

VILLAGE OF BREWSTER
PUTNAM COUNTY, NEW YORK
LOCAL LAW # 5 - 2015
AMENDMENT TO
BREWSTER VILLAGE CODE

BE IT ENACTED by the Board of Trustees of the Village of Brewster, Putnam County, New York, as follows:

Section 1. Chapter 263 is hereby amended to read as follows:

Chapter 263

ZONING

Article I

Title, Jurisdiction and Purpose

§ 263-1. Title and jurisdiction.

- A. Title. This chapter amends the "Zoning Chapter of the Village of Brewster, 2008," and shall hereafter be known and may be cited as the "Zoning Chapter of the Village of Brewster, 2015."
- B. Jurisdiction. Within the Village of Brewster no land, building or other structure shall be used and no building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered except in conformity with this chapter.
- C. It is intended that the uses set forth for each district shall not be permitted uses in any other district unless allowed specifically or by reference as permitted uses in said district. Only those uses listed for each district as being permitted shall be permitted. Except as otherwise provided herein any use not specifically listed as being permitted shall be deemed to be prohibited.
- D. Planning Board review and approval is governed by chapter 182, "Planning." The review and approval of projects pursuant to chapter 182 shall be subject to the provisions of this chapter.

§ 263-2. Purpose.

This chapter is adopted pursuant to the Village Law of the State of New York, and the amendments thereof and supplements thereto, for the purpose of promoting the public health and safety and the general welfare of the community and in furtherance of the following related and more specific objectives:

- A. To guide and regulate the orderly growth, development and redevelopment of the Village of Brewster in accordance with the adopted Comprehensive Plan of long-term objectives, principles and standards determined to be beneficial to the welfare of the people and their interests.
- B. To protect the established character and the social and economic well-being of both private and public property.
- C. To promote, in the public interest, the most appropriate utilization of land.
- D. To secure safety from fire, panic and other dangers and to provide adequate light, air and convenience of access.
- E. To prevent overcrowding of land or buildings and to avoid undue concentration of population.
- F. To conserve the value of buildings and to enhance the value of land throughout the Village.

Article II
Definitions

§ 263-3. Definitions and word usage.

- A. General. The words used in this chapter shall have the meanings commonly associated with them. Any doubts as to the precise meaning of any word and/or phrase shall be determined by the Zoning Board of Appeals in accordance with the purpose and intent of this chapter.
- B. Definition of special terms. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY SINGLE-FAMILY DWELLING - A secondary dwelling, within an existing legal one-family dwelling, which is subordinate to the principal single-family dwelling in terms of size and location within the existing structure.

ACCESSORY USE OR BUILDING - A subordinate use or building customarily associated with and located on the same lot occupied by the primary use or building. The term "accessory building" may include a private garage, deck, shed or barn, a private playhouse and a private greenhouse. An accessory use may not constitute more than 20% of the total floor area of the principal permitted use. An accessory building may not be located in a front or side yard and must be set back a minimum of five feet from any lot line.

ACRE - A land area having 43,560 square feet within its boundaries.

ADULT BOOKSTORE OR VIDEO STORE - Any person, establishment or business, whether retail or wholesale, having more than 50% of the sales and/or rentals of recordings, books, magazines, periodicals, films, DVDs/videotapes/cassettes or other viewing materials for sale or viewing on or off the premises which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this chapter.

ADULT ENTERTAINMENT CABARET - A public or private establishment which presents topless dancers, bottomless dancers, strippers, male or female impersonators or erotic dancers or other similar entertainment, either on a regular or sporadic basis, and which establishment is customarily open to the public generally but excludes any minor by reason of age.

ADULT HOTEL/MOTEL - A hotel or motel which is open to the public generally but which offers a sleeping room for rent for a period of time that is less than 10 hours or makes available to its patrons in their rooms films, slide shows or videotapes which, if presented in a public movie theater, would be open to the public generally but would exclude any minor by reason of age.

ADULT MOTION-PICTURE THEATER - An enclosed or unenclosed building or structure or portion thereof used for presenting materials distinguished or characterized by primary emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

ADULT-ORIENTED BUSINESS - Any establishment, including but not limited to adult bookstores or video stores, adult motion-picture theaters, adult entertainment cabarets, peep shows, adult hotel or motels or similar adult entertainment establishments, where greater than 50% of the sales and/or rentals include sexually explicit books, magazines or other periodicals, novelty items, films, slides, videotapes or other sexually explicit material; or there is performed live entertainment and/or other services which are intended to provide sexual stimulation or gratification and which are characterized by fondling or other erotic touching of genitals, pubic region, buttocks or female breast and/or showing, for observation by patrons, any portion of the genitals, pubic area, buttocks or that portion of the female breast referred to as the "areola" or "nipple," including any other live entertainment which might by law restrict access to exclude minors given the sexually explicit nature of the business or material which is conducted.

ALLOWED USE - A permitted or conditional use of land that may be established with a land use permit and, where applicable, design review and/or building permit approval, subject to

compliance with all applicable provisions of this chapter. Any parcel or structure may be approved with one or more of the land uses identified by the Zoning Schedule^[1] as being allowable within the applicable zoning district, subject to all applicable requirements of this chapter.

ALTER - To change, enlarge or rearrange the structural parts or the facilities of a structure or to move a building from one location or position to another.

ALTERNATIVE CARE HOUSING - A facility designed for those persons who are unable to live independently and require full-time supervision.

AMUSEMENT DEVICE, MECHANICAL - Any machine which, upon the payment of a charge or upon insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include, but is not limited to, such devices as electronic video games, marble machines, pinball machines, skill ball, mechanical grab machines, electronic bowling machines, electronic driving machines, electronic baseball, basketball, football or hockey machines, and any and all air-propelled or mechanically propelled machines or games, shooting games, billiard tables or pool tables except if located in a pool or billiard hall, and all games, operations or transactions similar thereto under whatever name they may be indicated, whether or not electronically operated.

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

ART GALLERY - A premises used principally for the sale, display and exhibition of fine arts and craft products. An art gallery may include accessory production or instruction in the production of arts and crafts using paint, clay, fabric or other medium, but does not involve the use of electrical tools or processes.

ARTIST LOFTS - The work space of an artist that includes an accessory residential space intended only for the artist utilizing the work space.

ARTIST STUDIOS - A place where artists, artisans, craftsmen and other skilled tradespeople produce custom-made art or craft products, where they teach such skills, and/or where they sell such art or products.

ASSISTED LIVING FACILITIES - A residential facility for age fifty-five or older who require moderate to extensive assistance with daily tasks such as cooking, eating, bathing, housekeeping, dispensing of medicines, shopping, appointments and other tasks.

AUTOBODY REPAIR - The repair of the body of an automobile, including the replacement of body parts, priming and painting thereof.

AUTOMOBILE DEALERSHIP - A commercial business primarily housed in a structure that sells or leases new or used motorcycles, automobiles, vans or trucks which may include as an

accessory use the repair and maintenance of vehicles that are similar in nature to those for sale or lease at the site.

AUTOMOTIVE REPAIR - The mechanical, electrical or computer related maintenance, service or repair of an automobile, excluding autobody repair.

BAR - A business enterprise primarily engaged in the retail sale of alcoholic beverages by the drink for consumption on the premises.

BASEMENT - That portion of a building wholly or partly underground which extends no more than four feet above the average level of the finished grade adjacent to the exterior walls of the building. The word "basement" includes the word "cellar." A basement/cellar is not counted in computing the intensity of development as measured by floor area ratio.

BED-AND-BREAKFAST - A dwelling having a resident host in a private single-family home or in the primary dwelling of a two-family home with common dining and leisure rooms and lodging rooms for overnight accommodations, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The Bed-and-Breakfast shall have not more than two (2) adult lodgers and their minor children per bedroom in at least one (1) and not more than five (5) dedicated guest rooms. The period of accommodation shall be of a clearly temporary nature. A bed-and-breakfast shall not be used as a boarding house.

BILLBOARD - A permanent off-premises outdoor advertising sign erected, maintained or used for the purpose of commercial or noncommercial messages.

BILLIARD HALL - Any premises, business or establishment that maintains three or more billiard tables or pool tables available for public use.

BOARDING HOUSE - A dwelling unit or part thereof in which, for compensation, lodging and meals are provided. The period of accommodation shall be at least thirty (30) consecutive days

BUFFER STRIP - Open spaces, landscaped areas, planters or potted vegetation, fences, walls, berms, or any combination thereof used to physically separate or screen one use of property from another so as to visually shield or block noise, lights, or other nuisances.

BUILDING - Any structure having a roof supported by columns and/or by walls or self-supporting, including a factory-manufactured structure, and intended for public, residence, business, assembly or storage purposes. Terms shall exclude accessory buildings.

BUILDING HEIGHT - The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the distance between the eaves and the ridge level for gable, hip, and gambrel roofs. Mechanical equipment, chimneys, air conditioners, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions.

BUILDING LENGTH - The least horizontal distance between the furthestmost exterior face of the walls of the building, including any carports or porches.

BUILDING LINE - The closed traverse upon a lot which exactly encloses the exterior limits of a building.

BUILDING, MAIN - A building in which is conducted the main or principal use of the lot on which it is located.

BULK - A term used to describe the size, volume, area and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building and all open spaces required in connection with a building, other structure or tract of land.

BUSINESS INCUBATOR SPACE - Incubators are facilities in which a number of new and growing businesses operate under one roof with affordable rents, sharing services and equipment, and having equal access to a wide range of professional, technical and financial programs.

CABARET - Any room, space or premises operated as a commercial establishment in which eating and/or drinking may take place and in which entertainment is provided as a primary function of the establishment. Such entertainment may include music performed either by a live musician or musicians, or any mechanical, electronic or other means, such as records, laser discs, audio or video tapes or other audio or audiovisual means; this does not include the operation of a theater, and excludes all adult entertainment cabarets. Also included as entertainment is any act, play, revue, pantomime, scene, dance act or song-and-dance act participated in by one or more employees, guests, customers or any other person or persons.

CELLAR - See "basement."

CENTER LINE - An imaginary line on the precise center of a street, driveway, roadway or similar feature.

CHURCH/PLACE OF WORSHIP - Any structure or parcel used for worship or religious instruction, including social and administrative rooms accessory thereto.

CIVIC, COMMUNITY OR CULTURAL USE - Any structure or parcel used for the primary purpose of benefiting the community through civic activities or organizations, for cultural events or activities, and which is not conducted by a for profit entity.

CLUSTER - A form of development that concentrates buildings in specific areas on a site to allow for the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

CO-WORKING SPACE - A shared office environment that allows various individuals and groups to operate, independently or collaboratively.

COMPREHENSIVE PLAN - A plan for development of the Village prepared by the Planning Board which indicates the general location recommended for various public works and reservations and for the general physical development of the Village and includes any part of such plan separately adopted and any amendment to such plan, or parts thereof.

DAY-CARE CENTER-

- (1) DAY-CARE CENTER - A care facility provided by a person and the required number of assistants for seven or more children, depending on age, in accordance with a strict staff/child ratio, for more than three hours per day but less than 24 hours per day.
- (2) FAMILY DAY-CARE HOME - A dwelling unit where care is provided by the resident for three and not more than six children (two additional children may be cared for after school, bringing the total after school to eight) away from their home by a resident of a dwelling unit for less than 24 hours per day, when such care is provided for more than five hours per week and less than 24 hours per day.
- (3) GROUP-FAMILY DAY-CARE HOMES - A dwelling unit where care is provided by the resident for up to 10 children of all ages (four additional children may be cared for after school, bringing the after-school total to 14) for less than 24 hours per day.

DECK - A covered or uncovered platform area projecting from the outside wall of a building, accessible at or from above grade and attached to the ground.

DENSITY - The measure of the number of dwellings permitted per gross acre of land contained within each district

DRY CLEANING STORE - A business for the drop off and pick up of clothing and other personal items for dry cleaning purposes, in which the dry cleaning of the items is not performed on the premises.

DUST - Solid particulate matter capable of being airborne or gasborne.

DWELLING - A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

DWELLING, MULTIFAMILY - A dwelling containing three or more dwelling units.

DWELLING, SENIOR - A dwelling in which at least one of the residents is a minimum of 55 years or older and services, such as transportation, recreation or healthcare, are provided to accommodate the needs of the senior residents.

DWELLING, SINGLE-FAMILY - A dwelling containing one dwelling unit only.

DWELLING, SINGLE-FAMILY ATTACHED - A dwelling unit having common walls with one or more other dwelling units.

DWELLING, SINGLE-FAMILY DETACHED - A dwelling unit that is freestanding and not attached to any other dwelling unit. See also "dwelling, single-family."

DWELLING, TWO-FAMILY - A dwelling containing two dwelling units only.^[2]

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

FAMILY - One or more persons occupying a dwelling unit and living as a single housekeeping unit.

FENCE HEIGHT - The distance measured vertically from the natural ground, prior to any grading, filling or modification, to the top of each span of a fence or to the top of a combination of wall and fence. In determining fence height, posts, post caps, post tops, pillars and gates are excepted.

FENCE, WALL, GATE, PILLAR and BERM - Any structure, including a fence, wall, gate, pillar or earthen berm, regardless of composition, except those comprised of living plants, that is erected or maintained for the purpose of enclosing, separating or screening a piece of land or a building.

FILED MAP - Any map, survey or plat filed in the County Clerk's office of Putnam County.

FITNESS CENTER/ RECREATION FACILITY - A building which is used for sports, health and recreational uses by the general public or by members not restricted to living within a specified area (as in a homeowner's association or multiple-family development), which normally operates for a profit. Such facilities include, but are not limited to, tennis or racquetball courts, swimming pools, weight training, exercise classes, health spas and other similar uses.

FLOOR AREA, GROSS - The sum of the horizontal areas of the full stories and half stories of the building or buildings, measured from the exterior faces of exterior walls or, in the case of a common wall separating two buildings, from the center line of such a common wall, and including any two-story or any enclosed porch or one having a roof and capable of being enclosed.

FLOOR AREA RATIO - The gross floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

FRONTAGE - The extent of a building or a lot along a street as defined herein.

FRONT WALL - The wall nearest to and facing the street on which the lot fronts.

FRONT YARD SETBACK - A line parallel to the front lot line and at a distance therefrom equal to the minimum front yard dimension for the district in which located. In case of a corner lot for commercial property, the Planning Board shall determine which line is the front line. In the case of a residential corner lot, the Code Enforcement Officer shall determine which line is the front line.

FUNERAL HOME - A dwelling or other structure used by a professional licensed mortician for burial preparation and funeral services.

GARAGE - A building or part thereof used for the storage or parking of one or more motor vehicles.

GARAGE, PRIVATE - An accessory use maintained exclusively for the convenience of the occupant or occupants of the primary building or structure and in which no business or other use is carried on and no service is rendered to the general public.

GASOLINE STATION - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, excluding facilities for lubricating, washing or otherwise servicing motor vehicles, and excluding automotive body repair work and painting thereof by any means. Such use may include as an accessory use the retail sale of goods or merchandise to the general public for personal or household consumption.

GENERAL BUSINESS - Trade shops, including painting, plumbing, carpentry, woodworking, printing, copying and assembling, building contracting, machine printing and general repair shops.

GRADE, ESTABLISHED STREET - The permanently established elevation of the center line of a street in front of the midpoint of the lot.

GRADE, FINISHED - The final elevation of any point along a building shall be the completed surfaces of lawns, walks and roads adjoining the wall of the building at that point.

HISTORIC STRUCTURE - Any structure listed on the United States Department of the Interior's National Register of Historic Structures or any structure designated by an agency of the Village or the county or an organization recognized for such purposes by the Village or county. Such structure shall be deemed to have particular value because of its character, age and architectural quality.

HOME OCCUPATION/PROFESSIONAL OFFICE - An occupation, profession, activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. Home occupations shall be limited to:

- (1) A professional licensed by the State of New York, or by a nationally recognized professional society, or Putnam County.

- (2) An artist or teacher giving individual instruction to no more than two students at a time.
- (3) A single individual conducting computer or technical work who works alone within the residence.
- (4) A single individual engaged in crafts, such as dressmaking or home baking, provided that retail sales are not involved on the premises and, furthermore, that the storage of all materials and supplies for the occupation shall be located within a building and the total floor area for the occupation shall not exceed 20% of the gross floor area of the dwelling.

IMPERVIOUS COVER - Those surfaces in the urban landscape that cannot effectively infiltrate rainfall such as, building rooftops, pavement, sidewalks and driveways.

INDUSTRY, HEAVY - A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials or a use engaged in the storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT - Industrial uses such as manufacturing, processing and assemblage that are of a nonpolluting nature, particularly in regard to reservoir and groundwater resources.

JUNKYARD - The use of more than 200 square feet of the area of any lot, whether inside or outside of the building, or the use of any portion of that half of any lot which joins any street for storage, keeping or abandonment of junk or scrap materials or the dismantling or demolition of automobiles; provided, however, that nothing herein contained shall permit or allow the burning or other combustible demolition of automobiles or other vehicles or machinery or any part or parts thereof. The word "machinery" is defined as any kind of furniture, fixture, machine, facility or other personal property brought upon said premises for the purpose of demolition, destruction, wrecking or other elimination of the same, as well as any activity which creates, permits or allows the emission of a noxious odor, smoke, dust or other material into the air, including fumes therefrom. This provision shall not be in derogation of or violation of any provision of state law, ordinance or other rule, regulation or statute prohibiting the use of any premises for the burning and destruction of materials, as now provided or hereafter provided.

LAUNDROMAT - Self-service establishment with machines that are used for the washing and drying of clothes and other personal items, such as towels and bedding,

LIBRARY - A building in which literary, musical, artistic and reference materials (such as books, manuscripts, recordings or films) are kept for use by the public, but which are not generally for sale.

LIVE-WORK UNIT - unit designed to provide space to conduct a business or trade, including offices, studios, craft workshop area or laboratory space and/or to be occupied as an apartment.

LOADING SPACE - A stall or slot which is designed and intended for the parking of one truck while unloading. Such a space shall have its dimensions equal to or exceeding 12 feet in width and 30 feet in length with a vertical clearance of 15 feet.

LOT - All contiguous land in single ownership as evidenced by deed or deeds recorded in the office of the Putnam County Clerk. Public, institutional, attached single-family, multifamily, commercial or industrial buildings, buildings or groups of buildings under the same ownership may be considered as occupying the same lot.

LOT AREA - The total horizontal area included within lot lines. Land lying outside a given zoning district shall not be used to satisfy a lot area requirement in any other district.

LOT, CORNER - A lot at the junction of and fronting on two or more intersecting streets. A lot abutting upon a curved street shall be considered a corner lot if the central angle of the curve is less than 135°.

LOT COVERAGE - Lot coverage is that portion of a zoning lot which, when viewed from above, is covered by a building. Permitted obstructions are not counted towards lot coverage calculations. At-grade green space, or open public plazas built on top of a below-grade parking structure is not counted towards lot coverage calculations.

LOT DEPTH - The mean horizontal distance between the side lot lines, measured at right angles to the lot depth.

LOT FRONTAGE - The continuous width of a lot measured along the street.

LOT LINE, FRONT - The line separating the lot from the street.

LOT LINE, REAR - The lot line which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length or if the lot is triangular, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINES - The property lines bounding on a lot as defined herein.

LOT LINE, SIDE - Any lot line other than the front lot line and rear lot line.

LOT WIDTH - The mean width of a lot measured at right angles to its depth.

MANUFACTURED HOME - A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include a "mobile home" as defined in Subdivision a5 of Real Property Law Article 7, § 233, and shall include a structure which meets all the

requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and is certified in accordance with the New York State Building Code.

MANUFACTURED HOME PARK - A contiguous parcel of privately owned land which is used for the accommodation of three or more manufactured homes occupied for year-round living.

MASTER PLAN - See “Comprehensive Plan.”

MEDICAL CLINIC - A facility used for the diagnosis and treatment of outpatients.

MEDICAL LABORATORY - A facility used for diagnostic testing for health-related matters.

MEDICAL OFFICE - A building or part of a building in which the practice of one or more of the professions of medicine, psychiatry, psychology, dentistry or optometry is carried on or in which the treatment of humans by osteopathy, acupuncture or chiropractic is carried out and also includes any drugless practitioner. Medical offices may provide services such as imaging or diagnostics, or urgent care. The term “drugless practitioner” in the definition of medical office means a person who practices the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method.

MUNICIPALITY OWNED OR OPERATED BUILDING, STRUCTURES OR LAND - A building, structure or parcel of land that is owned or operated by a political subdivision of the State of New York, and which is used for a public purpose.

MUSEUM - A building, structure or area used for the exhibit of artistic, historic, cultural or scientific objects for educational purposes.

NONCONFORMING USE - The use of a building, structure or plot of land that does not conform to the use regulations of the district or zone in which it is situated, which use was lawful under the code of the time the use was established.

NURSERY SCHOOL - A place, building or structure designed to provide care or instruction for five or more children under six years of age in sessions less than three hours.

NURSING HOME - Any establishment where three or more persons suffering from, afflicted with or convalescing from any infirmity, disease or ailment are habitually kept boarded or housed for remuneration, other than municipal or incorporated hospitals or establishments for the care of the mentally ill or drug or alcohol addiction.

OFFICE - A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations, including banks.

OFFICIAL MAP - A map adopted by the Village of Brewster Board of Trustees showing streets, highways and parks already laid out, adopted and established by law. Drainage systems may also be shown on this map.^[3]

OPEN CONSTRUCTION FENCING - Semi-screened fence construction which is not entirely closed and can be seen through, such as lattice fencing or picket fencing in which the spindles are spaced so as to provide a partial view.

OPEN SPACE - Open space is the part of a residential zoning lot (which may include courts or yards) that is open and unobstructed from its lowest level to the sky, except for specific permitted obstructions, and accessible to and usable by all persons occupying dwelling units on the zoning lot. Depending upon the district, the amount of required open space is determined by the open space ratio, minimum yard regulations or by maximum lot coverage. In mixed use districts, where outdoor dining is permitted, outdoor dining space may count towards the amount of required open space.

OUTDOOR DINING AREA - The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of an operating restaurant or food service business fronting on that space, which space shall contain removable tables and chairs and shall be unenclosed but may contain umbrellas or other nonpermanent covers provided that such items do not interfere with or improperly impede pedestrian travel and circulation. This definition of outdoor dining area is not intended to include any outdoor dining areas located entirely on the private property of the business which does not cause an encroachment or improper impediment of the public's proper use of the sidewalks, streets, alleys or other public rights-of-way within the Village of Brewster. This definition shall also include the outdoor sales of food by a food establishment.

OUTDOOR STORAGE - Includes the outdoor storage and display of merchandise, supplies, vehicles, machinery, processing or assembling of goods, but excludes areas for parking of registered motor vehicles in daily use.

PARKING LOT -A surfaced off-street area containing one or more parking spaces with passageways and driveways appurtenant thereto.

PARKING SPACE - A stall or slot which is designed and intended for the parking of one motor vehicle in a garage or parking area. Such space shall have its dimensions equal to or exceeding nine feet in width and 20 feet in length.

PARKING STRUCTURE - A building or structure consisting of more than one level and used to store motor vehicles.

PARTICULATE MATTER - Any finely divided liquid or solid matter, including smoke, capable of being airborne or gas-borne.

PEEP SHOW - Any establishment that presents material in the form of live shows, films, DVDs or videotapes, which material is distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specific anatomical areas of the human body, and that are viewed from a machine or enclosure for which a fee or admission is charged.

PERMITTED OBSTRUCTION - A permitted obstruction is a structure or object that may be located in a required yard or open space or penetrate a height limit, setback area or sky exposure plane. A balcony, trellis, air conditioner, gutter, or fence is a permitted obstruction in required yards or open space. Certain structures on a roof, such as elevator bulkheads, water towers or parapets are permitted obstructions that may penetrate height limits, setback areas or sky exposure planes.

PERSON - Any individual or group of individuals, corporation, partnership, association or any other entity, including state and local governments and agencies.

PERSONAL SERVICES - Commercial or business services provided to individuals or to other businesses, to include the repair of shoes or other personal effects, hair grooming, tattoo establishment, physical therapy and health aid, dry cleaning store, personal training such as yoga and pilates type activities and other like personal instruction, copying, design, printing, typing and computer services, to include studios for the production of arts and crafts. Such definition shall exclude laundromats, automotive services, retail sale and general business, such as trades, and industrial uses such as lumberyards. See also "retail business" and "general business."

PHARMACY - A retail business operation primarily engaged in the preparation and sale of prescription and nonprescription pharmaceutical products by a licensed pharmacist.

PHYSICAL THERAPY - Outpatient treatment of disease, injury or disability by physical and mechanical means.

PORCH - A roofed-over structure projecting from an outside wall of a main building, with or without enclosed sides.

PROFESSIONAL PERSON - An individual who holds a professional license giving him or her the authorization to practice and use a professional title in New York State. Such license has been given by the New York State Office of the Professions and meets the requirements of the Education Law of the State of New York.

RESEARCH FACILITY - Any institution, organization or person that uses or intends to perform research, tests or experiments, and/or receives funds under a grant, award, loan or contract from a department, agency or instrumentality of the United States for the purpose of carrying out research, tests or experiments.

RESTAURANT - A business enterprise engaged in preparing and serving food and beverages, as permitted by the Alcoholic Beverage Control Law, selected from a full menu by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises. See also "restaurant, fast-food."

RESTAURANT, FAST-FOOD - A business enterprise primarily engaged in the sale of pre-prepared or quickly prepared food and beverages in disposable containers or wrappers selected by patrons from a line of prepared specialized items, such as hamburgers, chicken, pizza, tacos

and hot dogs, for consumption either on or off the premises, in a facility where the floor area available for dining is less than 1/2 of the gross floor area and a major portion of the sales to the public is at a drive-in or stand-up-type counter. The term "fast-food restaurant" shall not include bakeries or delicatessens operating as retail establishments, provided that such sale is not the principal business of such an establishment. See also "restaurant."

RETAIL BUSINESS OR SERVICE - Establishments providing services or selling goods or merchandise to the general public for personal or household consumption.

SCHOOL - A kindergarten, primary, secondary or post-secondary institution furnishing a comprehensive curriculum of academic instruction in accordance with the Education Law of the State of New York.

SELF_STORAGE FACILITY - A building or buildings containing separate storage spaces of a limited size, individually leased or rented.

SIGN - Any announcement, declaration, demonstration, billboard display, illustration or insignia used to promote or advertise the interests of any person, group of persons, company, corporation, service or product when the same is placed, erected, attached, painted or printed where it may be viewed from the outside of any structure on the premises where placed.

SIGN, ADVERTISING - An exterior sign, billboard, banner, flag or device which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the property.

SIGN, BUSINESS/PROFESSION - An exterior sign, banner, flag or device which directs attention to a business or profession conducted upon the property.

SMOKE - Any emission into the open air from any source, except emissions of uncontaminated water vapor.

SPECIAL EXCEPTION USE - A proposed use which, although not generally appropriate in the zone for which it is sought, is appropriate for the location for which it is sought because of the peculiar physical characteristics of that location. The proposed special exception use will conform to the general character of the neighborhood in which the use would be located, will not cause a significant adverse effect resulting from such use upon the public health, safety and general welfare of the neighborhood in which the use would be located, will not have an unduly adverse effect upon the property values of adjacent properties, will not place an undue burden on municipal services, will not create unreasonable traffic congestion on contiguous or adjacent streets, and the proper operation of the special exception will be ensured by providing and maintaining adequate and appropriate utilities, drainage, access, parking and loading and other necessary site improvements.

SPECIFIED ANATOMICAL AREAS - Any uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breast below a point immediately above the top of

the areola or nipple; or any combination of the foregoing; or human male genitals in a discernibly erect state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - Any act of masturbation, fellatio, sodomy, sadomasochism, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or breast.

STEEP SLOPES - Areas with an average slope in excess of 15% over a horizontal distance of 100 feet or more.

STORY - The portion of a building which is located between the upper surface of any floor and the upper surface of the floor, ceiling or roof directly above. When the ceiling of a basement or cellar is six feet or more above finished grade, the basement or cellar shall be considered a story.

STORY, HALF - A space under a sloping roof which has the line of intersection of the interior faces of the roof structure and main building wall not more than three feet above the top floor level and in which space the floor area with a headroom of five feet or more occupies at least 60% of the total area of the story directly beneath.

STREET - Any road, highway, avenue, street, lane or other way, public or private, set aside and commonly used by the public for street purposes and shown upon the Village Map or upon a filed plat.

STREET LINE - The dividing line between a lot and a street.

STRUCTURE - Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to buildings, signs, swimming pools, tennis courts, fences, walls, gates, pillars and berms.

SUBDIVISION - The division of any one existing lot into two or more separate lots.

SUBDIVISION PLAT - The division of a tract or parcel of land into two or more lots for the purpose, whether immediate or future, of sale, lease, gift, devise, conveyance of or transfer of title or division by other means for building development, notwithstanding subdivision regulations to the contrary.

SWIMMING POOL, NONCOMMERCIAL - Any swimming pool, tank depression or excavation in any material, dike or berm constructed, erected, excavated or maintained, above or below grade, which will cause the retaining of water to a depth greater than 18 inches and having a plane surface area of water greater than 100 square feet. The word "pool" shall be construed to mean outdoor water pool to be used for swimming or bathing by any family or persons residing on the premises and their guests or residents of the Town of Southeast and the Village of Brewster in a public park. Such noncommercial swimming pool shall not be operated for gain and shall be located on a lot only as an accessory use to the dwelling, dwellings or public park thereon.

TAVERN - See "bar."

THEATER, DINNER - A form of theater that serves meals during stage production, which may include live performances or motion pictures.

THEATER, LIVE - A building or part of a building devoted to the showing of live performances of drama, dance, or musical, excluding adult entertainment cabaret.

MOVIE THEATER - A place where motion pictures are shown to the public, excluding adult motion-picture theater.

UTILITY, PRIVATE - Those customary services to a building or group of buildings within a corporate park or subdivision to provide heat, electricity, power, water, sanitary wastewater disposal and/or fire protection.

UTILITY, PUBLIC - Any person, firm, corporation or municipal agency duly authorized to furnish to the public, under public regulation electricity, gas, water, sewage treatment, steam, cable television or telephone service.

VARIANCE - Action by the Zoning Board of Appeals, pursuant to the Village Law, to vary or modify the application of any of the regulations or provisions of this chapter.

WAREHOUSE - A building used for the storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

YARD - An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically authorized in this chapter. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn from the point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the lot line to the nearest line of the buildings or group of buildings.

YARD, FRONT - A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

YARD, REAR - A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE - A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front and rear lot line, as the case may be.

YARD, STORAGE - An area used in conjunction with a permitted principal use for placement of equipment, materials and supplies used in the principal use. The area occupied by the "storage

yard" must comply with setback requirements and cannot be considered part of the open space of a site.

ZONING MAP - A map adopted by the Village of Brewster Board of Trustees, pursuant to the requirements of the Village Law, which depicts the Village and the boundaries of the zoning districts described in this chapter.^[4]

[1]

Editor's Note: The Village of Brewster Zoning Schedule is included at the end of this chapter.

[2]

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

[3]

Editor's Note: The Village of Brewster Zoning Map is included as an attachment to this chapter.

[4]

Editor's Note: The Village of Brewster Zoning Map is included as an attachment to this chapter.

ARTICLE III

Districts and Boundaries

' 263-4. Designation of districts.

For the purpose of this chapter, the Village of Brewster is hereby divided into the following districts: R District, R20 District, B1 District, B2 District, B3 District, C District, MU District, LMW District, OP District and PB District, as shown on the Zoning Schedule included at the end of this chapter, dated _____, and as amended from time to time by the Board of Trustees.

' 263-5. Designation of districts.

The boundaries of each of the districts are hereby established as shown on the Zoning Map of the Village of Brewster, included at the end of this chapter, dated _____, and as amended from time to time by the Board of Trustees. A certified copy of said map is also on file in the office of the Village Clerk.

Article IV

District Regulations

§ 263-6 R District (Single Family Residential).

- A. Allowed uses. Within any R District, no building, structure, lot or land shall be used for any purpose other than the following and their normal and customary accessory uses, except as provided in Subsections B and C:

- (1) Single-family detached dwellings.
- B. Allowed accessory uses. Accessory uses shall be as follows:
 - (1) Private garages or private parking areas providing a minimum of two parking spaces pursuant to § 263-18.
 - (2) Home occupation/professional offices.
- C. Special exception uses. Within any R District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:
 - (1) Church/ place of worship
 - (2) Day care center
 - (3) Nursery School
 - (4) School
 - (5) Accessory single-family dwellings.
 - (6) Bed & Breakfasts.
- D. Height. No building or other structure shall exceed a height of 35 feet or 2 1/2 stories plus basement, whichever is less.
- E. Lot and yard requirements. Within any R District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	7,500 square feet
Minimum lot width	60 feet
Maximum lot coverage	25%
Open space requirement	400 square feet per dwelling unit
Minimum yards:	
Front depth	20 feet
Side yard width	12 feet
Rear depth	35 feet

- F. Floor area ratio (FAR). The floor area ratio in the R District shall not exceed 0.5.
- G. Residential density shall not exceed one principal dwelling unit per lot and one accessory dwelling unit per lot.

H. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.

§ 263-7. R20 District (Residential).

A. Allowed uses. Within any R20 District, no building, structure, lot or land shall be used for any purpose other than the following and their normal and customary accessory uses, except as provided in Subsections B and C:

- (1) Single-family dwellings, either detached, semidetached or attached.
- (2) Cluster.

B. Allowed accessory uses. Within any R20 District, the following accessory uses shall be allowed:

- (1) Private garages or private parking areas providing a minimum of two parking spaces pursuant to § 263-18.
- (2) Home occupation/professional offices.

C. Special exception uses. Within any R20 District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:

- (1) Bed & Breakfast.

D. Height. No building or other structure shall exceed a height of 35 feet or 2 1/2 stories plus basement, whichever is less.

E. Lot and yard requirements. Within any R20 District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	20,000 square feet
Minimum lot width	100 feet
Maximum lot coverage	15%
Open space requirement	5,000 square feet per dwelling unit
Minimum yards:	
Front depth	25 feet
One side width	20 feet
Both sides total width	40 feet
Side yard abutting a street on corner lot, width	25 feet
Rear depth	40 feet

- F. Floor area ratio (FAR). Within the R20 District, the floor area ratio shall not exceed 0.10.
- G. Density. If detached single-family dwelling units are constructed, they shall not exceed a density permitted by the lot and yard requirements of this section. If the units are attached single-family units, the density shall not exceed 2.5 dwelling units per acre. This additional density is permitted to encourage the clustering of town homes in this zone.
- H. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.

§ 263-8. PB District. (Professional and Business Office).

- A. Allowed uses. Within any PB District, no building, structure, lot or land shall be used for other than one or more of the following uses:
 - (1) Offices, including medical offices.
 - (2) Personal services.
 - (3) Single-family dwellings.
- B. Allowed accessory uses. Accessory uses shall be as follows:
 - (1) Garages, private.
 - (2) Home occupation/professional offices.
- C. Special exception uses. Within any PB District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:
 - (1) Alternative care housing
 - (2) Assisted living facilities
 - (3) Church/ place of worship
 - (4) Day care center
 - (5) Municipality owned or operated building, structure or land
 - (6) Nursery School
 - (7) Nursing Home
 - (8) School
 - (9) Funeral homes.

(10) Bed-and-breakfasts.

D. Height. No building or other structure shall exceed a height of 35 feet or 2 1/2 stories plus basement, whichever is less.

E. Lot and yard requirements. Within any PB District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	7,500 square feet
Minimum lot width	50 feet
Maximum lot coverage	40%
Open space requirement	100 square feet per dwelling unit
Minimum yards:	
Front depth	20 feet
Side yard	15 feet
Side yard abutting a street on corner lot, width	20 feet
Rear depth	15 feet

F. Floor area ratio (FAR). Within the PB District, the floor area ratio shall not exceed 1.0.

G. Residential density shall not exceed one dwelling unit per lot or one business per lot.

H. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.

263-9. B1 District (Business 1).

A. Allowed uses. Within any B1 District, no building, structure, lot or land shall be used for other than one or more of the following uses:

- (1) Retail stores, restaurants or taverns.
- (2) Personal services.
- (3) Offices.
- (4) Multifamily dwellings. Residential uses shall be limited to upper floors.
- (5) Art galleries.
- (6) Theaters, including movie theater, dinner theater, and live theater.
- (7) Cabaret, excluding adult entertainment cabaret.

B. Allowed accessory uses. Accessory uses shall be as follows:

- (1) Structured parking.
- C. Special exception uses. Within any B1 District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:
- (1) Church/ place of worship.
 - (2) Civic, community or cultural use.
 - (3) Library.
 - (4) Municipality owned or operated building, structure or land.
 - (5) Museum
 - (6) Live/work spaces, including artists' lofts. Artists' lofts with galleries are permitted on first floor except when uses front on Main Street or Railroad Avenue.
 - (7) Residential use permitted on the first floor only if the residential use is connected to a larger TOD project and no first floor residential use permitted along Main Street or Railroad Avenue.
- D. Prohibited uses. Drive-through windows are prohibited in the B-1 District.
- E. Height.
- (1) Height fronting Main Street. For any use, no building shall be erected to a height in excess of five (5) stories, but no greater than sixty (60) feet. If self-contained parking within the structure is provided, or if a public plaza or other publicly accessible open space, outdoor dining, or commuter parking is provided in accordance with Section 263-9(K), a maximum building height not to exceed six (6) stories, but no greater than seventy-five (75) feet may be permitted.
 - (2) Height fronting Marvin Avenue. For any use, no building shall be erected to a height in excess of five (5) stories, but no greater than sixty (60) feet. If self-contained parking within the structure is provided, or if a public plaza or other publicly accessible open space, outdoor dining, or commuter parking is provided in accordance with Section 263-9.K, a maximum building height not to exceed six (6) stories, but no greater than seventy-five (75) feet may be permitted. Building height fronting Marvin Avenue shall be measured as per the building height definition provided in Article II, except that "structure or building" shall include any platform or aboveground garage.
 - (3) Height fronting Hoyt Street/Oak Street. For any use, no building shall be erected to a height in excess of five (5) stories, but no greater than sixty (60) feet.

- F. Lot and yard requirements. Within any B1 District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	3,500 square feet
Minimum lot width	30 feet
Maximum lot coverage	50.0 %

Minimum yards*:

Front depth	0 feet
Side yard width	0 feet
Side yard abutting a street on corner lot, width	0 feet
Rear depth	0 feet

*The minimum yard for any uses abutting a residential use shall be 10 feet.

- G. Floor area ratio (FAR). Within the B1 District, the floor area ratio shall not exceed 2.50 unless extra height is provided as per Section E, in which case the maximum FAR shall not exceed 3.0.
- H. Residential density shall not exceed 80 bedrooms per acre unless extra height is provided as per Section E, in which case the residential density shall not exceed 100 bedrooms per acre.
- I. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.
- J. Parking. Off-street parking and loading requirements set forth in Article V shall apply to uses in the B-1 District.
- K. Incentives. The Village Board of Trustees may provide adjustments to bulk, height, and setback requirements set forth in the B-1 District for plans that specifically advance the Village's objectives for downtown revitalization and transit oriented development, as set forth in the Comprehensive Plan. This may include projects that provide a public plaza or other publicly accessible open space including outdoor dining, or a minimum of 25% of total parking spaces to be used specifically for commuter parking. The open space

allocation must be at least 20% of the lot area in order to be considered for the additional height or bulk requirements. A public hearing shall be required prior to the granting of any incentive adjustment.

§ 263-10. B2 District (Business 2).

A. Allowed uses. Within any B2 District, no building, structure, lot or land shall be used for other than one or more of the following uses:

- (1) Retail stores.
- (2) Personal services.
- (3) Restaurants/taverns.
- (4) Offices, including medical offices.
- (5) Gasoline stations. Must be at least 1,000 feet from another gas station.
- (6) Automobile dealerships. Must be at least 1,000 feet from another automobile dealership. Automobile dealerships shall have 1 parking space for each 200 square feet of sales area and a minimum of 10 parking spaces.
- (7) Automotive repair. Must be at least 1,000 feet from another automotive repair use.
- (8) Movie theaters.

B. Allowed Accessory uses. Accessory uses shall be as follows:

- (1) Automobile dealership may include as an accessory use automotive repair of vehicles that are similar in nature to those for sale or lease at the site.
- (2) Gasoline stations may have as an accessory use a retail store or automotive repair
- (3) Drive-through uses including banks and fast-food restaurants.

C. Height. For any use, no building shall be erected to a height in excess of three (3) stories, but no greater than thirty-five (35) feet (average).

D. Lot and yard requirements. Within any B2 District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	10,000 square feet
Minimum lot width	100 feet

Maximum lot coverage	50%
Minimum yards:	
Front depth	10 feet
Side yard width	10 feet
Rear depth	30 feet

- E. Floor area ratio (FAR). Within the B2 District, the floor area ratio shall not exceed 1.5.
- F. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.
- G. Design guidelines. To the extent practicable, developments within the B2 District shall be designed to create an attractive visual environment while enhancing traffic safety by means of the following:
 - (1) A minimum of 10 foot landscaping buffer along the site frontage is required.
 - (2) Placement and design of site lighting so as to limit spillage onto adjacent roadways and properties.
 - (3) Limitations on the number and placement of curb cuts for each property. This must comply with NYS Department of Transportation standards.
 - (4) Encourage parking to the rear and sides of the building.

§ 263-11. B3 District (Business 3).

- A. Allowed uses. Within any B3 District, no building, structure, lot or land shall be used for other than one or more of the following uses:
 - (1) Retail stores, restaurants or taverns.
 - (2) Personal service stores.
 - (3) Offices, including medical offices.

- (4) Single-family dwellings.
- (5) Multiple-family dwellings.
- (6) Townhomes or two-family dwellings.
- (7) Community uses, including fitness or recreation center, or senior center.
- (8) Theaters, including movie theater, dinner theater, and live theater.
- (9) Cabaret, excluding adult entertainment cabaret.
- (10) Laundromats.
- (11) Art galleries.
- (12) Church/ place of worship.
- (13) Civic, community or cultural use.
- (14) Day care center.
- (15) Library.
- (16) Municipality owned or operated building, structure or land.
- (17) Museum.
- (18) Nursery School.
- (19) School.

B. Allowed accessory uses. Accessory uses shall be as follows:

- (1) Garage, private.
- (2) Home occupation/professional office.

C. Special exception uses. Within any B3 District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:

- (1) Bed-and-breakfast.
- (2) Drive-through uses including banks and fast-food restaurants.
- (3) Research Facility.
- (4) Adult-Oriented Business.

- D. Height. For any use, no building shall be erected to a height in excess of three (3) stories, but no greater than thirty-five (35) feet. If structured parking, publicly accessible open space, or other community amenity is provided in accordance with Section 263-11(J), a maximum building height may not to exceed four (4) stories, but no greater than fifty (50) feet.
- E. Lot and yard requirements. Within any B3 District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	5,000 square feet
Minimum lot width	30 feet
Maximum lot coverage	50%
Minimum yards:	
Front depth	10 feet
Side yard width	10 feet
Rear depth	15 feet

- F. Floor area ratio (FAR). Within the B-3 District, the floor area ratio shall not exceed 2.0.
- G. Density. Residential single family density shall not exceed one dwelling unit per lot. The density for townhome shall not exceed 64 bedrooms per acre unless extra height is provided as per section D. in which case the townhome density shall not exceed 80 bedrooms per acre.
- H. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.

- I. Parking. Off-street parking and loading requirements set forth in Article V shall apply to uses in the B3 District.
- J. Incentives. The Village Board of Trustees may provide adjustments to bulk, height, and setback requirements set forth in the B-3 District for plans located on the south side of Main Street or on Marvin Avenue, that specifically advance the Village's objectives for downtown revitalization, as set forth in the Comprehensive Plan. This may include projects that provide publicly accessible open space or other community amenities or a minimum of 25% of total parking spaces to be used specifically for public parking. The open space may include a public plaza, active or passive recreational facilities or other forms of publicly accessible open space and the allocation must be at least 20% of the lot area in order to be considered for the additional height or bulk requirements. A public hearing shall be required prior to the granting and approval of any incentive adjustment. Incentives set forth in the B-3 District may be provided only to properties located on the south side of Main Street and/or on Marvin Avenue. Properties located on the north side of Main Street or along Oak Street shall not be eligible for incentives provided in this section.

§ 263-12 MU District. (Mixed Use District)

- A. Allowed uses. Within the MU District, no building, structure, lot or land shall be used, or reused, for other than one or more of the following uses:
 - (1) Single family dwellings.
 - (2) Multiple family dwellings.
 - (3) Townhomes.
 - (4) Artist Lofts
 - (5) Artist Studios.
 - (6) Art Galleries.
 - (7) Live theater.
 - (8) Offices.
 - (9) Business incubator spaces.
 - (10) Co-working spaces.

- B. Allowed accessory uses. Accessory uses shall be as follows:
- (1) Home occupation/professional offices.
 - (2) Garages, private.
- C. Special exception uses. Within any MU District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:
- (1) Nursing homes.
 - (2) Assisted living facilities.
 - (3) Alternative care facilities.
 - (4) Nursery schools.
 - (5) Post-secondary school.
 - (6) Day-care facilities.
 - (7) Museums.
- D. Height. For any use, no building shall be erected to a height in excess of two and one-half (2 1/2) stories, but no greater than thirty-five (35) feet (average).
- E. Lot and yard requirements. Within any MU District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement	
	Residential Uses:	Non-Residential or Mixed Uses:
Minimum lot area	5,000 sq. ft.	98.9 acres (387,684 square feet)
Minimum lot width	50 feet	50 feet
Maximum lot coverage	40%	40%
Open space requirement	400 square feet per dwelling unit	100 square feet per dwelling unit or minimum 20% of lot area for non-residential uses. There is no required minimum lot area for each individual building lot within a development which is subdivided in accordance with a site development plan approved by the Planning Board pursuant to the planning standards of this section of this chapter.

Minimum yards:	Residential Uses:		Non-Residential or Mixed Uses*:
	Front depth	20 feet	
Side yard	25 feet		30 feet
Side yard abutting a street on corner lot, width	25 feet		30 feet
Rear depth	15 feet		30 feet

*The minimum yard for any non-residential or mixed-uses abutting a residential use shall be 35 feet.

- F. Floor area ratio (FAR). Within the MU District, the floor area ratio shall not exceed 1.0 for any use permitted in the MU District.

- G. Density. Residential single family density shall not exceed one dwelling unit per lot. The density for multifamily or townhome dwelling units shall not exceed 32 bedrooms per acre.
- H. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.
- I. Parking. Off-street parking and loading requirements set forth in Article V shall apply to uses in the MU District.

§ 263-13. OP District (Office Park).

- A. Allowed uses. Within any OP District, no building, structure, lot or land shall be used for other than one or more of the following uses:
 - (1) Offices, including medical offices.
 - (2) Medical clinic.
 - (3) Medical laboratory.
 - (4) Pharmacy.
 - (5) Physical therapy.
 - (6) Research Facility.
- B. Allowed accessory uses. Accessory uses shall be as follows:
 - (1) Cafeteria for employees incidental to a principal use. Any such cafeteria must use only disposable or recyclable flatware, plates and cups in order to reduce the impact on the Village water system.
- C. Height. For any use, no building shall be erected to a height in excess of four stories plus a basement, or 45 feet, unless self-contained parking within the structure is provided, in which case the maximum building height may not exceed 70 feet.
- D. Lot and yard requirements. Within any OP District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	40,000 square feet
Minimum lot width	200 feet
Maximum lot coverage	37.5%

Requirement	Measurement
Open space requirement	5,000 square feet
Minimum yards:	
Front depth	25 feet
Side yard width	20 feet
Rear depth	10 feet

- E. Floor area ratio (FAR). Within the OP District, the floor area ratio shall not exceed 0.8.
- F. Parking. There shall be one parking space for each 400 square feet of floor area of the building.
- G. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.

§ 263-14. LMW District (Light Manufacturing and Wholesale).

- A. Allowed uses. Within any LMW District, no building, structure, lot or land shall be used for other than one or more of the following uses:
 - (1) Light manufacturing.
 - (2) Warehousing, wholesale businesses.
 - (3) Retail stores.
 - (4) General business.
 - (5) Outdoor or indoor storage, including self-storage buildings.
 - (6) Offices.
- B. Allowed accessory uses. There are no allowed accessory uses in the LMW District.
- C. Special exception uses. Within any LMW District, the following special exception uses shall be allowed, subject to the requirements of § 263-20:
 - (1) Research facility.

- D. Height. For any use, no building shall be erected to a height in excess of three stories plus a basement, or 35 feet.
- E. Lot and yard requirements. Within any LMW District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	25,000 square feet
Minimum lot width	100 feet
Maximum lot coverage	50%
Open space requirement	Not applicable
Minimum yards:	
Front depth	40 feet
Side yard width	15 feet
Rear depth	50 feet

- F. Floor area ratio (FAR). Within the LMW District, the floor area ratio shall not exceed 0.60.
- G. Performance standards. Land, buildings and other structures may be used for one or more of the purposes specified above, subject to the following performance standards:
 - (1) Dust, dirt, fly ash and smoke. No offensive dust, dirt, fly ash or smoke shall be emitted into the air.
 - (2) Odors, gases and fumes. No offensive odors or noxious, toxic or corrosive fumes or gases shall be observable outside the property where it originates.
 - (3) Noise. No noise that is objectionable due to volume, intermittence, beat, frequency or shrillness shall be transmitted outside the property where it originates.
 - (4) Wastes. No wastes generated by the manufacturing process shall be discharged into the ground or into any stream, storm drain, sanitary sewer or dry well.
 - (5) Vibration. No vibration shall be transmitted outside the property where it originates.
 - (6) Danger. No material that is dangerous due to explosion, extreme fire hazard or radioactivity shall be used, stored or manufactured, except in accordance with applicable codes and regulations of the State of New York.

- H. Determination of compliance. In the event of doubt as to whether a proposed use will conform to the above performance standards, the Village Code Enforcement Officer shall deny the permit. The applicant for the permit may apply to the Zoning Board of Appeals for a determination as to compliance with the performance standards.
- I. Subsoil conditions. A study shall be made and submitted to the Planning Board by a professional engineer licensed by the State of New York on the soil-bearing capacities of the land as well as any subterranean conditions which may exist and will affect the utilization of the land.
- J. Signs. Signs shall conform to the requirements of Chapter 199 of the Code of the Village of Brewster.

§ 263-15 C District (Conservation)

- A. Allowed uses. Within any C District, no building, structure, lot or land shall be used for other than one or more of the following uses:
 - (1) Conservation areas.
 - (2) Recreation areas.
- B. Allowed accessory uses. There are no accessory uses allowed in the C District.
- C. Special exception uses. There are no special exception uses in the C District.
- D. Height. For any use, no building shall be erected to a height in excess of two stories plus a basement, or 35 feet.
- E. Lot and yard requirements. Within any C District, no building or structure shall be erected nor any lot or land area developed unless in conformity with the following requirements:

Requirement	Measurement
Minimum lot area	60,000 square feet
Minimum lot width	100 feet
Maximum lot coverage	5%
Open space requirement	Not applicable
Minimum yards:	
Front depth	25 feet
One side width	15 feet
Rear depth	35 feet

- F. Floor area ratio (FAR). Within the C District, the floor area ratio shall not exceed 0.05.
- G. Signs. Pursuant to Chapter 199 of the Code of the Village of Brewster, no signs are permitted within the C District.

Article V

Supplementary Regulations

§ 263-17. Prohibited uses.

No building, structure, lot or land in any district in the Village of Brewster shall be used for any one or more of the following uses, except as provided in Article VIII:

- A. Any trade, industry or use which is noxious or offensive by reason of the emission of smoke, noise, gas, odor, dust, vibration or excessive light beyond the limits of its lot so as to be dangerous or prejudicial to the public health, safety or general welfare.
- B. Skyrides, Ferris wheels, roller coasters, shooting galleries and similar recreation devices.
- C. Rendering plants for animal products.
- D. Trailer sites, transient or permanent.
- E. Manufacture or storage of explosives or fireworks.
- F. Structural steel fabrication or iron works.
- G. Dumps or junkyards.
- H. Commercial truck terminals.
- I. Vending machines not located entirely within a principal building.
- J. Open-front stores designed primarily for the sale of merchandise directly to the public on a public street or sidewalk.
- K. Open-air storage of building materials, coal or other heating fuels, automotive fuels and accessories and horticultural products.
- L. The excavation of sand, gravel, topsoil and other subsurface minerals.
- M. The loading and/or unloading at railroad sidings of materials where it is other than an accessory use.

- N. Adult-oriented business, except where allowed in District B3 as a special exception use under § 263-20(I)(3).
- O. Bars and taverns. For purposes of this section, an establishment called a "grill" or "pub" shall also be considered to be a bar or tavern under the definitions contained herein. Other than in the B-1 District, no establishment commonly known as a "bar" or "tavern," the primary use of which is the provision of alcoholic beverages to the public, with or without the provision of food and music or entertainment, shall be permitted nearer than 500 feet to any other similar establishment existing or for which a building permit has been issued, measured along any street from which entrances to the proposed establishment are to be provided.
- P. Fences. No fences, stone walls or masonry walls shall be permitted in the Village of Brewster unless they comply with the following:
- (1) No fences, stone walls or masonry walls shall be permitted which shall exceed four feet in height in any front yard or side yard in front of the building line or which shall exceed six feet in height in any rear yard or side yard in back of the building line, measured from the ground level to the highest point of any portion of the fence or wall.
 - (2) Fences shall be installed with the finished side facing out or away from the interior of the lot on which the fence is placed.
 - (3) Front yard, side yard, and rear yard setback requirements established by this chapter shall not apply to fences, stone walls or masonry walls. In addition, masonry walls constructed as part of a site plan approved by the Planning Board and used to retain an earthen embankment shall be exempt from the height requirements of this section.
 - (4) Hedges, plantings or other living fences shall be considered as fences if placed on the site for such purpose.
 - (5) No fences, stone walls or masonry walls shall be erected which are embedded with or made of pieces of glass, sharpened metal or sharp or otherwise hazardous material.
 - (6) Fences placed immediately around the perimeter of a tennis court, used to control balls in play, shall be limited to a maximum height of 10 feet.
 - (7) Fences used as dumpster enclosures shall be limited to a maximum height of eight feet.
 - (8) Prior to the commencement of any work to construct or install a fence, stone wall or masonry wall, a permit must be obtained from the Village Code Enforcement Officer, who shall also inspect the completed work.

Q. Drive through windows in the B-1 District.

§ 263-18. Off-street parking and loading.

A. General.

- (1) Off-street parking spaces and loading spaces shall be provided for occupants, employees and patrons for the use of land, buildings and other structures in accordance with the standards specified in this section. Any use already existing shall be deemed to conform to these standards to the extent that it conforms at the time of adoption of this chapter. All off-street parking and loading spaces required by this section shall be permanently maintained and available for occupancy. If any existing use is changed to a use requiring additional off-street parking and loading spaces, compliance with this chapter shall require that the additional off-street parking and loading spaces for the new use be in accord with the standards specified by this section.
- (2) Further, any existing use which does not conform to the standards of this section shall not be changed to a conforming one unless off-street parking and loading spaces are provided for the new use as required by this section.

B. Standards. Standards for off-street parking and loading shall be as follows:

- (1) One- and two-family dwellings: two parking spaces for each dwelling.
- (2) Townhomes: two parking spaces for each dwelling unit. To provide for the safe and orderly circulation of vehicles within a garage and/or parking area, all interior roadways and parking aisles shall have a minimum width of 20 feet, as measured from the rear of one parking space to the rear of the parking space directly opposite. All parking garages and/or parking areas shall be grade-separated from the surrounding pedestrian areas by two feet to ensure safety and elimination of pedestrian and vehicular conflict.
- (3) Multifamily dwellings: 1 1/2 parking spaces for each dwelling unit. If there is an interior garage, then to provide for the safe and orderly circulation of vehicles within a garage and/or parking area, all interior roadways and/or parking aisles shall have a minimum width of 20 feet, as measured from the rear of one parking space to the rear of the parking space directly opposite. All parking areas shall be grade-separated from the surrounding pedestrian areas by two feet to ensure safety and elimination of pedestrian and vehicular conflict.
- (4) Home occupations/ professional offices: two parking spaces in addition to the requirement for the dwelling to which such use is accessory.

- (5) Churches, places of worship, theaters, fraternal organizations or other places of public assembly: one parking space for each five fixed seats of capacity or one parking space for each 75 square feet of floor area available for use in cases where capacity is not determined by the number of fixed seats. In all districts other than a residential district, parking spaces may be provided on a lot separate from the building but within 500 feet of that building.
- (6) Retail stores, commercial businesses, business and professional offices, financial institutions and medical and dental clinics: one parking space for each 200 square feet of ground floor area of the building and each 400 square feet of upper floor area. Parking spaces may be provided on a lot separate from the building but within 500 feet of that building.
- (7) Gasoline stations, public garages or car-washing establishments: sufficient parking spaces for all vehicles being serviced at one time, with a minimum of five parking spaces located on the same lot with the building.
- (8) Funeral homes: one parking space for each 75 square feet of floor area used as assembly rooms for services and located on the same lot with the building.
- (9) Restaurants and taverns: one parking space for each 150 square feet of floor area.
- (10) Warehouses, wholesale businesses, contractors' businesses, research laboratories, office buildings and establishments for the manufacture, processing or assembly of goods: one parking space for each two employees during the largest daily work-shift period. Parking spaces may be provided on a lot separate from the building but within 500 feet of that building.
- (11) Other uses not specifically listed: the same requirement as for the most-similar listed use so as to maintain the purpose and intent of this section.
- (12) Mixed uses: the total parking requirement shall be the sum of the requirements of the component uses computed separately.
- (13) Automobile dealerships shall have 1 parking space for each 200 square feet of sales area and a minimum of 10 parking spaces.
- (14) Parking requirements for certain uses in the B-1 District.
 - (a) Multi-family dwelling units: 1 space for each studio or 1 bedroom unit and 0.5 additional spaces for dwelling units with additional bedrooms.
 - (b) Retail, restaurant, tavern, personal service, office, art gallery, and similar uses: 1 space for each 500 square feet of gross floor area. Parking for theater shall be 1 space per 3 fixed seats.

- (c) Shared parking. The Village Board may allow the use of shared parking in lieu of complying with regulatory parking requirements for the B-1 District if:
 - (i) A parking survey or study has been completed and approved by the Village Board. The parking study or survey will indicate the demand for the various uses who will be utilizing the shared parking facility at various times and days;
 - (ii) A management plan of the shared parking has been completed and approved by the Village Board. This management plan shall include allocation among the various uses who will be utilizing the parking.
- (15) In the B2 District, parking should be encouraged to be placed in the rear or side of the buildings, not in the front.
- (16) Parking requirements for certain uses in the B-3 District.
 - (a) Multi-family dwelling units: 1 space for each studio or 1 bedroom unit and 0.5 additional spaces for dwelling units with additional bedrooms.
 - (b) Retail, restaurant, tavern, personal service, office, art gallery, and similar uses: 1 space for each 500 square feet of gross floor area. Parking for theater shall be 1 space per 3 fixed seats.
 - (c) Fitness or recreation center uses: 1 space for each 300 square feet of gross floor area.
 - (d) Parking is prohibited within front yard setback, except on single family driveways.
 - (e) Townhome dwelling units: 1 space for each studio or 1 bedroom unit and 0.5 additional spaces for dwelling units with additional bedrooms.
- (17) Parking requirements for certain uses in the MU District.
 - (a) Multi-family dwelling units: 1 space for each studio or 1 bedroom unit and 0.5 additional spaces for dwelling units with additional bedrooms.
 - (b) For all non-residential uses: 1 space for each 500 square feet of gross floor area.
 - (c) Townhome dwelling units: 1 space for each studio or 1 bedroom unit and 0.5 additional spaces for dwelling units with additional bedrooms.
- C. Joint use of parking space. The owners of two or more separate premises may establish a joint parking area to provide the total number of required parking spaces. Said premises shall not be separated by a distance of more than 500 feet.
- D. Off-street truck loading spaces. Every building, structure, lot or land used for a commercial purpose having a gross floor area in excess of 4,000 square feet, or located

within the transit oriented development area, shall provide off-street truck loading spaces in accordance with the following schedule:

Gross Floor Area (square feet)	Required Number of Off-Street Loading Spaces
4,000 to 20,000	1
20,000 to 40,000	2
40,000 to 100,000	3
Each additional 60,000	1 additional

E. Supplemental regulations and standards.

(1) Construction.

- (a) All off-street parking and loading spaces shall be suitably improved, graded, stabilized and maintained so as to ensure that no nuisance or danger shall exist from dust or from storm water flow onto any public street.
- (b) Except for necessary driveway entrances, all off-street parking and loading spaces shall be separated from any public street right-of-way by a curb, fence, wall, embankment or other barrier.

(2) Design standards.

- (a) With each and every proposed land use, building or structure, plans shall be submitted to the Village Code Enforcement Officer clearly showing the location, area and dimensions of the off-street parking and loading spaces required to comply with this chapter. Also, all means of access and egress to and from these spaces shall be shown. Points of entrance and exit for driveways onto a street shall be located so as to minimize pedestrian and vehicular traffic congestion and hazards.
- (b) Except for parking spaces provided in connection with a dwelling, home occupations/professional offices and gasoline stations, each parking space shall be provided with adequate space for approach, turning and exit of an automobile having an overall length of 20 feet without need to use any part of a public street right-of-way.

(3) In any residential district, not more than one commercial vehicle, having a gross weight equal to or less than two tons, may be parked on any lot or in any private garage.

(4) Accessory parking areas shall be paved and marked off into parking spaces, each with a minimum width of nine feet and a minimum area of 180 square feet, exclusive of access driveways, turning areas and interior roadways and/or aisles.

- (5) In private garages or parking areas accessory to townhomes or multiple dwellings, no repairing of cars shall be done, but washing of tenants' cars shall be permitted as long as no car-washing machinery is employed.
- (6) No business, industrial or office use shall have any truck loading space or spaces or access driveway for trucks within 35 feet of any side or rear lot line which constitutes the boundary of any residential district.

§ 263-20. Special exception use permits.

A. General.

- (1) The Village of Brewster Board of Trustees shall have the power, after public notice and hearing, to grant special exception use permits in the classes of cases as specified within this section.
- (2) Special exception use permits for which conformance to additional requirements is mandated by this chapter shall be deemed to be allowed uses in their respective districts, subject to the satisfaction of the conditions and standards set forth in this section in addition to all other requirements of this chapter. All such uses are declared to possess characteristics of such unique and special form that each specific use must be considered as an individual case.
- (3) The Village of Brewster Board of Trustees, to the extent permitted by law, shall have the authority to impose any such conditions or limitations upon the special exception use permit as it may deem necessary for the protection of the health, safety and welfare of the public. Any evidence and guaranty may be required as proof that the condition stipulated in connection therewith will be fulfilled.

B. Application procedures. Applicants are encouraged to submit a preliminary informal application and to discuss it with the Village Code Enforcement Officer prior to formal submission of a complete special exception use permit application. Formal applications for a special exception use permit shall be made to the Village Code Enforcement Officer in six copies, accompanied by payment to the Village of Brewster of a filing fee which shall be fixed from time to time by the Village. In accordance with instructions available from the Village Code Enforcement Officer, applications shall include a site plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot and a written statement describing the nature of the proposed use and how it will serve to implement the purposes of this chapter. If determined to be complete, the applications shall be forwarded by the Village Code Enforcement Officer to the approving agency.

C. Review procedures.

- (1) Review by Village of Brewster Board of Trustees. Within 62 days of receipt of a completed application, the Village of Brewster Board of Trustees shall hold a

duly advertised public hearing. Within 62 days after the public hearing, the Village of Brewster Board of Trustees shall approve, disapprove or approve with modifications or conditions the special exception use permit application. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and the board. Such modifications or conditions shall include the approval of plans for site layout and design of specified uses containing elements relating to parking means of access, screening signs, location and dimension of buildings, impact of the proposed use on adjacent land uses and such other elements as may be reasonably related to the health, safety and general welfare of the community.

- (2) Review by other agencies. Upon receipt of a complete application, the Village of Brewster Board of Trustees shall forward copies to the Planning Board for review and report. The Village of Brewster Board of Trustees may also forward copies for review and report to such other officials of the Village as it deems appropriate. All such agencies and officials shall have 30 days from the date of forwarding to submit reports. In addition, copies shall be forwarded with a notice of public hearing to the Putnam County Planning Department in accordance with pertinent provisions of the General Municipal Law.

D. Standards for all special exception use permit uses. The following standards shall apply to all permitted special exception uses:

- (1) Impact on district. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- (2) Adjacent properties. The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- (3) Nuisance. Operations in connection with the special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights than would be the operations of any permitted use not requiring a special exception use permit.
- (4) Property values. Neighborhood character and surrounding property values shall be reasonably safeguarded.
- (5) Traffic. The use shall not cause undue traffic congestion or create a traffic hazard.

- (6) Parking. Parking areas shall be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
 - (7) Services. The use shall be appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities.
- E. Expiration. A special exception use permit shall be deemed to authorize only the particular use specified in the permit, and, unless other provisions are specifically set forth by the approving agency, the special exception use permit shall expire if:
 - (1) Construction and commencement. Construction has not been commenced within one year and has not been completed within two years of final special permit approval; if no construction is involved, the use has not been commenced within one year of final special exception use permit approval.
 - (2) Cessation. The special exception use or uses shall cease for one year or more for any reason.
- F. Compliance. In connection with issuance of a special exception use permit, the Village of Brewster Board of Trustees may establish a schedule of inspections by the Village Code Enforcement Officer of a special exception use permit to determine continued compliance with this chapter.
- G. Amendments. Any change in use or reduction in lot size requires amendment to the special exception use permit, following the application and review requirements of this section, except that the Village Code Enforcement Officer may issue building permits as requested, without amendment of the special exception use permit, where said Code Enforcement Officer finds that there is no change in the use or that the use proposed falls within the definition of the existing special exception permit use and that the change would not require additional parking spaces. Notwithstanding the above, the Village Code Enforcement Officer may require that application be made for amendment to the special exception use permit where said Code Enforcement Officer finds that the proposed change will be a significant change in the essential characteristics of the existing layout, arrangement or use of buildings or land.
- H. Renewal of special exception use permit. On written application, a special exception use permit may be renewed by the Village of Brewster Board of Trustees, provided that no such renewal shall be made unless there has been substantial compliance with all applicable codes, ordinances, regulations and conditions of the special exception use permit. No such renewal shall be made upon written objection by a majority vote of the Village of Brewster Board of Trustees.
- I. Individual requirements for certain special exception use permit uses. The following individual standards and requirements are hereby established for certain special exception

use permit uses. They must, if applicable, be met before issuance of a special exception use permit.

(1) Accessory single-family dwelling.

(a) Intent and purpose. It is the specific purpose and intent of this subsection to permit accessory units in single-family detached dwellings in single-family residential districts to provide the opportunity for the development of small, rental or owner-occupied housing units designed, in particular, to meet the special housing needs of senior citizens. It is the further purpose and intent of these provisions to allow and encourage the more-efficient use of the Village's existing housing stock, to preserve the Village's historic structures and to provide incentive for their maintenance. It is also the intent of these regulations to assure that the single-family character of the property will be maintained and that the accessory unit remain subordinate to the primary living quarters. To help achieve these goals, the following specific standards are set forth and shall be complied with to the satisfaction of the Village of Brewster Board of Trustees in the granting of a special exception use permit.

(b) Eligibility. Accessory single-family units may be located within residential properties in an R District, excluding lots with multifamily units.

(c) Standards.

[1] Location of unit and age of structure. Any accessory unit must be located in the principal resident dwelling, provided that such building existed at least five years prior to the date of application.

[2] Number of accessory units per lot. There shall be no more than one accessory apartment per one-family building lot.

[3] Size. The accessory unit shall not have more than two bedrooms. At no time shall the number of people living in the accessory unit exceed two people per bedroom. The accessory unit must not be larger than 20% of the gross floor area of the principal structure, but must be at least 400 square feet in size.

[4] Off-street parking. One off-street parking space shall be provided per accessory unit.

[5] Exterior changes. Any exterior changes shall be made on the existing foundation unless, in the opinion of the Village of Brewster Board of Trustees, such changes are warranted by the specific circumstances of the particular building. Accessory units

shall be located, designed, constructed, landscaped and decorated in such a manner that, to the maximum extent feasible, the appearance of the principal building will remain as one single-family dwelling. No exterior stairway to the second floor shall be permitted at the front of the building. The accessory unit shall only have separate access from the side or rear of the building, except for cases where there is a front entryway with split access inside the building.

[6] Owner occupancy required. The owner(s) of the premises shall occupy at least one of the dwelling units within the premises.

(d) Required permits and renewals.

[1] Special exception use permit required. The issuance of a special exception use permit, a building permit and a certificate of occupancy shall be the requirements for the creation of an accessory unit. The special exception use permit shall include compliance with the conditions and standards of this section. Such permits shall be valid during the continued ownership of the holder of the permit. Any new owner must renew the permit by reapplication to the Village of Brewster Board of Trustees.

[2] Certificate of occupancy required. All accessory units must meet the requirements of the applicable health, fire and sanitary codes. Inspections as required by the Village of Brewster Board of Trustees shall be made and a certificate of occupancy must be secured prior to the use of the accessory unit.

[3] Sale or subdivision. Neither an accessory apartment nor the premises upon which such accessory apartment is located shall be sold, converted into cooperative or condominium ownership or subdivided unless such action is accomplished in full compliance with the local laws, codes and ordinances of the Village of Brewster and the laws of the State of New York.

[4] Preexisting accessory apartments. Owners of accessory apartments which are in existence as of the effective date of this chapter shall have a maximum of 12 months from such date to apply for an accessory apartment special exception use permit and to meet the requirements of this subsection.

(2) Day care.

(a) Intent and purpose. It is the specific purpose of this subsection to provide facilities for the care of young children (under six years of age) during the

normal business day so that parents and guardians may have work opportunities enhanced, play and social interaction opportunities for their children increased and learning opportunities provided.

- (b) Applicability. These regulations shall apply to all day-care facilities. For purposes of this chapter, such facilities shall be divided into two groups:
 - [1] Day care in the home setting.
 - [a] Family day-care home. Certification to operate is as required by New York State law.
 - [b] Group-family day-care homes: Certification to operate is as required by New York State law.
 - [2] Day care and nursery schools.
 - [a] Day-care center. Centers may be established as the sole use in an individual building or as an accessory use in a church, school or other building and run by an individual, association, cooperation or institution. Day-care centers must be licensed as required by New York State law.
 - [b] Nursery school. This is an institution or business establishment designed to provide daytime care and instruction on a regular basis for two or more children under six years of age in sessions less than three hours. Nursery Schools may hold two sessions daily, but no more than two. Nursery schools must be licensed as required by New York State law.
- (c) General requirements. The following requirements shall apply to all day-care facilities:
 - [1] A license as required by New York State law.
 - [2] Outdoor play areas shall be no closer to the street than the principal building and shall be fenced to provide a safe enclosure for children. Recreational structures and equipment shall be limited to 10 feet in height.
 - [3] Location of the child-care facilities shall be restricted to the first floor of the building, unless a determination is made by the Fire Inspector of satisfactory ingress and egress from the building.

(d) Family day-care home standards. In addition to the requirements set out in Section 263-20(I)(2)(c) above, day-care in the home setting shall conform to the following requirements:

- [1] Family day-care homes shall operate out of single-family detached dwellings only.
- [2] The operator of the family day-care home shall live in the dwelling and no more than one employee who does not reside in the dwelling shall be permitted.
- [3] Group-family day-care homes may operate out of single-family dwellings, a fireproof multiple dwelling unit or a dwelling unit on the ground floor of a multiple dwelling not classified as fireproof as regulated by the New York State Building Code.
- [4] The operator of the group-family day-care home shall live in the dwelling. One additional parking space shall be provided for each additional employee who does not reside in the dwelling, and one additional space shall be provided for every two additional employees thereafter.
- [5] Such dwelling shall conform to the requirements of the district in which it is located.
- [6] No signage other than that permitted in the district in which the family day-care home is located shall be permitted.
- [7] Outdoor play areas shall be restricted to the rear yard of the lot.

(e) Day-care center and nursery school standards. In addition to the requirements set forth in Section 263-20(I)(2)(c) above, day-care centers and nursery schools shall conform to the following requirements:

- [1] Day-care centers and nursery schools shall be established as the sole use in an individual building or as an accessory use in a church, school or other building.
- [2] Day-care centers and nursery schools shall be located fronting on and with access to state or county roads or major local roads providing an arterial or collector function as determined by the Planning Board.
- [3] A minimum of one parking space for each employee shall be provided and visitor and dropoff parking in the amount of one space per five children.

- [4] The setbacks, height, bulk and minimum frontage for the underlying zoning district shall apply. However, the day-care center or nursery school may not be less than 100 feet from an adjacent residence, nor shall parking be placed closer to a front, side or rear property line than 25 feet.
 - [5] All day-care centers and nursery schools shall be required to provide outdoor fenced play areas of a minimum of 75 square feet per child based on the design capacity of the day-care center. However, the outdoor play areas shall be set back 25 feet from lot lines and adjacent residential structures.
 - [6] Site plan review. The proposed use shall be subject to site plan review by the Planning Board. The Board shall particularly examine any proposed facility in a residential district to be certain that the visual impact of the facility is, to the extent possible, consistent with the residential character of the zoning district.
 - (f) Permits and renewals. The issuance of a special exception use permit shall be a requirement for creation of a day-care facility. The special exception use permit shall include compliance with the conditions and standards of this section. Such permits will be valid during the continued ownership of the holder of the permit. Any new owner must renew the permit by reapplication to the Village of Brewster Board of Trustees.
- (3) Adult-oriented businesses, as described in § 263-3.
- (a) The use must be at least 250 feet from the R District;
 - (b) The use must be at least 250 feet from any church, school, nursery school or daycare;
 - (c) The use must be at least 1,000 feet from other adult-oriented businesses; and
 - (d) There is a maximum limit of two such uses within the B3 District.
- (4) Bed and Breakfast.
- (a) The owner-operator of the Bed-and-Breakfast establishment must occupy and maintain as a primary residence and reside in the building that is being used as a Bed-and-Breakfast establishment.
 - (b) The maximum number of guest rooms allowed in the Bed-and-Breakfast establishment is five (5) dedicated guest rooms and a minimum of one (1) dedicated guest room. The maximum number of guests per room is two

- (2) adult lodgers and their minor children in compliance with the New York State Uniform Fire Prevention and Building Code.
- (c) At a minimum, one (1) separate dedicated full bathroom is to be provided for guest usage.
 - (d) Compliance with § 263-18, Off-street parking and loading, is required. In addition, one (1) off-street parking space shall be provided for each bedroom designated as available for lodgers, plus two (2) off-street parking spaces for the owner/operator. No parking will be permitted in the front yard.
 - (e) The maximum duration of stay for guests at the Bed-and-Breakfast establishment is no more than seven (7) consecutive overnights.
 - (f) The only meal that shall be prepared or served at the Bed-and-Breakfast establishment is breakfast in the morning hours for overnight guests only. The breakfast meal shall be served in a designated dining area. All other meals are not permitted. No cooking is permitted in the guest rooms. Serving meals to the public is prohibited. The cost of breakfast is to be included in the fee for the overnight accommodations.
 - (g) No other commercial services shall be offered besides lodging and breakfast dining.
 - (h) Hard-wired smoke and carbon monoxide detectors with battery back-up shall be installed in each guest room and all public spaces in compliance with all requirements of the New York State Uniform Fire Prevention and Building Code.
 - (i) A sign shall be allowed on the premises of the Bed-and-Breakfast establishment. The sign shall be free-standing or attached to the Bed-and-Breakfast establishment. The sign must meet the criteria in § 199-8(G).
 - (j) Room occupancy signs (maximum allowable occupants as per the New York State Uniform Fire Prevention and Building Code) are to be posted in each guest room and public space.
 - (k) Site plan approval will be required by the Planning Board as part of the Special Exception Use permit approval, through a referral by the Board of Trustees.
 - (l) The owner-operator of the Bed-and-Breakfast establishment must be issued a Certificate of Occupancy by the Building Inspector of the Village. The Bed-and-Breakfast establishment is subject to an annual inspection and yearly permit by the Building Inspector. Fees for the Special Exception Use application, annual inspection and yearly permit shall be included in the VOB Fee schedule and may be changed from time to time.
 - (m) Each property for which a special exception use permit has been issued for use as a Bed-and-Breakfast establishment is subject to periodic inspections

by the Building Inspector to ensure continued compliance with all applicable codes, including the New York State Uniform Fire Prevention and Building Code, the requirements of this section and the provisions of the original Special Exception Use permit approval. The inspections will be conducted annually and more frequently if the Building Inspector reasonably suspects that more frequent inspections are necessary to endure the safety of the Bed-and-Breakfast establishment.

- (n) If any inspection of the property or dwelling by the Building Inspector for the purpose of ensuring compliance with the provisions of this section is refused by the owner, when inspection occurs at a reasonable time, or if the continuing conditions of the Special Exception Use permit are violated, the permit shall be subject to revocation after a hearing by the Board of Trustees at which the permit holder is provided an opportunity to be heard.
 - (o) In addition to the requirements included in these criteria, Bed-and-Breakfast establishments shall comply with any other requirements deemed appropriate by the Board of Trustees in approving the Special Exception Use permit.
- (5) Outdoor Dining.
- (a) Outdoor dining is permitted to occur on a portion of the sidewalk adjacent to a restaurant, tavern, or similar establishment, provided said use does not unnecessarily impede the safe and convenient flow of pedestrian traffic.
 - (b) A business may apply to the Village Board for a permit to operate outdoor dining along its Main street frontage.
 - (c) Such dining area shall be so configured as to leave room for a continuous public pedestrian walkway at least five feet in width.
 - (d) The dining area may be located on public and/or private property if authorized by the Village Board.
 - (e) In approving such dining area, the Board may attach conditions to ensure public safety and convenience and to reduce potential negative impacts from the dining area.
- (6) Research Facility.
- (a) Such uses of the Facility that result in the generation of hazardous materials or hazardous waste are prohibited.
 - (b) Retail sales are prohibited.
 - (c) Site plan approval will be required by the Planning Board as part of the Special Exception Use permit approval, through a referral by the Board of Trustees.

- (d) Permits and renewals. The issuance of a special exception use permit shall be a requirement for creation of a research facility in the B-3 or LMW Districts. The special exception use permit shall include compliance with the conditions and standards of this section. Such permits will be valid during the continued ownership of the holder of the permit. Any new operator of the research facility must renew the permit by reapplication to the Village of Brewster Board of Trustees.
 - (e) There is a maximum limit of one such use permitted within either the B3 or LMW Districts.
 - (f) Research facilities shall be located fronting on and with access to state or county roads or major local roads providing an arterial or collector function as determined by the Planning Board.
 - (g) In addition to the requirements included in these criteria, research facilities shall comply with any other requirements deemed appropriate by the Board of Trustees in approving the Special Exception Use permit.
- (7) Alternative Care Facility/ Assisted Living Facility/ Nursing Home.
- (a) Certification to operate is as required by New York State law.
 - (b) Alternative care facilities, assisted living facilities and nursing homes shall be located fronting on and with access to state or county roads or major local roads providing an arterial or collector function as determined by the Planning Board.
 - (c) Site plan approval will be required by the Planning Board as part of the Special Exception Use permit approval, through a referral by the Board of Trustees.
 - (d) In addition to the requirements included in these criteria, alternative care facilities, assisted living facilities and nursing homes in the PB or MU Districts shall comply with any other requirements deemed appropriate by the Board of Trustees in approving the Special Exception Use permit.

Article VI

General Provisions

§ 263-21. Building permit; certificate of occupancy.

- A. No building or other structure or part thereof shall be constructed, reconstructed, enlarged, extended, moved or structurally altered until a building permit therefor has been issued by the Code Enforcement Officer. No land, building or other structure or part thereof shall be used or occupied or changed in use until a certificate of occupancy therefor has been issued by the Code Enforcement Officer certifying conformity with this chapter.

- B. Temporary certificates of occupancy. Upon request, the Code Enforcement Officer may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the building permit shall have been completed, provided that such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.
- (1) In the case of construction of single-family dwellings which are subject to additional standards fixed by the Planning Board and in the case of site plans approved by the Planning Board, a temporary certificate of occupancy may be issued for a period not exceeding six months in the case of occupancy during alterations or two months pending completion of a building in a case where work to be completed is unrelated to the safety or health of the occupants or the general public.
 - (2) Temporary certificates shall contain such appropriate conditions and restrictions as shall be deemed necessary to protect the health, safety and welfare of the occupants of the building or the general public.
 - (3) Temporary certificates shall be issued by the Code Enforcement Officer.
 - (4) The temporary certificate shall state the reason for its issuance, and shall further state, in detail, the conditions required to be met before a final certificate may be issued. The applicant must, before issuance of such certificate, deposit with the Village Clerk an amount in cash, to be fixed by the Code Enforcement Officer; said amount is to be 1 1/2 times the estimated cost of completing the unfinished work. The application shall be accompanied by a nonrefundable fee, which fee shall be established by the Village of Brewster Board of Trustees and shall be on file in the office of the Village Clerk.
- C. No building permit or certificate of occupancy shall be issued if any condition exists on the subject property which is in violation of the Village Code or the New York State Uniform Fire Prevention and Building Code, or if any outstanding balance is owed to the Village for professional consultant review fees relating to the subject property. However, a building permit may be issued in such instance if an emergency situation requires immediate attention to avoid injury to persons or property, as long as remedial measures regarding the violations have also been commenced.

§ 263-22. Change in plans.

Nothing in this chapter shall require any change in the plans, construction or designated use of any land, building or other structure for which a permit or certificate of occupancy shall have been issued pursuant to law or ordinance, provided that construction shall be promptly and diligently performed. Such issued permit or certificate authorizing plans, construction or a designated use which does not conform to this chapter or any amendment hereof shall become null and void within a period of one year from the effective date of this chapter or any such amendment, unless the construction authorized thereby shall be completed and the activity

authorized thereby shall be accomplished. The Zoning Board of Appeals may grant one extension of such period for an additional period not to exceed one year after public hearing for good cause shown.

§ 263-23. Subdivision or transfer of land.

No lot or land shall be subdivided or transferred so as to make a lot nonconforming or more nonconforming or to make any building, other structure or use nonconforming or more nonconforming.

§ 263-24. Nonconforming uses.

Any use of land, buildings and other structures lawfully existing on the effective date of this chapter or any amendment hereto which does not conform to one or more of the provisions of this chapter may be continued in accordance with the following provisions:

- A. No nonconforming use, building or structure shall be enlarged and no nonconforming use of land, buildings or other structures shall be extended to include any land, building or other structure or portion thereof which is not subject to such nonconformity. Any nonconforming use of a building or other structure or portion thereof, however, may be extended to include any portion of the building or structure manifestly designed for such use.
- B. No nonconforming use, building or other structure, if once changed to conform to this chapter, shall thereafter be changed so as to be nonconforming again.
- C. No nonconforming use of land, buildings and other structures shall be changed to another use unless such new use is substantially the same in nature and purpose as the original nonconforming use or is a conforming use.
- D. No nonconforming use of land, buildings and other structures which shall have been willfully abandoned shall thereafter be resumed. No nonconforming use of land, buildings or other structures which shall have either ceased or been discontinued for a continuous period of one year or more shall thereafter be resumed.
- E. No nonconforming building or structure, no nonconforming portion of a building or structure and no building or structure containing a nonconforming use shall be reconstructed or restored after damage by fire or other casualty when the extent of the damage is greater than 50% of the building or structure. The provisions of this subsection shall not prevent the reconstruction or restoration of any such building or structure damaged by fire or other casualty when the extent of the damage is 50% or less of the building or structure, provided that such reconstruction or restoration shall be completed within a period of 12 months from the fire or other casualty.
- F. Except in the event of fire or other casualty as provided in Subsection E, nothing in this section shall be deemed to prohibit work on any nonconforming building or structure

when required by law to protect public health or safety and when ordered by the Village Code Enforcement Officer, provided that such work does not increase the nonconformity. Nothing in this section shall be deemed to prohibit work on ordinary repair and maintenance of a nonconforming building or structure or replacement of existing materials.

- G. No change of title, possession or right of possession shall be deemed to affect the right to continue a nonconforming use, building or other structure.
- H. Nothing in this section shall be deemed to prohibit the elimination or reduction of nonconformity of a use, building or other structure with respect to minimum floor area for a dwelling, to off-street parking and loading spaces, landscaping, outside display and storage and performance standards, provided that all other requirements of this chapter are met.
- I. Nonconforming lot. Nothing in this chapter shall prevent the construction, enlargement, extension or structural alteration of a building or other structure on or the use of a lot, as defined in § 263-3, which does not conform to the area, shape and frontage requirements of this chapter, provided that such use, building or other structure conforms to all other requirements of this chapter and that such nonconforming lot has access on a street.

§ 263-25. Changes in nonconforming use.

Notwithstanding the provisions of § 263-24(C), the Village of Brewster Board of Trustees may grant a special exception use permit to change a nonconforming use to another nonconforming use if it shall find that the new use will more nearly conform to the provisions of this chapter, that the new use will have a lesser impact upon the surrounding neighborhood and that the new use will not impair the eventual elimination of a nonconforming use on the premises.

Article VII

Zoning Board of Appeals

§ 263-26. Organization and procedure.

- A. Pursuant to § 7-712 of the Village Law of the State of New York, a Zoning Board of Appeals consisting of five members shall be established by resolution of the Village of Brewster Board of Trustees. After the initial appointments of one, two, three, four and five years, the terms of the members shall be for five years. Any vacancies shall be filled for the unexpired term. The Mayor shall appoint the Board of Appeals and the Chairperson thereof, subject to the approval of the Board of Trustees. The term of the Chairperson shall be one official year, and shall be appointed each year at the organizational meeting of the Board of Trustees. In the absence of a Chairperson, the Zoning Board of Appeals may designate a member to serve as Acting Chairperson.

- B. Secretary. The Board is authorized to employ a secretary or clerk who is not a member of the Board, at a salary to be fixed by the Village of Brewster Board of Trustees.
- C. General grant of power. The Zoning Board of Appeals shall perform all the duties and have all the powers prescribed by the Village Law and herein more particularly provided.
- D. Rules of procedure. The Board shall adopt such rules of procedure not inconsistent with the provisions of the Village Law as it may deem necessary to the proper performance of its duties and the proper exercise of its powers. The existing rules and regulations of the Zoning Board of Appeals heretofore established, insofar as not inconsistent with this chapter, are hereby continued in force and effect until amended or repealed by the Board.
- E. Meetings. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Meetings shall be at sufficiently frequent intervals, at the discretion of the Board, for the efficient conduct of its business. All meetings shall be open to the public. A quorum shall consist of three members.
- F. Public hearings. Prior to taking action on any matter relating to this chapter, a public hearing shall be held after public notice in the manner provided by law and after such other notice to property owners in an affected area as may be required by the Board as an accommodation. No action shall be taken respecting such matter until all interested parties shall have been given an opportunity to be heard.
- G. Property near municipal boundary. In any matter which relates to a property which lies within 500 feet of the boundary of another municipality, the Secretary of the Zoning Board of Appeals shall give notice of the public hearing thereon by mail or electronic transmission to the Clerk of the adjacent municipality at least 10 days prior to any such hearing.
- H. Procedures on all appeals, petitions, stays on appeals, public hearings, decisions and other matters before the Board shall be governed by the provisions of Village Law § 7-712 and by the officially adopted rules of procedure of the Board. Matters relating to review by certiorari shall be governed by Article 78 of the Civil Practice Law and Rules. The Chairman or, in the event of his absence from the state or his physical disability, the Vice Chairman and the Secretary shall sign all orders or instructions to the Village Code Enforcement Officer and recommendations to the Mayor and the Village of Brewster Board of Trustees pertaining to matters relating to this chapter.
- I. Minutes and records. The Secretary shall keep minutes of the Board's proceedings showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact. The Secretary shall keep records of the Board's examinations and official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A record of all variances and uses granted pursuant to action of the Board under this chapter shall be maintained by the Village of Brewster, and shall be available for public inspection.

§ 263-27. Appeals on interpretation of chapter and map; variances.

- A. The Zoning Board of Appeals is hereby authorized, upon an appeal, to hear and decide:
- (1) Any matter where an appellant alleges that the Village Code Enforcement Officer was in error in refusing to issue a building permit or certificate of occupancy as a result of misinterpreting the meaning, intent or application of any section or part of this chapter.
 - (2) Any matter where an appellant alleges that the Village Code Enforcement Officer was in error in his determination as to the exact location of a district boundary line on the Zoning Map which forms a part of this chapter.
 - (3) Any other matter relating to this chapter where an appellant seeks a review of any decision, order, requirement, determination or interpretation made by the Village Code Enforcement Officer.
 - (4) Any matter which the Village Code Enforcement Officer appeals on the grounds of doubt as to the meaning or intent of any provision of this chapter or as to the location of a district boundary line on the Zoning Map.
- B. The Zoning Board of Appeals is hereby authorized to grant area and use variances in accordance with the provisions of § 7-712-b of Village Law. No such variance shall be issued if any condition exists on the subject property which is in violation of the Village Code or the New York State Uniform Fire Prevention and Building Code, which are not the subject of the variance, or if any outstanding balance is owed to the Village for professional consultant review fees relating to the subject property.

Article VIII

Administration and Enforcement

§ 263-28. Code Enforcement Officer.

The Code Enforcement Officer of the Village of Brewster, which throughout the Village Code shall also be deemed the Director of Code Enforcement, shall administer and enforce the provisions of this chapter. He shall keep records of all applications, permits and certificates of occupancy, of all identifiable complaints of any violation of this chapter and of all notices of violation served by him and the action taken consequent thereon. Said records shall be public records. In the event of the absence of the Village Code Enforcement Officer from his office or of his incapacity for any reason to perform his duties, the same shall be performed by such deputy or Assistant Village Code Enforcement Officer as the Village of Brewster Board of Trustees shall appoint.

§ 263-29. Building permits.

- A. All procedure with respect to applications for an issuance of building permits shall be in conformity with the provisions of the New York State Uniform Fire Prevention and Building Code, the New York State Education Law as pertaining to registration and licensing of architects and engineers, and this chapter.
- B. The plot plan submitted shall show a separate lot for each main building, except in the case of a development consisting of an integrated arrangement of attached dwellings, multifamily dwellings or other buildings designed and intended to be maintained in a single ownership.
- C. After completion of the foundation wall of a building or structure, the owner shall have a survey made by a licensed land surveyor showing the true location of the foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Village Code Enforcement Officer before any further construction is commenced.

§ 263-30. Inspection of premises.

The Village Code Enforcement Officer and his deputies and assistants, the Village Engineer, Brewster Police Department and Fire Chief and their authorized agents shall have the right and authority, at any reasonable hour, to enter any building, structure, premises, lot or land, whether already erected or put into use or in the course of being erected and put into use, for the purpose of determining compliance with this chapter.

§ 263-31. Certificates of occupancy.

- A. Application for a certificate of occupancy shall be submitted to the Code Enforcement Officer prior to use or occupancy of any land, building or other structure. The Code Enforcement Officer shall issue a certificate of occupancy, provided that the proposed use, buildings or other structures conform to the provisions of this chapter and/or the New York State Uniform Fire Prevention and Building Code.
- B. The Code Enforcement Officer may issue a temporary certificate of occupancy for a period not to exceed six months pending completion of work required by this chapter and/or the New York State Uniform Fire Prevention and Building Code.

§ 263-32. Forms and plans.

The Code Enforcement Officer may adopt standard forms, approved by the Village of Brewster Board of Trustees, for the issuance of certificates of occupancy and building permits under this chapter. Each application for a certificate of occupancy or building permit under this chapter shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions of the lot to be used or built upon, the exact size and location of all buildings, other structures, uses, off-street parking and loading spaces, landscaping, outside storage and display areas and any other facilities subject to the provisions of this chapter. Original plans shall bear the seal and signature of a registered architect and/or professional engineer licensed by the State of New York.

§ 263-33. Additional conditions for issuance of permits or certificates.

Any plans, maps, statements and stipulations submitted to and approved by the Village of Brewster Board of Trustees, Zoning Board of Appeals or Planning Board in connection with a special exception use permit application, variance or other action of such Boards, as required by this chapter, and any conditions of such approval attached by such Boards shall become conditions for the issuance of a certificate of occupancy or building permit by the Code Enforcement Officer.

§ 263-34. Penalties for offenses.

A violation of this chapter is hereby declared to be a violation, punishable by a penalty not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a penalty not less than \$350 nor more than \$700, or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a penalty not less than \$700 nor more than \$1,000, or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate, distinct and additional violation.

Article IX

Amendments

§ 263-35. Procedure and requirements.

- A. All amendments, changes or modifications or the repeal of this chapter and Zoning Map may be made by the Village of Brewster Board of Trustees on its own initiative or by petition or by the recommendation of the Planning Board. Any such amendment or change shall be adopted by local law after proper notice and public hearing as required by Village Law. Furthermore, any such amendment or change shall be consistent with the then-adopted Comprehensive Plan unless a change of circumstances and/or need so as to further protect the health, safety and welfare of the citizens of the Village of Brewster warrants such variance from the then-existing Comprehensive Plan.
- B. All amendments, changes or modifications or the repeal of this chapter and Zoning Map shall be referred by the Village of Brewster Board of Trustees to the Planning Board for review and recommendation. The Planning Board shall submit its recommendations on such amendments, changes or modifications or repeal within 30 days after receiving the same. Failure to reply within the 30 days shall be considered as a recommendation of approval for an amendment, change, modification or repeal.
- C. Any property owner may petition the Village of Brewster Board of Trustees to amend, supplement, change, modify or repeal this chapter and/or Zoning Map. Any such petition

shall be signed and shall cite the existing text and/or zoning district and the proposed change and be accompanied by the required fee and the following reference materials:

- (1) A map, accurately drawn to an appropriate scale, showing the area of the land included in the proposed change, the streets in the immediate vicinity and the land or lands and the name of the owner or owners thereof immediately adjacent to and extending within 200 feet of all boundaries of said property.
- (2) An eight-inch-by-ten-inch photograph of the property for which the change is requested and photographs showing all properties within the two-hundred-foot limits described above.

Article X

Fees

§ 263-36. Planning and professional consultant fees.

- A. Application fees. All nonrefundable application fees shall be in an amount set forth in a fee schedule established, and as amended, from time to time by resolution of the Village of Brewster Board of Trustees. No fee shall be required of the Village for Village projects.
- B. Reimbursement of professional review fees. The Board of Trustees, the Planning Board, and the Zoning Board of Appeals, as the approving agencies, in the review of any application presented to them, may refer such application to any planner, engineer, environmental expert, legal counsel or other professional as such Board shall deem reasonably necessary to assist it in the review of such application as required by law. Fees charged by such individuals shall be in accordance with a contractual agreement between the Village and such professional. All such charges shall be paid by the Village upon submission of a Village voucher. The applicant shall reimburse the Village for the cost of such professional review services upon submission of a copy of the voucher or, at the discretion of the approving agency, in accordance with § 263-36(C) herein concerning the establishment of escrow accounts. The payment of such fees shall be required in addition to any and all other fees required by this or any other section of this chapter of any other Village law, ordinance or regulation.
- C. Escrow account procedures. At the time of submission of any application to, and prior to the review of the Board of Trustees, the Planning Board or the Zoning Board of Appeals, the approving agency may require the establishment of an escrow account, from which withdrawals shall be made to reimburse the Village for the cost of professional review services. The applicant shall then provide funds to the Village in two separate installments for deposit into such account in an amount to be determined by the approving agency based on its evaluation of the nature and complexity of the application. To cover the costs of the initial review of the application, a deposit shall be made in accordance with the initial escrow account deposit schedule adopted by the approving

agency. After the preliminary review, the applicant shall provide additional funds to the Village for deposit into the escrow account in an amount to be established by the approving agency as the full escrow deposit based upon estimates of the total anticipated review costs provided by the consultants to the approving agency and the applicant. Said estimates are for the convenience of the applicant and shall not be binding upon the approving agency. The applicant shall be provided with copies of any Village voucher for such services as they are submitted to the Village. The balance of the escrow account shall be maintained in accordance with the fee schedule established, and as amended, from time to time by resolution of the Village of Brewster Board of Trustees. If such account is not replenished in accordance therewith within 20 days after the applicant is notified in writing of the requirement for such additional deposit, the approving agency may suspend its review of the application, and any time frames to which the approving agency is bound, with regard to making a determination, shall be deemed to have been waived by the applicant. A building permit or certificate of occupancy or use shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Village. After all pertinent charges have been paid, the Village shall refund to the applicant any funds remaining on deposit. If any outstanding balance is owed to the Village of Brewster for professional review services, the applicant shall be ineligible to receive any Planning Board, Zoning Board of Appeals, or Board of Trustees approval, or any building permit or certificate of occupancy relative to the subject property.

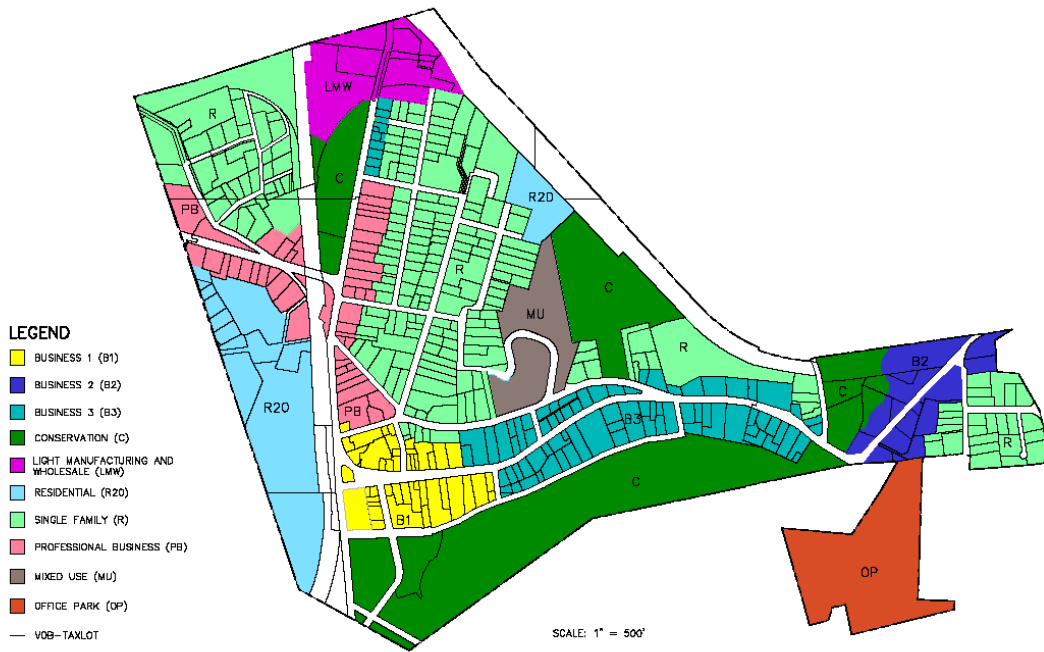
D. SEQR fee and escrow. When an action is subject to a positive declaration and involves an applicant, the approving agency may charge a fee to the applicant in order to recover the actual costs of either preparing or reviewing the draft and or final environmental impact statement and as otherwise provided for in SEQR, 6 NYCRR Part 617. Any part of such fee collected by an approving agency and not used for such purposes shall be returned to the applicant.

- (1) The approving agency may require the establishment of a SEQR escrow account, from which withdrawals shall be made to reimburse the Village for the cost of professional review services determined to be necessary in connection with the environmental review of an applicant's proposed action.
- (2) If the establishment of a SEQR escrow account is required, the applicant shall provide funds to the Village for deposit into such account, in an amount to be determined by the approving agency based on its evaluation of the nature and complexity of the proposed action. The applicant shall be provided with copies of any Village voucher for such services as they are submitted to the Village. The balance of the escrow account shall be maintained in accordance with the fee schedule established, and as amended, from time to time by resolution of the Village of Brewster Board of Trustees. If such account is not replenished in accordance therewith within 20 days after the applicant is notified in writing of the requirement for such additional deposit, the approving agency may suspend the environmental review process, and any time frames to which the approving

agency is bound, with regard to making a determination, shall be deemed to have been waived by the applicant.

- (3) The total amount of such fee shall not exceed that as set forth in SEQ, 6 NYCRR Part 617, as may be amended from time to time.
- (4) No building permit or certificate of occupancy or use shall be issued unless all professional review fees charged in connection with an applicant's project have been reimbursed to the Village.

E. Collection of fees. All required fees shall be collected by the Treasurer of the Village of Brewster.



Section 2. This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Dated: November 18, 2015