thereof or an agent or lessee of such person. *(noise)*

PARCEL - A separately assessed lot, piece or portion of real property except publically owned bridges and land used for street, road, highway, or parkway purposes, a parcel shall not be bisected by a municipal corporation boundary line or a designated lot, tract or area of land to be used, disturbed, developed or built upon as a unit. *(ss)*

#### PARKING SPACE, OFF-STREET

(1) For purposes of this chapter, a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another. *(cz)*

(2) For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated to be 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town. *(cz)*

PERSON - Any individual, organization, person, firm, partnership, association, corporation, company or legal entity of any kind, including any political subdivision of the state recognized by law and acting as either the owner or as owner's agent. *(ss)*

**PERSONAL SERVICE SHOP** - An establishment primarily engaged in providing services involving the care of a person or his or her apparel, such as a barbershop or beauty parlor, shoe repair, tailoring or dressmaking, optician, clothing, rental shop, photographic studio and other similar services. *(cz)*

**POCKET PARK** - A very small tract of land, designated and used by the public for active and passive recreation. These are often only large enough for a small garden, playground, picnic table or park benches. *(cp)*

**POLLUTANT AND POLLUTANTS OF CONCERN** - Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water, which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards as defined by NYSDEC in its regulations. *(ss)*

**PREMISES** - Any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips. *(ss)*

**PRIVATE STABLE** - A structure and/or use relating to the raising, riding, boarding, training or keeping of horses or other similar animals. This shall not include activities relating to the hiring or renting of such animals for recreational use. *(zic+cap)*

**PUBLIC UTILITY** - One or more persons or corporations operating an agency or agencies for public service, and who or which is or are subject to the jurisdiction, supervision, laws and regulations prescribed by or pursuant to provisions of the New York State Public Service Law, the NYS Public Service Commission or Title 16 of the New York Code of Rules and Regulations. *(new)*

**PURE TONE** - A sound having a single pitch. *(noise)*

**QUIET ZONE (SPACE)** - Any place normally associated with quiet or peaceful activity, including but not limited to a school, church, cemetery, Veterans' Parks, wildlife, nature preserve health-care facility, clinic or courthouse while the same is in session or conducting business therein. *(noise)*

**RECLAMATION** - The conditioning of the affected land to make it suitable for any productive use, including but not limited to the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, residential, commercial, industrial and historical sites or for other uses demonstrated to be consistent with the policy of the Town and/or the DEC. *(cz)*

**RECLAMATION PLAN** - A description of operations to be performed by the applicant to reclaim the land to be mined over the life of the mine. The reclamation plan shall include maps, plans, the schedule for reclamation, written material and other documents as required by the Town and/or the DEC. *(cz)*

**RECREATION FACILITY, COMMERCIAL** - A structure in which meetings are held, sports are played and activities are available to people of all ages and which conducted and utilized for financial benefit of the owner thereof. This use does not include Motorized Vehicle Race Track or Course, which use is not permitted.

RECREATIONAL AREA AND/OR FACILITY, NONPROFIT - A structure in which meetings are held, sports are played and activities are available to people of all ages and which is not conducted and utilized for financial benefit of the owner thereof under the sponsorship of a charitable organization or group. This use does not include Motorized Vehicle Race Track or Course, which use is not permitted.

RECREATION FACILITY, PRIVATE - A structure in which meetings are held, sports are played and activities are available to people of all ages and which conducted and utilized for financial benefit of the owner thereof which is available to a closed set of individuals or members. This use does not include Motorized Vehicle Race Track or Course, which use is not permitted.

RECREATION FACILITY, OUTDOOR - A recreational land use conducted outside of a building, typically involving athletic fields, miniature golf, skateboard park, swimming, bathing, wading and other therapeutic facilities, tennis, handball, basketball courts, batting cages, or trampoline facilities. This use does not include Motorized Vehicle Race Track or Course, which use is not permitted. *(new)*

REDEVELOPMENT - The reconstruction or modification of any previously developed land, regardless of use, which involves disturbance to soil or its existing overlaying cover. *(ss)*

RESEARCH OR TESTING FACILITY - A commercial structure and/or use for planned search or critical investigation and the translation of research findings or other knowledge into a plan or design for a new product or process or for a significant improvement to an existing product or process whether intended for sale or use. *(new)*

RESIDENTIAL CLUSTER - See Chatham Town Code, Chapter 135 Conservation Subdivisions. *(new)*

RESTAURANT - A use or structure in which prepares and serves food and/or drink is prepared and served to customers in return for money, including dining at such location, take-out or for delivery. *(new)*

RETAIL SALES - The use or act of making goods and/or commodities available for purchase or lease to the public, with the intent that such goods shall be utilized directly by the purchaser and not resold. *(new)*

RETAIL STORE/SHOP - The location or structure from which retail sales is conducted. *(new)*

SEDIMENT - Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited or has been removed from its site of origin by erosion. *(ss)*

SEDIMENTATION - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse or wetland. *(new)*

SELF STORAGE FACILITY - Commercial structures divided into spaces that are rented to consumers for storage of possessions on a weekly, monthly or other similar periodic basis.

SENIOR HOUSING - Independent living apartments or cottages, condominiums, adult homes, assisted living, nursing homes, and Continuing Care Retirement Communities (CCRC's). *(cp)*

**SENSITIVE ENVIRONMENTAL FEATURE** - Refers to a natural resource that has a high potential for significant damage or degradation from direct or cumulative impacts arising from new development or shifts in existing land uses. Some sensitive environmental features have been inventoried mapped or identified as being locally, regionally, nationally, or globally significant for its rarity and/or degree of threat faced. Typical examples include but are not limited to, wetlands, streams/river corridors, steep slopes, floodplains, highly erodible soils, and aquifer recharge and discharge areas, and habitats of rare or endangered species. *(cp)*

**SEQRA** - This stands for the State Environmental Quality Review Act which is the New York State law that regulates when and how environmental reviews for development projects will be done. *(cp)*

**SETBACK** - The distance between a building and any lot line. *(cp)*

**SCHOOL, PRIVATE** - A use, structure(s) or institution for learning and subsidized by non-public, non-governmental or other similar funding. *(new)*

**SCHOOL, PUBLIC** - A use, structure(s) or institution for learning and subsidized by taxes, governmental or other similar funding. *(new)*

**SIGN** - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. *(cz)*

**SIGN, OFF-SITE** - A sign other than an on-site sign. *(cz)*

**SIGN, ON-SITE** - A sign relating in its subject matter to the premises on which it is located, or to product, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business. *(cz)*

#### **SIGNS, NUMBERS AND SURFACE AREA**

(1) For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. *(cz)*

(2) The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign, and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. *(cz)*

**SINGLE OWNERSHIP** - As used in this chapter, means ownership by the same party with identical names (or combination of names) as shown on the deed. *(cz)*

**SITE DISTURBANCE** - Any activity that removes the vegetative cover from the land surface or changes the contour of the land surface. *(new)*

**SITE PREPARATION** - The activities of stripping, excavation, filling and grading, no matter what the purpose of these activities. *(ss)*

SKETCH PLAN - A concept or informal map of a proposed subdivision or site plan that has sufficient accuracy to be used for the purpose of discussion during the initial stages of a review process. (*cp*)

SLOPE - The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run.

SLOPE - Land with a topographic gradient usually expressed as percent slope, the percent being calculated by measuring vertical elevation change relative to horizontal distance. A slope of 15% means a fifteen foot rise in elevation from one point to another along a one-hundred-foot horizontal plane (calculated as: fifteen-foot rise over one-hundred-foot horizontal distance equals fifteen-percent slope). (*ss*)

SOIL - All unconsolidated mineral or nonliving organic material of whatever origin which overlies bedrock. (*ss*)

SOUND - An oscillation in pressure, partial velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of the medium. (*noise*)

SOUND-LEVEL METER - An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks, used for the measurement of sound in a specified manner and calibrated in decibels. (*noise*)

SOUND REPRODUCTION DEVICE - Any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, phonograph, stereo, tape player, musical instrument, television, loudspeaker or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sound. (*noise*)

SPECIAL PERMIT USE - A special permit use is one that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as specific provision for such special permits is made in this chapter and if it is in accordance with the Comprehensive Plan. (*cz*)

STAND, ROADSIDE OR FARM - A structure utilized in conjunction with a farm operation from which agricultural products generated by such farm operation are sold. (*zic+cap*)

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) - The system established pursuant to Article 17 of the ECL and 6 NYCRR Part 750 for issuance of permits authorizing discharges to the waters of the state. (*ss*)

STEEP SLOPES - Any slope with topographic gradient of 20% or higher. (*ss*)

STRIPPING - Any activity which removes or significantly disturbs trees, brush, grass or any other kind of vegetation. (*ss*)

STRUCTURE - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, swimming pools, mobile homes, walls, fences and tennis courts. *(cz)*

SUBSIDIZED RENTAL UNIT - Assistance toward rental or purchase price from public or private agency. This is different from "affordable housing" (see above). *(cp)*

SUMMER OR SEASONAL CAMPS and RETREATS - A recreational institution, use, structure(s) or place with accommodations of tents, buildings, trailers or other structures, providing facilities for outdoor activities, sports, crafts, and other special interests during a short, specified period of time during the year, typically the summer or winter months. *(new)*

SUPPORT STRUCTURE - A structure defined and constructed specifically to support an array antenna, and may include a monopole, self-supporting (lattice) tower, guy wire support tower and other similar structures. Any device which is used to attach a tower facility to an existing building or structure shall be included in this definition. *(cz)*

SWIMMING POOL - Any structure intended for swimming or recreational bathing capable of containing water over twenty four inches deep (six hundred and ten centimeters) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas. *(walt)*

SWIMMING POOL, PRIVATE WITH FENCE - A swimming pool intended solely for personal use in conjunction with a residence and not open to the public, which in accordance with the NYS Fire and Building Code, necessarily requires the installation of a protective barrier surrounding such pool to prevent unwanted access. *(new)*

SWPPP - The stormwater pollution prevention plan. *(ss)*

THEATER - A use or structure where performances or motion-picture shows can be presented. *(new)*

TIMBER HARVESTING - The felling of trees for commercial lumber or firewood production.

TOPSOIL - The natural surface layer of soil, usually darker than subsurface layers, to a depth of at least six inches within an undisturbed area of soils. *(ss)*

TOTAL MAXIMUM DAILY LOAD (TMDL) - The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of the pollutant. *(ss)*

TOWER FACILITY or FACILITY - See "communication or broadcast towers and facilities." *(cz)*

TOWN HOUSE - A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof with open space on at least two sides. *(walt)*

TRAVEL TRAILER - Any portable vehicle or structure which is designed to be transported on its own wheels; which is designed and intended to be used for temporary living quarters for travel, recreational

or vacation purposes; and which may or may not include one or all of the accommodations and facilities included in a mobile home. *(cz)*

**TRAVEL TRAILER CAMP** - A use or parcel of land where persons rent or own a portion of the land for seasonal camping in a travel trailer. Storage of travel trailers may occur when not being occupied during the off-season in accordance with the requirements of this Chapter. *(zic)*

**TRAVEL TRAILER STORAGE FACILITY** - The storage of a travel trailers and other motorized or non-motorized vehicles. *(zic)*

**UNREASONABLE NOISES** - Any noise which is defined in §180-41 hereinafter. *(noise)*

**VARIANCE** - A variance is a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. *(cz)*

**VEGETATIVE COVER** - Grasses, shrubs, trees, and other vegetation which hold and stabilize soils. *(new)*

**VETERINARY OFFICE** - A building or use where the practice of the profession of veterinary medicine is carried out and shall include diagnosing, treating, operating, or prescribing for any animal disease, pain, injury, deformity or physical condition, or the subcutaneous insertion of a microchip intended to be used to identify an animal. This use shall not include kennels, boarding facility or animal camps. *(new)*

**WASTEWATER** - Water that is not stormwater, is contaminated with pollutants and is or will be discarded. *(ss)*

**WATER BODY** - Any natural or artificial pond, lake, reservoir or other area containing a surface area of over 1,000 square feet and which usually or intermittently contains water and has a discernible shoreline. *(ss)*

**WATERCOURSE** - Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainageway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and bank and any area adjacent thereto subject to inundation by reason of overflow, flood or stormwater. For the purpose of this chapter of the Town Code, the term "watercourse" shall be deemed to include ponds and lakes. *(ss)*

**WATER RECREATION** - Activities, sports or hobbies which occur, whether in whole or in part, in, on, around or related to water, including but not limited to swimming, boating, fishing, and water skiing. *(new)*

**WATER STORAGE** - A use or structure intended to retain water for current or future consumption or use, including but not limited to water towers, reservoirs and dams. *(new)*

**WAREHOUSE** - A building or part of a building for storing of goods, wares and merchandise, whether for the owner or for others, and whether for a public or private use.

WEDDING OR PRIVATE EVENT FACILITY - A location where events are held, including but not limited to weddings, parties meetings, family reunions, and corporate events. The event locations can include, but not limited to tents, gazebos, barns, open areas, and residential structures. Events for which the owner or operator of the venue receives no fee or other remuneration in connection with the event and no fees are charged to attendees shall not be considered commercial events. Events held by not-for-profit organizations by and for their membership shall not be considered commercial events.

WETLANDS - Any wetlands, as that term is defined by the DEC in Article 24 Fresh Water Wetlands, Title 23 of Article 71 of the ECL and or as defined by Section 404 of the Clean Water Act, or as otherwise Protected by the Code of the Town of Chatham. (ss)

WHOLESALE - The use or act of making goods and/or commodities available for purchase or lease, with the intent that such goods shall be resold.

WORKFORCE HOUSING - Housing that is economically feasible for families whose income level is categorized as moderate within the standards set by HUD or a local housing agency. (cp)

ZERO-LOT LINE - The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line. (cp)

### ARTICLE III, Establishment of Districts and District Regulations

#### § 180-5. Zoning Map and districts.

The Zoning Map officially entitled "Chatham Zoning Map" is hereby adopted as part of this chapter. Said Map shows a division of the Town into the following districts:

- H-2 Hamlet Two
- H-1 Hamlet One
- RL-3 Rural Lands Three
- RL-2 Rural Lands Two
- RL-1 Rural Lands One
- B Business
- I Industrial
- T-1 Tower One
- T-2 Tower Two
- T-3 Tower Three
- M Mining Floating
- EPO-1 Environmental Protection Overlay –Steep Slopes
- EPO-2 Environmental Protection Overlay – Scenic Views/Ridge Lines

#### § 180-6. Copies of Zoning Map.

Regardless of the existence of other printed copies of the Zoning Map, which from time to time may be made or published, the official Zoning Map which shall be located in the office of the Town Clerk shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town.

#### § 180-7. District boundaries.

District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the center lines. The abandonment of roads shall not affect the location of such district boundaries. When the Zoning Enforcement Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Board of Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this chapter.

§ 180-8. Lots.

A. Lots which abut on more than one street shall provide required frontage along every street.

B. Projections into minimum yard.

(1) All structures, whether attached to the principal structure or not, and whether open or enclosed, shall not project into any minimum yard.

(2) Overhangs, cornices, bay windows, etc., may project two feet six inches into a minimum yard.

(3) Porches without roofs, balconies not acting as roofs and entrance steps may project five feet into a minimum yard for a width not exceeding 16 feet.

(4) Structures essentially at grade level, such as paved terraces and retaining walls less than two feet in height, may project into minimum yards but may not be closer than four feet to any lot line.

(5) Open fences and railings less than three feet in height are excluded from minimum yard requirements. Fences up to six feet in height are excluded from side and rear yard requirements and may project four feet into the front yard.

C. In any district, notwithstanding limitations imposed by other provisions of this chapter, a single lot in existence on July 2, 1972, may be built upon subject to the following conditions:

(1) Such lot must be in separate ownership, and not of continuous frontage with other such lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width of the lot shall conform to the regulations for the district in which the lot is located.

(2) Notwithstanding separate deeds or legal descriptions, all lands which are contiguous or separated by a Town or county road, and are in single ownership, shall be considered to be a single parcel for the purpose of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot width or area below requirements stated in this chapter. If any of these lots contain more than one main dwelling or structure, the Zoning Board of Appeals will give consideration to a variance.

§ 180-9. District objectives and land use controls.

A. The following tables state the objectives of each district and the regulations for each district.

B. No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located.

C. No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, and/or to have narrower or smaller rear yards, front yards, side yards, inner or outer courts, than specified herein for the district in which such building is located.

D. No part of a required minimum yard or other open space about any building shall be included as a part of a yard or other open space similarly required for another building.

E. On Town roads, the front yard is to be measured from the center of the road, adding 25 feet to the required front yard.

F. The reviewing CEO/ZEO and /or the Board of any application hereunder shall review and consider GIS maps, associated information and impacts during its review of all applications hereunder.

§ 180-10. Hamlet-Residential Uses  
Standard Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family(acres)	Front	Each Side	Rear
1.5	150	0.75	25	25	25

Permitted Uses

Single-family and two-family dwelling  
Accessory uses  
Private swimming pools with fence  
Home Occupations 1  
Farm or residential pond  
Accessory Apartments

Permitted with Special Use Permit

ECHO dwellings  
Multi-family residential dwellings  
Home Occupations 2  
Barn & Garage  
Conservation Subdivision  
Workforce Housing

180-11. Hamlet – Non- Residential Uses  
Standard Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family(acres)	Front	Each Side	Rear
1.5	150	0.75	25	25	25

Permitted Uses

Accessory uses  
Home Occupations 1  
House of worship  
Museum  
Limited Commercial Facility  
Small non-profit recreational area  
Neighborhood commercial facility  
Group home

Permitted with Special Use Permit

Barn & Garage  
Day-care  
Bed and Breakfast  
Roadside Stands  
Home Occupations 2  
Commercial Horse Boarding/Commercial Equine Operations  
Personal service shop  
Restaurants

§ 180-12. RL-1 Rural Lands One.

Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family(acres)	Front	Each Side	Rear
10	300	5	50	50	50

Permitted Uses

- Single-family and two family dwelling
- Accessory use, including private recreational courts
- Agricultural, including nurseries and greenhouses
- Farm or residential pond
- Forestry
- Golf Course
- Home Occupations 1
- Private swimming pool with fence
- Public outdoor recreation
- Single-family dwelling
- Farm or residential pond
- Private Swimming Pool with fence
- Timber harvesting with permit
- Commercial Horse Boarding/Commercial Equine Operation

Permitted Uses With Special Permits

- Animal Hospital
- Bed and Breakfasts
- Commercial horse farms and riding academies
- Clubhouse, in connection with golf course or other outdoor recreation facility
- Nonprofit recreation facilities
- Conservation Subdivision
- Travel trailer camps
- Water recreation and water storage facility
- Workforce Housing
- Home Occupations 2
- Multi-family residential dwelling
- Roadside Stands
- Water storage facility or in ground reservoir
- Public outdoor recreation (for-profit/not-for-profit)
- Outdoor firing ranges and hunting preserves
- Camp grounds
- Commercial Horse Boarding
- Riding academies and riding rings
- Agri-tourism
- Continuing Care Retirement Communities (CCRC)
- Group homes
- Museums, art galleries, performing art centers
- House of worship
- Cemeteries
- ECHO and/or Accessory Apartment
- Caretaker dwellings
- Kennel, boarding facility or animal camp
- Personal service shop
- Travel Trailer Storage Facility
- Wedding or private event facility

180-13. RL-2 Rural Lands Two  
Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family (acres)	Front	Each Side	Rear
5	300	2.5	50	50	50

Permitted Uses

- Single-family and two-family dwellings
- Accessory uses and buildings

Permitted Uses With Special Permits

- ECHO and/or Accessory Apartment
- Animal hospital

Agricultural, including sale of farm produce	Cemeteries
Commercial Horse Boarding/Commercial Equine Operation	Churches
Farm or residential pond	Drive-in theaters
Forestry	Mobile home parks
Timber harvesting with permit	Golf course and tennis courts
Farm or residential pond	Bed and Breakfast
Roadside Stands	Public and semipublic buildings and uses
Nurseries and greenhouses	Recreational facilities and recreational buildings
Private swimming pool with fence	Residential cluster
Public outdoor recreational facility	Summer camps and retreats
Single-family dwelling	Travel trailer camps
Nurseries	Water recreation and water storage
Greenhouses	Home Occupations 2
Home Occupations 1	Hotel
Private Swimming Pool with fence	Motel
Recreational Courts	Multi-family residential dwelling
Golf courses and driving ranges	Small non-profit recreational area
Bed and Breakfasts	Commercial Horse Boarding
	Riding academies and rings
	Agri-tourism
	Water storage facility or in ground reservoir
	Public outdoor recreation (for-profit and not-for profit)
	Outdoor firing ranges and hunting preserves
	Camp grounds
	Continuing Care Retirement Communities (CCRCs)
	Group homes
	Museums, art galleries, performing art centers
	House of worship
	Cemeteries
	Workforce Housing – rental or for-sale units (single, double, or multi-family)
	Caretaker dwellings
	Work Force Housing
	Kennel, boarding facility or animal camp
	Personal service shop
	Travel Trailer Storage Facility

§ 180-14. RL-3 Rural Lands Three  
Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family (acres)	Front	Each Side	Rear
3	300	1.5	50	50	50

Permitted Uses	Permitted Uses With Special Permits
Single-family and two-family dwellings	ECHO and/or Accessory Apartment
Accessory uses and buildings	Animal hospital
Agricultural, including sale of farm produce	Cemeteries
Commercial Horse Boarding/Commercial Equine Operation	Churches
Farm or residential pond	Drive-in theaters

Forestry  
 Golf course and tennis courts  
 Nurseries and greenhouses  
 Private swimming pool with fence  
 Public outdoor recreational facility  
 Single-family dwelling  
 Nurseries  
 Greenhouses  
 Home Occupations 1  
 Private Swimming Pool with fence  
 Recreational Courts  
 Golf courses and driving ranges  
 Caretaker dwellings  
 Cemeteries  
 House of worship  
 Farm or residential pond  
 Timber harvesting with permit  
 Continuing Care Retirement Communities (CCRCs) –  
 Must have a minimum of 50 acres  
 Group homes

Mobile home parks  
 Public and semipublic buildings and uses  
 Recreational facilities and recreational buildings  
 Residential cluster  
 Summer camps and retreats  
 Travel trailer camps  
 Water recreation and water storage  
 Home Occupations 2  
 Hotel  
 Motel  
 Multi-family residential dwelling  
 Bed and Breakfasts  
 Small non-profit recreational area  
 Roadside Stands  
 Camp grounds  
 Bed and Breakfast  
 Water storage facility or in ground reservoir  
 Elevated storage units only, unless not possible,  
 then visual impact study required. Elevated  
 units sited following strict height, width  
 Public outdoor recreation (for-profit and not-for profit)  
 Outdoor firing ranges and hunting preserves  
 Museums, art galleries, performing art centers  
 Workforce Housing  
 Kennel, boarding facility or animal camp  
 Nursing or convalescence home  
 Personal service shop  
 Travel trailer storage facility

§ 180-15. B Business.

Lot Size, Density and Yard Dimensions

Minimum Lot Size

Area (acres)	Width (feet)	Minimum Area/Family(acres)
2	200	0.5

Minimum Yard Dimensions (feet)

Front	Each Side	Rear
25	--	50

Permitted Uses

Accessory use  
 Auto service station  
 Clubhouse  
 Bank  
 Clinic

Permitted Uses With Special Permits

Churches  
 Multifamily dwelling  
 Private club or school  
 Theater  
 Self Storage Facility

Commercial Horse Boarding/Commercial Equine Operation	Automotive repair facilities
Dry cleaning	Automotive repair facilities with car sales
Farm or residential pond	Accessory use
Health club	Kennel, boarding facility or animal camp
Health or dental office	House of Worship
Greenhouse	Commercial recreation
Hotel or motel	Personal service shop
Motor vehicle salesroom and garage	Mini-mart--with/without drive-thru facility
Office	Mini-warehouse
Single- and two-family dwellings	Motor vehicle salesroom and garage
Retail sales	Multi-family residential dwelling
Retail store or shop	Parking Lot
	Continuing Care Retirement Communities (CCRCs)
	Personal service shop
	Private club or school
	Research or testing laboratory
	Restaurant
	Theater
	Social Clubhouse
	Bed and Breakfasts
	Roadside Stands
	Wedding or private event facility
	Work Force Housing

§ 180-16. I Industrial.

Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family (acres)	Front	Each Side	Rear
2	200	--	25	50	50

Permitted Uses

Accessory use  
Any manufacturer, compounding, processing, packing, treatment of warehousing of goods and products, provided that the use meets standards of performance of this chapter  
Farm or residential pond  
Retail sales  
Health club  
Office  
Research or testing laboratories  
Self Storage Facility  
Warehousing or truck terminals  
Mini-mart—with/without drive-thru facility  
Mini-warehouse  
Office  
Theater  
Commercial Horse Boarding/Commercial Equine Operation

Permitted Uses With Special Permits

Commercial use serving the industrial area  
Automotive repair  
Automotive repair facilities car sales  
Social Clubhouse  
Fuel Storage Facility  
Dry cleaning  
Greenhouse  
Roadside Stands  
Bed and Breakfasts  
Wedding or private event facility  
Kennel, boarding facility or animal camp  
Personal service shop

§ 180-17. T-1 Tower One, T-2 Tower Two, T-3 Tower Three.

A. These special overlay areas provide locations for the construction of communication and broadcast towers by special use permit and in accordance with federal and state law. No additional permitted or permitted uses with special permits are hereby established. Minimum setback requirements of the various affected underlying zones shall not be reduced by the implementation of these zones. Such setbacks shall be increased within the T-1, T-2, and T-3 Zones by a distance equal to the height of the tower or the distance of the corresponding minimum yard setback (front, side and rear) according to the requirements for that zone as stated in the lot size, density and yard dimensions of the Town of Chatham Town Code, whichever is greater. Additionally, the base of any guy wire shall be subject to the normal setback requirements of the underlying zone in which the proposed tower is to be sited. However, no applicant shall receive a special use permit hereunder in Zones T-2 and T-3 unless the applicant provides sufficient evidence to show that a tower in such zone is necessary to provide reasonable coverage within the Town of Chatham as set forth hereinafter.

B. The following three special overlay communication and broadcast tower and facility zoning districts within the Town of Chatham are hereby created:

- (1) District T-1, consisting of the area of land within the New York State Thruway right-of-way commencing and entering the Hamlet of North Chatham at or near the intersection of State Route 203 and Smith Road and traversing the Town in a generally southeasterly direction and exiting the Town in the Hamlet of East Chatham at or near the intersection of County Route 9 and Old Mill Street;
- (2) District T-2, consisting of the area of land within 2,000 feet of the center line of the Taconic State Parkway right-of-way bounded by the Town of Chatham/Village of Chatham/Town of Ghent/Town of Austerlitz Town line on the south and NYS Route 295 to the north, except any area within 500 feet of NYS Route 295; and
- (3) District T-3, consisting of the area of land bounded by the Town of Chatham/Town of Kinderhook Town line and Route 203 on the west; the Conrail tracks on the south; Goold Road on the east; and Sutherland and Sullivan Road on the north.

C. Antenna arrays shall be allowed on tall structures throughout the Town, provided that the Zoning Board of Appeals determines that such installation will not extend the height of the structure more than five feet, can be appropriately camouflaged and otherwise conforms to the requirements of this chapter.

§ 180-18. Mining Floating M Zone.

Mining of all kinds is prohibited throughout the Town of Chatham except as specifically set forth in this section. The Town Board seeks to promote the safety, health and general welfare of the residents of the Town of Chatham by removing the danger to health, safety and life caused by creation of excessive noise and/or light; excessive quantities of dust; deep excavations remaining in the ground; traffic dangers; exposure of the bare earth to wind action and other natural elements; creation of artificial pools of water; pollution of water; danger to the groundwater, watershed, wildlife resources, including flora and fauna, and destruction of natural drainageways. A Mining Floating Zone, hereinafter also referred to as an "M" Zone, is hereby established for such use. It is designed to mitigate impacts and to assure that any mining is compatible with the character of the surrounding community, and to prevent excessive noise; prevent land from being left in a hazardous state; prevent

soil erosion; protect the natural vegetative cover of such land; and prevent destruction of natural drainageways. At the same time, it is recognized that the mining provided for in this Mining Floating Zone is necessary and useful and should be allowed when not in conflict with the express purposes of this section. There is hereby created a Mining Floating Zone located as shown and so designated on the Zoning Map of the Town of Chatham, which is a part of the Code of the Town of Chatham, and shall be added to § 180-5 thereof. Enactment of a local law by the Town Board is required to locate an M Zone. An M Zone may be created only within the RL-1, RL-2, RL-3 and I Zones.

Lot Size, Density and Yard Dimensions

Minimum Lot Size			Minimum Yard Dimensions (feet)		
Area (acres)	Width (feet)	Minimum Area/Family (acres)	Front	Each Side	Rear
10	400	--	200	200	200

A. Application process.

- (1) A person seeking to locate an M Zone shall file an application with the Town Clerk, signed by the owner or owners of the property or a by a duly designated and authorized agent of said owner or owners.
- (2) Once the Town Board has received a complete application to locate an M Zone, it may decide to meet with the applicant to discuss the application and determine whether additional information is needed. The Town Board may, at its discretion, decline to consider any application for a Mining Floating Zone. The Board may also, at its discretion, decide to hold informational meeting(s) to obtain public input on the proposal.
- (3) If the Town Board decides to consider the application to locate an M Zone, it shall transmit a copy of the complete application to both the Zoning Board of Appeals and the Planning Board for a review and recommendation. The Boards shall officially respond to the Town Board's referral within 45 days of the receipt of the application from the Town Board, unless either Board requests an extension and such extension is granted by the Town Board. In addition, the complete application shall be referred to the Columbia County Planning Department as may be required by the New York State General Municipal Law.
- (4) The Town Board shall comply with all State Environmental Quality Review Act requirements.
- (5) If the Town Board decides to consider the application to locate an M Zone, the Town Board shall schedule a public hearing on the proposed M Zone application in compliance with all applicable sections of Town Law. The Zoning and Planning Boards' recommendation and the referral from the Columbia County Planning Department, if any, shall be introduced at the public hearing and become a part of the official meeting minutes.
- (6) Within 60 days after completion of the public hearing, the Town Board shall determine whether to approve, approve with conditions or deny the application. In considering an application for designation of an M Zone, the Town Board must determine that the application meets the following:
  - (a) The use shall be designed, located and operated so as to protect the public health, safety and welfare of the community.
  - (b) The location, size, nature and intensity of the use, the size of the site in relation to the use and the location of the site, with respect to streets giving access to the use, shall assure that the use will be in harmony with the appropriate and orderly development of the neighborhood in which the use will be located and the nature and height of the buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

- (c) The use shall be designed, located and operated so as to protect the groundwater; any residential or commercial water supply; drainage; nearby wetlands and nearby critical environmental areas as defined in the State Environmental Quality Review Act.
- (d) The use shall not be more objectionable to nearby properties, by reason of aesthetic or visual impact, noise, fumes, vibration or flashing lights, than would any permitted use in the area.
- (e) The use shall not generate undue traffic congestion, create a traffic hazard or impact the safety of children on school bus routes.
- (f) The use shall have adequate road frontage and safe access directly onto a paved Town, county or state highway.
- (g) The use shall be designed in accordance with the approval standards specified in Subsection D below.

(7) If the Town Board decides to grant the application for an M Zone, this chapter shall be amended to reflect the changes to the text of the zone regulations, and the zone, appropriately labeled, shall be shown on the Zoning Map. The boundaries of the M Zone shall be no less than 200 feet from the property line of the adjacent properties.

(8) Within six months after the Town Board has adopted a zoning amendment creating an M Zone, the applicant shall apply to the Planning Board for site plan approval pursuant to this chapter. The Planning Board shall grant approval if it finds that the site plan satisfies the standards and criteria of this section and this chapter. If more than six months elapse between Town Board approval and the submission of a site plan application, the M Zone designation shall expire, and the property shall revert to its previous zoning classification, following notice to the applicant and owner and a public hearing, unless an extension is granted to the applicant by the Town Board.

(9) If, after the passage of one year from the date of site plan approval by the Planning Board the mining operation has not started, the M Zone designation shall expire and the property shall revert to its previous zoning classification, unless the applicant shall obtain an extension from the Town Board.

#### B. Application information.

(1) An applicant for a Mining Floating Zone and site plan approval under this section shall file 25 copies with the Town Clerk. The application shall state the specific intended use for the property and shall include a schematic site plan depicting the approximate size, height and location of the proposed structures, parking areas, roads, open space and other facilities. An application for an M Zone shall also include a completed short or full environmental assessment form as required by SEQRA, Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations. Each copy thereof shall set forth and include:

- (a) Copy of any document submitted to or received from the New York State Department of Environmental Conservation (the "DEC") in connection with an application submitted to such agency, including but not limited to the applicable mining permit granted by the said DEC.
- (b) A detailed statement of the nature of the proposed operation and the manner in which it is proposed to be conducted, and of the number of acres of land to be used in connection therewith.
- (c) A statement as to the nature and type of any structure to be used in such operation and either presently on the area of proposed operations or to be built thereon.
- (d) A statement as to the source of required water to be utilized in the operation and the amount of such use annually.

- (e) A statement as to the amount of minerals proposed to be removed and the manner of removal thereof during the permit period and during any subsequent period.
- (f) A statement as to the period of time required to complete the proposed mining operation, including any proposed restoration and reclamation.
- (g) A proposed plan of reclamation of the area proposed for such usage, with a statement as to the amount of such reclamation proposed to be accomplished within the permit period, and a time schedule as to reclamation proposed to be accomplished subsequent to the permit period. Where no reclamation is proposed, a statement to that effect will be submitted stating the reason or reasons that reclamation is not proposed. Where a proposed plan of reclamation is submitted, an easement executed and acknowledged by the owner or, if more than one, the owners, running to the Town and permitting entry on the land to perform reclamation in the event of the failure of the applicant to the Town's satisfaction shall be submitted.
- (h) A statement setting forth the proposed hours of operation; the level of traffic to be produced and the proposed routes to be used by such traffic during such time.
- (i) An abstract of title or other satisfactory evidence of the ownership of the land on which the operation is to be conducted.
- (j) A statement as to the existing groundwater level, and the methodology for arriving at such statement, at the location proposed for the M Zone.
- (k) A topographical map showing the boundary of the total property on which the operation is proposed to be conducted and all other adjacent property and streets and highways within 500 feet of the perimeter of the land on which the operation is proposed to be conducted and, also, showing all structures within the area of the map, the owners of all land shown on the map and the zoning classification of all such land. Such map shall show contour elevations at two-foot intervals using United States Geological Survey data. Such map may be referred to as the "topographical site map."
- (l) A statement as to the current zoning classification of the land on which the operation is proposed to be conducted.
- (m) A topographical map showing the boundary of the total property on which the operation is proposed to be conducted distinctly outlined and all property within 500 feet thereof, with contour elevations at two-foot intervals using United States Geological Survey data and showing, in a distinctive fashion, proposed contour elevations at two-foot heights after reclamation, if any is proposed, and after each stage thereof. Such map may be referred to as the "reclamation plan map."
- (n) The written, notarized consent of each nonapplicant owner of the premises on which the operation is proposed to be conducted.
- (o) A statement setting forth the record of compliance for any prior mining activities of the applicant or any related person.

(2) Each such map shall be prepared by either a professional engineer duly licensed by the State of New York or by a surveyor duly licensed by the State of New York and shall be certified to the Town as to the accuracy thereof by such preparer. Such certification shall be provided within 30 days of the date of the application to the Town Board and shall be recertified within 30 days of the date of the site plan review application, unless such site plan review application is made within 30 days of the enactment by the Town Board of the M Zone. Each such map shall be drawn in a scale of not greater than one inch to 100 feet nor less than one inch to 20 feet.

(3) Upon acceptance of the application and the deeming of same to be complete by the Town Board, the applicant shall by certified mail notify all landowners whose land is adjacent to the perimeter of the proposed zone, or within 500 feet thereof, of the application.

C. Public hearing. No new M Zone may be located and no approval under this section shall be issued under this section until after a public hearing by the Town Board, in accordance with the Town Code. Before the Town Board public hearing, the Town Code Enforcement Officer shall investigate the facts and circumstances of the application and submit a report in writing to the Town Board prior to the public hearing, which report shall either be read at the public hearing or made available for public inspection during the hearing and which shall include but not be limited to a recommendation regarding whether the application complies with the zoning requirements and whether all items required herein have been submitted. Nothing contained in the preceding sentence shall be deemed to limit the power of the Town Board to act on the application if the Town Code Enforcement Officer fails to submit such a report. The Town Board may hold a preliminary hearing or hearings or a preliminary conference or conferences with the applicant or his representative, and any such preliminary conference or preliminary hearing may be held without public notice.

D. Approval standards. Each local law locating an M Zone shall include, but not be limited to, the following provisions:

- (1) Mining operations may only be conducted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 12:00 noon on Saturdays. Mining operations may not occur on any Sunday or legal holidays as set by the Town Board.
- (2) All access points and roadways to the affected area shall be from a paved Town, county or state highway. No vehicles utilizing or accessing the affected area shall stop, stand, park or idle outside the affected area.
- (3) All mining operations shall be conducted without unnecessary noise and shall at all times be in conformity with then-enacted portions of the Town Code relating to noise.
- (4) Barriers shall be erected and maintained around the area of operation and shall have no openings other than a gate or gates for ingress and egress, and each such gate shall be kept locked at all times except during the working hours of the operation when the operator or an owner of the land or an agent or employee of the operator or of the owner is inside. Such barrier shall be maintained until reclamation of the area is complete, and after reclamation such barrier shall be maintained around each and every pit or excavation exceeding six feet in depth. This standard may be waived or modified with respect to any particular mining operation, provided the Town Board finds that the public safety will not be jeopardized, and subject to such conditions as the Town Board may impose.
- (5) At no time shall any mining operations be conducted within 200 feet of any adjacent property line or the boundary of any public street or highway.
- (6) At no time shall any mining operations, parking of vehicles or equipment or stockpiling of mineral, overburden or other product of the mining operation be conducted within 200 feet of any residence or business structure.
- (7) All mining operations shall be conducted in a safe manner, and all slopes shall be excavated and maintained at safe angles to prevent collapse of upper grade surfaces and danger to children.
- (8) No excavation shall adversely affect groundwater levels of other properties.
- (9) All haulageways shall be paved with blacktop or similar material for a minimum of 250 feet from intersection with the public roadway. All other haulageways shall be topped and maintained with materials of no less quality than item four gravel, or comparable quality, within the affected area.
- (10) Any vehicle entering a public road shall be free of exterior dirt, mud or other debris and shall be washed prior to leaving the limits of any affected area, if necessary to remove same.

- (11) Overburden removed in connection with any such operation shall not be removed from the premises and shall be arranged in a berm-like condition in a manner designed to help prevent noise, dust, and other emissions from escaping the mine. In the event that topsoil is the product being removed from the mining operation, sufficient reserves of such material shall be kept within the affected area sufficient to complete the reclamation plan.
- (12) Topsoil shall be re-spread upon the surface of the land from which such minerals have been removed unless this requirement is expressly waived by the Town Board.
- (13) All haulageways shall be at all points at least 200 feet from any residence or public building, provided that this standard may be waived or modified by the Town Board.
- (14) All materials used as fill shall be free from garbage, refuse, offal or other deleterious or unwholesome matter.
- (15) All areas on which overburden has been re-spread, as required hereinabove, or by any approved plan of reclamation, shall be prepared for and seeded with grass, unless other vegetation or planting with vines or other covering is specified in an approved plan of reclamation.
- (16) All trucks hauling materials from any operation regulated or licensed under this section shall be loaded in such a manner as not to spread or spill such materials on any street or highway within the confines of the Town.
- (17) No removal of earth from the ground shall be made in such manner as to undermine, weaken or deprive of support other lands in the vicinity or so as to substantially obstruct, impede or change the course of or the natural movement or flow of surface water therein, or otherwise adversely affect any public waterway, public body of water, wetland, lake, pond, river, creek, waterway or body of water which is used as a part of any drainage system.
- (18) All facilities, including but not limited to that used for the crushing, screening, washing, stockpiling or processing of minerals, shall at all times be located only in an area approved by the Planning Board.
- (19) In order that the Town be in an assured position to enforce the provisions of the Mining Floating Zone issued hereunder, and have the completed excavation meet provisions of such zone and other applicable laws or ordinances of the Town, the applicant, upon the creation of a Mining Floating Zone hereunder, shall grant to the Town, its officers or employees, the license to enter upon the premises to determine that the provisions of the new zone are being fulfilled and require such work to be done as may be necessary to meet the conditions of the zone.
- (20) Maintenance, repair and fueling of vehicles and equipment shall be conducted so as to minimize and prevent lubricant and fuel spills to the maximum practicable extent. Mine vehicles and mining equipment shall be maintained in proper operating condition.
- (21) All discharges of silt, sediment or process water shall be confined within the permit area unless prior approval from the New York State Department of Environmental Conservation Regional Water Quality Engineer is obtained.
- (22) No chemical additions to processing water shall occur at any time unless prior approval from the New York State Department of Environmental Conservation Regional Water Quality Engineer is obtained.
- (23) No pollution of the groundwater or surface waters shall occur.
- (24) The applicant shall agree to engage in a program of mine site security through the use of gates and barriers to prevent unauthorized entry to the mine property.
- (25) The applicant shall agree to report to the Town Code Enforcement Officer all spills of chemicals, including gasoline, motor oil or hydraulic fluids, in excess of one gallon at any one time, within one hour of discovery of such spill.
- (26) The applicant shall agree to file, annually, at least 30 days prior to the anniversary date of the enactment of a certification that all conditions imposed by the respective Boards are met,

that the mining operation continues to be in compliance therewith and proof that any bond required is in effect.

E. Bond/insurance.

(1) In the event the Town Code Enforcement Officer or other designated Town officer shall determine that the bond required by any entity having jurisdiction over the use proposed in the application is insufficient to complete its contemplated purpose, or in the event the use does not fall within the jurisdiction of any other governmental body or agency having superior jurisdiction to that of the Town Board or the Planning Board, as the case may be, the filing of a performance bond may be required as follows:

(a) Before the location of any new M Zone or the issuance of any permit hereunder, the Town Board shall, unless it shall have first determined that no bond is required, require that a bond be executed and filed by the applicant and by any and all owners of the premises on which said operation is to be conducted. Such bond shall be issued by a surety company licensed to do business in the State of New York. Such bond shall be in an amount equal to twice the estimated cost of such reclamation or \$5,000, whichever be the greater sum. Such bond must be approved by the Town Attorney prior to the enactment of any local law locating an M Zone hereunder. Such bond shall provide that in case of any failure or default to perform the work required to be performed the bond shall be called, upon written notice to the principal or principals and to the surety sent by certified mail to their addresses as shown in the bond, unless such failure be corrected within 90 days of the mailing of such notice to the principal (or principals) and surety. The ninety-day notice of such default or failure may be given at any time after such default or failure.

(b) If said default is not cured within the ninety-day period, the Town shall, upon written request to the surety, receive the full amount of the bond and commence reclamation.

(c) Said bond may not be cancelled for any reason unless authorized in writing by the Town.

(d) If the surety notifies the principal or Town of its desire to cancel the bond, such notice must be at least 120 days in advance of the cancellation. This notice shall hereinafter be referred to as "cancellation notice."

(e) The principal must replace any cancelled bond within 90 days of the receipt of cancellation notice, and the failure to do so is a default under this section, triggering the principal's requirement to commence reclamation. If reclamation is not completed before the expiration of the cancellation notice period, the Town may call the bond due as stated in Subsection E(1)(b) above.

(f) Said bond shall remain in full force and effect until released by the Town, except that the Town Board or Planning Board may reduce the amount thereof in a proper case. Prior to any such release the Town Board or Planning Board may require a statement showing the manner of compliance with the plan of reclamation, and a topographical map of the area on which the mining operation was conducted and the area within 300 feet of the perimeter of the area of operation, showing contour elevations at intervals of heights of two feet. The Town Board shall refer any request for release of any such bond to the Town Code Enforcement Officer, who shall report on compliance with the plan of reclamation within 15 days of such referral.

(g) Said bond shall also provide that the time for compliance with any such plan of reclamation shall be deemed to be accelerated and terminate 120 days after the date of

revocation of such permit pursuant to the provisions of this section as in effect at the time of such revocation.

(h) In lieu of such bond, the Town Board or Planning Board may permit a letter of credit or a cash deposit to be made with the Town, subject to the approvals, conditions and forfeitures specified hereinabove in the case of a bond.

(2) Before the enactment of a local law hereunder, the applicant shall present, to the Town, certificates of insurance evidencing the acquisition of liability insurance coverage in the amounts deemed by the Town Board to be appropriate and by resolution for death/bodily injury and property damage. Said insurance shall be maintained throughout the life of the Mining Floating Zone and for a three-year period after reclamation has been completed, and the aforementioned certificates shall provide for 120 days' notice to the Town prior to cancellation by the carrier.

F. Exceptions. The following operations and uses are hereby excepted from the application of § 180-18:

- (1) All existing mines permitted by the Town and operating on the date of enactment hereof shall continue to be operated pursuant to the terms and conditions of their respective permits.
- (2) Excavation or removal of earth, mineral or rock incident to highway, sidewalk or driveway construction to the extent such topsoil, sand, earth and/or gravel is removed solely from the bed of said highway, sidewalk or driveway.
- (3) The moving of earth, mineral or rock from one portion of premises to another portion of the same premises as an incident to construction of a building or other improvement to land or as an incident to farming or landscaping, subject to the requirements for obtaining a grading permit set forth at § 180-40 of this chapter.
- (4) Removal of earth, mineral or rock from the area of a subdivision granted final approval by the Planning Board of the Town of Chatham pursuant to any then-applicable zoning ordinance of the Town of Chatham, provided that any such removal be in accordance with plans and specifications approved by said Planning Board.
- (5) Construction of sewage-disposal systems.
- (6) Any of the exceptions set forth in the New York State Agriculture and Markets Law.
- (7) Any sanitary landfill or dump operation conducted by the Town of Chatham or on its behalf.
- (8) Any mining operation conducted by the Town of Chatham.
- (9) Grading permits as defined in § 180-46 of this chapter.
- (10) Small-scale mining as defined in § 180-28 of this chapter.

G. Posting and entry on posted premises.

(1) The operator under this section shall cause the outside perimeter of the premises on which the mining operation is conducted, or the outside perimeter of that portion of the premises on which such operation is conducted, to be posted with appropriate notices having dimensions of not less than 11 inches square, containing, with letters of not less than one inch in height, the following language:

"No trespassing. These premises are subject to a local law of the Town of Chatham, Columbia County, New York. Unauthorized entry upon these premises constitutes an offense punishable by a fine not exceeding \$100 or imprisonment for not more than six months, or both."

(2) Such notices shall be posted not farther apart than 100 feet and shall be posted on each side of each entrance into the premises on which such operation is being conducted. No person,

other than those lawfully engaged in operations thereon or the Town Code Enforcement Officer, police officer or authorized Town representative, shall enter onto any such posted premises.

H. Reimbursement of review costs; indemnification.

(1) The applicant under this section shall be required to establish an escrow account to reimburse the Town of Chatham for the legitimate costs of review associated with the use of professionals qualified to review the required plans, reports and other technical information submitted in support of an application for a mining operation or small-scale mine. The initial amount of the escrow account shall be determined on a case-by-case basis, but in no case shall be less than \$3,000 or such larger amount estimated by the Town Board and/or Planning Board to be reasonable and necessary to cover the cost of the review to be incurred by the Town. All necessary reviewing professionals assisting the Town in such reviews shall provide an estimate of the approximate cost of review services. The Town shall submit an itemized bill to the applicant at least five business days prior to any deduction of such amount billed from the escrow account. The respective Boards may periodically and at their discretion require the replenishment of the escrow account established hereunder. Upon completion of the application and review process, any balance remaining in the escrow account shall be refunded to the applicant within 30 days of the submission and payment of the final bill by the Town and payment in full of all application and approval fees.

(2) In any approval hereunder, the respective Boards shall require an irrevocable commitment from the owner of the mine and related facilities, the owner of the land upon which the mine is located, and any and all lessees and the affiliates of any of the above, to defend, indemnify, and hold the Town of Chatham, its boards, officials, employees and agents, free and harmless from judgments or costs, including reasonable attorneys' fees, arising directly or indirectly from the construction, use, operation and/or reclamation of the mining operation and affected areas except as to those arising from the Town's own negligence.

I. Complaints. Any person may file a complaint of any violation of this section, in writing, with the Town Code Enforcement Officer, who shall investigate the same and report thereon to the Town Board within 10 days.

J. Abandonment of use; rescission or suspension of local law authorizing Mining Floating Zone.

(1) If the Town Code Enforcement Officer, or any authorized representative of the Town, finds that any mining operation permitted hereunder is not being conducted in accordance with the provisions of this section or of the site plan approval under which such operation is conducted, issued either under this section or prior to the effective date hereof, or is abandoned as defined herein, such facts shall be reported, by such Town Code Enforcement Officer or other Town representative, to the Town Board, which may direct that an order in writing be served upon the applicant directing that the conditions therein specified as being in violation of this section or such permit be remedied within five days after date of service of such order.

(2) Such order may be served either by personal delivery upon the operator in the same manner as a personal delivery of a summons or by certified mail. If served by certified mail, service shall be deemed to have been made five days after mailing thereof. If such conditions are not remedied within five days after such service, the Town Board may cause a notice in writing to be served upon the operator directing him to appear before the Town Board on a date and at a place within the Town specified in such notice and show cause why such local law or permit should not be rescinded or suspended.

(3) Such notice may be served either by personal delivery on the operator in the same manner as a summons or by certified mail; if served by certified mail, service shall have been deemed to have been made five days after mailing thereof. The hearing shall be set for a date at least 10 days and not more than 30 days after service of the notice. The Town Board may hold such hearing and testimony of witnesses may be heard thereat.

(4) The Town Board, after such hearing, may elect to rescind such local law or site plan approval or suspend the same. Such suspension may, by its terms, lead to a rescission of the local law upon failure of the operator to comply with the terms of suspension.

(5) No rescission or suspension of such local law or site plan approval hereunder shall be ordered by such Board in the absence of a finding of a violation thereof. An order of suspension or revocation hereunder shall be served upon the operator either by personal delivery to the operator or by certified mail and shall be effective immediately upon service; if service is made by certified mail, service of such order shall be deemed completed five days after mailing. All service by certified mail under this action shall be mailed to the operator at his address as shown in the application under this local law and, in addition, if a more current address be known, to such current address. This section shall not preclude the Town from enforcing this section by any other lawful means, including any action for a penalty, for injunctive or other relief hereunder.

K. Termination of Mining Floating Zone. In the event that the Town Board elects to rescind a local law or revoke a site plan approval enacted or granted in accordance with the above provisions; the Town Board deems the mining operation to be abandoned in accordance with the definition herein; or the Town Code Enforcement Officer certifies that reclamation has been completed in accordance with the reclamation plan for the M Zone, the Mining Floating Zone created by local law authorized herein shall terminate and the land within the said zone shall return to its former zoning designation set forth in the Town Code of the Town of Chatham.

L. Penalties for offenses. Each and every violation of the provisions of this section or of the conditions and/or restrictions of a permit issued hereunder or of a permit issued under the Code of the Town of Chatham, New York, prior to the effective date hereof, for a mining operation shall be deemed an offense against this section and shall be punishable by a fine of not more than \$250 or imprisonment for not more than six months, or both. Each day's continued violation of this section shall constitute a separate and additional violation.

M. Injunctive relief. Nothing contained herein shall prohibit the Town Board from maintaining, and the Town Board is authorized to maintain, an action or proceeding in the name of the Town in any court of competent jurisdiction to compel strict compliance with the provisions of this section and the conditions of any permit issued hereunder or any valid permit issued by the Planning Board and/or Zoning Board of Appeals prior to the effective date of this section, or to restrain by injunction the violation of any provision of this section or of any such permit.

N. Administrative rules and regulations. The Town Board may, at any time and from time to time, by resolution, adopt procedural rules and regulations with respect to applications hereunder and with respect to the administration and enforcement of this section, provided the same are not in conflict with this section.

O. Severability. If any clause, sentence, paragraph, section or part of this section shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall not affect the remainder of

this section but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

P. Miscellaneous

- (1) This section is expressly adopted pursuant to the relevant sections of the New York State Town Law and the New York State Municipal Home Rule Law.
- (2) All other provisions of the Code of the Town of Chatham shall remain in full force and effect.
- (3) This section shall be effective immediately upon filing with the Secretary of State.

Q. Fees. Fees for applications and reviews provided for by this section shall be in the amount or amounts as established by the Town Board from time to time. Said fees shall be posted in the Town Hall on the official Schedule of Fees for the Town of Chatham.

§ 180-19 Environmental Protection Overlay. Purpose.

A. The purpose of the environmental protection overlay districts established in this article is to provide special controls over land development located in sensitive environmental areas within the Town of Chatham. These districts and the regulations associated within them are designed to preserve and protect unique environmental features within the Town as much as possible.

B. The regulation contained in each environmental protection overlay district (EPO) are not intended to be substituted for other general zoning district provisions, but can be superimposed over such district provisions and should be considered as additional requirements to be met by the applicant or developer, prior to project approval. The purpose of the overlay districts is to provide the Town with an additional level of review and regulation that controls how land development permitted by the Town's primary zoning districts should occur in sensitive or unique environmental areas.

C. Division of districts. In order to address the goals set forth in the Town of Chatham's Comprehensive Plan, the following environmental protection overlay districts are hereby established:

EPO-1 Environmental Protection Overlay – Steep Slopes

EPO-2 Environmental Protection Overlay –Scenic Views/Ridge Lines

§ 180-20. EPO-1 – TITLE: STEEP SLOPE PROTECTION OVERLAY

A. Purpose. The Town of Chatham finds that land development activities, associated increases in site impervious cover, disturbances to the natural vegetative cover, and changes to the topography of the land can often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes. These changes to the hydrology of the watershed can cause an increase in flooding, stream bank erosion, impairment to aquatic resources (from silt or other pollutants), degradation of water quality and a loss of wildlife habitat. Land development activities can also cause unchecked erosion, sediment transport and deposition which can impair aquatic resources, clog drainageways and cause increased flooding. The potential impairment of the Town's natural resources caused by unchecked erosion, sedimentation and increased stormwater runoff results in a significant economic and social loss to the community. It is the purpose of this chapter to protect the public health, safety and welfare in the Town of Chatham, and its aquatic resources, by establishing minimum requirements for stormwater management, preventing/minimizing erosion and controlling sedimentation for activities which cause changes to the watershed hydrology and may increase erosion and sediment

transport, including but not limited to construction activities, land alterations including excavation, filing, grading, land stripping and tree clearing, and increases in the rate of stormwater runoff. The Town of Chatham resolves to:

(1) Preserve the quality of the natural environment from the effects of site preparation and construction, such as:

- (a) Pollution of lakes, ponds, wetlands and watercourses from silt or other material.
- (b) Unnecessary destruction of trees and other vegetation.
- (c) Excessive exposure of soil to erosion.
- (d) Unnecessary modification of natural topography or unique geological features.
- (e) Failure to restore sites to attractive natural condition.

(2) Protect people and property from the adverse effects that can be associated with improper site preparation and/or construction, such as:

- (a) Increased runoff, erosion and sediment.
- (b) Increased threat to life and property from flooding or stormwaters.
- (c) Increased slope instability and hazards from landslides and slumping.
- (d) Modification of the groundwater regime that adversely affects wells and surface-water levels.

(3) Protect the Town and other governmental bodies from having to undertake, at public obligation, increased maintenance of stormwater management practices, programs of repairing roads and other public facilities, of providing flood protection facilities and of compensating private property owners for the destruction of properties arising from the adverse effects of improper site preparation and construction.

(4) Ensure that site preparation and construction are consistent with the Comprehensive Plan of the Town of Chatham.

(5) Regulate land development activities by means of performance standards governing stormwater management, erosion and sediment control and site design to produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of stormwater runoff from changes in the natural conditions due to development.

B. To accomplish the aforementioned purposes, the Town Board of the Town of Chatham has promulgated standards and regulations listed herein which seek to achieve the following objectives:

(1) Minimize increases in peak rate of stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels.

(2) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality.

(3) Minimize the total volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable in order to minimize the economic impact of installation, operation and maintenance of drainage facilities.

(4) Reduce soil erosion and sediment transport, wherever possible, through appropriate structural and nonstructural best management practices (BMPs), and to ensure that these management practices are properly maintained to minimize and or eliminate threats to public safety.

(5) Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination

System (SPDES) General Permit for Construction Activities GP-0-15-002, and as amended or revised.

C. Regulated activities.

(1) Land Development Permit requirement.

- (a) Application for approval of a land development activity shall not be approved until the Planning Board or CEO/ZEO has received a stormwater pollution prevention plan (SWPPP) or Applicable plans in support of said land development permit have been prepared in accordance with the specifications in this chapter. Applications for activities deemed as minor land development, as herein defined, shall be reviewed and processed by the CEO/ZEO. Applications for activities deemed as major, or applications which are parts of a site plan approval application or subdivision approval application, whether currently before the Town of Chatham Planning Board or which pertain to a previously approved application, shall be referred to the Planning Board for their review and recommendation. The CEO/ZEO will issue a permit for activities deemed as major land development, as herein defined, by direction of the Town of Chatham Planning Board.
- (b) To determine the need for a SWPPP, standard NYS DEC Stormwater Rules and Regulations Shall Apply.
- (c) None of the following activities shall be commenced until a land development permit has been issued under the provisions of this chapter:
- (d) Site preparation or clearing on slopes which exceed one foot of vertical rise to six foot 8 inches feet of horizontal distance (20%) or site preparation in soils known to be subject to severe erosion, based upon the rating given to individual soil types by the USDA Natural Resource and Conservation Service.
- (e) Site preparation or clearing within the one-hundred-year floodplain of any watercourse.
- (f) Excavation which affects more than 200 cubic yards of material within any parcel.
- (g) Soil stripping or clear cutting.
- (h) Filling which exceeds a total of 200 cubic yards of material within any parcel.
- (i) A development or subdivision of two or more units or lots or any development or subdivision requiring any new street or the extension of municipal facilities.
- (j) Any activity requiring approval of a site plan by the Planning Board.

D. Notwithstanding the requirement that certain activities obtain a permit under this section, or the fact that certain activities are exempt therefrom, any filling, grading, excavation or any other activity that disturbs the natural vegetative cover shall not cause or contribute to an impairment of aquatic resources, a degradation of water quality, or to otherwise harm the natural resources of the Town of Chatham as described below, and in all cases shall utilize appropriate erosion control measures in accordance with the New York Standards and Specifications for Erosion and Sediment Control.

E. Any temporary or permanent alteration of the land surface greater than one acre, including but not limited to removal of 50% of the vegetative cover, grading or filling, or any of the activities provided in Subsection C. above which results in one or more acres of disturbance, shall be deemed to be a major land development activity. Smaller disturbances which are part of a common plan of development equal to or greater than one acre shall also be considered a major land development activity. All major land development activities shall be referred to the Town of Chatham Planning Board for Review, except as provided below. Submitted plans shall include means and measures or controlling erosion and sedimentation.

F. All other activities described in Subsection A above shall be considered a minor land development activity, including but not limited to any temporary or permanent alteration of the land surface of 20,000 square feet of land, including but not limited to removal of 50% of the vegetative cover, grading or filling.

(1) Any activity which shall be deemed a minor land development activity, as defined herein, shall prepare an erosion and sediment control plan which meets the requirements contained in this chapter

(2).Any activity which shall be deemed to be a minor land development activity shall obtain a permit from the CEO/ZEO except as provided in § 180-18 above.

#### G. Exemptions.

The following activities are exempt from obtaining a permit pursuant to this chapter; however, such activities shall not be conducted in a manner that causes or results in soil erosion, sedimentation or a visible change in the quality of runoff as set forth in § 180-20 A. above.

(1) Excavations for the basements and footings of single-family houses and for septic tank systems, wells and swimming pools attendant to single-family homes. The area of excavation set forth herein shall be included in calculating the total amount of site disturbance for the purposes of compliance with the above.

(2) Farm operations as defined by Article 25-AA of the Agriculture and Markets Law.

(3) Cemetery graves.

(4) Activities of an individual engaging in home gardening by growing flowers, vegetables or other plants primarily for use by that person and his or her family.

(5) Landscaping and horticultural activities in connection with an existing structure that result in less than 5,000 square feet in aggregate of disturbance.

(6) Emergency activities immediately necessary to protect life, property or natural resources.

(7) Governmental activities, but only to the extent that such activities are exempt from the provisions of this chapter or are otherwise exempt pursuant to state law.

(8) Repairs to stormwater management facilities authorized by the Town.

#### H. Erosion control permits with site plan or subdivision approval.

A site plan approved pursuant to Chapter 180-22 of the Town of Chatham Code or a subdivision plat approved pursuant to Chapter 170 of the Town of Chatham Code, which also includes a separate erosion and sediment control plan meeting the requirements of this chapter, approved by the Planning Board shall constitute an erosion and sediment control permit approved under this chapter.

#### I. Land Development Permit Procedures and Requirements

(1) Application Requirements. Where a major or minor land development permit is required pursuant to this section, an application shall be submitted to the CEO/ZEO which includes the following:

(a) Five Copies of a land development application form

(b) An Application fee as set from time to time by resolution of the Town Board. The fee shall be deemed a reasonable sum to cover the costs of administration and shall in no part be returnable to the applicant(s).

(c) Five copies of an erosion and sediment control plan or a SWPPP or both, as may be required herein

(2) Permit Application.

(a) All permit applications must include the following existing features map(s), at a scale no smaller than one inch equals 100 feet, including:

(i) The boundaries of all parcels on which site preparation activities are proposed to be undertaken and the boundaries of all parcels adjacent to the subject site.

(ii) All structures and roads within a distance of 200 feet of the parcels on which site preparation activities are proposed to be undertaken, the structures to be identified by their uses and the roads to be identified by their surface material and width of surface.

(iii) All waterbodies and watercourses within a distance of 200 feet of the parcels on which site preparation activities are proposed to be undertaken.

(b) Maps and plans accompanying the application shall be prepared by an individual authorized by the State of New York to prepare such plans which may include an architect, engineer or landscape architect licensed by the State of New York, or a certified professional in erosion and sediment control.

(3) An environmental assessment form (EAF) pursuant to SEQRA prepared and submitted by the applicant, unless the application concerns a site plan or subdivision project already before the Planning Board for which a SEQRA declaration has already been made.

(4) Existing topography at contour intervals of two feet within a distance of 50 feet of the parcel on which site preparation activities are proposed to be undertaken.

(5) All sewer, water, gas and electric lines and all other utilities within the parcels on which site preparation activities are proposed to be undertaken.

(6) Forested land and tree clusters within a distance of 200 feet of the parcels on which site preparation activities are proposed to be undertaken.

(7) All vegetated areas on the site proposed for site preparation and/or other disturbance.

(8) All steep slopes on the site proposed for site preparation and/or other disturbance.

(9) The depth to bedrock on the site proposed for site preparation activities.

(10) The depth to permanent groundwater aquifers on the site proposed for site preparation activities.

(11) The boundary of the one-hundred-year floodplains, together with all wetland boundaries, if any, within 150 feet of the proposed disturbance.

(12) Drainage computations prior to site preparation (existing condition) and after site preparation (proposed condition) may be required at the Planning Board's discretion (major permit only).

(13) Site Development maps, at a scale no smaller than one inch equals 100 feet, which present an erosion and sediment control plan and which indicate:

(a) All excavation, filling and grading proposed to be undertaken, identified as to the depth, volume and nature of the materials involved.

(b) All clearing or tree cutting, identified as to the nature of vegetation affected.

(c) All areas where topsoil is proposed to be removed, stockpiled and ultimately placed.

(d) All temporary and permanent vegetation to be placed on the site, identified as to planting type, size and extent.

(e) All temporary and permanent drainage, erosion and sediment control facilities, including such facilities as ponds and sediment basins identified as to the type of facility, the material from which it is constructed, its dimension and its capacity in gallons.

(f) The anticipated pattern of surface drainage during periods of peak runoff upon completion of site preparation and construction activities, identified as to rate and direction of flow at all major points within drainage systems.

(g) The location of all roads, driveways, sidewalks, structures, utilities and other improvements.

- (h) The final contours of the areas of the site affected by an action requiring a permit in intervals of no greater than two feet.
- (i) A time schedule which is keyed to the site development map(s), indicating:
  - (1) When major phases of the proposed project are to be initiated and completed.
  - (2) When major site preparation activities are to be initiated and completed.
  - (3) The anticipated duration, in days, of exposure of all major areas of site preparation before the installation of erosion and sediment control measures.

J. Review standards.

(1) Within 30 days of the receipt of an application or any plans or material in support thereof, the CEO/ZEO shall notify the applicant if the application is determined to be minor or major in nature, and/or additional information is required.

(2) The reviewing authority shall approve, with or without modifications, or deny all permits within 30 days of the date of determining that the application is complete, unless the applicant consents, in writing, to a time extension.

(3) Prior to granting a permit, the reviewing authority shall determine that the request is in harmony with the purpose and standards set forth in this chapter.

(4) In granting a permit, the reviewing authority may fix a reasonable time limit for the termination of the permit and may attach any conditions which it deems necessary to assure compliance with the provisions of this chapter. Any permit issued for a major or minor land disturbance shall not exceed one year in duration. The performance guaranty so specified under paragraph X. of this section shall be posted before any permits may be granted or site work commenced.

(5) Modifications of the terms of an approved permit shall follow the same application, review and approval procedures as those set forth in this section for the original permit.

(6) It shall be the responsibility of the CEO/ZEO, or his/her assigns to inspect any sites for which a permit has been issued as frequently as necessary to assure compliance with the terms and conditions of the approved permit and the provisions of this chapter and to submit written notification of any violations of the terms or provisions of the permit to the property owner to which the permit has been issued.

(7) If, at any time during the effective period of a permit issued, the terms of the permit are violated, or if the permit expires prior to the completion of the work, the CEO/ZEO may revoke the permit and thereafter recommend to the Town Board that the performance guaranty be forfeited to the Town. If the applicant becomes unable to complete the project or any phase thereof within the specified time, shall, within 30 days prior to the specified date of completion, present, in writing, a request for an extension of time, setting forth the reasons for the request. If, in the discretion of the CEO/ZEO, such an extension is warranted, the CEO/ZEO may grant additional time for the completion of the work.

(8) The CEO/ZEO is authorized to consult with and obtain recommendations from the Town Planning Board, the Town Engineer, the Town Highway Superintendent, the Columbia County Soil and Water Conservation District, and the New York State Department of Environmental Conservation.

(9) The CEO/ZEO shall provide a monthly written status report to the Town of Chatham Planning Board on land development permits which have been issued.

K. Escrow account for Town costs and expenses; fees.

(1) If the applicant is required by the Town to establish an escrow account for expenses incurred for technical assistance, site inspection, engineers, planners and attorneys in review of an application and follow-up site inspections during and after construction, the Town CEO/ZEO and Planning Board or Town Engineer will estimate the reasonable amount to be placed in escrow prior to

the start of the project. Any unused funds will be returned to the applicant on successful completion of the project. Notice of any withdrawals from the escrow account will be sent promptly to the applicant. Should the escrow funds be expended prior to the project's completion the applicant will be notified by the Town to replenish additional funds in the escrow account prior to the project moving forward. A bond or surety may also be required by the Town depending on the size and complexity of the project.

(2) A fee schedule shall be established by resolution of the Town Board of the Town of Chatham. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected.

#### L. Performance, Technical, Illicit Discharge and Design Standards

(1) Performance standards. All land development activities regulated under this chapter shall be in conformance with the provisions set forth herein. It shall be a violation of this chapter, or for any permit issued thereof, to either cause or contribute to an impairment of aquatic resources, a degradation of water quality, or to otherwise harm the natural resources of the Town of Chatham. More specifically:

- (a) There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions of surface water.
- (b) There shall be no increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best usages.
- (c) There shall be no residue from oil and floating substances, or visible oil film, or globules of grease.
- (d) No uncontrolled sedimentation shall occur from any land disturbance which:
  - (i) Is not properly managed by appropriate erosion and sediment control practices.
  - (ii) Causes, or may potentially cause, impairment to water quality.
- (e) There shall be no increase in the peak rate of runoff which causes impairment to any stream channel or drainage structure.

(2) Technical standards. The following technical standards shall be used in the design and installation of all erosion control, sediment control and stormwater practices designed or installed under this chapter:

- (a) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society), or the most current version or its successor (also referred to as the "Erosion Control Manual").
- (b) New York State Stormwater Design Manual, latest edition (New York State Department of Environmental Conservation), or the most current version or its successor (also referred to as the "Erosion Control Manual").
- (c) Urban Hydrology for Small Watersheds (TR55) (USDA Natural Resource Conservation Service), or the most current version or its successor (also referred to as the "Erosion Control Manual").
- (d) Soil Survey of Columbia County, New York (USDA Natural Resource and Conservation Service), or the most current version or its successor (also referred to as the "Erosion Control Manual").
- (e) New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity Permit No. GP-0-15-002, or as amended or revised, or the most current version or its successor (also referred to as the "Erosion Control Manual").

M. Erosion and sediment control plan requirements. An erosion and sediment control plan shall be prepared in accordance with the technical standards provided for herein, and at a minimum shall include the following information:

- (1) Existing features map(s), at a scale no smaller than one inch equals 100 feet, indicating:
  - (a) The boundaries of all parcels on which site preparation activities are proposed to be undertaken.
  - (b) All public improvements within a distance of 500 feet of the parcel on which site preparation activities are proposed to be undertaken, the structures identified by their uses and capacities, and the roads identified by their surface material and width of surface.
  - (c) All wetlands greater than 1,000 square feet in size and any watercourses located either on the site or within a distance of 150 feet of the proposed disturbance to be undertaken.
  - (d) Existing topography at contour intervals of two feet referenced to USGS datum.
  - (e) All sewer, water, gas and electric lines and all other utilities within the parcels on which site preparation activities are proposed to be undertaken.
  - (f) The location and description of all vegetation located within the area of proposed disturbance, and including the area within 100 feet of the disturbance.
  - (g) The depth to bedrock on the site proposed for site preparation activities.
  - (h) The depth to permanent groundwater aquifers on the site proposed for site preparation activities.
  - (i) The boundary of the one-hundred-year floodplain, together with wetland boundaries.
  - (j) Forested land and tree clusters within a distance of 500 feet of the parcel on which site preparation activities are proposed to be undertaken.
  - (k) All steep slopes on the site proposed for the site preparation and/or other disturbance. All clearing or tree cutting, identified as to the nature of vegetation affected.
  - (l) Drainage computations to evaluate the peak rates and volumes of runoff for the site in its predeveloped and postdeveloped conditions if required by the Stormwater Management Officer, Planning Board or Town Engineer.

N. Development standards. All development plans, specifications and timing schedules, including extensions of previously approved plans, shall comply with the technical standards identified herein and shall be designed for "newly graded" or "during construction" conditions. In the event of conflict with this chapter, the requirements which, to the greater extent, will serve to minimize erosion shall apply.

O. Site plan. A site plan shall be prepared at a scale no smaller than one inch equals 50 feet, which shows the proposed developed conditions for the site and the proposed erosion and sediment control measures, including:

- (1) The location of all excavation, filling and grading proposed to be undertaken, identified as to the depth, volume and nature of the materials involved.
- (2) The location of all soil stripping or tree cutting, identified as to the nature of vegetation affected.
- (3) All areas where topsoil is to be removed, stockpiled and ultimately placed.
- (4) All temporary and permanent vegetation to be placed on the site, identified as to plant type, size, quantity, location, seed mixture and rate of application, as appropriate.
- (5) The type, location and application rate of all mulch.

(6) All temporary and permanent drainage, erosion and sediment control practices, including such practices as stormwater ponds and temporary sediment basins, identified as to the type of facility, the materials from which it is constructed, its specifications or manufacturer product identification number, its dimensions and its capacity.

(7) The anticipated pattern of surface drainage during periods of peak runoff upon completion of site preparation and construction activities, identified as to rate and direction of flow at all major points within the drainage systems.

(8) The location of all roads, driveways, sidewalks, structures, utilities and other improvements, including the finished grade of any proposed structures.

(9) The final contours of the areas of the site affected by an action requiring a permit in intervals of no greater than two feet.

(10) Supporting calculations to demonstrate the suitability of erosion and sediment control measures.

(11) A construction schedule which is keyed to the site plan indicating:

(a) When major phases of the proposed project are to be initiated and completed.

(b) When major site preparation activities are to be initiated and completed.

(c) When the installation of temporary and permanent vegetation and drainage, erosion and sediment control facilities are to be completed.

(d) The anticipated duration, in days, of exposure of all major areas of site preparation before the installation of erosion and sediment control measures.

(e) An estimate of the costs of providing temporary and permanent vegetation and drainage, erosion and sediment control facilities prepared by a qualified individual as contained herein.

#### P. Stormwater pollution prevention plan (SWPPP) requirements.

(1) When required pursuant to this chapter, a stormwater pollution prevention plan shall be prepared in accordance with the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities (Permit No. GP-0-15-002), using the technical standards identified herein, and at a minimum shall include the following information:

(a) Background information about the scope of the project, including location, type and size of project.

(b) Site map/construction drawing(s) for the project at a scale no smaller than one inch equals 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final grades at two-foot contours; locations of off-site material, waste, stockpiled material and equipment storage areas; and location(s) of the stormwater discharge(s).

(c) A location map at a scale of not less than one inch equals 2,000 feet. Description of the soil(s) present at the site.

(d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than one acre shall be disturbed at any one time unless pursuant to an approved SWPPP.

- (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.
- (f) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout.
- (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.
- (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the location and sizing of any temporary sediment basins or traps.
- (j) Temporary practices that will be converted to permanent control measures.
- (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.
- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
- (m) Name(s) of the receiving water(s).
- (n) Delineation of SWPPP implementation responsibilities for each part of the site.
- (o) Description of structural practices designed to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree reasonably attainable.
- (p) Any existing data that describes the stormwater runoff at the site.
- (q) Description of each postconstruction stormwater management practice.
- (r) Site map construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice.
- (s) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
- (t) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.
- (u) Dimensions, material specifications and installation details for each postconstruction stormwater management practice.
- (v) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice.
- (w) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property and where required by law shall be recorded in the Columbia County Clerk's office.
- (x) Inspection and maintenance agreement binding on all subsequent landowners served by the on- site stormwater management measures.

(2) The SWPPP shall be prepared by a licensed professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements of this chapter.

(3) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the

following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(4) The certification must include the name and title of the person providing the signature; address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(5) The original certification statement(s) shall become part of the SWPPP for the land development activity.

(6) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

#### Q. Maintenance during construction.

(1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment basins whenever their design capacity has been reduced by 50%.

(2) The applicant or developer or his or her representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 or more inches of precipitation. The reports shall be delivered to the Stormwater Management Officer with a copy for the applicant's site log book and Planning Board office file.

#### R. Maintenance easement(s).

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Chatham to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Town Attorney of the Town of Chatham with the original easement after recording to be delivered to the Chatham Town Clerk.

#### S. Maintenance after construction.

(1) The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall operate and maintain the stormwater management practices to achieve the goals of this chapter. Proper operation and maintenance also includes, at a minimum, the following:

- (a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.
- (b) Written procedures for operation and maintenance and for training new maintenance personnel.

#### T. Maintenance agreements.

As a condition of the approval of a land development permit, the CEO/ZEO may require that a maintenance agreement for the future operation and maintenance of one or more of the stormwater

management practices proposed for the site, in a form acceptable to the Town Attorney and binding on all subsequent landowners, be executed and recorded in the office of the County Clerk as a deed restriction on the property.

#### U. Notations.

The following notations are to be included on all subdivision plans, site plans, erosion and sediment control plans, and may be required on plans prepared for major and minor land development permits:

(1) Road and drainage improvements.

(2) All topsoil to be stripped from the area being developed shall be stockpiled not less than 200 feet from any body of surface water and shall be immediately seeded with rye grass mixture with a quick germination time.

(3) On all embankment fill slopes, topsoil shall be stripped at least five feet wider than required for the embankment toe of slope. All fill slopes shall be immediately stabilized using appropriate techniques which meet the design criteria described in the New York Standards and Specifications for Erosion and Sediment Control.

(4) Erosion and sediment control measures, including but not limited to silt fencing, sediment traps and check dams, shall also be employed where necessary for supplementary erosion control measures.

(5) All cut slopes and embankment fills are to be immediately laid back and stabilized using appropriate techniques which meet the design criteria described in the New York Standards and Specifications for Erosion and Sediment Control, which may include the following:

(a) Grade to finished slopes.

(b) Scarified.

(c) Topsoiled with not less than four inches of suitable topsoil material.

(d) Seeded with perennial rye grass. Seed shall be applied at the rate of not less than five pounds per 1,000 square feet.

(e) Mulched with not less than one inch and not more than three inches of straw (two tons per acre) and anchored in a suitable manner.

(f) Temporary on-site sedimentation basins for the immediate control of erosion and sediment transport are to be provided when and where required or ordered. The length, width and depth of such basins are to be determined in the field in accordance with the New York Standards and Specifications for Erosion and Sediment Control or Town Engineer.

(g) All erosion control structures are to be maintained in proper functioning order and are to be replaced or repaired as necessary.

(6) General.

(a) Construction equipment shall not unnecessarily cross live streams except by means of bridges and culverts or other approved methods.

(b) Wherever feasible, natural vegetation should be retained and protected.

(c) Only the smallest practical area of land should be exposed at any one time during development. Erosion control requirements shall include surface stabilization measures applied as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased. From November 1 through March 31, any disturbed area must be stabilized using a heavy mulch layer, a rolled erosion control product or another method that does not require seed germination to control erosion.

(d) The permanent final vegetation and structures shall be installed as soon as practical and as may be directed by the Stormwater Management Officer or Town Engineer.

(e) All erosion control measures employed during construction shall comply with the standards found in New York Standards and Specifications for Erosion and Sediment Control, latest edition.

(f) Phasing shall be required on all sites disturbing greater than one acre with the size of each phase to be established by the Planning Board or the CEO/ZEO.

(7). Permit standards. The standards and requirements contained herein shall be applied in reviewing and approving all permits pursuant to this chapter.

(a) An erosion and sediment control plan shall seek to return the quality of the stormwater leaving the site to its predisturbance condition to the maximum extent practicable.

(b) Excavation, filling, grading and stripping shall be permitted to be undertaken only in such locations and in such a manner as to minimize the potential of erosion and sediment and the threat to the health, safety and welfare of neighboring property owners and the general public. Alterations of grade or disturbances to the natural vegetative cover on slopes greater than 30% shall be avoided.

(c) Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site and shall preserve as many of these features as feasible.

(d) The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during and after site preparation and construction.

(e) The smallest practical area of land shall be exposed by site preparation at any given time.

(f) Mulching or temporary vegetation suitable to the site shall be used where necessary to protect areas exposed by site preparation, and permanent vegetation which is well adapted to the site shall be installed as soon as practical.

(g) Where slopes that have been exposed or regraded during site preparation are to be revegetated, the slopes shall not be of such steepness that vegetation cannot be readily established or that problems of erosion or sedimentation may result.

(h) Site preparation and construction shall not cause a permanent adverse effect on the free flow of water by encroaching on, blocking or restricting watercourses.

(i) All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and brush, stumps, tree debris, rocks, frozen material and soft or easily compressible material.

(j) Fill material shall be compacted sufficiently to prevent problems of erosion, and where the material is to support structures, it shall be compacted to a minimum density of 90% of modified proctor with proper moisture control.

(k) All topsoil which is excavated from a site shall be stockpiled and used for the treated to minimize the effects of erosion. Topsoil is not to be removed or sold from the site unless restoration has been completed.

(l) Prior to, during and after site preparation and construction, an integrated drainage system shall be provided which at all times minimizes erosion, sediment, hazards of slope instability and adverse effects on neighboring property owners.

(m) The natural drainage system shall generally be preserved in preference to modifications of this system, excepting where such modifications are necessary to reduce levels of erosion and sediment and adverse effects on neighboring property owners.

(n) All drainage systems shall be designed to handle adequately the anticipated flows, both within the site and from the entire upstream drainage basin, so as to achieve no net increase in peak rate of runoff from the site.

- (o) Sufficient grades and drainage facilities shall be provided to prevent the ponding of water, unless such ponding is proposed by the approved site plan, in which event there shall be sufficient water flow to maintain proposed water levels and to avoid stagnation.
- (p) There shall be provided, where necessary to minimize erosion and sedimentation, such measures as benches, berms, terraces, diversions, temporary sediment basins and retention basins. During the course of construction, where the CEO/ZEO or Town Engineer determines that additional erosion control measures are needed, they shall be provided by the project owner at no cost to the Town of Chatham.
- (q) Drainage systems, plantings and other erosion or sediment control devices shall be maintained as frequently as necessary to provide adequate protection against erosion and sediment and to ensure that the free flow of water is not obstructed by the accumulation of silt, debris or other material or by structural damage.
- (r) Wherever possible, clean water shall be diverted around any areas of disturbance.
- (s) For any proposed grades planned to have a slope greater than 3H: 1V (three feet horizontal by one foot vertical) the design engineer shall provide calculations documenting that the slope will be stable as designed. Slope stability should be demonstrated by two-dimensional limiting equilibrium methods such as the Bishop Simplified Method. Further, the analysis should include an evaluation of seasonal high groundwater conditions, including subsurface investigations if deemed necessary, to assure that the slope will remain stable in "worst case" conditions.
- (t) The exposure of an area by site preparation shall be kept to the shortest practical period of time prior to the construction of structures or improvements or the restoration of the exposed areas to an attractive natural condition. The developer shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased, except where the initiation of stabilization measures by the seventh day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

#### V. Redevelopment.

(1) The redevelopment of a site shall comply with the technical standards contained herein and as specified in the New York State Stormwater Design Manual (latest Edition) except as noted in Subsection B below

(2) A deviation from the technical and performance standards contained in this chapter may be permitted where an owner or developer proposing to redevelop a site demonstrates that proper sizing and installation of acceptable stormwater management practices is not feasible due to inadequate space, head or other physical constraints of the site, and that the proposed change will not cause or contribute to a significant adverse change in any water resource within that drainage basin. Inadequate space in which to locate stormwater management practices caused directly by the size or location of the proposed redevelopment shall not be considered acceptable justification to permit a deviation from the standards.

#### W. Contractor certification.

A copy of all notices of intent and all contractor's certifications, required pursuant to the New York State General Permit for Stormwater Discharges from Construction Activity Permit No. GP-0-15-002, as amended or revised, for all land disturbances, development or redevelopment located within the

Town of Chatham shall also be filed with the CEO/ZEO and the Chatham Planning Board, to be placed in the applicant's file.

#### Article V. Administration and Enforcement

#### X. Performance guaranty.

(1) After the approval of the application and before the issuance of any permit, the applicant shall, when so required, file with the Town Board as surety for the amount of the estimated cost of the project one of the following performance guaranties:

(a) A cash bond satisfactory to the Town Board and Town Attorney.

(b) A performance bond which shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, surety and period of execution.

(c) An irrevocable letter of credit from a bank, which letter of credit shall be approved by the Town Board and Town Attorney.

(2) The CEO/ZEO in approving an application submitted under this section, or the Town Planning Board, whichever shall retain jurisdiction of the application, may grant a waiver of such surety if it deems the proposed activities to be of minor scope and to be in full compliance with the intent of this chapter.

(3) The party or parties filing the performance surety shall certify that either upon termination of the permit or the operation, whichever may come first, the project shall be in conformity with both the approved specific requirements of the permit and the provisions of this chapter. In the event of default of such and violation of any other applicable laws, such performance surety shall be forfeited to the Town. The Town shall return to the applicant any amount that is not needed to cover the costs of restoration, administration and any other expenses incurred by the Town as a result of the applicant's default. Such performance surety shall continue in full force and effect until a certificate of compliance shall have been issued by the Stormwater Management Officer after such consultation with any agencies or individuals as he/she deems necessary to insure that all provisions of this chapter and of the permit have been met.

#### Y. Waiver of requirements.

Where one or more of the requirements contained herein are deemed not requisite in the interest of health, safety or general welfare, or will provide information extraneous to the issuance of a permit, then one or more of the requirements may be waived by either the Planning Board or the CEO/ZEO, whichever shall have original jurisdiction.

#### Z. Enforcement and penalties; notice of violation.

When the CEO/ZEO determines that a land development activity is not being carried out in accordance with the requirements of this chapter, he/she may issue a written notice of violation to the landowner.

The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant.

(2) The address when available or a description of the building, structure or land upon which the violation is occurring.

(3) A statement specifying the nature of the violation.

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action.

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

(6) A statement that the determination of violation may be appealed to the Town Board of the Town of Chatham or its designee by filing a written notice of appeal within 15 days of service of notice of violation. Seeking an appeal does not stop the violation process or alter the responsibilities of

the owner or contractors under this chapter especially with regard to remediation of sites damaged by excessive or uncontrolled erosion and its resulting sedimentation. The Town Board shall hear the appeal within 30 days after filing of the appeal and, within five days of making its decision, file its decision in the office of the Town Clerk and mail a copy of its decision by certified mail to the discharger.

**AA. Damage due to violation; penalties for offenses; additional remedies.**

(1) If there is any damage due to a violation of this chapter, or if there is any damage to adjacent properties, or if any soil, liquid or other material is caused to be deposited upon or to roll, flow or wash upon any public property, private property or right-of-way in violation of this chapter, the person, firm, partnership, corporation or other party responsible shall be notified and shall cause the same to be removed from such property or right-of-way within 36 hours of written notice. In the event of an incident which presents an immediate danger to the public health or safety, notice shall be given by the most expeditious means and the violation shall be immediately remedied by the party responsible for the incident, or, at its discretion and when the responsible party fails to adequately remedy the incident in a reasonable time, the Town shall cause such remedy and the cost of such remedy by the Town shall be paid to the Town by the party who failed to so remedy and shall be a debt owed to the Town.

(2) In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine as indicated below, or imprisonment for a period not to exceed six months, or both:

(a) The fines shall not exceed the following amounts:

<b>Ultimate Area of Land Disturbance</b>	<b>First Offense</b>	<b>Second Offense</b>	<b>Third and Subsequent Offenses</b>
5,000 ft <sup>2</sup> to 20,000 ft <sup>2</sup>	\$200	\$400	\$800
20,000 ft <sup>2</sup> to 1 acre	\$350	\$700	\$1,400
1 acre and above	\$700	\$1,400	\$2,800

(b) A second offense is one committed within a period of five years of the first offense on the same project. A third or subsequent offense is committed within a period of five years on the same project. For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(c) Any fine imposed under this chapter shall constitute a lien against the real property until paid.

(d) If a project causes the Town of Chatham to be out of compliance with its stormwater permit, and it is assessed a fine or civil penalty as a result of that violation, the Town shall be authorized to commence an action and obtain judgment against the offending property owner and any persons jointly and severally liable for such violation for reimbursement and/or indemnification of such fines and attorney fees incurred with respect to same.

(3) Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the CEO/ZEO may prevent the occupancy of said building or land.

(4) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Chatham may take necessary corrective action, the cost of which shall become a claim against

any surety in place for the project, or, if none has been posted or posted in an inadequate amount, a lien upon the property until paid.

(5) The CEO/ZEO in the administration of his/her duties contained herein shall have the authority to issue stop-work orders and appearance tickets for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Chatham confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal or monetary penalties in accordance with the enforcement measures authorized in this chapter.

(6) Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.

#### § 180-21. EPO-2 - Scenic Views/Ridgelines and Maps

The locations and boundaries of the EPO-2 districts shall be delineated on the official maps on file in the Town Clerk's office and Town Building Department. The map shall be known and may be cited as the "Official Town of Chatham EPO-2 Map" The Official Town of Chatham EPO-2 Map shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. Field investigations and/or other environmental analyses may be required in order to determine whether or not a particular piece of property is included within one or more of the overlay districts.

#### A. Applicability.

(1) Land subdivision, special use permit, and site plan approval. The provisions of this section shall apply to all applications for land use development including subdivision, special use permits, site plan approval, zoning variances, zoning amendments, building permits for new residential dwellings, dwelling additions exceeding 300 square feet, and accessory structures exceeding 300 square feet, where such activity or development is located within the mapped EPO-2 District. However, the EPO-2 District requirements shall not be used to lessen the underlying zoning district density. Except as provided herein, no land shall be developed and no building or structure erected, expanded, or developed unless the Planning Board upon granting such approval finds that the development proposed will be consistent with the requirements of the EPO-2 District. The Planning Board is hereby authorized to impose reasonable conditions, which it deems necessary in order to make such a finding. The provisions of the underlying zoning district shall remain in effect except where otherwise specified herein.

(2) Conflict. In case of any conflict between the provisions of this section, the requirements of the underlying district, other sections of this chapter, the Town Road Specifications, or Chapter 170, Subdivision of Land, this section shall control.

(3) Approval conditions. Any condition of approval necessary to meet these regulations shall be clearly noted on the final plat or plan and filed with the Columbia County Clerk. All deeds of new residential units within the EPO-2 District shall contain references to the ridgeline design requirements, enumerated herein, that shall be placed on the subdivision plat as a condition of approval.

B. Development Permit Required. An EPO development permit shall be required subject to the provisions of this article and prior to the commencement of any regulated activity of the issuance of any building permit for regulated development in a designated environmental protection overlay district within the Town of Chatham. The following activities are exempt from the permit procedures of this article, subject to a determination by the Town CEO/ZEO that such activities involve necessary

normal maintenance and upkeep of property and/or involve public health, safety or emergency situations:

- (1) Lawn care and maintenance.
- (2) Gardening activities.
- (3) Tree and shrub care and maintenance.
- (4) Removal of dead or deteriorating vegetation.
- (5) Removal of structures.
- (6) Repair and maintenance of structures.
- (7) Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
- (8) Reconstruction of structures damaged by a natural disaster.
- (9) Agricultural activities, except structural activities.
- (10) Public health activities, orders and regulations of the New York State Department of Health, Columbia County Department of Health or other agencies undertakes in compliance with § 24-0701, Subdivision 5, of the New York State Environmental Conservation Law, as amended or changed.
- (11) Activities subject to the review jurisdiction of the New York State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment, under the provisions of Article 7 or Article 8 of the New York State Public Service Law, respectively.
- (12) Any actual or ongoing emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.

C. Development permit application. Application for EPO development permits shall be made in writing to the Town Planning Board. Such an application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the Town Building Department or Town Engineer, including but not limited to a scaled site plan prepared and certified by a licensed engineer or land surveyor that contains the following minimum information:

- (1) A location plan and boundary line survey of the property.
- (2) The location of all environmental protection overlay district boundaries, designated Town open space, Town, county or state parkland or other similar areas within and/or adjacent to the property, as defined by this article.
- (3) The location of all existing and proposed buildings, structures, utility lines, sewers, water and storm drains on the property or within 200 feet of the proposed work site.
- (4) The location of all existing and proposed impervious surfaces, such as driveways, sidewalks, etc., on the property or within 200 feet of the proposed work site.
- (5) Existing and proposed contour levels at intervals of five feet for the property, unless such property is located within a Steep Slope Protection District whereby contour levels shall be required at intervals of two feet.
- (6) The location and types of all existing and proposed vegetation and shrub masses, as well as all trees with a diameter of four inches or more within and/or adjacent to the property.
- (7) The location of all existing and proposed drainage patterns, drainageways, swales, etc., within and/or adjacent to the property.
- (8) Each application for an EPO development permit shall be accompanied by an application fee as may be set by Town Board resolution. This fee shall be in addition to any other fee required for the development under this chapter.

D. Application review; public hearing; issuance or denial of permit.

- (1) The Building Department shall refer a completed permit application to the Town Planning Board for a public hearing in accordance with the provisions of this chapter.
- (2) Following the required public hearing, the Planning Board shall have the authority to grant

or deny an EPO development permit, subject to the standards, criteria and other regulations contained in this article. The Planning Board may also request a report from the Town Engineer or other appropriate department or agency in acting on such permit application.

(3) In addition, the Planning Board, when deemed necessary by a majority vote of the Board, may refer any completed application for an EPO development permit to the Town Board for its review, comments and recommendations. When such a referral is made, then the Planning Board may not take action on such an application until it has received the report of the Town Board concerning the development permit request.

(4) Any development permit issued by the Planning Board in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached as are deemed necessary by the Board to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the policies and provisions of this article. Every permit issued pursuant to this article shall contain the following conditions:

(a) The CEO/ZEO, Town Engineer and/or other appropriate Town official shall have the right to inspect the project from time to time.

(b) The permit shall expire on a particular date, unless extended by the Planning Board upon good cause shown.

(c) The permit holder shall notify the CEO/ZEO Inspector or other appropriate Town official of the date on which project construction is to begin, at least five days in advance of such date.

(d) The EPO development permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.

E. Preservation of scenic features. In any application subject to this section, features that provide scenic importance to ridgeline areas should be preserved to a reasonable extent. These features include but are not limited to individual healthy trees within open fields that are at least 18 inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls.

F. Design requirements. All development within the EPO-2 District shall comply with the design standards and principles provided hereinafter. The intent of the design requirements is to provide prospective applicants for land development with the types of development that the Town wishes to achieve within the EPO-2 District. The requirements are also intended to ensure that future development within the EPO-2 District creates no more than a minimal impact on the District and surrounding area, makes open space planning a central focus of any future development, requires that new development follow traditional settlement patterns within the District, and provides general siting principles to help landowners and the Planning Board plan projects that fit into the scenic and rural countryside found in the higher elevations of the Town.

(1) Placement of structures. To ensure the placement of structures outside of the exposed ridgeline area on proposed building lots, building sites, including areas of cleared vegetation, shall be clearly designated on the applicable subdivision plat and/or site plan. Constructed structures shall not differ more than 20 feet in any direction from building site locations shown on approved subdivision and/or site plans at the time of building permit application. Wherever practical, structures shall be sited at the lowest elevation possible to be as visually inconspicuous as possible when seen from a distance and from lower elevations.

(2) Restrictions on height. Within the R-O District, no principal or accessory structure with a building height of greater than 25 feet shall be constructed unless visual cross sections or other appropriate methods demonstrate that the subject structure could be constructed with a building height

greater than 25 feet, in conformance with Table of Bulk Requirements, without unduly impacting ridgelines and scenic viewsheds.

(3) Mitigation of impacts. All principal and accessory structures shall comply with the following measures, designed to mitigate the impact of the structure, including clearing of vegetation and regrading, unless explicitly exempted elsewhere in this section.

(a) Visibility. All structures shall be sited to avoid, to the greatest extent practical, occupying or obstructing public views of land within the EPO-2 District. Public views shall be considered to be from any location listed on the SEQR Visual Environmental Assessment Form Addendum (V-EAF) pursuant to 6 NYCRR 617.20 Appendix B. These locations are frequented by the public and offer unobstructed views of the Town's ridgeline landscapes. Visibility shall be measured using a condition of no leaves on trees.

(b) Vegetation. Existing vegetation within ridgeline areas shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from public roads or parks or other public views. This section is not intended to limit forest management in ridgeline areas when practiced in accordance with environmentally sound and sustainable silvicultural principles. Forest management constitutes a beneficial and desirable use of the Town's forest resources and makes vital contributions to the economy, environment and aesthetic features of Chatham. The tradition of using Chatham's forest resources for the production of forest products and related commercial activities, for recreation, and for sustenance of the Town's wildlife is essential to a favorable quality of life.

(c) Landscaping. As a condition of approval, the area around each principal and accessory structure shall include at least one tree of a species with a mature height of at least 35 feet for each 2,500 square feet of lot or parcel area; provided, however, that this requirement shall not require any single-family residential lot to contain more than eight trees unless growing naturally on the site. Trees installed to meet the requirements of this subsection are preferably to be of coniferous species, shall be a minimum of six feet tall when planted, and shall be planted before a certificate of occupancy is issued for the principal structure, or if that is not possible due to planting season or weather conditions, then within one month of the planting season for the species. Landscaping survivability must also be addressed and assured. Any existing trees that meet the height requirement are counted towards satisfaction of the tree requirements, regardless of whether they are coniferous or deciduous. Concurrently with the review and approval process, the applicant submitting such plan may request approval of a landscape plan in which the vegetation requirements for certain lots or tracts may be increased, decreased or deleted, to reflect the degree of visibility of structures located in various portions of the subdivision or site. Additionally, such applicant may request alternative placement of landscaping on certain lots and tracts if such placement provides adequate mitigation of the visual impact of the roofline of the principal structure. Landscaping required by this section shall be credited against the landscaping requirements imposed by any other section of this chapter.

(d) Tree cutting. All timber harvesting in the Ridgeline Overlay District shall comply with the most recent versions of The Town of Chatham Timbering Regulation Law and the Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Planning Department.

(e) View preservation. A conservation easement, pursuant to § 247 of New York State General Municipal Law and §§ 49-0301 through 49-0311 of the New York State Environmental Conservation Law, is the preferred means to protect or buffer views. Other legal instruments, such as deed restrictions as acceptable to the Town Attorney, may be used to protect or buffer views.

(f) Lighting. Exterior lighting in the EPO-2 District shall be controlled in both height and intensity and shall be in conformance with the requirements established herein. Under no circumstances shall the light level at any lot line exceed 0.2 footcandle, measured at ground level. Floodlights shall not be used to light any portion of a principal or accessory structure facade (except for the temporary lighting), and all outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. For purposes of this section, a "full cutoff light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries.

G. Design principles. To meet the purposes of the EPO-2 District, the following design principles shall apply:

(1) Driveways and Parking. Driveways shall be governed by the requirements of Chapter 164 of the Town Code of the Town of Chatham, unless such chapter shall be inconsistent with the requirements of this Chapter, in which case this Chapter shall control. Parking lots for nonresidential and multifamily residential uses shall be provided with screened parking wholly at the side and/or rear of the structures, provided such an arrangement does not create a significant visual effect. If parking is provided at the side of structures, at least a ten-foot-wide landscaped area (exclusive of that required for sidewalks or utility easements) shall be provided between the road right-of-way and the parking lot, to be planted with shade or ornamental trees and at least a three-foot-high evergreen hedge, wall or fence. In addition, at least one tree and three shrubs shall be provided for each eight parking spaces in interior areas of the parking lot, whether such lot is provided at the side or rear of structures. Parking for single-family dwellings shall also be provided at the side and/or rear of the principal structure, provided such an arrangement does not create a significant visual effect. This principle shall not apply to conservation subdivisions.

(2) Conservation subdivisions within the EPO-2 District shall be encouraged as an alternative to maximum density development.

(3) Wherever practical, vegetation and topography shall be used to buffer and screen buildings.

(4) Clearing of existing vegetation at the edge of the road shall be minimized, except to open landscape views and as necessary to create road and driveway entrances with adequate sight distance. Curved driveways shall be used to increase the screening of buildings.

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

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

H. Dimensional regulations. The following dimensional regulations shall apply to development within the EPO-2 District:

(1) Nonresidential and multifamily residential buildings shall be sited in clusters.

(2) No building shall exceed 7,500 square feet in footprint unless the structure is to be used exclusively for agricultural purposes.

(3) The maximum allowable impervious surface coverage on any parcel proposed for subdivision or development shall be 30%. To implement this requirement, restrictions on impervious surface coverage for individual subdivided lots shall be shown on any subdivision plat.

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

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

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

K. The Planning Board may waive some or all of the regulatory requirements of this section in the EPO-2 District under any of the following circumstances:

(1) The structure or area within the EPO-2 District is situated so that it does not create a significant visual impact that cannot be mitigated, when viewed from visually sensitive areas, including public view locations, scenic roads or important views identified in the Town of Chatham Comprehensive Plan; or

(2) The Planning Board finds that the work to be done is of a minor nature and is consistent with the design standards set forth herein; or

(3) The use involves commercial agricultural operations, or

(4) All buildings and/or disturbance of land occurs more than 40 vertical feet below the ridgeline.

(5) The natural elevations and vegetative cover of ridgelines shall be disturbed only if the crest of a ridge and the treeline at the ridge remains unobstructed. This may be accomplished either by positioning buildings and areas of disturbance below a ridgeline or by positioning buildings and areas of disturbance at a ridgeline so that the elevation of the roofline is no greater than the elevation of the natural treeline. However, under no circumstances shall more than 100 feet along the ridgeline, to a width of 100 feet generally centered on the ridgeline, be disturbed.

L. Performance guaranty. Following approval of an application for an EPO development permit and prior to the commencement of any site activity, issuance of any building or other Town permit, the applicant shall furnish the Town with an irrevocable letter of credit in an amount to be reviewed by the Town Engineer and Town Attorney, which is sufficient to cover the costs of compliance with the various specifications and conditions of the development permit. The purpose of the letter of credit shall be to ensure that all items, activities or structures specified in the plans approved by the Planning Board are constructed or carried out in accordance with such plans and specifications and other

appropriate requirements of the Town of Chatham. The irrevocable letter of credit shall continue in full force and effect until such time as the CEO/ZEO or Town Engineer has certified, in writing, to the Town Planning Board that, based on a site inspection, all specifications, requirements and permit conditions have been completed and/or complied with, whereupon the letter of credit shall be released to the applicant. The Town Board, upon recommendation of the Town Engineer, Planning Board or other appropriate department or official, may deduct or withhold an amount from the letter of credit sufficient to cover the cost of noncompliance with any requirements, specifications or permit condition and/or release the Town from any liability resulting from such noncompliance.

M. Suspension or revocation of permits. The Building Department may suspend a permit (temporarily) until such time as the Planning Board reviews the suspension. The Planning Board, upon recommendation of the CEO/ZEO or other appropriate Town official and subject to a majority vote of the Board, may suspend or revoke a development permit issued in accordance with the provisions of this article where it has found evidence that the applicant has not complied with any or all terms or conditions of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application. The Planning Board shall set forth, in writing, its findings and reasons for revoking or suspending a permit issued pursuant to this article and shall forward a copy of said findings to the applicant.

#### ARTICLE IV, Special Regulations

##### § 180-22. Site plan review.

A. The Planning Board shall review all plans for nonresidential uses, public and semipublic buildings and multifamily residential units, whether or not such development includes a subdivision or resubdivision of a site. The construction of a residential single- or two-family dwelling and farm buildings shall not be covered by this section. Farm and residential ponds are exempted from this requirement. However Ag Buildings and uses as defined by the NYS Agricultural Markets law shall require site plan review in accordance with the NYS Ag and Markets Law guidelines.

B. Site plan review will be required for all residential cluster. Land use activities which are exempted from the requirements of this Chapter, include but are not limited the following:

- (1) Ordinary repair or maintenance of existing structures or uses;
- (2) Agricultural structures as defined under N. Y. State Building and Fire Code Regulations and agricultural land uses, with the exception of roadside stands for the sale of agricultural products from a permanent structure. Temporary roadside stands smaller than 100 square feet are exempt;
- (3) Exterior alterations or additions to an existing residential structure which do not substantially change its nature or use;
- (4) Interior alterations that do not substantially change the nature or use of an existing commercial structure;
- (5) Any change in use which does not require the issuance of a certificate of occupancy pursuant to the New York State Building and Fire Code;
- (6) Residential garden uses and residential, noncommercial timber cutting;
- (7) Garage and lawn sales;
- (8) Uses and structures which have already lawfully initiated construction prior to the enactment of this local law.

##### C. Site Plan Application Procedure

(1) A sketch plan conference between the Planning Board and applicant shall be held to initially review the basic site design concept and to generally determine the extent of site plan review necessary for the intended project and the information to be required on the site plan and in accompanying reports.

(2) At the sketch plan conference, the applicant shall provide a written statement and/or sketch plan describing what is proposed, including indication of all existing structures and uses, if any, on the site. The applicant should also provide an area map keyed to the real property Tax Maps, showing the parcel under consideration for site plan review and all properties, structures, subdivisions, streets and easements within 200 feet of the boundaries thereof.

(3) At the sketch plan conference, the Planning Board shall take one of three actions:

(a) Administratively determine that the project is limited in scope, with compatible land use, site and building design characteristics, thus requiring no further review under this article. Such determination shall be restricted to applications including the establishment of permitted uses within existing complying structures or the limited modification of existing conforming uses and complying structures, as determined by the Zoning Enforcement Officer, wherein no substantial site improvements are either required or proposed.

(b) Administratively determine that the project does require full review under this article, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of the site plan submission requirements in accordance with the site plan checklist set forth below. At this time, one or more of the site plan submission requirements, as set forth on the checklist, may be waived by the Planning Board. The Planning Board may also require that the applicant seek preapplication input from one or more of the persons and agencies cited below. The Planning Board may also require that the applicant provide at the time of filing of the site plan application a drawing certified by appropriate licensed design professionals, in compliance with the professional licensing regulations administered by the New York State Education Department.

(c) Require additional sketch plan information prior to making a determination regarding the applicability of the full site plan review and approval procedure to the intended project.

(4) Application for site plan approval. Within six calendar months of the sketch plan conference, a complete application for site plan approval shall be made, in writing, to the Planning Board and shall be accompanied by a site plan which includes information drawn from the following checklist of items and must include an Agricultural Data Statement.

(5) Site plan checklist. The site plan checklist shall include the following:

(a) Title of drawing, including the names and addresses of the applicant and the person(s) responsible for the preparation of such drawing and a signature block for the Planning Board's endorsement of its approval of the site plan.

(b) North arrow, scale and date, with the scale to be not less than one inch equals 50 feet.

(c) An area map keyed to the real property Tax Maps, showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof.

(d) Accurate boundaries of the property plotted to scale, including reference to the specific data source.

(e) The names of all owners of record of lands adjacent to or directly opposite the applicant's property.

- (f) The location of structures, uses and facilities on adjacent properties within 100 feet of the subject property line.
- (g) Existing watercourses, wetlands and floodplains, including reference to the specific data source.
- (h) The location and boundaries of pertinent natural features that may influence the design of the proposed use such as soil types, rock outcrops, existing vegetative cover and either specimen trees or substantial tree masses which may be located within that portion of the site to be prepared for development.
- (i) Grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board at the sketch plan conference, with two-foot contour intervals and soils data generally required on that portion of any site proposed for development or where general site grades exceed 5% or there may be susceptibility to erosion, flooding or ponding.
- (j) The location, dimensions, proposed use and height of all buildings, both existing and proposed.
- (k) The location, design and construction materials of all parking and truck-loading areas, including their access and egress drives and a clear indication of all traffic patterns on the site.
- (l) Provision for pedestrian access.
- (m) The location of outdoor storage for equipment and materials, if any, and the location, type and design of all solid waste-related facilities, including dumpsters and recycling bins.
- (n) The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (o) A description of the method of sewage disposal and the location, design and construction materials of such facilities.
- (p) A description of the method of securing water supply and the location, design and construction materials of such facilities.
- (q) The location of fire and other emergency zones, including the location of fire hydrants or of the nearest alternative water supply for fire emergencies.
- (r) The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (s) The location, size and design and construction materials of all proposed signage, including associated lighting, if any.
- (t) The location and proposed development of all buffer areas, including indication of both existing vegetative cover and that portion that will be preserved.
- (u) The location and design of outdoor lighting facilities, including data regarding, when appropriate, lighting levels.
- (v) Other elements integral to the proposed development as considered necessary by the Planning Board and as may be reasonably related to the requirements of this chapter and § 274-a of the Town Law, including a proposed development schedule and the identification of any federal, state or county permits required for the project's execution.
- (w) Required fee and escrow deposit for development review costs. A complete application for site plan review and approval shall include the applicable fee in accordance with the fee schedule established and reviewed annually by the Town Board and escrow deposit, if needed, as described below.
- (x) Environmental assessment form (EAF). A complete application for site plan review and approval shall also include a short or full EAF as required by the Planning Board

pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and 6 NYCRR 617.

(y) Establishment of consultant review escrow. The Planning Board is authorized to require the establishment of an escrow account for reimbursement of professional fees it may incur as the result of a site plan application in accordance with Chapter 138 of the Code of the Town of Chatham.

(6) Planning Board review. The Planning Board's review of a site plan shall include, as appropriate, but is not limited to the following:

(a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, channelization structures and other traffic controls.

(b) Adequacy and arrangement of pedestrian traffic access and circulation, walkways, control of intersections with vehicular traffic and overall pedestrian convenience.

(c) Location, arrangement, appearance and sufficiency of off-street parking and loading facilities.

(d) Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.

(e) Adequacy of stormwater and drainage facilities.

(f) Adequacy of water supply and sewage disposal facilities.

(g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the applicant's and adjoining lands, including concern for the maximum retention of existing vegetation. Important aesthetic features and the rural character of the neighborhood should also be protected.

(h) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.

(i) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

(j) Adequacy of fire lanes and other emergency zones and water supply for fire emergencies.

(k) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion or in the vicinity of wetlands or similar natural features.

(l) Compatibility and consistency of scale of building design with existing characteristics of the neighborhood, including consideration of nearby historic or architecturally significant properties.

(m) The Board shall review and consider GIS maps, associated information and impacts during its review of any application hereunder.

(7) Public hearing. The Planning Board shall conduct a public hearing on the application for site plan approval. The public hearing shall be conducted within 62 calendar days of the receipt of the complete application and shall be advertised in the official newspaper of the Town at least five calendar days before the public hearing. The Planning Board shall additionally provide notice of the public hearing and data regarding the substance of the application to the owners of all property abutting the subject matter property. Notice shall be mailed, return receipt requested, at least 10 calendar days prior to the hearing. The Town shall collect from the applicant the actual amount of the cost of the publication and mailing of the notice, which shall be paid prior to the opening of the public hearing. Provided that there has been substantial compliance with this provision, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with the application.

(8) Planning Board action. Within 62 days of the close of a public hearing, the Planning Board shall act on the site plan application. Failure to act on such application within the required time shall not be deemed an approval.

(a) The Planning Board shall act by resolution to either approve or disapprove or approve with modifications the site plan application. A copy of the resolution shall be filed in the Town Clerk's office and mailed to the applicant within 10 calendar days of the Planning Board's action. A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the submission requirements stated therein. The Planning Board shall also be authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits as set forth below. When reviewing a site plan application containing residential units, the Planning Board is authorized to approve such site plan, when offered by the applicant, at its discretion, a park or parks suitably located for playground or other recreational purposes, in accordance with NYS State Town Law §274(a)(6).

(b) If the Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval and shall be satisfied prior to signing of the site plan. If the site plan is disapproved, the Planning Board's resolution shall state specific reasons for such decision. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

(c) Submission requirements for stamping. After receiving site plan approval, with or without modifications, from the Planning Board, the applicant shall within six calendar months submit six prints of the site plan to the Planning Board for stamping and signature by the Chairman. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board except that it shall further incorporate any revisions or other modifications required by the Planning Board.

(d) Effect of stamping by Planning Board. Upon stamping and signature by the Chairman, the Planning Board shall forward a copy of the approved site plan to the Zoning Enforcement Officer, the Building Inspector and the applicant. The Building Inspector may then issue a building permit or the Zoning Enforcement Officer a certificate of occupancy, as applicable, if the project conforms to all other applicable requirements, including the applicant's presentation of documentation that all necessary permits and approvals from federal, state and county officials and agencies have been issued.

(e) Expiration of approval. Planning Board approval of a site plan shall expire if any of the following circumstances occurs:

(i) The site plan is not submitted for stamping and signature by the Chairman within six calendar months of the Planning Board's resolution of site plan approval, with or without modifications.

(ii) A complete application for either a building permit or certificate of occupancy is not submitted to the Zoning Enforcement Officer and/or Building Inspector, as applicable, within one calendar year of the stamping and signing of the site plan by the Chairman.

(iii) Work authorized under a building permit is not commenced and diligently pursued through the completion of substantial construction within 30 months of the stamping and signing of the site plan by the Chairman. Upon prior written request to the

Planning Board, including a statement of justification for the requested time extension, the time period for submission of the site plan or submission of the complete application for a building permit or certificate of occupancy may be individually extended for a maximum period of six calendar months and one calendar year, respectively, from their otherwise specified termination dates.

§ 180-23. Two single-family units on one lot.

The Code Enforcement Officer/Zoning Enforcement Officer may issue a permit for the construction and occupancy of up to two single-family dwelling units on one lot in the H-1 and H-2 Zoning Districts of the town, provided that the following standards are met:

- A. A special use permit shall be required prior to the issuance of a building permit.
- B. Any special use permit granted shall require the creation and execution of a maintenance agreement for any shared infrastructure including driveways, water, and septic and such maintenance agreement will be recorded in the chain of title of the parcel.
- C. The setback, area, density and use requirements of the district in which the units are to be located must exist for both units. Notwithstanding any other provision of this chapter, no setback, area, density or use variances shall be granted in permitting two single-family units on one lot.
- D. The dwelling units may share a common well and/or septic system if the system is adequate for the common uses. Design and construction of any new septic system shall be approved by the Columbia County Department of Health.
- E. No future subdivision of a lot on which two dwelling units have been located, pursuant to this provision, shall be created, unless all newly created lots will meet all setback, area, density and frontage requirements contained in this chapter. The existence of an inadequate setback between the two dwelling units, or insufficient area or density or frontage, shall not be a basis for the granting of a variance to permit a subdivision of the units.
- F. Upon the approval and construction of second single-family dwelling unit on a parcel, that parcel shall no longer be eligible for the construction of or use of the parcel for an accessory apartment.

§ 180-24. Accessory Residential Dwellings

The Code Enforcement Officer/Zoning Enforcement Officer may issue a permit, following the granting of a special use permit by the Zoning Board of Appeals for the construction and occupancy of 1 (one) accessory residential dwelling on one lot in the RL-1, RL-2 and RL-3 Zoning Districts of the town, provided that the following standards are met:

- A. The use is an accessory use and must be subordinate to the use and size of the primary residence. It must be no more than 50 (fifty) feet away from the primary residence and shall not be subdivided from the primary residence.
- B. The setback, area, density and use requirements of the district in which the accessory residential dwelling is to be located must exist for both units. Notwithstanding any other provision of this chapter, no setback, area, density or use variances shall be granted in permitting an accessory residential dwelling.

C. The accessory residential dwelling may share a common well and/or septic system if the system is adequate for the common uses. Design and construction of any new septic system shall be approved by the Columbia County Department of Health.

§ 180-25. Farm Land Protection Siting Standards

A. All subdivisions within the RL-1 and RL-2 Districts shall be platted to preserve the maximum amount of prime and statewide important farmland soils for continued agricultural use. During subdivision review, and insofar as practicable, building envelopes shall be identified and located in a manner to protect the maximum amount of prime and statewide important farmland soils as follows:

(1) On the least fertile soils for agricultural uses and in a manner which permits access to active agricultural land. Structures shall, to the maximum extent practicable, avoid being placed on lands defined by the Columbia County Soil Survey as being Prime Farmlands, or Soils of Statewide Importance.

(2) Within any woodland contained within the parcel, or along the far edges of open fields adjacent to any woodland, so as to reduce impact on agricultural operations and to enable new construction to be visually absorbed by natural landscape features;

(3) To maintain the largest amount of contiguous acreage for agricultural use;

(4) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland so as to reduce encroachment on agricultural soils and areas; and

(5) All new non-farm development shall buffer itself from existing agricultural uses. It shall be the responsibility of a non-farm applicant, subject to approval by the Planning Board or the Zoning Board of Appeals, as the case may be, to provide an effective buffer that will reasonably distance and protect adjacent non-farm and residential living areas from agricultural procedures. Buffers adjacent to actively farmed land shall be established to reduce the exposure of non-farm uses to odors, noise, and other potential nuisances associated with the agricultural operation and to protect the agricultural operation from potential complaints related to same. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and shall be no less than one hundred (100) feet in width. Buffers may be required to be larger depending upon the type of agriculture or farm use adjacent to the non-farm use, the topography and the proposed design and planting of such buffer.

(6) Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways.

(7) Locate new development so that the flow of water to farm properties is not impeded, and in ways that are compatible with existing field drainage patterns.

§ 180-25. Public utility uses, siting and structures.

A. Public utility; definition. A public utility shall be deemed to include any use, structure or facility having the following characteristics:

(1) Essential nature of service.

(2) Operation under a federal or state franchise or permit providing some measure of public regulation.

(3) Providing a product that must be piped, wired, transmitted or otherwise served to each user with a supply to be maintained at a constant level.

(4) User has no alternative source, and supplier has no alternative means of delivery.

B. Public utility; siting approval. No public utility use or structure may be located in any zoning district of the Town of Chatham without the person, firm or entity proposing to operate, use, construct or service the same first obtaining a special permit entitled "public utility special permit" from the Town Zoning Board of Appeals. In reviewing any such application, the Zoning Board of Appeals shall apply the following standards:

(1) New York State Environmental Quality Review Act (SEQR). The proposed use or structure shall be deemed to be a Type I action, as defined in the New York State Environmental Quality Review Act (SEQR).

(a) Visibility. All public utility uses or structures shall be located and sited so as to have the least possible adverse visual impacts on other lands within the Town of Chatham. To properly review these impacts, the applicant shall prepare and file a visual environmental assessment form addendum with any required SEQR environmental assessment form.

(2) Public necessity. The applicant must show that the use structure or facility is a public necessity; that its proposed useful life will be; that the same is required in order to render safe and adequate service; and, that there are compelling reasons, economic or otherwise, which make it more feasible to use the proposed site or facility than to use alternative facilities or sources of the same service that may be provided by other facilities.

C. Alternative sites. The use of a particular site shall take into account the availability of other locations less likely to cause injury to the neighborhood and their comparative advantages and disadvantages with the plot for which approval is sought.

D. Shared use.

(1) As a public policy of the Town of Chatham, the shared use of existing public utility structures is preferred to the siting, location and construction of additional new facilities. An applicant hereunder shall be required to present a detailed inventory locating all existing public utility structures providing the same service, either within the Town of Chatham or reasonably adjacent thereto, which said structures might adequately serve the needs of the applicant if the applicant shared the use of such facility with the existing owner.

(2) An applicant requesting permission to share the use of an existing public utility structure or parcel within the Town of Chatham shall be required to provide documentary evidence of consent from the existing owner, and that such intensified use will not have a detrimental effect on the public health, safety or other utility services already being provided.

E. Setbacks. All public utility structures (excepting underground or buried utilities) shall comply with zoning setback regulations in the affected zone. In any event, a structure shall be set back a distance at least equal to its height. Additional setbacks may be required by the Zoning Board of Appeals in order to provide for the public safety in the event of any failure of the structure.

F. Lighting and Underground Wiring. No towers or structures shall be artificially lighted, except as required by the Zoning Board of Appeals or by any state or federal agency having jurisdiction over the site. Structures shall be constructed of such materials and painted in such colors so as to minimize their visual impacts. The ZBA shall have the authority to require underground wiring to the and from the facility where appropriate in consideration of to the site conditions.

G. Vegetation and Landscaping. Existing on-site vegetation shall be preserved to the maximum extent possible. The requirement of shrub or tree plantings to screen the use and/or structure shall be considered as part of the normal site plan review process by the Town Planning Board. The applicant

shall be required to provide landscaping at the site to mitigate visual impacts and provide consistency with the character of the surrounding community.

#### H. Abandonment.

(1) The terms of any approval for a public utility facility shall require the applicant to deposit with the Town an amount in escrow of a sum of money sufficient to remove the facility. Such amount shall be arrived at based upon the recommendation of the Town's engineer and other appropriate professionals, including the owner/operator's engineer. Said funds shall be deposited in a separate, interest bearing account and shall not be utilized for any purpose except as stated herein. The interest earned on said funds may, upon the written request of the applicant, be returned to applicant on an annual basis. At any time, the Zoning Board of Appeals may review the sufficiency of the amount in escrow to complete the removal of the facility and may require a further or additional amount to be deposited in the event a determination is made that same is necessary based upon the recommendation of the Town's engineer and other appropriate professionals including the owner/operator's engineer. The Town shall not utilize the escrow funds herein to remove the facility unless same has been abandoned as defined herein and the owner/operator or its successor in interest has failed to remove the facility after more than 30 days following a written demand by the Town to do so. The owner/operator and/or its affiliate shall be liable for all applicable penalties and fines independent of any amount remaining in escrow and relating to any obligation(s) which arise regarding the issuance and use of a special use permit and site plan review approval.

(2) Notwithstanding any inconsistent provision of the Town Code, in the event that the use of a public utility facility has been discontinued for a period of 120 consecutive days or more or the owner/operator notifies the Town of its intention to discontinue its use thereof, the facility shall be deemed to be abandoned. If there are two or more operators or users of a facility, then this provision shall become effective only when all users have discontinued use of said facility. The Building Inspector shall make a periodic inspection of the premises, at least annually, on the anniversary date of the granting of the special use permit herein. The Building Inspector shall make a determination of the date of abandonment and shall request documentation from the owner or operator of the facility regarding usage within five days of the determination of abandonment.

(a) Any special use permit or other approvals, permits and certificates granted by the Town related to the facility shall automatically expire on the date the facility is deemed to be abandoned.

(b) All special use permits or other approvals, permits and certificates granted by the Town related to the facility shall be deemed to allow the Town or its representatives entry onto the property for the purpose of removing the facility upon reasonable notice to the owner of such property following the abandonment of same and the completion of the process set forth below.

(3) Within 90 days after the determination of abandonment by the Town Building Inspector, or the revocation of a special use permit or site plan review approval, the facility and related structures shall be removed by the owner or operator and shall be properly disposed of in accordance with all local, state and other laws and regulations regarding such disposal.

(a) If the facility is not removed within said ninety-day period, a process for removal by the Town of Chatham shall be commenced at the owner or operator's expense.

(b) Following the expiration of the ninety-day period, the Building Inspector, with the approval of the Zoning Board of Appeals, may notify the owner in writing that removal must be accomplished within 30 days of said notification. The notification shall indicate that failure to remove the facility within 30 days shall result in the removal of said facility by the Town of Chatham with the cost thereof to be paid with the funds deposited in escrow with the Town. Any cost incurred by the Town in such removal,

not paid under the escrow, shall constitute a lien on the tax lot on which the tower is situated and shall be collected in the same manner as a Town tax on real property.

I. Notwithstanding any provision set forth above, the provisions set forth hereinafter at § 180-26 shall control the use and siting of communications or broadcast towers or facilities.

J. The Town Board of the Town of Chatham hereby expressly grants the Zoning Board of Appeals of the Town of Chatham the authority to hear, review and grant or deny applications within the jurisdiction of the Town of Chatham with regard to communications or broadcast towers as set forth hereinafter, to wit, site plan review and special use permits.

§ 180-26. Communication or broadcast towers or facilities.

The development of a communication or broadcast tower and facilities and related structures shall be permitted by special use permits approval by the Zoning Board of Appeals. A communication or broadcast tower and facility shall be subject to the following supplementary requirements:

A. Purpose.

(1) The purpose of these supplementary requirements and standards is to regulate the development of communication or broadcast towers and facilities in the Town of Chatham, consistent with the general purposes stated in the Town Code of the Town of Chatham, to accommodate the necessary infrastructure for the provision of telecommunications services or other types of broadcast within the Town, to address the visual, aesthetic and land use compatibility aspects of telecommunications or broadcast facilities, towers and antennas and more specifically to:

- (a) Minimize the total number of towers throughout the Town;
- (b) Encourage the collocation or shared use of proposed and existing tower sites;
- (c) Encourage the location of towers and antennas, to the extent possible, in areas where the adverse impacts on the community are minimized;
- (d) Encourage the configuration or camouflaging of towers and antennas in a way that minimizes the adverse visual impact of the towers and antennas;
- (e) Enhance the provision of telecommunications services and reception within the borders of the Town of Chatham; and
- (f) Whenever practicable in accordance with the restrictions set forth hereinbelow, maintain the number of tower(s) per overlay zone at one.

(2) This section does not apply to citizen band, short wave and/or two-way radio antennas for ordinary residential or recreational use and shall be no more than five feet taller than any structure within the zone.

B. Application procedures and requirements.

(1) The proposed use shall conform to the general requirements and procedures of the Town Code of the Town of Chatham pertaining to approval of special uses as stated in § 180-44. The required application for site plan review shall conform to the requirements and standards in § 180-22 regarding site plan review.

(2) Where an application involves the addition or removal of antennas or other equipment onto or from the site of an existing communication or broadcast tower and facilities (or tower facility) by the current users or operators of said facilities, such application may, at the discretion of the Zoning Board of Appeals, be considered exempt from the requirements for approval of special use permits and the related site plan review. Exemption from approval of special use permits and the related site plan review shall only be granted for proposed development that complies with the criteria below and shall be subject to a building permit:

- (a) The addition of antennas or other equipment onto an existing tower facility shall be exempt where such addition involves the installation of antennas or other equipment clearly specified as part of the original approval for the communication or broadcast tower and facilities, including approved additional users and collocation of approved equipment and including approved accessory structures. An exemption granted under this subsection need not comply with the criteria in the subsections below;
- (b) The addition of antennas or other equipment onto an existing tower facility shall not result in any increase in the total height of the structure, as originally approved, including the height of any antenna protruding above the tower structure;
- (c) The addition or replacement of antennas or other equipment onto an existing tower facility shall not result in any increase in the bulk (i.e., volume) greater than 5% over the total bulk of antennas or other equipment approved for installation on said tower in accordance with the original approval of said tower facility. The bulk of existing and proposed antennas shall be calculated in appropriate cubic (three-dimensional) units such as cubic inches or cubic feet using the outside dimensions;
- (d) The removal of antennas or other equipment from an existing tower facility shall only be permitted as an exemption herein where it results in no net increase in the bulk (i.e., volume) of the total bulk of antennas or other equipment approved for installation on said tower as per the original approval of said tower facility. The removal of an antenna under an exemption herein shall not result in any significant alteration of the remaining antennas or equipment on the tower structure; and
- (e) The addition of antennas or other equipment onto an existing tower, under this exemption, shall not include the construction of any new accessory structures such as equipment buildings, fencing or other site improvements unless such accessory structures or improvements are clearly indicated as part of the original approval for the communication or broadcast tower and facilities.

C. Reimbursement of review costs. The applicant shall be required to establish an escrow account to reimburse the Town of Chatham for the legitimate costs of review associated with the use of professionals qualified to review the required plans, reports and other technical information submitted in support of an application for a communication or broadcast tower and facility. The initial amount of the establishment of the escrow account shall be determined on a case-by-case basis as 1% of the estimated overall cost to erect the proposed tower and facility but in no case shall be less than \$3,000 or a larger amount estimated by the Zoning Board of Appeals to be reasonable and necessary to cover the cost of the review to be incurred by the Town. All necessary reviewing professionals assisting the Town in such reviews shall provide an estimate of the approximate cost of review services. The Town shall submit an itemized bill to the applicant at least thirty days prior to any deduction of such amount billed from the escrow account. The Zoning Board of Appeals may periodically and at its discretion require the replenishment of the escrow account established hereunder. Upon completion of the application and review process, any balance remaining in the escrow account shall be refunded to the applicant within 30 days of the submission and payment of the final bill by the Town and payment in full of all application and approval fees.

D. Additional application information. In addition to the special use permit in § 180-44 and the site plan review in § 180-22, applications for development of communication or broadcast towers and facilities shall include the following information:

- (1) Name(s), address(es) and telephone numbers of persons preparing submitted plans, reports and information;

(2) Name(s), address(es) and telephone numbers of the property owner, operator and applicant and their involved affiliates;

(3) Name(s), address(es) and telephone numbers of owners of all properties adjacent to the proposed site or within a one-quarter-mile radius of the proposed site;

(4) Elevations and details of the proposed structure, including the height, width, depth, location and configuration of guy wires or other anchoring devices, type of materials, color(s), lighting, the number and type of all proposed antennas, and receiving and transmitting equipment and other relevant information for all existing and proposed structures, equipment, parking and all other related improvements. The elevations and details shall provide, as appropriate, information about the facilities of other users if the applicant is considering the collocation of additional antennas, equipment and other facilities, including the relationship of the height of the tower to the feasibility of collocation of additional facilities. The special use permit and site plan review applications shall also include a description of the proposed communication or broadcast tower and facility and such other information that the Zoning Board of Appeals requires;

(5) The special use permit application and/or site plan review shall indicate the location of the proposed access to the site, including the location of access to a suitably improved roadway, the length, width, grading, drainage, snow storage area and driveway profile and proposed surface material(s) and the environmental impacts thereof. The proposed access shall be used only for the purposes of construction, operation, maintenance and repair of the communication or broadcast tower and facilities. Any proposed fence or gate related to the access driveway shall be shown, including provision for police, fire or emergency vehicle access to the site and facilities;

(6) Any substantial off-site impacts;

(7) Visual analysis.

(a) A visual EAF addendum shall accompany the full environmental assessment form (EAF) to be submitted with the special use permit and site plan review applications. Following review of the visual EAF addendum, a visual impact analysis or study may be required to further assess the visual impact of a proposed tower facility. The consideration of alternative designs may be requested as part of the visual assessment, such as flagpole technology (a monopole with internal antennas), a camouflaged pole and antennas, installation of antennas on existing structures at appropriate locations, the use of whips (individual antennas) on utility poles and connection with a fiber optic network, if available, or other designs that may provide for the mitigation of visual impacts. In order to take the necessary "hard look" as required by the State Environmental Quality Review Act, the applicant shall submit any other visual analysis or study deemed necessary by the Zoning Board of Appeals.

(b) The methodology for any visual analysis should be approved by the Zoning Board of Appeals and shall address impacts on nearby viewsheds, ridgelines, scenic features and historic sites and structures identified as significant, as well as compatibility with nearby land uses and any other resource deemed by the Zoning Board of Appeals as reasonably relevant to the application. The Zoning Board of Appeals may consider methodologies, including, but not limited to, the following:

[i] Photographic simulation or photographic montage, with and without foliage;

[ii] A demonstration using a balloon or the top of the actual structure on a project site, based on the following requirements:

[a] Balloon to be flown at actual height. Alternatively, the top portion of a tower structure with all proposed antennas and related structures attached, to be temporarily held up at actual height (typically by a crane);

[b] Approximate actual color/finish;

[c] Balloon or top of tower to have same reflective property;

[d] Balloon to approximate bulk and diameter of proposed tower and related structures; top of tower to include all proposed antennas and related structures;

[e] Balloon to be flown, or top of tower to be held up, for a minimum of eight hours, though not necessarily consecutively and as deemed necessary by the Zoning Board of Appeals; and

[iii] Regardless of the methodology utilized, adequate advance written notification to all landowners within a one-quarter-mile radius of the proposed site of the balloon test and public notice published in the newspaper of record for the Town in accordance with the requirements under § 180-43 of the Chatham Town Code;

(8) A landscape plan shall delineate existing vegetation and wooded areas to remain undisturbed, specimen trees of six inches in diameter at breast height (6" dbh) or larger, the height of the surrounding tree line, and shall identify vegetation to be removed, including areas to be kept clear by mowing, and the location, size, type and number of all proposed plantings. Additionally, any other improvements such as fences and walls shall be shown, including the purpose of such improvements and details, elevations, materials and color and any other information related to landscaping improvements, their purpose and appearance;

(9) A statement about safety measures related to the project, such as fencing to prevent access to the tower structure and related equipment and lighting;

(10) Documentation sufficient to demonstrate that the proposed tower height is the minimum height necessary to provide licensed communication or broadcast services to locations within the Town of Chatham which the applicant is not able to serve with existing facilities in the project site area. Additionally, documentation regarding height should address any variations in height necessary to accommodate collocation of antennas or other equipment by other users or operators;

(11) An affidavit by the applicant regarding whether the construction of the facility will accommodate the collocation of additional communication antennas or facilities for future users, when technically and economically feasible, may be required. Said affidavit should examine the following:

(a) Whether the necessary equipment would exceed the structural capacity of existing or proposed facilities; or

(b) Whether the applicant, after a good-faith effort, has been able to reach an agreement with the owner of an existing facility.

(12) A report prepared by a New York State licensed professional engineer specializing in structural engineering about the structural integrity of the proposed communication or broadcast tower and facility. The report shall demonstrate the structure's compliance with applicable standards and shall describe the structure's capacity, including the number and type of antennas it can accommodate, using illustrations as necessary. In the case of antennas being mounted on an existing structure, the equivalent of the above-required information shall be provided about the existing structure;

(13) Report.

(a) A report, certified by a qualified New York licensed professional engineer or counsel admitted to practice law in the State of New York, about the safety of the radio frequency emissions of the proposed facility, including the following information:

[i] Evidence of FCC license, franchise and/or permit to grantee/applicant or their affiliate (including information regarding all related permitting standards and specifications) and, if an affiliate, that the applicant is recognized by the FCC as entitled to use the license, franchise and/or permit;

[ii] Certification that the proposed antenna(s) will not cause interference with existing communication devices; and

[iii] Certification of compliance with the following:

- [a] All current, applicable FCC regulations and standards;
- [b] National Electrical Safety Code (NESC);
- [c] National Electrical Code (NEC);
- [d] All current standards of all federal agencies with authority to regulate telecommunications or broadcast towers and antennas;
- [e] All pertinent New York State building codes and fire prevention codes; and
- [f] All local building codes and fire prevention codes.

(b) The above report shall be certified to be true, complete and accurate and subject to all applicable penalties.

(14) Coverage map and report.

(a) A map which shows the applicant's existing and proposed area of coverage (propagation map), including all adjacent towers used or operated by the applicant or its affiliate(s) outside the Town of Chatham. The map shall locate all existing and proposed sites in the Town and in bordering communities which contain communication or broadcast towers or facilities used by the operator, owner or applicant or other operators and which provide coverage in the Town of Chatham.

(b) A detailed report shall accompany the coverage map which indicates why the proposed communication or broadcast tower and facility is necessary. The report shall also identify locations within the proposed project site service area which are not and could not be served by either existing or proposed facilities (depicted in the map of coverage and existing facilities), by collocation or by other tower design options.

(15) When an applicant proposes to locate additional antennas, antenna arrays or facilities on existing towers or sites (collocation), the application may include information from a previously approved application for the same site or facility to address application requirements. The application must provide additional or updated information pertinent to the new antennas, antenna arrays or facilities and must address related changes in conditions on or near the site, including equipment shelter plans and specification sheets for the antenna as requested by the Zoning Board of Appeals. The submittal of materials of previous applications does not exempt the application for collocation from any of the procedural steps in the review of a regular application, unless said application meets the criteria for an exemption as set forth in § 180-22.1B, above.

(16) If collocation is not proposed, an affidavit stating that collocation is not practically feasible. The Zoning Board of Appeals shall not accept greater financial cost alone as sufficient grounds for nonfeasibility of collocation. Evidence that an alternative contract or business arrangement is currently in use in the industry may be considered by the Zoning Board of Appeals that such alternative is financially feasible and thus available to the applicant. Said affidavit shall examine the aspects of feasibility noted in Subsection D(11) above. Said affidavit may also be required to address the feasibility of any alternate designs that are presented as mitigation measures for potential visual impacts of the proposed tower facility.

(17) In order to assess the long-term effects of communication or broadcast tower development on the Town of Chatham and areas surrounding the proposed tower site, the Zoning Board of Appeals may require the presentation of a long-range conceptual plan for additional communication or broadcast tower and facility development by the applicant. The long-range plan shall address the possible location of additional tower sites, the related service area coverage and alternative long-range plan scenarios that illustrate the potential effects of tower height on the number of towers in the service area.

(18) If an applicant anticipates the potential collocation of antennas by other users on a proposed new communication tower, these facilities may be presented in the application. If specific users or operators, other than the principal applicant, are being identified by the applicant, then

appropriate certification must be submitted with the application that the applicant is authorized by the other users, or that the other users are co-applicants, to properly represent such other users in the approval of the application. All application materials, plans and illustrations must clearly identify additional users' facilities and service areas as is required for the primary applicant or co-applicant, as appropriate.

(19) If the application proposes a new communications tower in Zone T-2 or T-3, the applicant must provide evidence in the form of affidavits and RF plots outlining that the new tower is necessary to provide reasonable coverage in the Town of Chatham in accordance with the standards delineated in the Federal Telecommunications Act.

E. Criteria for approval. Applications for an approval of a special use permit and site plan review for development of a communication or broadcast tower and facility shall meet all of the following criteria:

(1) The collocation, or sharing, of existing tower structures for mounting of proposed communications antenna(s) or equipment shall be required upon the application of new towers and/or facilities. When a new tower structure is proposed, the applicant must demonstrate that the proposed communication or broadcast devices and equipment cannot be accommodated on an existing facility within the project area, including areas within the Town of Chatham and nearby areas in adjacent municipalities. When an applicant proposes collocation of a proposed antenna(s) on an existing structure, the applicant must demonstrate that the existing site will be properly adapted to the placement of additional antenna(s). As required by the Zoning Board of Appeals, the applicant shall address the capacity of the site and structure and necessary screening, landscaping, camouflaging and additional safety measures.

(2) Height.

(a) The maximum permitted height of a communication tower, monopole or any structure constructed for the purpose of locating antennas or telecommunications devices shall be a maximum height of 115 feet for up to five users or operators.

(b) The height shall be measured from the elevation of the proposed finished grade at the base of the communication or broadcast tower structure to the top of the tower or monopole structure, or to the top of any antenna or equipment installed above the top of the structure, including the lightning rod which shall not exceed 120 feet, whichever is higher.

(c) The applicant must demonstrate to the satisfaction of the Zoning Board of Appeals that the proposed height and bulk of a communication or broadcast tower or monopole is the minimum height and bulk necessary to provide service to meet the applicant's communication needs within the Town's boundaries and the visual or aesthetic impact has been minimized to the greatest extent practicable. Notwithstanding the above, the Zoning Board of Appeals may, in its discretion and where same shall encourage collocation, require that the height of the tower be increased, up to the maximum height allowable herein.

(3) A proposed communication or broadcast tower shall be separated from all the boundary lines on the lot on which it is located by a distance equal to the height of the tower or the distance of the corresponding minimum yard setback (front, side and rear) according to the requirements for that zone as stated in the lot size, density and yard dimensions of the Town of Chatham Town Code, whichever is greater. Additionally, the base of any guy wire shall be subject to the normal setback requirements of the underlying zone in which the proposed tower is to be sited.

(4) Related buildings.

(a) All related buildings shall conform to the applicable minimum front, side and rear yard setback requirements as set forth in the Town of Chatham Code. The additional

setback distance, equal to the tower height, shall not be applied to the related buildings proposed to house equipment, and for maintenance and operation of the communication or broadcast tower and facility. However, the related buildings shall be located so as to minimize visibility from adjacent properties and, the Zoning Board of Appeals so directs, shall be located in the rear of the site, and shall be effectively screened from the view of the site's road frontage(s).

(b) The total gross floor area for any related buildings shall be the minimum size necessary for operation and shall not exceed 600 square feet per operator or user with facilities located on the site. Operators and users on sites with more than one such structure shall share such structures whenever possible to minimize the number and total area of such structures on a site.

(5) The Zoning Board of Appeals, at its discretion, may require that security fencing be located around each communication or broadcast tower and facilities or related structures to secure the site, including provision for access to the tower facility through a locked gate. If required, said fencing shall be designed to minimize visual and aesthetic impacts.

(6) When considering applications the Zoning Board of Appeals shall determine the volume of the proposed antenna, the volume of any future possible antennas and the effect and cumulative effect thereof.

(7) The Zoning Board of Appeals shall review and consider GIS maps, associated information and impacts during its review of any application hereunder.

F. Design guidelines. An application for development of a communication or broadcast tower and facilities shall meet the following applicable design guidelines:

(1) Unless required by the Federal Aviation Administration (FAA) or other federal, state or local agency, the painting or marking of towers or monopoles shall have a finish or coloring that will minimize visual and aesthetic impacts and shall be visually unobtrusive to the maximum extent practicable.

(2) Unless required by the Federal Aviation Administration (FAA), or other federal, state or local agency, no signals, lights or illumination shall be permitted on communication towers. Any lighting necessary for the related structures shall be minimized and shall be properly shielded to prevent glare onto adjacent properties. Motion-detection-activated lighting shall be used whenever practicable.

(3) The base of the communication or broadcast tower or monopole and any related structure shall be effectively screened using primarily vegetative screening such as a continuous evergreen hedge consisting of native trees and shrubs. Clearing and site disturbance shall be minimized and shall conform to all pertinent Town regulations and requirements. Existing vegetation shall be preserved to the maximum extent practicable. Additional plantings shall be required, as necessary, to screen structures from nearby properties or important viewsheds or scenic areas. All landscaping shall be properly maintained to ensure good health and viability. The landscaping and screening maintenance as set forth above shall be the responsibility of the applicant, its successor in interest, any lessee of the tower and the landowner.

(4) All communication or broadcast tower facilities shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment. Alternative designs may be considered, such as flagpole technology (a monopole with internal antennas), a camouflaged pole, installation of antennas on existing structures at appropriate locations, the use of whips (individual antennas) on utility poles, or other designs that may provide for the mitigation of visual impacts. Any alternative design option considered hereunder shall be consistent with the purpose, procedures, requirements and standards of these supplementary regulations. Concealed towers and short towers

shall be used whenever feasible and whenever possible shall be situated off ridgelines and where the visual impact is least detrimental to scenic areas and residential properties.

(5) Signage shall be prohibited on communication or broadcast tower facility sites except for one identification sign that shall not exceed the minimal permitting requirements and design standards in § 180-32 of the Town of Chatham Town Code. Such signage shall include notification of any hazardous materials, gasoline or batteries stored within the facility. Except as specifically required by a federal, state or local agency, no sign shall be permitted on a tower or monopole.

#### G. Additional requirements.

(1) The terms of any approval for a communication or broadcast tower and facilities shall require the applicant to deposit with the Town an amount in escrow of a sum of money sufficient to remove the tower, antenna and associated facilities. Such amount shall be arrived at based upon the recommendation of the Town's engineer and other appropriate professionals, including the owner/operator's engineer. Said funds shall be deposited in a separate, interest bearing account and shall not be utilized for any purpose except as stated herein. The interest earned on said funds may, upon the written request of the applicant, be returned to applicant on an annual basis. At any time, the Zoning Board of Appeals may review the sufficiency of the amount in escrow to complete the removal of the tower and facility and may require a further or additional amount to be deposited in the event a determination is made that same is necessary based upon the recommendation of the Town's engineer and other appropriate professionals including the owner/operator's engineer. The Town shall not utilize the escrow funds herein to remove the tower and facility unless same has been abandoned as defined herein and the owner/operator or its successor in interest has failed to remove the facility after more than 30 days following a written demand by the Town to do so. The owner/operator and/or its affiliate shall be liable for all applicable penalties and fines independent of any amount remaining in escrow and relating to any obligation(s) which arise regarding the issuance and use of a special use permit and site plan review approval.

(2) In any approval for a communication or broadcast tower and facilities, the Zoning Board of Appeals shall require an irrevocable commitment from the owner of the tower, antenna and related facilities, the owner of the land upon which the tower is located and any and all lessees and the affiliates of any of the above, to defend, indemnify, and hold the Town of Chatham, its boards, officials, employees and agents, free and harmless from judgments or costs, including reasonable attorneys fees, arising directly or indirectly from the construction, use, operation and/or removal of the tower, antenna and related facilities except as to those arising from the Town's own negligence.

H. Construction, operation and maintenance. The Zoning Board of Appeals may revoke any special use permit and/or site plan review approval granted under this section after a hearing in the event any condition of the special use permit or site plan approval is violated or not fulfilled. The Zoning Board of Appeals shall provide written notification to the owner(s) of the tower, antenna and any related facilities at least 10 days prior to such hearing so that they may have an opportunity to be heard. If at such hearing it shall be shown by substantial evidence that the tower, antenna and related facilities constitute a nuisance or a safety hazard, or that the conditions of the approval have been materially violated, the Zoning Board Of Appeals may revoke the special use permit and/or site plan review approval.

#### I. Abandonment.

(1) Notwithstanding any inconsistent provision of the Town Code, in the event that the use of a communication or broadcast tower and facilities has been discontinued for a period of 120 consecutive days or more or the owner/operator notifies the Town of its intention to discontinue its use thereof, the facility shall be deemed to be abandoned. If there are two or more operators or users of a

communication or broadcast tower facility, then this provision shall become effective only when all users have discontinued use of said facility. The Building Inspector shall make a periodic inspection of the premises, at least annually, on the anniversary date of the granting of the special use permit herein. The Building Inspector shall make a determination of the date of abandonment and shall request documentation from the owner or operator of the facility regarding usage within five days of the determination of abandonment.

(a) Any special use permit or other approvals, permits and certificates granted by the Town related to the communication or broadcast tower and facilities shall automatically expire on the date the facility is deemed to be abandoned.

(b) All special use permits or other approvals, permits and certificates granted by the Town related to the communication or broadcast tower and facilities shall be deemed to allow the Town or its representatives entry onto the property for the purpose of removing the communication and broadcast tower facility upon reasonable notice to the owner of such property following the abandonment of same and the completion of the process set forth below.

(2) Within 90 days after the determination of abandonment by the Town Building Inspector, or the revocation of a special use permit or site plan review approval, the tower facility and related structures shall be removed by the owner or operator and shall be properly disposed of in accordance with all local, state and other laws and regulations regarding such disposal.

(a) If the tower and related structures are not removed within said ninety-day period, a process for removal by the Town of Chatham shall be commenced at the owner or operator's expense.

(b) Following the expiration of the ninety-day period, the Building Inspector, with the approval of the Zoning Board of Appeals, may notify the owner in writing that removal must be accomplished within 30 days of said notification. The notification shall indicate that failure to remove the tower and related structures within 30 days shall result in the removal of said facilities by the Town of Chatham with the cost thereof to be paid with the funds deposited in escrow with the Town. Any cost incurred by the Town in such removal, not paid under the escrow, shall constitute a lien on the tax lot on which the tower is situated and shall be collected in the same manner as a Town tax on real property.

(3) The applicant or its successor in interest shall be required to file a copy of any certification of compliance which the owner/operator files with the FCC related to the operation of the communication or broadcast tower and facilities and copies of complaints with the Town Clerk.

#### J. Alteration of an existing communication tower, antenna or related structure.

(1) Alteration of an existing communication or broadcast tower or monopole, antenna or any related building or other structure or improvement, including a plan for the collocation of facilities, which results in a change in the use of said facility, or a change in the type(s) of antenna(s), or an increase in the size, height or bulk of the antenna(s) or tower, or an increase in the type or intensity of lighting, or reduction of any of the improvements related to screening of the facility, shall be permitted only after application to the Zoning Board of Appeals. The application shall be reviewed as if the alteration were a new application for a special use permit, and a new application for site plan review approval, and may include appended materials from a previous approval.

(2) The application for alteration of an existing communication or broadcast tower and facilities may be exempt from application procedures, provided that the proposed alteration complies with the standards as provided in § 180-22.1B.

K. Change of identity of parties. In the event that the identity of any party to the initial or any subsequent application and/or permit changes or their interest in the project is assigned, conveyed or transferred, the Town shall be notified of all new parties' names, addresses and telephone numbers within 120 days of such change, assignment, conveyance or transfer.

§ 180-27. Exceptions.

The provisions of this chapter shall not apply to normal residential uses, such as the location and siting of utility, power or telephone distribution poles.

§ 180-28. Small-scale mines.

Any person who proposes the extraction of more than 100 cubic yards and fewer than 1,000 tons or 750 cubic yards of minerals from the earth within 12 successive calendar months must obtain a special use permit from the Planning Board, pursuant to the provisions set forth herein. The Planning Board may only issue such a special use permit for applications within the RL-1, RL-2, RL-3 and I Zones within the Town. The applicant must obtain site plan approval pursuant to the Town of Chatham Town Code. The provisions of § 180-18G, H, I, J, K, L, M, N, O, and P shall be applicable to all applications hereunder.

A. Procedure for special use permit applications for small-scale mining.

(1) The applicant shall submit to the Planning Board Secretary the following documents:

(a) A mining plan, including a metes and bounds description of the proposed area to be mined, and a plan for a phased reclamation of the entire affected area shall be considered part of reclamation requirements and a completed Agricultural Data Statement.

(b) A plan, acceptable to the Planning Board, for safeguarding the public health, safety and welfare of surrounding and nearby residents during extraction and related activities.

(2) The Town shall not bear costs for outside consultant reviews deemed necessary by the Town pertaining to the project or the permitting process. Prior to the Town incurring any costs necessary for its deliberations and chargeable to the applicant, the Planning Board shall advise the applicant of said costs and obtain the applicant's agreement to bear such costs.

(3) The applicant shall furnish the Planning Board with all information in his possession which might affect its decision. In addition, the applicant shall be responsible for promptly providing the Planning Board with any new information or circumstances since the filing date of the application.

(4) If approved, the special use permit shall be issued by the Planning Board for a three-year period, subject to annual inspection by the Planning Board or its designee, and to revocation for a finding of noncompliance with any condition of the permit.

(5) Any permit, when issued, shall explicitly state all operating conditions which are necessary to assure compliance with this section, applicable Town and state laws, ordinances, regulations, and operational procedures designed to minimize physical and aesthetic damage to the environment.

(6) Each extraction site shall be governed by an individual permit. If an operating group conducts extraction operations at more than one site in the Town of Chatham, the conduct at all sites shall be considered in determining the provisions of each special permit and may be grounds for denial or restrictions of such permit.

B. Review of permits for small-scale mines.

(1) The Planning Board shall review all small-scale mining permit applications in accordance with the standards for approval of a special use permit under §§ 180-43 and 44 and the following provisions:

- (a) Permit renewals may be granted at the discretion of the Planning Board if the activity is proceeding in accordance with the provisions of the initial plan. No more than one permit renewal shall be granted.
- (b) All holders of permits shall advise the Planning Board of any change of facts and conditions which might affect their ability to operate under the permit.
- (c) Immediately after any change of ownership of any extraction site or of the persons or entities directly responsible for its operation, the new owner or operator shall apply for a new permit, indicating on the application any existing or anticipated changes from the data, plans and/or conditions supporting or including in the previous permit.
- (d) Each site shall be inspected for compliance by the Town Code Enforcement Officer prior to any permit renewal. A written report of such inspection and its findings shall be made to the Planning Board. Such inspection(s) shall be financed by a fee system as established by the Town Board.
- (e) Each permit shall contain provisions which effect its suspension in the event of a finding of noncompliance with any term or condition of operation.
- (f) Each permit shall contain provisions which require that all mining activity shall be set back at least 200 feet from any property line.
- (g) Mining operations may only be conducted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 12:00 noon on Saturdays. Mining operations may not occur on any Sunday or legal holidays as set by the Town Board.

(2) The Planning Board, for good cause shown and in its sole discretion, may waive the strict enforcement of the above standards when considering a permit renewal hereunder.

C. Reclamation standards and requirements for small-scale mines. Before issuing a special use permit, the Planning Board must find that the reclamation plan meets the following standards and requirements:

- (1) Reclamation shall occur after the removal of 750 yards or 1,000 tons of mineral, unless the Town Planning Board determines that a different reclamation schedule is more appropriate.
- (2) All final site drainage shall be designed, sloped, revegetated or treated by other measures so that drainage patterns, including volume and outflow points, will be the same as before the mining occurred, unless an alteration of patterns would improve drainage in the surrounding area. Measures must be specified to prevent erosion and sedimentation of wetlands, watercourses and ponds. The premining quality of any underlying aquifer must be preserved.
- (3) No slope shall be left with a grade steeper than one foot vertical on three feet horizontal for gravel, or its normal repose slope for other minerals.
- (4) All restoration material used in the final grading of the site shall be free from refuse or toxic contaminants and shall be compacted as much as is practical, such as by installation in layers. Stumps, boulders and nontoxic debris generated by the mining operation shall be removed from the site and disposed of, or buried and covered with a minimum of two feet of soil. All toxic debris and waste, including petroleum products, shall be removed from the mining site for proper disposal.
- (5) Final soil depths and types shall be appropriate for the expected reuse specified in the application. Subsoil and topsoil shall be respread over the excavated area to a minimum depth of one foot: six inches of topsoil and six inches of subsoil. If the original soil depth was less than one foot, restoration shall be to a minimum of the original depth.
- (6) All topsoil shall be stripped from the active excavation area and stockpiled on site and seeded for use in accordance with the reclamation plan. Such stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams or adjacent property.

(7) Revegetation of the site to control dust and erosion and to restore the natural character is required. The operator shall maintain the vegetation for two growing seasons to ensure viability.

D. Reclamation bonding for small-scale mines. The Planning Board shall require the permit holder to post a bond in an amount at least sufficient to cover the costs of the reclamation plan, and the provisions of § 180-16.2E shall be applicable.

#### §180-29. ECHO Units

A. The purpose and intent of this provision is to allow by special use permit the installation of elderly cottage housing opportunity (ECHO) units or accessory apartments on the same lots with single-family dwelling units in the Rural Residential -1, -2 and -3 (RR-1, RR-2, RR-3) Districts. The rationale for providing this type of housing option is to:

- (1) Foster and support extended families;
- (2) Permit adult children to provide small, temporary homes for their aging parents who are in need of support, while maintaining as much of the independence of the two generations as possible;
- (3) Reduce the degree to which elderly homeowners have to choose between increasing isolation in their homes and institutionalization in nursing homes;
- (4) Encourage the continued development and use of small homes specifically designed and built for elderly people which include such features as easy adaptation to handicapped accessibility, safe exit features, and fire-resistant construction;
- (5) Permit ECHO housing in a manner that protects the property values and character of neighborhoods by ensuring that the units are compatible with the neighborhood and are easily removable; and
- (6) Enable the elderly living in homes too large for their needs to move to more appropriate housing and thereby make larger homes available to house larger families.

B. Application process. Application for a special permit for an ECHO unit shall be made to the Building Department and referred to the Zoning Board of Appeals in accordance with the standards and procedures set forth in §§180-43 and 180-44, subject to the following additional provisions:

- (1) ECHO special use permits shall not run with the land since such permit shall be granted on a nonpermanent basis and the approval of an ECHO unit for a period of time which shall be limited to the actual occupancy of the ECHO unit and the principal use by the applicant(s).
- (2) The applicant must certify that he or she understands that the permit is issued solely for the use of the named occupants; has made plans for the removal of the unit; agrees to provide the annual recertification required by this section; and recognizes the possible sanctions for failure to promptly remove the ECHO unit upon termination or revocation of the special use permit.
- (3) Failure to remain in compliance with the requirements set forth in this section may result in revocation of the special use permit.
- (4) Mobile homes, as defined in Chapter 151 of the Code of the Town of Chatham shall not be utilized as ECHO units.

C. Occupancy.

- (1) At the time the special permit is issued, at least one intended occupant of the ECHO unit must be at least 60 years of age, and any other occupant must be at least 55 years of age. Subsequently, if the occupant who is 60 no longer occupies the ECHO unit, and all other conditions continue to apply, the special permit may be continued for the other occupant, even if the person is less than 60 years of age.

- (2) At least one occupant of the principal dwelling and at least one occupant of the ECHO unit must be related by blood, marriage, or adoption.
- (3) In no case shall there be more than two occupants of an ECHO unit.
- (4) The special use permit shall be issued to the owner of the principal dwelling and lot and shall specify the occupants of the ECHO unit by name.

D. Construction and installation. The unit shall be constructed and installed in accordance with Chapter B of the New York State Uniform Fire Prevention and Building Code, the New York State Energy Code and any other applicable laws, ordinances and/or regulations of the Town of Chatham. No additional buildings or structures shall be allowed on a lot which would hinder the removal of an ECHO unit. The applicant shall provide the necessary documentation from the Columbia County Health Department that the water supply and wastewater treatment systems are adequate for both the principal dwelling and ECHO unit.

E. Size of unit. The minimum floor area of an ECHO unit shall be 300 square feet, the maximum floor area 1,000 square feet, and the maximum height 16 feet or one story.

F. Placement of an ECHO unit. The ECHO unit shall only be placed in a side or rear yard and shall comply with all minimum yard setback and maximum lot coverage requirements.

G. Lot size. An ECHO unit shall only be installed on a lot which meets the current minimum lot size for the RR-1, RR-2, RR-3 Districts; installation on undersized preexisting lots shall not be allowed.

H. Parking. In addition to the parking required for the principal dwelling, one parking space per additional vehicle (minimum of one additional space) shall be required together with the provision of a turnaround as required in this Chapter.

I. Number of dwelling units per lot. ECHO units shall only be placed on a lot with a single-family dwelling, limited to one ECHO unit per lot.

J. Removal. The ECHO unit shall be removed within 90 days of the date its occupancy ceases to comply with the requirements of this section [i.e., death or permanent change of residence of the original occupant(s) of the ECHO unit]. Upon removal, the site shall be restored so that no visible evidence remains of the ECHO unit and its accessory elements. If the ECHO unit has not been removed by the end of this ninety-day period, in addition to the existing penalties of this chapter, additional actions may be taken to ensure removal, including removal and salvage by the town with a lien imposed to defray any costs incurred. The ZBA, upon a showing of extraordinary circumstances making removal of the ECHO unit impossible during the ninety-day grace period, may grant one extension of up to 90 days for removal of the ECHO unit.

K. Annual recertification. Each year, two weeks prior to the anniversary date of the original issuance of a special use permit for an ECHO unit, the property owner shall provide certification to the Building Department that all the terms, conditions and requirements associated with said special use permit are being fully complied with.

#### ARTICLE V, Provisions Applicable to All Districts

##### § 180-30. Applicability.

The following provisions shall apply to all districts, except where listed.

§ 180-31. Coverage.

In all districts, structures may not cover more than 30% of the lot. In residential cluster projects, although individual structure may exceed this requirement, the overall project may not.

§ 180-32. Height regulations.

Except for farming purposes, in all districts structures shall not exceed a height of 35 feet above average ground level unless approved by the Board of Appeals. The Board of Appeals may authorize a variance to the height regulations in any district, provided that such an increase will not be disruptive to its surrounding, and provided that it does not constitute a hazard.

§180-33. Multiple Principle Uses on One Parcel.

In all districts, parcels may have one or more principle uses. However a special use permit is required for a second or further principal use regardless of the requirement for a special use in that district for the particular proposed use.

§180-33. Outstanding Violations

No Board in the Town shall review or approve any application for use of a parcel if there shall be an outstanding zoning or other town code violation thereon until such violation has been removed or compliance obtained.

§180-34. Density Bonuses.

A. Purpose and Applicability and Incentives.

(1) Purpose. Pursuant to §261-b of the New York State Town Law, the Town of Chatham hereby establishes a program to encourage the preservation of open space, to promote environmentally sustainable and energy efficient development, to enhance public access to recreational lands or water bodies, to promote development of housing for senior citizens, and to promote provision of other facilities and amenities that would benefit the Town by providing incentive(s) to applicants seeking approval of a subdivision or site plan. The Planning Board may grant zoning incentives that are in compliance with the Town of Chatham Comprehensive Plan and with the provisions of this section.

(2) Applicability.

(a) The incentives set forth herein may only be applicable to all zoning districts in the Town for which an application for approval of a subdivision or an application for approval of a site plan pursuant to this chapter except for all lands within each the Hamlet Districts.

(b) Where an application seeks both subdivision and site plan approval, the project shall be considered in its entirety and incentives shall not be granted separately for both approvals.

(c) Incentives may only be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board.

(d) Incentives shall not be granted where the community benefits or amenities offered are already required under other provisions of this Local Law or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.

(3) Incentives. Notwithstanding any contrary provision of Town or State law or this chapter that limits or restricts the maximum unit density of a proposed project or subdivision, an applicant may apply for an incentive adjustment to the maximum unit density requirements of this Law in exchange for the following benefits. In no case shall the total approved incentives exceed a 30% aggregate increase to the maximum unit density for the proposed project.

(a) Permanent Conservation of Natural Areas or Open Spaces. A bonus may be granted for the permanent preservation of open space lands when a subdivision is designed as and complies with the Town Conservation Subdivision Law, up to a fifteen percent (15%) increase to the maximum unit density for the zoning district.

(b) Cultural, archaeological, historic facilities or other unique features deeded to municipality or qualified not-for-profit agencies. A bonus may be granted for the permanent preservation of a cultural, archaeological or historic resource or facility, up to a fifteen percent (15%) increase to the maximum unit density for the zoning district may be approved.

(c) Public Access or recreational. A bonus may be granted for the creation of public recreational lands or facilities open to the public, public access to streams, access to old railroad beds, access to other open space lands, the provision of fishing rights, or provision of trails and trail linkages, up to a fifteen percent (15%) increase to the maximum unit density for the zoning district may be approved.

(d) Senior Housing. For the provision of housing dedicated for use by senior citizens, up to a thirty percent (30%) increase to the maximum unit density for the zoning district may be approved. The bonus units may be assigned for either senior citizen or non-senior citizen units but may only be distributed proportionately to the ratio of senior to non-senior units. (For example, if 100% of all proposed units are for senior housing, then the applicant may be eligible for a 30% bonus. If 50% of proposed units are proposed for senior citizen occupancy, then the applicant may be eligible for a maximum of a 15% bonus.)

(e) Energy Efficient and Environmentally Sustainable (Green) Structures: A bonus may be granted when projects and structures are designed using LEED certified and other green building technologies, up to a fifteen percent (15%) increase to the maximum unit density for residential development, or adjustments in area requirements for non-residential development in the zoning district may be approved.

(f) Where the plot falls within two or more contiguous districts, the Planning Board may approve an incentive development representing the cumulative density as derived from summing of all residential lots allowed in all such districts together with the incentive density, and may authorize actual construction to take place in all or any portion of one or more such districts.

#### (4) Procedures and Criteria for Approval of Incentives.

(a) Authorization of zoning incentives is subject to the approval by the Planning Board prior to the grant of preliminary plat or site plan approval. Applicants may seek non-binding input from the Planning Board as to whether the proposal is worthy of consideration prior to the preliminary plat or site plan application. The Planning Board may schedule a workshop to discuss the incentive application with the applicant. The intent of the workshop is to share information between the applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Planning Board later in the review process.

(b) Community benefits may be, but is not limited to be accomplished by:

(i) Use of permanent conservation easements.

(ii) Donations of land in fee simple for conservation and other community benefit purposes.

(iii) Construction of amenities, serving a Town-wide need, accessible to the general public, above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law.

(iv) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law.

(c) Applications for incentives in exchange for amenities shall be submitted to the Planning Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be given by the applicant:

(i) The requested incentive.

(ii) The proposed amenity.

(iii) The incremental cash cost of the proposed amenity.

(iv) A narrative which describes the benefits to be provided to the community by the proposed amenity.

(v) A narrative which describes the method and adequacy of sewer, water, transportation, waste disposal and emergency service protection facilities in the zoning districts in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed to its fullest potential.

(vi) A narrative that explains how the amenity helps implement the physical, social or cultural policies of the Town of Chatham Comprehensive Plan.

(d) The Planning Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant pursuant to Chatham Town Code Article 138.

(e) Compliance with SEQRA. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process.

(i) Every decision by the Planning Board concerning an application for use of incentive zoning on a particular project will fully comply with the provisions of SEQRA.

(ii) The applicant will submit an Environmental Assessment Form, Part 1, to the Planning Board.

(iii) The Planning Board will establish itself as SEQRA lead agency for all applications submitted pursuant to this section.

(f) The Planning Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to other boards and officials in the Town for review and comment.

(g) Within 62 days of the close of the public hearing and upon completion of the SEQRA process, the Planning Board will approve, approve with modifications or conditions, or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Planning Board documenting the basis of its decision. The findings will include, but not be limited, to the following:

(i) That the proposed adjustments would not have a significant adverse impact on the property, or to adjoining property, or to the neighborhood in which the property is situated.

(ii) That proper easements, surety or performance guarantees, if necessary,

between the applicant and the Town is or will be in existence as of the date the final plat map is signed by the Chairman of the Planning Board.

(iii) That the necessary water and septic requirements can be met with the proposed density adjustments.

(iv) That the proposed amenity provides sufficient public benefit to provide the requested incentive.

(v) SEQRA. That all requirements of SEQRA have been met, including the required findings under that law.

(vi) Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Chatham Zoning Law.

(vii) Public benefit. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Planning Board.

(viii) Project quality. That the project is in harmony with the purpose and intent of this local law and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive and that the project will add to the long-term assets of the Town of Chatham.

(ix) Comprehensive Plan. That the use of an incentive for the particular project is consistent with the Comprehensive Plan.

(h) The Planning Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project.

(i) In no circumstances shall the Planning Board be compelled to approve any amenity/incentive proposal and it may deny any such proposal.

(j) Upon approval, the Planning Board is authorized to act on the application for preliminary and final approval pursuant to the Subdivision Regulations, and or Site Plan Review pursuant to this chapter.

## B. Referral Process.

(1) Should the Planning Board make a preliminary determination to recommend issuance of an incentive, within sixty-two (62) days of receipt of the application for the incentive, or in the event the application might cause a present or future expenditure of public funds or commitment of public financial resources, it shall refer the application to the Town Board for comment. The Planning Board's referral to the Town Board shall include a report with the following information:

(a) An evaluation of how the incentive would benefit the site and how increased density relates to adjacent uses and structures. The Planning board shall assess whether such benefits would not otherwise result as provided in the provisions of the Town's laws. (This evaluation is not intended to serve as a site plan or subdivision review, which would otherwise occur after a final decision of the Planning Board on the incentive application.)

(b) A SEQRA determination as to whether the proposal will have a significant impact on the environment.

(c) An assessment that there are adequate resources, sewer, water, transportation, waste disposal, and emergency service facilities to serve the proposed incentive development

and that such development will not substantially and deleteriously impact upon the development prerogatives of neighboring lands pursuant to local law.

(2) The Town Board shall review the application and report and, within thirty (30) days of their receipt, transmit advisory comments and any suggested modifications to the Planning Board for its consideration.

If after receiving the advisory comments from the Town Board on the application, the Planning board decides to further consider the application for incentives, a public hearing shall be held. The public hearing related to the incentive application may be combined with any public hearing the Planning Board holds pursuant to SEQRA or any other state or local law. At least five days notice (fourteen (14) days if a draft environmental impact statement or supplemental environmental impact statement is required) of the time and place of a hearing will be published in an official newspaper of the Town.

#### § 180-35. Home occupations.

A. There are two levels of home occupation, HO-1 and HO-2. Home Occupation-1 (HO-1) is limited to a use occurring fully within the principal dwelling on the lot and shall be considered a permitted use. Those home occupations occurring wholly or partially in an outbuilding shall be considered as Home Occupation-2 (HO-2), and which may only be authorized by special use permit granted by the Zoning Board of Appeals.

B. All home occupations must comply with the definition set forth in § 190-2 of this chapter. A use permit is required for all home occupations. Application for a use permit shall be made to the Zoning Enforcement Officer. The application shall include a description of the proposed use and shall address each of the items listed below. If, after such use permit is granted, it is subsequently determined that the home occupation use no longer complies with any of these conditions, the Zoning Enforcement Officer may revoke such use permit. If this occurs, the applicant may appeal such determination to the Zoning Board of Appeals, provided that such appeal is taken within 30 days of the decision of the Zoning Enforcement Officer.

(1) The following additional requirements shall be applicable for all home occupations. The applicant shall have the burden of establishing, by clear and convincing proof, that the proposed home occupation will comply with all of these items.

(a) Not more than two home occupations may occur on a single residential lot.

(b) A home occupation shall not cause a significant increase in neighborhood traffic.

(c) There may be no more than two vehicles used in connection with the operation of the business on the premises. Any such vehicles shall be screened or stored in an enclosed structure. However, this does not refer to a passenger vehicle and/or pickup truck used by the occupants for their personal use.

(d) A sign is allowed, which shall not exceed dimensions two feet by three feet and may be double-sided. It may be located in the required front yard, provided that it is set back at least 15 feet from all property lines, and is not more than six feet above the natural ground level at its location. The sign shall not be lighted.

(e) Retail sales shall not be permitted on the premises except for small scale sales of goods actually produced on the premises or small scale sales of goods incidental to the main service provided.

(f) There may be no exterior storage of materials or exterior variations from the residential character of the neighborhood. Generally, the display of goods in the front yard of the premises shall not be permitted. However, the applicant may have a sample display of goods in the front yard where the applicant can demonstrate that this will not have an adverse impact on the residential area and that such display will be maintained

in a neat and orderly condition. Goods for retail sale only may be displayed elsewhere on the property if appropriately covered by a structure and/or screened by a fence or natural vegetation, provided that outdoor display of goods does not occur within 40 feet of an adjoining lot.

(g) The proposed home occupation shall not produce any unusual appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would exceed those normally produced by a residence.

(h) Storage, use and disposal of hazardous substances and petroleum products must meet applicable state and federal regulations.

(i) Any new construction undertaken to accommodate the home occupation activity shall be wholly consistent with the character of a residential premises.

(j) No more than three persons, other than members of the household occupying such dwelling, shall be employed on the residential premises in the conduct of all home occupations thereon; provided, however, that the applicant shall have the right to appeal to the Zoning Board of Appeals which, after public hearing, may allow more than three persons in such circumstances where the Zoning Board of Appeals has determined that the use of the property, with such additional employees, still qualifies as a home occupation under the definitions and requirements set forth in this chapter. Should the Zoning Board of Appeals determine that more than three persons other than members of the household may be employed at the property in the conduct of such home occupation(s), the Zoning Board of Appeals shall set the maximum number of persons, other than members of the household occupying the dwelling, who may be employed on the residential premises in such circumstances.

(k) There may be no sharing, letting or subletting of space for use by others in connection with a home occupation.

(l) There shall be sufficient off-street parking to avoid parking congestion in the public roadway and in order to adequately accommodate the anticipated use of the property in connection with such home occupation.

(2) The following shall apply to HO-1: a home occupation within a principal dwelling shall not be permitted where more than 1/3 of the total square footage is utilized in connection therewith.

(3) The following shall apply to HO-2: a home occupation in outbuildings shall be limited to a maximum of 1,000 square feet and the structure shall otherwise comply with the dimensional requirements in the applicable zone. However, the Zoning Board of Appeals may grant an area variance with respect to any setback requirement.

#### § 180-36. Off-street parking.

Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is enlarged. Public off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements when provided for this purpose within a distance appropriate to the proposed use, but not exceeding 400 feet, upon approval of the Zoning Board of Appeals.

Use	Parking Spaces Required
Residential	2 per dwelling unit
Church and school	1 per 3 seats in principal assembly room
Private club or lodge	1 per 4 members
Theater	1 per 4 seats
Hospital, nursing and convalescent homes	1 per 3 beds and 1 for each employee based on the expected average employee occupancy

Professional offices, business services and medical clinics building floor area	1 for every 250 square feet of gross
Retail businesses and personal service establishments floor area	1 for each 180 square feet of gross building
Eating and drinking establishments	1 for every 3 seats
Industrial	1 for each 1.2 employees, based on the highest expected average employee occupancy
Funeral homes service rooms	1 for each 75 square feet of floor space in slumber rooms, parlors and individual service rooms

§ 180-37. Off-street loading.

Off-street loading which is spaced logically, conveniently located for bulk, pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space.

§ 180-38. Signs.

Signs as defined in Article II are specifically prohibited, except as herein provided:

Exemptions:

- A. Signs one square foot or less in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
- B. Flags and insignia of any government, except when displayed in connection with commercial promotion.  
Legal notices, identification, informational or directional signs erected or required by governmental bodies.
- C. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- D. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- E. All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
- F. In any district, a sign not exceeding four square feet is permitted which announces the name, address or professional or home occupation of the occupant of the premises on which said sign is located.
- G. A bulletin board not exceeding 24 square feet is permitted in connection with any church, school or similar public structure.
- H. A temporary real estate or construction sign, not exceeding 24 square feet is permitted on the property being sold, leased or developed. Such sign shall be removed when the property has been sold, leased or developed.
- I. A business sign shall be permitted in connection with any legal business or industry located on the premises, and meeting the following requirements:

(1) Two signs are permitted with any legally established business, one freestanding and the other attached to the building.

(2) The primary purpose of the sign shall be for identification and not for advertising and may state only the owner, trade names, trademarks and products sold and/or the business or activity conducted on the premises on which the sign is located.

(3) Signs shall not extend above the roof or parapet of the building. The height of a freestanding sign shall not exceed 18 feet.

(4) Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.

(5) Signs which are animated, flashing, or with intermittent illumination or messaging are permitted with a special use permit.

(6) Signs shall not project over public rights-of-way or property lines.

(7) Sign size shall be in proportion to the land use, lot and building size, but in no case exceed 1/2 square foot per linear foot of lot frontage. Maximum square footage of any sign shall be 100 square feet or a total of 150 square feet for the two signs.

(8) Signs on canopies are may be permitted as one of the on-site signs and if such sign complies with the size and lighting requirements of this section.

J. Any sign which becomes in disrepair may be removed upon order of the Town Board if not repaired after 30 days notice. Any new sign must conform to all regulations.

K. Signs off-site may be permitted by the Board of Appeals for businesses, churches or service organizations located in Chatham only if necessary for directional purposes.

L. No sign shall create a traffic or pedestrian hazard by reason of its shape, method and direction of illumination of location.

M. Signs shall not attempt or appear to regulate, warn or resemble official traffic signs, signals or devices.

#### § 180-39. Offensive use.

A. Any use, including a permitted use, that may be offensive or injurious by reason of production, emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, discharge of water, electromagnetic interference, heat, fire/explosions, traffic, parking or similar conditions, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited.

B. Outdoor lighting shall be so shielded to prevent the light source being visible off site or otherwise constitute offensive glare.

#### § 180-40. Air pollution and fire controls.

A. It shall be unlawful within the Town of Chatham for any person, owner, agent, operator, firm or corporation to permit or cause, suffer or allow the discharge, emission or release into the atmosphere from any source whatsoever of soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid, gaseous matter or any other materials in such place, manner or concentration as to constitute atmospheric pollution.

B. Odor. Tanneries, stock yards, feedlots with a capacity in excess of 300 head, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture and similar uses must present detailed plans for elimination of offensive odors to the Zoning Board of Appeals before a permit is granted.

C. Noxious gases. Detailed plans of any process likely to emit noxious gases must be presented to the Zoning Board of Appeals indicating elimination of such gases or fumes before permit is granted.

D. Fire and safety hazards. Only buildings which are in conformity with the New York State Uniform Fire Prevention and Building Code, if any, are permitted.

E. Noise. A maximum of 90 decibels at the property line shall not be exceeded. These regulations shall also apply to aircraft.

#### § 180-41. Noise.

##### A. Unreasonable noise prohibited.

It shall be unlawful for any person to make, continue, cause to be made or permit to be made any unreasonable noise within the geographical boundaries of the Town of Chatham or within those areas over which the town city has jurisdiction. The determination as to the existence of unreasonable noise may be established either by the specific acts considered to be unreasonable noise enumerated below or by the measurements exceeding the limitations set forth below.

##### B. Specific acts constituting unreasonable noise.

The following acts and the causes thereof are declared to be in violation of this chapter and to constitute unreasonable noise:

(1) The use of any sound-reproduction device whether inside or outside a structure, in a vehicle or water vessel or on private property or a public right-of way or public space at any time within the residential areas or within the commercial areas which, by causing noise, annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities. This provision shall not be construed to prohibit public performances being conducted in accordance with the provisions of a special permit granted by the Town

(2) The operation of any sound-reproduction device within five hundred (500) feet of any quiet zone as defined above.

(3) Any impulsive noise which occurs repeatedly over the course of one hour or more and which is measured in excess of 75 dBA.

(4) Yelling, shouting or hooting at any time or place so as to annoy or disturb the quiet, comfort and repose of a reasonable person of normal sensitivities.

(5) The performance or engagement in construction work, building, excavating, hoisting, grading, demolishing, dredging or pneumatic hammering within the limits of the town between the hours of 9:00 p.m. and 7:00 a.m. Sunday through Friday (night) and 9:00 p.m. and 9:00 a.m. Saturday (night), except for emergency work of a public nature, service utilities or as otherwise provided herein.

(6) The sounding of any horn, security alarm, siren or other auditory signaling device in any vehicle, vessel, engine, machine or stationary boiler for period of time longer than five (5) minutes, except as required by law or to provide a warning signal during use thereof. This provision shall not be construed to prohibit the use and operation of an audible signal device in an authorized emergency vehicle.

(7) In addition, any other excessive or unreasonable noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal

sensitivities, shall be prohibited, except that the enumerated provisions of Subsections 1. through 11., of this section shall govern and regulate the actions and activities therein prohibited.

(8) The operation of any radio or sound system or use of any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort, health, safety, or repose of persons in any dwelling, hotel, or other type of residence.

(9) The keeping in any building or upon any premises of any animal, bird or fowl which produces noise of a degree and kind to disturb the comfort, repose, and quiet, of neighbors or persons residing in the vicinity. Persistent barking of dogs confined or chained on the premises, or dogs roaming free on or off the owner's premises, shall be a violation of this chapter. "Persistent barking" is defined herein as the continuous or intermittent barking of a dog, which can be heard on other premises and which continues for a period of more than one (1) hour. The owners or occupants of the premises shall be responsible to prevent the dog from barking or place it in an area where its barking cannot be heard.

(10) The discharge into the air of the exhaust of any steam engine, stationary, internal combustion engine or motor vehicle engine, except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.

(11) No person shall operate or permit to be operated any recreational vehicle, all terrain vehicle, dirt bike, go cart, snowmobile off a public highway, or watercraft at any time, at any speed or under any condition of grade, load, acceleration or deceleration or in any manner whatsoever as to exceed eighty (80) dBA. This limit shall apply at a distance of fifty (50) feet from such vehicle.

#### C. Exempt sounds

(1) Sounds generated by church bells or chimes;

(2) Sounds generated by any government agency by the use of public warning devices including but not limited to emergency vehicles, personnel and activities, hospitals, state and municipal maintenance and repair activities, any activities of the armed forces;

(3) Sounds connected with sporting events of any public or private school or park, or an authorized carnival, fair, exhibition, parade, etc. or any event so authorized specifically by permit of the Town, County, State or Federal government;

(4) Sounds created by agricultural activities or operations, including, but not limited to crop cultivation, production, harvesting and livestock production, provided equipment generating the noise is in proper working order;

(5) Sounds created by snow removal equipment in good working order.

(6) Sounds created by generators and power equipment in emergency situations in good working order.

(7) Sounds created by lawn mowers or other home power tools between the hours of 7:00 a.m. and 9:00 p.m. Monday through Saturday and 9:00 a.m. and 9:00 p.m. Sundays.

a. Sound from law enforcement vehicles, personnel and activities.

(8) Sound from trains.

(9) Sound from permitted fireworks displays.

(10). Sounds associated with hunts, including the use of dogs associated therewith and legally conducted hunting.

(11) Sound from motor vehicles and trucks over 6,000 pounds gross vehicle weight. Said vehicles are still required to comply with applicable state law.

#### D. Additional guidelines to determine unreasonable noise.

(1) The subject noise must exceed ambient noise by ten (10) decibels or more, for a period in excess of one (1) hour, in any octave band, to be declared excessive or unreasonable, or

(2) Specific maximum noise level limitations (dBA) are established as follows:

Sunday through Thursday, 7am-9pm (day):	65 dBA
Sunday through Thursday, 9pm-7am:(night):	50 dBA
Friday and Saturday, 7am-9pm (day):	75 dBA
Friday and Saturday, 9pm-7am (night):	60 dBA

#### E. Methods of measurement.

Noise measurements shall be made with a sound-level meter and compatible octave band analyzer manufactured according to the specification of in compliance with ANSI the American National Standards Institute S1.4-1983, or latest version thereof, or any other meter device(s) approved by the Town. USA Standard Specification for General Purpose Sound Level Meters (51.4-1971) and Preferred Center Frequencies for Acoustical Measurements (51.6-1960) or any subsequent nationally adopted standard superseding the above standards. Unreasonable noise emanating from private property shall be measured or determined at the adjoining property line.

#### F. Landlord's Liability.

Violations of this chapter shall be the act of the owner of the residential dwelling unit, or commercial property, even if the owner does not reside in the unit nor is employed at the site, as well as the persons on the premises who violate this chapter. The owner will only be liable for those violations occurring after receipt of written notice from the Code Enforcement Officer, County Sheriff's Department or New York State Police of a violation of this chapter. Proof of the commencement of an eviction proceeding against the alleged violator(s) shall be a defense to a landlord liability hereinunder.

#### G. Enforcement.

(1) The Code Enforcement Officer, County Sheriff's Department or New York State Police shall enforce this chapter.

(2) The Code Enforcement Officer shall have the authority to grant permit for variances, as provided for below.

#### H. Variances.

(1) Any person who owns or operates any stationary noise source may apply to the Code Enforcement Officer for a variance from one (1) or more of the provisions of this chapter. Applications for a variance shall supply information including but not limited to the following:

- (a) The nature and location of the facility or process for which such application is made;
- (b) The reason for which the variance is requested;
- (c) The nature and intensity of the noise that will occur during the period of the variance;
- (d) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom;
- (e) A specific schedule of the noise control measures which shall be taken to bring the source into compliance.

(2) Failure to supply the information required by the Code Enforcement Officer shall be cause for rejection of the application.

(3) The Code Enforcement Officer shall charge the applicant a fee, as set by resolution of the Town Board to cover expenses resulting from the processing of the variance application.

(4) The Code Enforcement Officer may, at his/her discretion, limit the duration of the variance, which shall never exceed fifteen (15) days. Any person holding a variance and requesting an extension of time may apply for a new variance under the provisions of this section for up to 60 (sixty) days, if in the opinion of the CEO, same is reasonable and necessary and all terms of approval continue to be met.

(5) The variance shall operate as a stay of prosecution.

(6) The variance may be revoked by the Code Enforcement Officer if, in his or her discretion, the terms of the variance are violated.

(7) Appeals of the decision of the Code Enforcement Officer may be taken in accordance with the procedure established in §180-55 of the Chatham Town Code.

§ 180-42. Trailers and mobile homes.

No mobile home shall be located in the Town of Chatham, except as authorized by Chapter 151, Mobile Homes. Factory-manufactured homes, as defined in this chapter, are permissible.

§ 180-43. Storage of mobile homes, boats, trailers and trucks.

Except as may be otherwise permitted under the provisions of this chapter or any other Town regulation, no mobile home, boat, trailer, travel trailer, RV or truck shall be stored in the front yard in any district.

§ 180-44. Agricultural uses.

Agricultural uses shall comply with the following requirements:

A. Farm buildings, other than a dwelling, shall not be erected within 100 feet of a neighboring property. However, in both the Hamlet-One (H-1) and Hamlet-Two (H-2) zones, respectively, such farm buildings may be erected within 45 feet of a neighboring property.

B. Feed lots, fenced runs, pens and facilities of similar intensity used for animal raising and care shall not be located within 100 feet of a neighboring property, excluding pastures.

C. Roadside stands for sale of agricultural products shall be permitted if:

- (1) They are erected at least 20 feet back from the public right-of-way;
- (2) Parking spaces are provided off the public right-of-way;
- (3) Signs shall conform to provisions set forth in § 180-32.

§ 180-45. Temporary structures.

Temporary living structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a twelve-month period. Residing in basement or foundation structures before the completion of the total structure shall not be allowed for a period longer than one year, unless an extension of time is granted by the Zoning Board of Appeals, which shall utilize the general standards of review and approval for special use permits when considering an extension. Only one such extension shall be granted.

§ 180-46. Grading permits.

A. The extraction of minerals off site of less than 100 cubic yards within 12 consecutive months shall require a grading permit issued by the Town Code Enforcement Officer. A grading permit shall also be required for the moving of topsoil, sand, earth and/or gravel from one portion of a premises to another portion of the same premises as an incident to construction of a building or other improvement to land or landscaping where greater than one acre of land is disturbed. The applicant shall file a grading plan with topographical map(s) of the area on which the extraction or redistribution shall be conducted, demonstrating such topographical conditions as is expected, both before work is commenced and after the work is completed, showing contour elevations at intervals of heights of two feet and such other information as may be required by the Town Code Enforcement Officer.

B. The Town Code Enforcement Officer shall be authorized to issue a grading permit for the removal of not more than 100 cubic yards of excavated minerals and for which one of the specified exemptions listed herein above does not apply. Separate permits for a single lot shall not total more than 100 cubic yards within any ten-year period. No excavation of soil, natural products or rock shall adversely affect natural drainage or the structural stability or safety of adjoining buildings or lands. Excavations shall not create objectionable dust or noise nor create any kind of noxious or injurious substance or cause a public hazard.

C. No finished slope shall be created with holes or hills, or which slopes down from any adjoining property steeper than one foot vertical to two feet horizontal, and no embankment shall be created which slopes upward from any adjacent property line steeper than one foot vertical to three feet horizontal, unless an adequate retaining wall is constructed in accordance with plans prepared by a professional engineer licensed to practice in New York State.

§ 180-47. On-site water and sewer systems.

A. Septic tanks, tile or drainage fields, and seepage pits shall be located on a lot so as to have the following minimum separation distances:

Distance from any:	Septic Tank (feet)	Tile or Drainage Field (feet)	Seepage Pit (feet)
Well	50	100	150
Residence	10	20	20
Property line	25	50	50
Surface water	50	100	100

B. Other types of on-site systems. The location of structures for other types of systems shall have the same setback requirements that are required for septic tanks. Any discharge pipe from such systems shall be so located as not to be a potential cause of pollution for any water supply.

C. Replacement of existing systems. This section shall not apply to replacement of existing systems unless there is sufficient area on the parcel to accommodate the standards herein, in which case such standards shall be adhered to.

D. Water supply. Wells and other sources of water for human consumption or use shall be located at least 50 feet from any lot line. When the size, shape or soil conditions of a pre-existing lot may necessitate the placing of such water supply closer than 50 feet to a lot line, the location of the water supply shall be subject to the approval of the Columbia County Department of Health.

E. Pollution. All new sewage systems shall be so located as not to be a source or a potential source of pollution for any water supply or water bodies.

§ 180-48. Burned buildings.

No owner or occupant of land in any district shall permit burned buildings to be left standing, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

§ 180-49. Special use permits.

A. General provision.

(1) The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and

standards set forth herein, in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

(2) When site plan review is required by this chapter, it shall be submitted to the Planning Board while simultaneously applying to the Zoning Board of Appeals for a special permit.

#### B. Required plan.

(1) A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this chapter.

(2) This same data is also needed for the site plan review. Accordingly, there may be circumstances where simultaneous submission of applications may be permissible.

#### C. Specific provisions.

The Town Board hereby determines that certain special uses, due the nature thereof, may have additional or more specific impacts which must be addressed by individual standards. Such uses and standard are:

#### § 180-50. Approval of special use permits.

A. Definition of special use permits. As used in this section, the term "special use permit" shall mean an authorization of a particular land use which is permitted in by this chapter, subject to requirements imposed by this chapter, to assure that the proposed use is in harmony with this chapter and will not adversely affect the neighborhood if such requirements are met.

B. Expansion of special use. The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth in this Zoning Law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.

C. Approval of special use permits. The Zoning Board of Appeals shall grant special use permits upon the finding by the Board that granting this special use permit will be in harmony with this chapter and will not adversely affect the neighborhood in which the use will occur. The Board shall review and consider GIS maps, associated information and impacts during its review of any application hereunder. All applications must be accompanied by a completed Agricultural Data Statement.

D. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to § 267-b of the Town Law without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

E. Conditions attached to the issuance of special use permits. The authorized Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to an incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions

must be met in connection with the issuance of permits by applicable enforcement agents or officers of the town.

F. Waiver of requirements. The Zoning Board of Appeals is hereby authorized to, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in this chapter, may be exercised in the event that 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 special use permit.

G. Public hearing and decision on special use permits. The ZBA shall decide upon the special use permit application within sixty two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-1 and 239-m. The time within which the ZBA must render its decision may be extended by mutual consent of the applicant and the ZBA. Failure by the ZBA to make a determination within sixty two (62) shall not be deemed as a default approval.

H. Notice to applicant and County Planning Board or Agency or Regional Planning Council. At least 10 days before such hearing, the authorized Board shall mail notices thereof to the applicant and to the County Planning Board or Agency or Regional Planning Council, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law.

I. Compliance with State Environmental Quality Review Act. The authorized Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

J. Expiration.

(1) A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than twelve months for any reason, and a new permit shall be prepared for continuance for a special permit use.

(2) A special use permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit (unless other provisions are set forth by the Planning Board in connection with its approval) within 18 months after approval.

(3) A special use permit may be revoked by the Planning Board if, after notice to the holder of the permit and an opportunity for hearing, it is determined that the conditions of the special use permit are violated.

(4) Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.

(5) All special use permits shall run with the land and will be transferred to successive property owners, provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

K. Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter.

L. Standards applicable to all special uses.

For every such special permit use, the Board shall determine that:

(1) Such use will be in harmony with and promote the general purposes and intent of this chapter.

(2) Such use will be in harmony with the permitted uses in the general area of the property and shall not be detrimental to such uses.

(3) The proposed use will not have a significant adverse impact on adjacent properties.

(4) The lot shall be of sufficient size, appropriate and adequate for the proposed use and the reasonably anticipated operation and expansion thereof.

(5) The proposed use conforms with any special requirements or conditions as set forth hereafter.

(6) Access facilities, entrances and exits shall not have the effect of creating traffic congestion or a potentially unsafe condition. In this regard the Board shall consider the estimated traffic to and from the site and the use of the site by customers and/or the public. Vehicle entrances and exits shall be clearly visible from the street.

(7) All proposed curb cuts and/or driveways have been approved by the appropriate agency or agencies having jurisdiction.

(8) There is adequate off-street parking and loading facilities sufficiently constructed for the anticipated number of occupants, both employees and patrons or visitors, and further that the layout for the spaces and driveways adequately addresses all known safety issues.

(9) There is adequate buffering and screening between the proposed site and adjoining properties in order to adequately protect the characteristics and uses of the adjacent properties and land uses.

(10) The applicant shall demonstrate that there is an adequate supply of water to the site and that adequate provisions have been made for sewage, refuse or other waste.

(11) The applicant shall demonstrate that there has been adequate provision for the collection and disposal of all drainage and stormwater runoff from the site.

(12) The proposed use shall be in compliance with all applicable performance and design standards as set forth in this chapter.

(13) The location, size of the use, nature and intensity of the operations, site layout and its relation to streets and highways giving access to the site shall be such that the proposed use will not be hazardous, inconvenient or detrimental to the neighborhood. In applying this standard, the Board shall consider, among other things, convenient and safe routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, and the general character and intensity of the development of the neighborhood.

(14) The applicant has secured all necessary permits from any federal, state or local authority, including site plan approval; provided, however, that the Board may, in its sole discretion, grant conditional approval and establish a time frame for final approval upon the issuance of any required permits. In this regard, the applicant shall demonstrate that all necessary permits have been applied for. Conditional approval shall not be applicable for permits required for ingress and egress.

(15) The applicant has demonstrated compliance with all wetlands and all flood zone regulations.

(16) The proposed use shall have adequate lighting, but such lighting will not shine directly on or result in unnecessary glare to adjacent properties. All lights shall be down directed and shielded.

(17) All activities involving the storage of chemicals, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Methods of prevention and suppression of these hazards shall be approved by the local officials responsible for fire prevention and public safety.

(18) No emission of vibration, fly ash, dust, smoke, vapors, gases or other forms of air pollution shall be permitted which can jeopardize human health or animal or vegetable life or which otherwise contributes to the deterioration of or detracts from adjacent properties.

(19) The proposed use shall be designed and carried out in a manner that minimizes impacts to historic and natural environmental features on the site and in adjacent areas.

(20) All proposed buildings, structures, equipment, and/or material shall be readily accessible for fire, police, and other emergency service protection.

(21) An application for a special use permit must also contain an agricultural data statement if any portion of the project is located on property within an agricultural district containing a farm operation or other property with boundaries within 500 feet of a farm operation located in an agricultural district. The agricultural data statement shall contain the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which contains farm property; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

(22) Compliance with the Town of Chatham Mass Gatherings Law (Local Law #1 of 2013), et. seq. is required if the use shall attract 300 or more people at any one time.

(23) All applications must comply with section 180-41, Noise of this chapter.

(24) Where a business district use is immediately adjacent to a residential use then complete visual buffering shall be required and existing vegetation shall be maintained as much as possible to mitigate any visual or sound impacts. All lights shall be down directed with housing shields. Any operational systems (HVAC, water, etc.) shall be shielded and baffled.

(25) Historic character and important aesthetic features of the use proposed and of those uses and parcels adjacent to the proposed use shall be considered and protected.

(26) Hours of operation may be limited where such limitation would directly mitigate potential negative environmental impacts such as traffic, parking, lights and sound.

M. Individual Standards for Special Uses. In addition to the general approval standards above, the following special uses must comply with the requirements set forth below.

#### Animal Hospital with Kennel and Kennels and Breeding Facilities

(1) Animal waste shall be disposed of in a manner acceptable to the Department of Health. All on-site disposal containers for waste shall be covered and emptied regularly to control odors.

(2) Land burial of animals on-site in association with a commercial kennel or veterinary hospital is prohibited.

(3) The minimum area required shall be two (2) acres for a kennel and for a veterinary hospital having a kennel facility with a maximum of six (6) animals on such minimum parcel. An additional three (3) animals per acre may be kenneled for each additional acre with a maximum of twenty five (25) animals for any such use.

(4) All facilities associated directly with the kennel or veterinary hospital, whether indoors or outdoors, shall be set back a minimum of one hundred (100) feet from any property line.

(5) Animals shall be housed in a permanent enclosed building which shall be constructed of soundproof materials so as to adequately minimize the noise.

(6) Parking shall be located behind the front line of the principal building to the side or rear of the structure.

(7) The Board shall evaluate potential noise impacts and shall minimize negative impacts to adjacent uses which may include sound proofing.

(8) The Board may require visual screening of outdoor runs.

(9) All animals shall be kept inside the enclosed kennel structure during the hours of darkness.

(10) The owner or occupant shall maintain adequate control of the animals and shall provide adequate protection to ensure that the dogs are not able to leave the premises. There shall be no social housing of animals.

(11) No animal may be kenneled without a valid dog license issued by the town clerk or any other duly authorized municipal entity or official.

#### Automotive Repair

(1) All automotive repair work shall be conducted in fully enclosed building.

(2) All vehicles whether registered or not, stored on the premises in excess of seventy two (72) hours shall be shielded from view from the road or placed in an enclosed storage yard. There shall be no outside idling of vehicles for period in excess of 15 minutes.

(3) Where an automotive repair use adjoins a residential use, a landscape screen with a minimum height of ten (10) feet, shall be provided adjacent to the shared property line.

(4) Bay doors to the garage shall not front on any public right-of-way. Bay doors shall face the rear yard. The Zoning Board of Appeals may approve an alternative orientation to mitigate impacts to adjoining uses.

(5) Dumpster locations shall be screened from public view. All refuse shall be disposed of in appropriate waste containers and removed from the premises on a regular basis. Waste oil, grease and other solvents shall be disposed of in accordance with all applicable federal, state and local laws.

(6) No parking shall be permitted within the front yard unless the Board shall determine that negative visual impacts can be mitigated by requiring landscaping or screening.

(7) There shall be no outside accumulation of parts, tires, spare vehicles, etc. All storage must be in compliance with NYS DEC and DOT regulations and laws.

#### Automotive Repair Facilities which Sell Cars and Motor Vehicle Salesroom & Garage

(1) All automotive repair work shall be conducted in fully enclosed building. All vehicles whether registered or not, stored on the premises in excess of seventy two (72) hours shall be shielded from view from the road or placed in an enclosed storage yard.

(2) Where an automotive repair use adjoins a residential use, a landscape screen with a minimum height of ten (10) feet, shall be provided adjacent to the shared property line.

(3) Bay doors to the garage shall not front on any public right-of-way. Bay doors shall face the rear yard. The Zoning Board of Appeals may approve an alternative orientation to mitigate impacts to adjoining uses.

(4) Dumpster locations shall be screened from public view. All refuse shall be disposed of in appropriate waste containers and removed from the premises on a regular basis. Waste oil, grease and other solvents shall be disposed of in accordance with all applicable federal, state and local laws.

(5) No parking shall be permitted within the front yard unless the Board shall determine that negative visual impacts can be mitigated by requiring landscaping or screening.

(6) The display of motor vehicles, mobile homes and/or boats shall not be allowed in the required front, side or rear yard setbacks.

(7) The total area for the outdoor display of motor vehicles, mobile homes and/or boats, including the rows and/or spaces in between, shall not exceed 25% of the total lot.

(8) There shall be adequate spacing in between the vehicles, mobile homes and/or boats to accommodate emergency vehicle access.

(9) All requirements for Automotive Repair must be complied with.

#### Bed and Breakfast

(1) The facility must be operated by the owner(s) of the parcel or structure involved, who shall reside on the premises at all times that guests are there.

(2) The facility shall have not more than five rooms for fee paying guests. Such rooms must be located in the main dwelling.

(3) The minimum lot size required for the establishment of such a facility shall be the minimum lot size for a single-family dwelling in the district where the parcel is located.

(4) The applicant must submit proof satisfactory to the Board, demonstrating that the on-lot septic system and water supply is adequate for the maximum occupancy of this facility, including the resident/owner operator.

(5) No meals may be served other than breakfast. No meals or beverages shall be served to persons other than those who are actual fee paying guests or the resident/owner operator.

(6) There must be a common dining area, a separate dining area for guests only is not permitted.

(7) Off street parking shall be located in the rear yard only. However, an area variance for this requirement may be granted by the Board under appropriate circumstances.

(8) The minimum number of parking spaces shall be one per each room to be utilized by guests and three for the resident owner/operator and his or her family.

(9) One sign not larger than four square feet shall be allowed.

#### Camp, Day:

(1) The minimum lot area shall be twenty five (25) acres, plus three thousand (3,000) square feet per person based on the maximum occupancy to be established in conjunction with the special use permit.

(2) No building, tent, activity, parking area, or recreation facility shall be located closer than one hundred (100) feet from any lot line and said activities shall be effectively screened as required by the Board to minimize noise and visual impact to the greatest extent practicable on adjacent properties.

(3) Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity. Public address systems are prohibited.

(4) Sanitary and wastewater disposal systems shall be approved by the New York State Department of Health. Flush toilets shall be provided.

(5) Centralized solid waste receptacles shall be provided. Waste in these receptacles shall be collected regularly to avoid odor, health hazards and litter.

(6) Adequate emergency access shall be provided throughout the camp site. The Planning Board, in consultation with the applicable fire district, shall ensure that suitable surfaces are provided for internal driveways to ensure emergency equipment can access all occupied areas of the site.

(7) Accessory structures including, but not limited to, laundry rooms, recreation rooms, restaurant, and a general grocery store serving only on-site guest amenities that are ancillary to the operation of the campground are permitted.

(8) Fireplaces and campfires. All fires in any campground shall be in a designated approved location with at least a stone or other fireproof enclosure demarcating the usable area from which all vegetative growth or other flammable material which might contribute to the accidental spread of the fire shall be removed.

(9) Planting shall be provided along those areas within the campground which front upon or are visible from existing public roadways so as to substantially screen the campground from public view at all seasons of the year.

Camp, Overnight: See Day Camp and: No two buildings intended for use as sleeping quarters shall be closer than thirty (30) feet from each other. Tents or other sleeping quarters shall maintain a separation distance to other tents of no less than ten (10) feet and shall be a minimum of 1,250 square feet in size. (10 NYCRR 7-3.8).

Camp, Summer: See Day Camp and: No two buildings intended for use as sleeping quarters shall be closer than thirty (30) feet from each other. Tents or other sleeping quarters shall maintain a separation distance to other tents of no less than ten (10) feet and shall be a minimum of 1,250 square feet in size.

Campground: See Day Camp and: No two buildings intended for use as sleeping quarters shall be closer than thirty (30) feet from each other. Tents or other sleeping quarters shall maintain a separation distance to other tents of no less than ten (10) feet and shall be a minimum of 1,250 square feet in size.

#### Car Wash

(1) Stacking or storage area for vehicles waiting for service shall be provided on-site and shall not occur on a public street or highway.

(2) A car wash shall not provide service other than washing, waxing, simonizing or similar treatment services.

(3) Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles.

#### Cemetery

(1) No burial or memorial plots or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or landscaped strip, at least six feet in height, providing complete visual screening from all adjacent residential property is provided, burial or memorial plots less than six feet in height may be located no closer than 20 feet to any residential lot line.

#### Daycare:

(1) All buildings, structures and areas of organized activity such as play areas, swimming pools, etc., shall be not less than 75 feet from any property line.

(2) Off-street parking areas shall be not less than 50 feet from any property line.

(3) Outdoor floodlighting or public address systems are prohibited.

(4) Landscaping and fencing shall be sufficient to buffer the use from adjoining properties.

(5) Must conform to all NYS law and agency licensing requirements.

#### All Recreation Facility Uses and Health Clubs

(1) Compliance with the Town's Mass Gathering local law is required when the use is expected to attract greater than 300 at any one time.

#### Drive Thru

(1) All vehicle stacking must occur on the premises and may not occur on any public or private road.

(2) No public address system or amplified sound/music shall be audible beyond the property line.

- (3) All lights shall be down-directed and shielded.

Firing Range, Indoor:

- (1) Structure must be designed and built to prevent the escape of any sound associated with the discharge of firearms other weapons.
- (2) Compliance with NYS General Business and Appendix B, where appropriate, is required.

Firing Range, Outdoor:

- (1) Minimum of 100 acres
- (2) No firing of guns before 10:00 am or after 6:00 pm
- (3) Must comply with all NYS General Business Law and Appendix B.
- (4) No firing of guns within 500 feet of any property line

Fuel Storage Facility

- (1) No other use except accessory use, may utilized on the affected parcel.
- (2) Adequate fire suppression and equipment must be on-site at all times.
- (3) In no event shall storage of more than eight (8) twenty thousand (20,000) gallon tanks be approved.
- (4) In no event shall a fuel storage facility be approved within a flood plain.

Group Home:

- (1) All buildings, structures and areas of organized activity such as play areas, swimming pools, etc., shall be not less than 75 feet from any property line.
- (2) Off-street parking areas shall be not less than 50 feet from any property line.
- (3) Outdoor floodlighting or public address systems are prohibited.
- (4) Landscaping and fencing shall be sufficient to buffer the use from adjoining properties.
- (5) Must conform to all NYS law and agency licensing requirements.

Home Occupation

(1) There are two levels of home occupation, HO-1 and HO-2. Home Occupation-1 (HO-1) is limited to a use occurring fully within the principal dwelling on the lot and shall be considered a permitted use. Those home occupations occurring wholly or partially in an outbuilding shall be considered as Home Occupation-2 (HO-2), and which may only be authorized by special use permit granted by the Zoning Board of Appeals.

(2) All home occupations must comply with the definition set forth herein. A special use permit is required for all home occupations. Application for a use permit shall be made to the Zoning Enforcement Officer. The application shall include a description of the proposed use including the size of the use (such as expected sales/service, number of employees, etc.) and shall address each of the items listed below. If, after such use permit is granted, it is subsequently determined that the home occupation use no longer complies with any of these conditions, the Zoning Enforcement Officer may revoke such use permit. If this occurs, the applicant may appeal such determination to the Zoning Board of Appeals, provided that such appeal is taken within 30 days of the decision of the Zoning Enforcement Officer.

(3) The following additional requirements shall be applicable for all home occupations. The applicant shall have the burden of establishing, by clear and convincing proof, that the proposed home occupation will comply with all of these items.

- (a) Not more than two home occupations may occur on a single residential lot.

- (b) A home occupation shall not cause a significant increase in neighborhood traffic.
- (c) There may be no more than two vehicles used in connection with the operation of the business on the premises. Any such vehicles shall be screened or stored in an enclosed structure. However, this does not refer to a passenger vehicle and/or pickup truck used by the occupants for their personal use.
- (d) A sign is allowed, which shall not exceed dimensions two feet by three feet and may be double-sided. It may be located in the required front yard, provided that it is set back at least 15 feet from all property lines, and is not more than six feet above the natural ground level at its location. The sign shall not be lighted.
- (e) Retail sales shall not be permitted on the premises except for small scale sales of goods actually produced on the premises or small scale sales of goods incidental to the main service provided.
- (f) There may be no exterior storage of materials or exterior variations from the residential character of the neighborhood. Generally, the display of goods in the front yard of the premises shall not be permitted. Goods for retail sale only may be displayed elsewhere on the property if appropriately covered by a structure and/or screened by a fence or natural vegetation, provided that outdoor display of goods does not occur within 40 feet of an adjoining lot.
- (g) The proposed home occupation shall not produce any unusual water use, septic discharge, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would exceed those normally produced by a residence.
- (h) Storage, use and disposal of hazardous substances and petroleum products must meet applicable state and federal regulations.
- (i) Any new construction undertaken to accommodate the home occupation activity shall be wholly consistent with the character of a residential premises.
- (j) No more than three persons, other than members of the household occupying such dwelling, shall be employed on the residential premises in the conduct of all home occupations thereon; provided, however, that the applicant shall have the right to appeal to the Zoning Board of Appeals which, after public hearing, may allow more than three persons in such circumstances where the Zoning Board of Appeals has determined that the use of the property, with such additional employees, still qualifies as a home occupation under the definitions and requirements set forth in this chapter. Should the Zoning Board of Appeals determine that more than three persons other than members of the household may be employed at the property in the conduct of such home occupation(s), the Zoning Board of Appeals shall set the maximum number of persons, other than members of the household occupying the dwelling, who may be employed on the residential premises in such circumstances.
- (k) There may be no sharing, letting or subletting of space for use by others in connection with a home occupation.
- (l) There shall be sufficient off-street parking to avoid parking congestion in the public roadway and in order to adequately accommodate the anticipated use of the property in connection with such home occupation.

(4) The following shall apply to HO-1: a home occupation within a principal dwelling shall not be permitted where more than 1/3 of the total square footage is utilized in connection therewith.

(5) The following shall apply to HO-2: a home occupation in outbuildings shall be limited to a maximum of 1,000 square feet and the structure shall otherwise comply with the dimensional

requirements in the applicable zone. However, the Zoning Board of Appeals may grant an area variance with respect to any setback requirement.

Hunting Preserve:

- (1) Minimum of 100 acres.
- (2) No firing of guns before 10:00 am or after dusk.
- (3) No more than 10 hunters per 100 acres hunting at the same time.
- (4) Compliance with Appendix B.

Mini-Mart/Convenience Store (See Drive Thru when applicable)

- (1) Exterior display of merchandise for sale will be allowed only on paved walkway within three (3) feet of the building.
- (2) Loading areas shall minimize impacts to the surrounding properties and the neighborhood. Screening and buffer yards shall be provided if adjacent to residential use.
- (3) At least one (1) building entrance, and all principal windows, shall face the street.
- (4) Use of alternative pavements (brick pavers, porous pavement) is encouraged.
- (5) There shall be a minimum lot size of twenty thousand (20,000) square feet.
- (6) Vehicle entrances shall be minimized to maximize safety and efficient traffic circulation while minimizing impacts to the surrounding neighborhood.
- (7) The applicant shall demonstrate to the satisfaction of the Zoning Board of Appeals that the use is compatible with neighborhood.
- (8) Exterior lighting shall not glare on adjacent property or public right-of-way.
- (9) The hours of operation may be restricted.

Mini-Warehouse/Self-Storage Facility

- (1) The minimum front setback shall be fifty (50) feet.
- (2) No security fencing, security gate, or other obstruction to vehicle access shall be permitted in the required front yard setback. Security fencing shall not include electrically charged, barbed wire or razor wire, and shall not be placed in a required front yard setback area.
- (3) No door opening for any storage unit shall be constructed facing any residential use.
- (4) Door openings for storage units shall face the interior of the site unless impracticable.
- (5) An on-site office for a manager may be required if the Board deems it appropriate to help provide adequate security or assurance of mitigation of potential impacts to nearby properties.
- (6) The roof shape and materials shall be pitched and compatible with the design and materials of neighboring buildings.
- (7) Views of the storage facility from public rights-of-way shall be fully buffered and screened.
- (8) All parking shall be to the rear of the building or to the side, and if on the side, must be adequately screened.
- (9) Storage units shall not be used for: the servicing or repair of motor vehicles, boats, recreational vehicles, motorcycles, trailers, lawn mowers and other similar equipment; or for office, retail, manufacturing or other similar uses.
- (10) No activities such as miscellaneous garage sales/auctions shall be conducted on the premises. However, the owner shall have the ability to have a sale for foreclosure purposes.
- (11) All storage uses shall be inside an enclosed building.

(12) Spacing between structures shall be a minimum of twenty (20) feet and emergency access shall be provided to at least three (3) sides of all structures. Access drives shall be designed to handle automobiles, vans, light trucks, and other two-axle vehicles.

(13) All outdoor dumpsters shall be screened.

#### Multi-Family Residential Dwelling and CCRC

(1) A maximum number of units for each parcel is 5 (five) and must be consistent with the density in the affected zone.

(2) All construction must be consistent with the rural character of the surrounding neighborhood.

(3) The maximum impervious surface area coverage, excluding paved areas for recreational facilities, such as a basketball or tennis court or a pool, shall be fifty percent (50%).

(4) Sidewalks shall be provided, as appropriate, to connect the residential units with parking areas, public streets, recreation areas, and other apartment building(s) and other existing sidewalks.

(5) Buffer areas shall be used to separate the residential units from the recreational areas and to maintain natural areas between multi-family structures. Buffer strips shall consist of trees, hedges, dense plantings, earth berms, and other changes in grade.

(6) Landscaping and screening shall conform to the following minimum standards:

(a) Along road frontage, a ten (10) foot deep, landscaped buffer shall be provided and designed so as not to obstruct sight distance at road access points.

(b) Units shall be sited, when practicable, for maximum preservation of mature trees (trees of twelve (12) inches or more in diameter at breast height [dbh]).

(c) Clear cutting of the site area is prohibited.

(d) Solid waste and recycling receptacles of adequate capacity shall be provided for the maximum number of residents. Receptacles shall be screened from view by fencing or landscaping and regularly emptied to prevent odor and unsanitary conditions. The receptacle shall be equipped with a cover and designed to prevent loose litter.

(7) Internal Road System. Road standards for multi-family developments shall conform with the following standards:

(a) A looped road system, or a road network with two (2) separate access points, shall be provided for developments of more than three (3) multi-residential dwelling units.

(b) Internal circulation systems shall be able to accommodate all service and emergency vehicles and shall provide for year-round access.

(c) Private roads within a multi-family development shall not exceed an average grade of eight percent (8%). No section shall exceed a grade of ten percent (10%) unless otherwise allowed by town standards. The local fire department and ambulance service shall review and approve all access to ensure adequate safety and access for emergency services.

(d) The project's traffic impacts on the roads that serve it shall be mitigated to the greatest degree practicable and shall be developed according to the following standards:

(i) The site development plan shall assure that additional traffic generated, together with existing traffic, shall not exceed the capacity of the highway(s) that serve the development.

(ii) In situations where the proposed additional traffic is likely to result in a significant decrease in the quality of traffic safety conditions, the Planning Board shall require the applicant to provide traffic improvements as a condition of Site

Plan approval, or to reduce the size or density of the proposed development so as to reduce the potential traffic increase.

(8) One sign per entrance that identifies the development is permitted and should be compatible with the general environment of the project site. The maximum height for each two (2) sided, freestanding entrance sign, from grade to the highest point on the sign or sign structure shall be no greater than six (6) feet, and the maximum area of one side or face of a sign shall not exceed ten (10) square feet.

#### Performing Arts Center

(1) No facility shall be approved for greater than 500 seats, regardless of whether indoor, outdoor or any combination thereof.

#### Research Laboratory

(1) The minimum lot area shall be five (5) acres and the lot shall have no less than fifty (50) feet of frontage on a county or state road. The building shall be set back no less than one hundred (100) feet from any lot line.

(2) No sales to the general public shall be permitted.

(3) All uses, processes and storage shall be within a fully enclosed structure, and no tanks or other apparatus incidental to the processing or manufacturing shall be visible outside of a manufacturing building. The façade of buildings and structures shall be compatible with the rural character and adjacent development.

(4) The applicant shall submit a list of any other permits that may be required for the operation as well as a list of the goods and materials to be stored and manufactured.

(5) Parking shall not be permitted in the front yard.

(6) The location and hours of operation of all on-site lighting shall be reviewed and approved by the ZBA.

(7) The ZBA may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width and height.

#### Restaurant

(1) Parking is not permitted in the front yard setback unless the parking area is adequately screened to mitigate negative visual impacts.

(2) An applicant shall clearly demonstrate that the use will be compatible with the adjoining uses, particularly with regard to traffic circulation, parking, and appearance. No more than two (2) curb cuts per lot frontage shall be allowed.

(3) Sufficient screening shall be provided to buffer the site and limit noise and lighting impacts on adjacent residences.

(4) Where a residential building which contributes to the historic or unique character of the surrounding neighborhood, is proposed to be converted to a restaurant, exterior alterations shall be made in a manner that preserves the essential residential character of the building.

(5) The ZBA may prohibit or limit outside music or entertainment where same would negatively impact adjoin or nearby properties.

#### Travel Trailer Camp

(1) Minimum of 25 acres to be utilized for camping.

(2) Proof of sufficient drinking water and waste water/septic removal/treatment

(3) Proof of sufficient lot sizes to conform with NYS law and agency regulations.

(4) No more than 25 lots may be approved.

(5) No use of outdoor sound systems may be permitted.

(6) Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity. Public address systems are prohibited.

(7) Centralized solid waste receptacles shall be provided. Waste in these receptacles shall be collected regularly to avoid odor, health hazards and litter.

(8) Adequate emergency access shall be provided throughout the camp site. The Planning Board, in consultation with the applicable fire district, shall ensure that suitable surfaces are provided for internal driveways to ensure emergency equipment can access all occupied areas of the site.

(9) Accessory structures including, but not limited to, laundry rooms, recreation rooms, restaurant, and a general grocery store serving only on-site guest amenities that are ancillary to the operation of the campground are permitted.

(10) Fireplaces and campfires. All fires in any campground shall be in a designated approved location with at least a stone or other fireproof enclosure demarcating the usable area from which all vegetative growth or other flammable material which might contribute to the accidental spread of the fire shall be removed.

(11) Planting shall be provided along those areas within the campground which front upon or are visible from existing public roadways so as to substantially screen the campground from public view at all seasons of the year.

(12) Individual sites and all water, septic, and lighting facilities shall be in accordance with NYS Department of Health regulations.

(13) There shall be no outdoor storage of travel trailers in a travel trailer camp.

#### Travel Trailer Storage Facility

(1) There shall be no outdoor storage of travel trailers in a travel trailer camp.

#### Wedding or Private Event Facilities

(1) Restaurants with banquet facilities where Wedding or Private Event Facilities are accessory to the restaurant shall not be subject to this regulation.

(2) No vehicles associated with the event shall be permitted to be parked on public roadways. All vehicle parking shall be maintained "on site", "On site" is defined as at least 100' from the property boundaries of the parcel on which the event is permitted.

(3) One parking space for every three persons attending the event shall be provided for on-site parking. The board may approve, in its discretion, the use of off-site parking as an alternative, with transportation to the site by attendees through a commercial transportation service.

(4) The general event area (the actual location(s) in which the gathering is to occur) shall be located 300' from adjacent owner's property lines. All activities associated with the use are to be included within the general event area, the only exception being the parking as allowed by (b) above.

(5) Sources of amplified sound including but not limited to recorded music, live musical performances, and spoken word shall commence no earlier than 12:00 PM, shall be terminated by 10:00 PM. There shall be no amplified music or sound in tents, pavilions and other open/non-enclosed structures. Sound and noise emitted by the use shall be in conformity with §180- Noise of this Chapter.

(6) Fireworks, firecrackers and/ or loud reports displays are not allowed except as permitted by an agency or department of the State of New York.

(7) No overnight accommodations shall be allowed in temporary structures such as tents or recreational vehicles. Any venues which provide overnight accommodations must comply with all applicable codes and laws related to the provision of said accommodations.

(8) No alcoholic beverages are permitted to be sold. Food and alcoholic beverage may be consumed on site in accordance with the requirements of the NYS Liquor Authority.

(9) No more than 300 persons are allowed at a special event venue.

(10) Adequate sanitary restroom facilities shall be provided on site, and the type, design and location of such facilities and the method of sewage disposal from restroom facilities shall be subject to the approval of the ZBA.

(11) In each year subsequent to the special permit approval, a person holding a special permit under this section shall submit to the CEO a schedule of events for the calendar year. Said submittal shall be made no later than April 1. At the time the permit holder shall identify any changes that have been made to the venue site since prior events. Material changes shall trigger the need to apply to the ZBA for a modified site plan approval. At that time the permit holder shall also pay the appropriate fee based on the proposed schedule of events. The CEO shall be notified in advance of Additional events not appearing on the original schedule of events for that year. Such submittal to the CEO shall also include, for each event listed in the schedule of events, the name and phone number of the owner or agent of the owner who shall be on-site for said event.

(12) No Wedding or Private Event Facility shall be authorized to hold more than ten (10) events in any calendar year.

(13) This special use shall not run with the land and shall terminate upon change in ownership of the parcel on which the Facility is operated.

## ARTICLE VI. Nonconforming Uses

§ 180-51. Continuation of existing uses, buildings, structures or parcels.

The lawful use, building, structure or parcel existing on July 2, 1972, may be continued, although such does not conform with the provisions of this chapter or any prior zoning law of the Town of Chatham.

§ 180-52. Discontinuance.

When any existing nonconforming use of land or buildings has been discontinued for one year, the land and buildings shall thereafter be used only in conformity to this chapter, except that the Board of Appeals, upon application by the owner and after a public hearing, may permit the resumption of said nonconforming use utilizing the general special use standards of this Chapter. No such application shall be considered or granted after three years following the discontinuance.

§ 180-53. Changes.

Once changed to a conforming use, no use, building or land shall be permitted to revert to a nonconforming use. However, if the sole non-conformity is related to the bulk (minimum setback, yard, etc.) of a parcel or a building on a parcel, then in the event such building is destroyed, it may be only be rebuilt within one year on the same footprint of the prior building.

§ 180-54. Cessation.

A. Notwithstanding any other provisions of this chapter, any nonconforming automobile wrecking yard, junkyard or billboard in existence on March 10, 1988, became a prohibited and unlawful use as of March 10, 1991, except that a junkyard may continue as a nonconforming use if within that period it

is maintained in accordance with the standards set and enforced by the State of New York and also in accordance with the standards required by the Town Board.

B. No new home or manufactured home may be placed or erected outside of a park designated for such structures. No mobile home or manufactured home located outside of a park designated for such structures may be replaced once it has become obsolete or uninhabitable. Additionally, any mobile home or manufactured home outside such parks which shall be vacant for a period in excess of one year shall be removed immediately.

§ 180-55. Expansion.

Any nonconforming use or building may be expanded up to an additional 33 1/3% of the existing size, whether measured by value, volume or intensity, at the time of the adoption of this chapter, following application public hearing, by the Zoning Board of Appeals utilizing the general special use standards of this Chapter. The ZBA shall have the discretion to refer the matter to the Planning Board for site plan review, if appropriate under the definitions and terms of this Chapter.

§ 180-56. Fire.

Any building housing a nonconforming use burned by fire may be replaced within one year if not over 80% destroyed. Any such damaged building shall be removed as soon as practicable.

ARTICLE VII, Administration

§ 180-57. Enforcement.

This chapter shall be enforced by the Zoning Enforcement Officer who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued by him, except where all the provisions of this chapter have been complied with.

§ 180-58. Permits.

A. Building permit. For zoning purposes, no new structure shall be built, nor an existing structure enlarged or moved, no use of space shall be changed, unless a building permit for such action has been issued by the Zoning Enforcement Officer. A building permit shall expire one year from the date of issue.

B. Prior to conducting any use on any property, the owner of such property shall seek the review and issuance of the appropriate zoning permit for permitted uses or referral of the matter to the appropriate Board for review, by the Zoning Enforcement Officer.

§ 180-59. Matter accompanying application for permits.

A. Each application to the Zoning Enforcement Officer for a permit to erect a new building or structure, to enlarge an existing one or to move an existing one, shall be accompanied by a site plan showing measurements of the lot and of all buildings, setbacks and parking spaces, existing and proposed, the intended use or uses of the land and buildings, and plans for provision of essential services. In the case of nonresidential uses or multifamily uses, the documentation shall be the same as required for site plan review. For new construction without public sewers, no building permit shall be issued unless the method of sewage disposal is approved by the Town of Chatham or County Board of Health, whichever is applicable.

B. Any other application for a building permit, and any application for a use permit, shall be accompanied by a description of the intended use or uses of the land and buildings and such further details as the Zoning Enforcement Officer may require for a clear understanding of the case.

(1) Any application requiring a special use permit, site plan approval, use variance, timbering permit or subdivision approval shall be accompanied by an Agricultural Data Statement if the proposed project occurs on property within a New York certified agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation, whether within an agricultural district or otherwise.

(2) The appropriate reviewing board shall mail a written notice containing a description of the proposed project and its location to owners of land as identified by the applicant in the Agricultural Data Statement. The cost associated with such mailing shall be borne by the applicant.

(3) The reviewing board shall also refer all applications requiring an Agricultural Data Statement to the Columbia County Planning Board as required by sections 239-m and 239-n of the General Municipal Law.

(4) The reviewing board must evaluate and consider the Agricultural Data Statement to determine the possible impacts the proposed project may have on the functioning of farm operations as located above. In determining the possible impacts of the proposed project, the reviewing board shall consider:

- (a) Whether the proposed land use conflicts with farming activities;
- (b) Whether the new use negatively impacts a farmer's ability to use existing rights-of-way or farm roads needed to access lands utilized in the farming operation;
- (c) Whether the new use affects land values and rental rates for agriculture;
- (d) Whether any new proposed public roads can accommodate agricultural equipment and traffic;
- (e) Whether the new use is a non-farm growth-inducing activity; and
- (f) Whether the new might remove a significant amount of land from availability for farming.

#### § 180-60. Schedule of fees.

The fees for building and use permits issued under the terms of this chapter shall be such as are determined by resolution of the Town Board from time to time. The current effective schedule of fees will be on file at all times with the Town Clerk from whom a copy is available upon request.

#### § 180-61. Zoning Board of Appeals.

A. Creation, appointment and organization. A Board of Appeals is hereby created in accordance with § 267 of the Town Law, Chapter 62, Article 16. Said Board shall consist of seven members. The Town Board shall appoint a Chairman, and the Board of Appeals shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.

B. Duties and powers. The Board of Appeals shall have all the power and duties prescribed by law and by this chapter, which are more particularly specified as follows:

(1) Interpretation. To decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(2) Special permits. To issue special permits for any of the uses for which this chapter requires the obtaining of such permits from the Zoning Board of Appeals.

(3) Variances. To vary or adapt to the strict application of any of the requirements of this chapter in any case where strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. No such use

variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located: the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood; the requested use variance, if granted, will not alter the essential character of the neighborhood; and the alleged hardship has not been self-created. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; whether the benefit sought by the applicant can be achieved by some methods, feasible for the applicant to pursue, other than an area variance; whether the requested area variance is substantial; whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable, including but not limited to the duration of such a granted variance.

#### C. Procedure.

(1) The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Zoning Board of Appeals shall be in writing on forms prescribed by the Board, and accompanied by an application fee. Every appeal or application shall refer to the specific provisions of the law involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. The Board shall review and consider GIS maps, associated information and impacts during its review of any application hereunder.

(2) At least 20 days before the date of the hearing required by law on an application or appeal to the Board of Appeals, the Secretary of said Board shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.

(3) Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case.

#### § 180-62. Violations; penalties for offenses.

A. Reporting. Any resident of the Town may file a written complaint with the Zoning Enforcement Officer alleging a violation of this chapter. The Zoning Enforcement Officer shall file said complaint, investigate the same and report thereon to the Town Board.

B. Punishment. A violation of any of the provisions of this chapter by an owner, tenant or resident of land and/or a builder or contractor shall constitute a violation punishable either:

(1) By the imposition of civil penalty by the ZEO in the amount of \$350 without the need of adjudication by a Court;

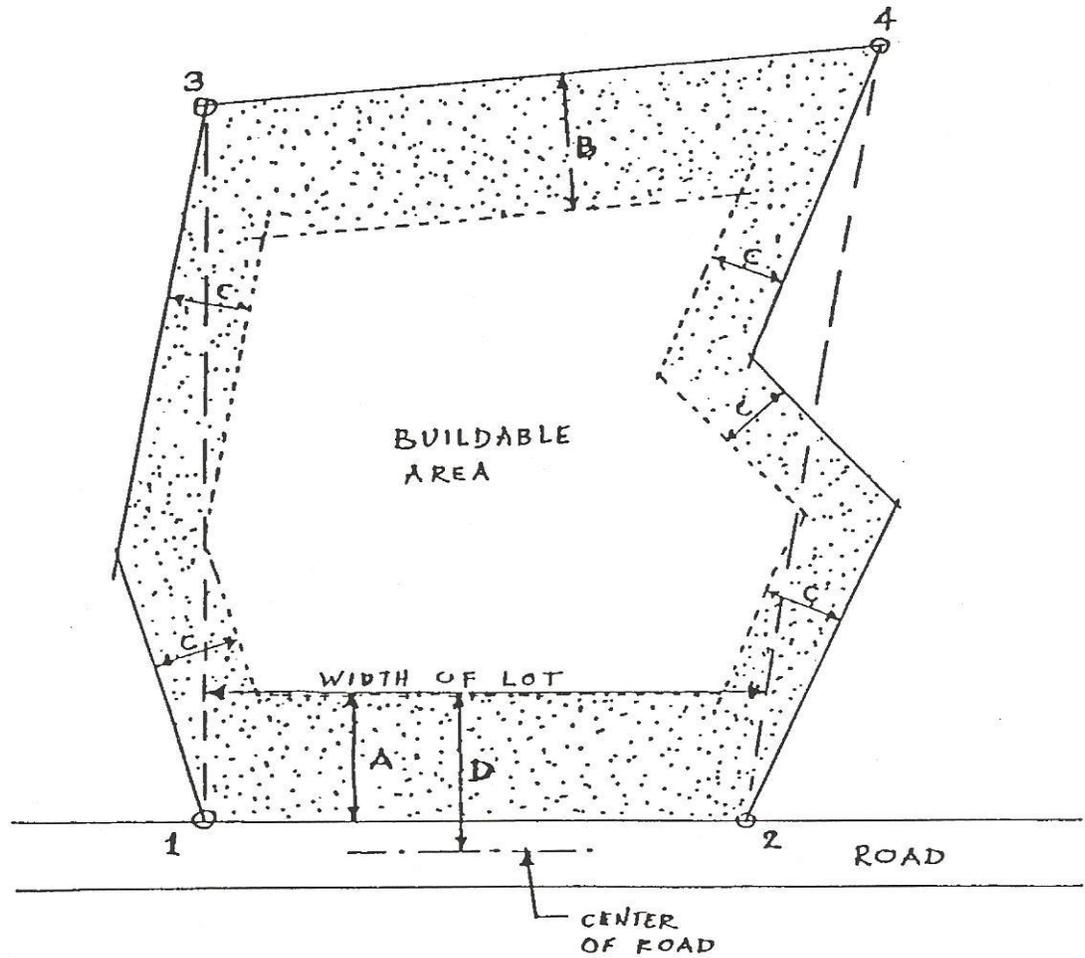
- (2) By a fine of not less than \$350 or more than \$500 following conviction of a first offense;
- (3) By a fine of not less than \$500 or more than \$750 following conviction of a second offense within 5 years of the first offense;
- (4) By a fine of not less than \$750 or more than \$1,000 following conviction of a third offense and each and every offense thereafter within 5 years of the first offense.

ZONING

180 Attachment 1

Town of Chatham

Exhibit A: Lot Measurements



POINTS 1 and 2  
POINTS 3 and 4  
WIDTH OF LOT:

FOREMOST POINTS OF LOT  
REAR MOST POINTS OF LOT  
MEASURED PARALLEL TO ROAD, ALONG REAR OF  
FRONT YARD, BETWEEN LINES 1-3 & 2-4

A: FRONT YARD  
B: REAR YARD  
C: SIDE YARD  
D: REQUIRED SETBACK ON TOWN ROADS  
 $D = A + 25 \text{ FT.}$

## **Appendix B. Additional special use permit standards for Outdoor Firing Ranges and Hunting Preserves**

For purposes of Special Use Permits issued for Indoor and Outdoor Firing Ranges and Hunting Preserves the following definitions shall apply:

“Backstop” means a device constructed to stop or redirect bullets fired on a range.

“Baffles” means barriers to contain bullets and to reduce, redirect or suppress sound waves. Baffles are placed either overhead, alongside, or at ground level to restrict or interrupt errant or off-the-target shots.

“Ballistics” means the study of what happens to moving projectiles in the barrel and in flight: their trajectory, force, impact, and penetration. The study is divided into three sections: internal, external and terminal. “Internal” refers to what happens inside the barrel before the bullet or shot leaves the muzzle. “External” is what happens after the bullet or shot leaves the barrel and travels to its final point of impact. “Terminal” is what happens to the bullet or shot at the final point of impact.

“Berm” means an embankment used for restricting bullets to a given area or as a dividing wall between ranges.

“Bullet” means a single projectile fired from a firearm.

“Bullet trap” means a device designed to trap or capture the entire bullet and fragments as opposed to redirecting the projectile into a water or sand pit.

“Expansion” means any change to a public outdoor shooting range existing as of the effective date of the ordinance codified in this chapter or any range developed and operating by virtue of a special use permit, that results in additional firing positions or a lengthened daily period of operations. Expansion shall also include any change increasing the length of the direct fire zone or the area of the shotfall zone in order to accommodate the use of firearms not identified in the then existing special use permit application. Modifications made for the purpose of or resulting solely in maintenance or improvement of a facility, such as the installation of sewer, water or other utilities, pavement of a parking lot, the installation of safety baffles, construction of side or backstop berms, or the construction or remodel of a clubhouse, shall not be considered an expansion.

“Firearm” means a term used to describe any gun, usually small, from which a bullet is propelled by means of hot gasses generated by burning powder (usually smokeless or black powder).

“Firing distance” means the distance between the firing line and the target line.

“Firing line” means a line parallel to the targets from where firearms are discharged.

“Firing position (point)” means an area directly behind the firing line having a specified width and depth that is occupied by a shooter, his or her equipment and, if appropriate, an instructor or coach.

Firing Range.

1. “Firing range” means a facility designed for the purpose of providing a place on which to discharge firearms, shoot air guns, and/or archery equipment.

2. “Firing range” may refer to several ranges constructed in a complex.

“Pistol” means a firearm capable of being held, aimed and fired with one hand. Also known as a handgun.

“Public shooting range” means a firing range where a user fee is charged, or where a person must be a member of a group to be allowed to use the facility and membership requires the payment of dues or fees.

“Range Manual” means The Range Manual – A Guide to Planning and Construction, The National Rifle Association.

“Ricochet catcher” means a device installed along a backstop, a berm, or on the range floor, designed to capture ricocheting projectiles. Ricochet catchers are more frequently used on backstop areas where the slope or backstop material does not positively contain bullets.

Rifle.

1. “Rifle” means a modern firearm designed to be fired from the shoulder. Its main characteristic is a rifled (grooved) barrel that imparts a spin to a single projectile as it travels through the bore.

2. Some rifles designed for military or law enforcement use may have a pistol grip stock instead of a shoulder stock.

3. For purposes of this chapter, “rifles” shall also include black powder and other muzzle loading firearms, some of which may have rifled barrels.

“Safety baffles” means vertical or sloping barriers designed to prevent a projectile from traveling into an undesired area or direction. Most often used to prevent bullets from leaving a firing range.

“Safety fan” applies only to rifle and pistol firing ranges. The safety fan of a firing range consists of three parts: the direct fire zone, the safety zone, and the ricochet zone. The direct fire zone is that area into which all shots are fired during the normal course of shooting. This zone includes all directions and angles of fire used on a firing range while shooting at a specific target, either stationary or moving, from a specific firing point. The length of the direct fire zone extends to the maximum range of the ammunition and firearm used on the firing range, but can be shortened by physical barriers or other devices which reduce the maximum distance of a bullet’s trajectory. The safety zone extends 10 degrees to the left and right of the direct fire zone and protects against errant bullets caused by cross fire or accidental discharge of a firearm. The ricochet zone is that area 45 degrees to the left and right of the firing line, and extended a certain distance dependent on the type of firearm and ammunition allowed on the range (i.e., 85 yards for air guns, and up to 1,200 yards for high-powered rifles). The line is then extended parallel to each side of the safety zone downrange to the intersection of a line extended from the terminus of the direct fire zone through the outer corner of the safety zone. See Drawing No. 103 in the Range Manual.

“Shotfall zone” means that area of a shotgun firing range where spent shotgun shot falls to the earth and where development, other than trap or skeet houses or the equivalent facilities for other types of shotgun events, and human occupancy, other than operators of the trap, skeet or equivalent facilities, is prohibited during active shooting.

Shotgun.

1. “Shotgun” means a firearm designed to be fired from the shoulder with a smoothbore barrel that fires shot shells possessing a varying number of round pellets;
2. Some barrels are designed to be used with rifled slugs, most generally having smoothbores, but in some cases may be rifled;
3. Law enforcement and military shotguns may have a pistol grip stock instead of a shoulder stock.

“Target line” means a line parallel to the firing line along which targets are placed. [

Development standards.

The following standards shall apply to the development of proposed public outdoor shooting ranges upon application for a special use permit. The ZBA may vary from these standards where the applicant has demonstrated that the proposed facility includes alternative designs and features, either natural or manmade, that will otherwise mitigate the potential adverse impacts to the health, safety and welfare of owners or users of neighboring properties and the general public.

A. Range Design.

1. Pistol and Rifle Firing Ranges. Pistol and rifle firing range design shall include sufficient land area under control of the applicant for a safety fan (direct fire zone, safety zones and ricochet zones) to accommodate the ballistics of the highest powered firearms and ammunition to be used on the range. Such geographic areas shall be based on the guidelines contained in the Range Manual. Such spatial requirements may be reduced in consideration of natural topographic features or manmade improvements, including but not limited to, backstop and side berms, bullet traps, ricochet catchers, and overhead or ground safety baffles which will provide sufficient safety measures to protect adjacent properties.
2. Shotgun Ranges. Trap ranges shall have a shotfall zone on property under control of the applicant as established by a line which extends 50 yards to the right and 50 yards to the left of, and perpendicular to, the centerline of the trap house. From each end of said line, boundary lines having interior angles of 130 degrees shall extend down range for 300 yards, as depicted on Drawing No. 64a of the Range Manual. Skeet ranges shall have shotfall zones on property under control of the applicant which are a complete semi-circle with its center point located at the center point of station 8 and a radius of the semi-circle being 300 yards, as depicted on Drawing No. 70 of the Range Manual. Shotfall zones for crazy quail, sporting clays or other shotgun firing ranges shall be determined on a case-by-case basis.

B. Security. The entire perimeter of all public outdoor shooting range safety fans and shotfall zones shall be fenced and signed to reduce the potential for trespass into the safety fans and shotfall zones.

Warning signs identifying the range shall be posted around the perimeter of the parcel or parcels on which the shooting range is located such that each sign is visible and legible from the next. The same signs shall be posted similarly on the security fencing surrounding the safety fan(s).

C. Parking. At a minimum, there shall be one and one-half parking places for each firing position.

D. Noise. All facilities must comply with the §180-41. Noise of this Chapter.

E. Range Orientation. All firing lines should be aimed at target lines to the northeast, north or northwest unless there is sufficient standing timber or natural topographic features on the property controlled by the range operator to mitigate the effects of glare from the sun.

F. Drainage and Erosion Control. The range and associated facilities shall be designed to keep storm runoff from the range site at a volume and velocity no greater than what existed prior to range development. Appropriate erosion control measures shall be designed and installed to maintain the water quality of the storm runoff from the range to predevelopment levels.

G. All backstops shall have sufficient depth of sand or other similar soft earthen material that is free of rocks, stones and other hard objects that may result in bullet ricochets. All manmade berms shall be vegetated to reduce the potential for erosion. A manmade, mechanical backstop may be substituted upon approval of the ZBA. All backstops and berms shall be maintained to perform their intended functions.

H. Firing ranges shall be developed such that there are no streams, ponds, lakes, or other watercourses or wetlands located between any firing line and target line or within any shotgun shotfall zone.

Application – Required information.

In addition to the general information required by this Chapter, the following information is required for a special use permit application for a public outdoor shooting range:

A. An assessor's map of the subject property;

B. The types of firearms, ammunition and shooting to be allowed, such as trap, skeet, muzzle loader, high power rifle, small bore rifle, pistol, action pistol, etc.;

C. A site plan drawn to scale illustrating the items listed below. The site plan shall be drawn at a scale not smaller than one inch equals 200 feet, and not larger than one inch equals 50 feet:

1. The property lines of the parcel(s) on which the firing range(s) are to be developed,
2. For rifle and pistol ranges, the safety fan and its component parts with dimensions for all firing ranges; for shotgun firing ranges, the component parts and dimensions of the shotfall zones,
3. All existing and proposed structures on the range, labeled for their intended use,
4. The location and dimensions of all firing lines and firing positions,
5. The location and dimensions of all target lines and related facilities,

6. The locations, dimensions and slope of all backstops and side berms, whether natural or manmade; the volume, material and source of all imported materials shall be noted,
  7. The locations and dimensions of all baffles; horizontal drawings of the baffles shall be included, and building materials shall be identified,
  8. The location and dimensions of all walkways,
  9. All screening, landscaping and fencing,
  10. The location of all utilities, including but not limited to electrical, potable water, wastewater disposal, and drainage ways, both natural and artificial,
  11. The location of all lighting facilities,
  12. The location of all roads, driveways, and parking facilities, including the number of parking spaces,
  13. The location of all streams, watercourses, and wetlands on the property;
- D. For rifle and pistol ranges only, longitudinal cross-sections of that portion of each firing range from 10 feet behind each firing line to 10 feet beyond the downrange terminus of each direct fire zone, 10 feet beyond the back toe of each backstop if manmade, or if natural, 20 feet beyond the front edge of the backstop, as applicable; and latitudinal cross-sections, from 10 feet outside any side berms or the edge of each safety fan, of typical areas between each firing line and backstop or downrange terminus of the direct fire zone;
- E. A list of all property owners within 2,640 feet of the perimeter of the property on which the public outdoor shooting range is proposed for development;
- F. The land uses of all properties abutting the shooting range property;
- G. Other information deemed appropriate by the CEO.

#### Inspections.

No outdoor shooting range shall commence operations until the range has been inspected and approved by the CEO or his/her designee to ensure that the facilities and development of the range conform with the special use permit issued. The CEO or designee shall inform the applicant, in writing, within 10 days of his/her inspection, whether the public outdoor shooting range meets the requirements of the permit; any deficiencies shall also be noted and operations shall not commence until they have been corrected and the site re-inspected and approved.

## APPENDIX C. AGRICULTURAL DATA STATEMENT

Instructions: This form must be completed for any application for a special use permit, site plan approval, use variance or a subdivision approval requiring municipal review that would occur on property within 500 feet of a farm operation located in a NYS Ag and markets certified Agricultural District. County Planning Board review is also required. A copy of this Agricultural Data Statement must be submitted along with the referral to the Columbia County Planning Department.

1. Name and Address of Applicant: \_\_\_\_\_
2. Type of application (Check one or more):  
 Special Use Permit     Site Plan Approval     Use Variance     Subdivision Approval
3. Description of proposed project to include (1) size of parcel or acreage to be acquired and tax map identification number of tax parcel(s) involved; (2) the type of action (single-family dwelling or subdivision, multi-family development, apartment, commercial or industrial, school, non-residential use, etc., and (3) project density (Please provide this information on the reverse side of this application and attach additional description as necessary).
4. Is this parcel within an Agricultural District?         Yes         No
5. If Yes, what is the Agricultural District Number? \_\_\_\_\_
6. Is this parcel actively farmed?     Yes         No
7. List all farm operations within 500 feet of your parcel. Attach additional sheets if necessary.
  - A. Name: \_\_\_\_\_  
Address and Telephone #: \_\_\_\_\_  
Type of Farm: \_\_\_\_\_  
Is this parcel actively farmed?     Yes         No
  - B. Name: \_\_\_\_\_  
Address and Telephone #: \_\_\_\_\_  
Type of Farm: \_\_\_\_\_  
Is this parcel actively farmed?     Yes         No
  - C. Name: \_\_\_\_\_  
Address and Telephone #: \_\_\_\_\_  
Type of Farm: \_\_\_\_\_  
Is this parcel actively farmed?     Yes         No
  - D. Name: \_\_\_\_\_  
Address and Telephone #: \_\_\_\_\_  
Type of Farm: \_\_\_\_\_  
Is this parcel actively farmed?     Yes         No
8. Signature of Applicant: \_\_\_\_\_
9. Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_