

TOWN OF BRASHER

ZONING REGULATIONS

ADOPTED SEPTEMBER 16TH, 2020



Mark Peets, Supervisor
Derek Bellinger, Councilman
Christopher Rose, Councilman
Gerald St. Hilaire, Councilman
Sue Anne Hourihan, Councilwoman

Brasher Town Planning Board
Wilfred Recore, Chairman
Julia Rose
Robert Carter
Ronnie Miller
Edward Russell
Robert Forbes, CEO

The Town of Brasher is located in the northeast corner of St. Lawrence County and was incorporated in 1825, it has a Supervisor-Council type of Government. The population (2010 census) is 2,410. There are 91.20 square miles of land and 0.89 square miles of water area. The St. Regis River and Deer River both flow through the Town of Brasher. The Town of Brasher maintains 64.50 miles of Town Roads, 6.30 miles of State Roads and 34.5 miles of County Roads. There are 19,445 acres of State land in the Town.

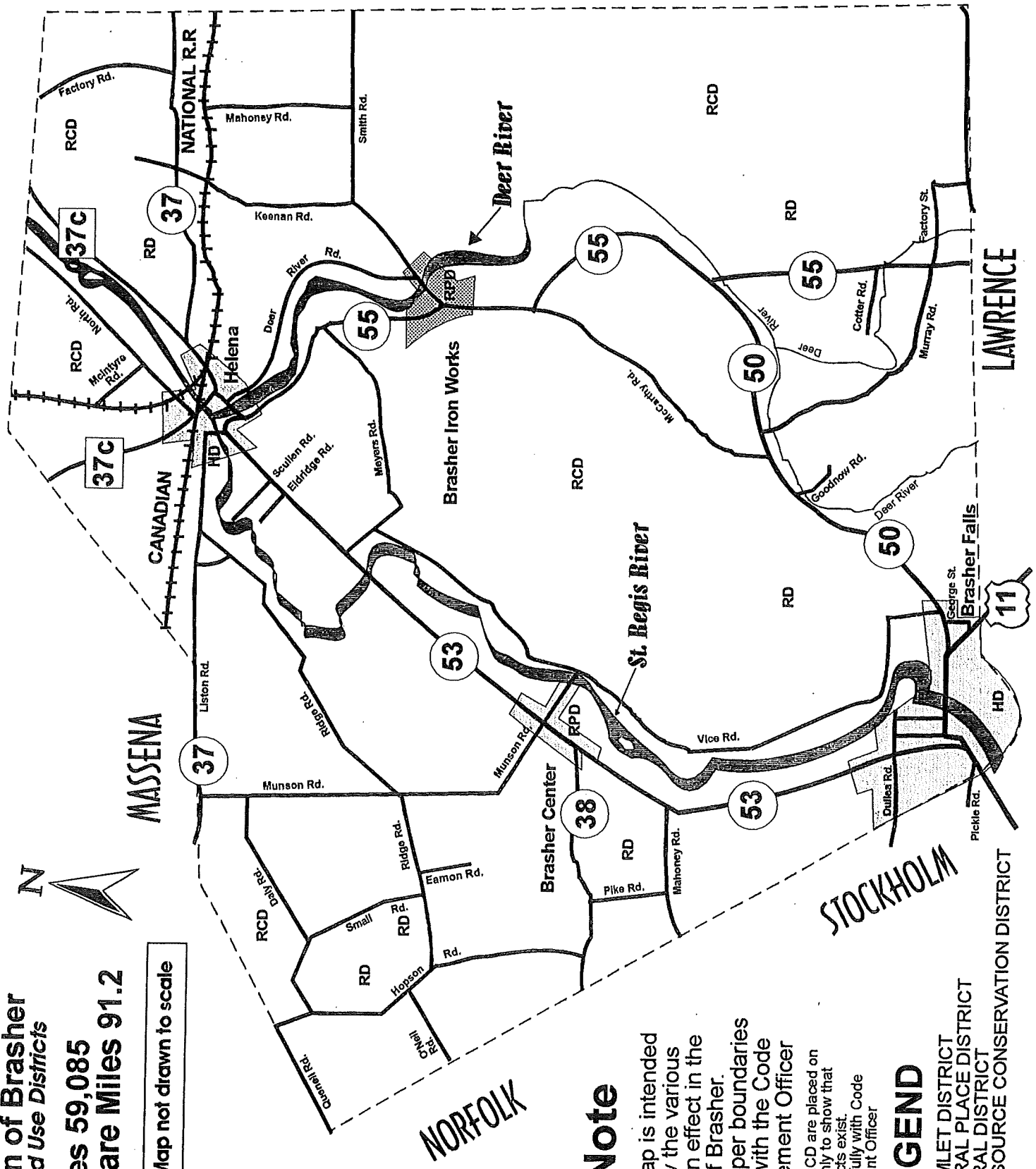
In the 1800's and early 1900's the Town of Brasher was known for its industries. There were several mills, factories and foundries in the Town. In fact, the settlement of Brasher Ironworks, located nearly in the center of the Town, got its name because of the iron works located there. Now the Town is mostly farming and agriculture. There are many recreational opportunities here for those who enjoy hunting, fishing, cross country skiing, snowmobiling, etc.

There are two hamlets in the Town of Brasher, one being Helena and the other Brasher Falls located down river from where the east and west branches of the St. Regis River come together. The settlement of Brasher Center is located approximately half way between Brasher Falls and Helena.

FRANKLIN COUNTY

Town of Brasher
Land Use Districts
Acres 59,085
Square Miles 91.2

This Map not drawn to scale



Note

This Map is intended to show the various zones in effect in the Town of Brasher. For proper boundaries check with the Code Enforcement Officer

*RD and RCD are placed on the map only to show that such districts exist. Check carefully with Code Enforcement Officer

LEGEND

- HD HAMLET DISTRICT
- RPD RURAL PLACE DISTRICT
- RD RURAL DISTRICT
- RCD RURAL RESOURCE CONSERVATION DISTRICT

TABLE OF CONTENTS

PAGE

<u>ARTICLE I</u>	<u>GENERAL PROVISIONS</u>	<u>1</u>
Section 1.	Title and Legislative Authority	1
Section 2.	Repeal of Previous Zoning Regulations	1
Section 3.	Statement of Purposes	1
Section 4.	Permits Required	1
Section 5.	Removals	1
Section 6.	Nonconforming Uses, Lots and structures	1-2
Section 7.	Fees	2
Section 8.	Violations	2
Section 9.	Injunctions	2
Section 10.	Definitions	2
<u>ARTICLE II</u>	<u>LAND USE DISTRICTS</u>	<u>11</u>
Section 11.	Establish of Districts	11
Section 12.	Land Use District Map	11
Section 13.	Interpretation of District Boundaries	11
<u>ARTICLE III</u>	<u>DISTRICT REGULATIONS</u>	<u>12</u>
Section 14.	Rural District (R)	12
Section 15.	Hamlet District (H)	14
Section 16.	Rural Place District (RP)	16
Section 17.	Planned Development District (PD)	17
Section 18.	Resource Conservation District (RC)	18
<u>ARTICLE IV</u>	<u>GENERAL STANDARDS</u>	<u>19</u>
Section 19.	Lot Area, Lot Width and Yards	19
Section 20.	Reduced Lot Area	19
Section 21.	Sewage Disposal Systems	19
Section 22.	Off-Street Parking and Loading	20
Section 23.	Fences and Visibility at Intersections	20
Section 24.	Screening for Non-Residential Uses	21
Section 25.	Building Height	21
Section 26.	Sign Regulations	21
Section 27.	Disposal of Junk, Waste or Refuse	22

ARTICLE V	SPECIAL PERMIT STANDARDS AND REQUIREMENTS	23
Section 28.	General Standards for Special Uses	23
Section 29.	Specific Standards for Special Uses	23
ARTICLE VI	COMMERICAL STORAGE	31
Section 30.	Application for Permit	31
Section 31.	Removal; Penalties for Offenses	32
Section 32.	Design Standards	32
ARTICLE VII	SHOOTING RANGES	34
Section 33.	Legislative Findings	34
Section 34.	Legislative Intent and Purpose	34
Section 35.	Design Standards	34
ARTICLE VIII	SOLAR ENERGY SYSTEMS	37
Section 36.	Purpose	37
Section 37.	Findings and Determination	37
Section 38.	Definitions	37
Section 39.	Applicability	38
Section 40.	Solar as an accessory use or structure	38
Section 41.	Large-Scale Solar Energy Systems	39
Section 42.	Special Use Permit Standards	40
Section 43.	Abandonment and Decommissioning	42
Section 44.	Enforcement	42
Section 45.	Severability	42
Section 46.	Notification	42
ARTICLE IX	ADMINISTRATIONS AND ENFORCEMENT	43
Section 1.	Town Planning Board	43
Section 2.	Permit Application Requirements	44
Section 3.	Special Use Permit	45
Section 4.	Zoning Board of Appeals	45
Section 5.	State Environmental Quality Review (SEQR)	49
Section 6.	Issuance of Permit	50
Section 7.	Certificate of Compliance	50
Section 8.	Enforcement	51
Section 9.	Appeal and Court Review	52
Section 10.	Interpretation	52
Section 11.	Separability	53
Section 12.	Amendments	53
Section 13.	Effective Date	53

ARTICLE I

GENERAL PROVISIONS

- Section 1. TITLE AND LEGISLATIVE AUTHORITY.** This local law shall be known as the "Town of Brasher Zoning Regulations". It is adopted pursuant to Article II, Sections 10.1 (ii)a (9.a), (11) and (12) of the New York State Municipal Home Rule Law and Section 261 of the New York State Town Law.
- Section 2. REPEAL OF PREVIOUS ZONING REGULATIONS.** The "Town of Brasher Zoning Ordinance", which was enacted on or about February 10, 1993, is hereby repealed and superseded. Projects previously undertaken in compliance with the "Zoning Regulations" of 1993 shall be considered to comply with the terms of this Local Law. This law supersedes any previous Solar energy law.
- Section 3. STATEMENT OF PURPOSES.** This Local Law is intended to:
- A.** Provide for planned growth and development of residential, commercial, industrial and other appropriate uses of the land consistent with the economic and social needs of the community.
 - B.** Preserve the character of the Town.
 - C.** Promote the health, safety, morals and general welfare of the Town consistent with objectives set forth.
- Section 4. PERMITS REQUIRED.** No use or structure shall be established or erected, nor land developed, until a permit has been issued by the Enforcement Officer, who shall issue such permits in accordance with regulations set forth in this Local Law. No permits shall be required for the construction of non-commercial structures of less than 140 square feet of gross floor area. No permits shall be required for the construction of non-commercial structures costing less than \$500.
- Permits required by this Local Law shall be in addition to any permit required pursuant to any other county, state or federal government including but not limited to any construction required to ensure compliance with the New York State Uniform Fire Prevention and Building Code, regulations governing flood-prone areas, or regulated wetlands.
- Section 5. REMOVALS.** Any building or structure erected or use commenced after the effective date of this Local Law must comply with its provisions. Such new buildings, structures or uses which do not conform to the provisions of the Law may be removed or halted after issuance of an injunction by order of the Town Board. Local Law #1 of the year 1981, "Unsafe Buildings", shall govern the removal of unsafe buildings. The cost of removal may be recovered in the manner specified in Local Law 1-81 for unsafe buildings.
- Section 6. NONCONFORMING USES, LOTS AND STRUCTURES.** Uses, lots and structures which legally existed or were legally commenced prior to the effective date of the Local Law, and which would be prohibited or restricted under the terms of this Local Law may be continued subject to the following provisions:
- A. Enlargement.** Non-conforming buildings or uses shall not be allowed to enlarge or increase in their non-conformity.
 - B. Restoration following disaster.** Non-conforming uses or structures damaged by fire or other causes may be restored to no more than their previous degree of non-conformity. Restoration must be commenced within six months of the disaster and completed within one year.
 - C. Discontinuance.** Whenever a non-conforming use has been discontinued for a period of 12 continuous months the use shall not thereafter be re-established and any future use shall be in conformity with this Local Law.

D. Relocation. Should any non-conforming building be moved for any reason, or for any distance, it shall conform to the requirements of this Local Law.

E. Lots of Record. Any lot of record at the effective date of this Local Law shall be considered as complying with this Local Law with respect to area. No area variance shall be required for construction on a lot of record provided that such lot does not adjoin a lot held by the same owner. A non-conforming lot shall not be used for more than one dwelling unit except as may predate this Local Law.

Section 7. FEES. Permit fees shall be paid according to a fee schedule as may from time to time be established by resolution of the Town Board.

Section 8. VIOLATIONS.

A. Any person, firm or corporation who violates, disobeys, neglects, or refuses to comply with any provision of this Local Law shall be guilty of an offense and, upon conviction thereof, shall be subject to a fine of not more than \$250 or imprisonment for a period of not more than six (6) months or both. Each day a violation is continued shall be deemed a separate offense.

B. Upon determination by the Enforcement Officer that a violation of this Local Law exists, written notice shall be sent to the owner of the property. The notice may be delivered by some other means, or may be attached to the premises of the owner. A copy of the notice shall be sent to the Town Board.

Section 9. INJUNCTIONS. The Town may obtain an action to restrain or enjoin any violation of this local law or any failure to comply with any of its provisions.

Section 10. DEFINITIONS. Words and phrases used in this Local Law shall be defined as follows in this section. Words and phrases which are not defined below shall be defined as in the New York State Uniform Fire Prevention and Building Code. Interpretation of terms and definitions shall be made by the Board of Appeals.

ACCESSORY STRUCTURE OR USE. A structure or use which is incidental to the principal structure or use and which is located on the same premises. Accessory structures include barns and other agricultural buildings, in-ground swimming pools, private automobile garages and sheds, etc. Accessory uses include occupations conducted within a residence, an apartment over a store, a manager's office in an apartment house, etc.

ADDITION. An extension or increase in floor area, number or stories or height of a building or structure, an increase in conditioned space or the extension of a building system or subsystem.

AGRICULTURE. Raising livestock and/or crops for sale, including such on-premises sales as eggs, maple syrup and garden vegetables.

ALTERATION. A change in the structural parts, or in the entrance and exit facilities. Any construction or renovation to an existing building or structure other than repair or addition. A change to a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation.

AUTO WASH. A structure designed or intended primarily for the washing of automobiles, including conveyor, drive-through and self-service types.

BACKSTOP. A device constructed to stop or redirect bullets fired on a range.

BAFFLE. A barrier to contain bullets and to reduce, redirect or suppress sound waves. Baffles may be placed either overhead, alongside, or at ground level to restrict or interrupt errant or off-the target shots.

BASEMENT. That portion of a building that is partly or completely below grade.

BERM. An embankment used for restricting bullets or shot to a given area, or as a dividing wall between ranges.

BUILDING. A wholly or partially walled structure, with a roof, for the shelter of persons, animals or property.

BUILDING AREA. The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, steps and terraces.

BUILDING, DETACHED. A building surrounded by open space on all sides on the same lot.

BUILDING, FLOOR AREA. The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, HEIGHT OF. The vertical distance measured from the established grade at the street center line or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE. A line parallel with the front, side or rear property lines, respectively, beyond which a structure may not extend as determined by these regulations.

CAMP. Any one or more of the following: A tent, trailer, shelter, or other accommodation for seasonal or other more or less temporary living accommodations, regardless of whether such structure or accommodation is actually used seasonally or otherwise; OR

A parcel of land on which is located two or more shelters, recreational vehicles, tents or other accommodation for seasonal or other more or less temporary living arrangements; OR

A parcel of land, including buildings and facilities thereon, used for the assembly of children or adults for what is commonly known as "day camp" purposes; OR

A parcel of land, including buildings and facilities thereon, used for overnight, weekend or longer periods of camping by organized groups.

CAMPGROUND. A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation or vacation purposes, and which meets New York State Health Department standards for such facilities.

CEMETERY. Land used for the internment of human or animal remains or cremated remains, and may include vaults, crypts, mausoleums, morgues, crematoriums, and associated maintenance facilities.

CERTIFICATE OF COMPLIANCE. Certification by the Enforcement Officer that work proposed by an applicant for a permit has been completed satisfactorily, and/or that the use proposed by the applicant may begin.

COMMERCIAL EXCAVATION OR MINE. Stripping or extraction of natural materials, operated primarily for gain, not including the occasional sale of small quantities of materials from excavations operated ordinarily for the use of the landowner. (Must comply with DEC regulation)

COMMERCIAL STORAGE. A building containing independent, fully enclosed bays that are leased to individuals to store personal property and household goods.

dBA. The sound pressure level, in decibels, as measured using the impulse response mode and "A" weighting network on a precision sound level meter.

DECK. An exterior floor system supported on at least two opposing sides by an adjoining structure and/or post, piers, or other independent supports.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND. Any place or premises used for sale, dispensing, or serving of food, refreshments or beverages to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING (UNIT). One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

DWELLING, TWO-FAMILY. A detached building, designed for year-round occupancy by two families living independently of each other.

DWELLING-MULTIPLE FAMILY. A building or portion thereof designed for year-round occupancy, containing separate dwelling units for three or more families living independently of each other, other than hotels, motels, camps and rooming houses.

DWELLING, CONDOMINIUM. Any apartment, town house or other residential building portion thereof, involving a combination of two kinds of ownership of real property:

- Fee simple ownership of the individual dwelling unit;
- Undivided ownership together with other purchasers of the common elements of the structure, land and appurtenances, the management thereof controlled by a property owners' association.

DWELLING, TOWN HOUSE. Three or more attached dwelling units designed for year-round occupancy and containing separate dwelling units for occupancy by one family per unit.

DWELLING, GUEST HOUSE. An accessory dwelling unit build on the same lot with the principal dwelling.

FAMILY. A household constituting a single housekeeping unit occupied by one or more persons.

FIRING LINE. A line parallel to the targets from where firearms are discharged.

FRATERNAL CLUB. *A group of people formally organized for a common cultural, social, religious, charitable or entertainment interest with formal membership requirements, regular meetings and rituals.*

GARAGE, PRIVATE. A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein or space for more than one car is leased to a non-resident of the premises.

GARAGE, PUBLIC. A building or part thereof operated for gain and used for the storage, hiring, selling, greasing and washing, servicing or repair of motor driven vehicles.

GASOLINE STATION. Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term Gasoline Station shall be deemed to include filling station and service station.

HAZARDOUS SITUATION. Conditions exist on premises which constitute a threat to the public health and safety, as determined by the Enforcement Officer or by the Town Health Officer.

HOLDING AREA. A farm where cattle or other livestock are held and bulk fed commercially in a restricted area as distinguished from a pasture and other parts of an operating farm.

HOME OCCUPATION/PROFESSION. A usual and customary gainful occupation or profession carried out on an accessory basis by residents of a dwelling unit on the premises, such as dressmaking, home cooking appliance repair, and personal services such as doctor or dentist office, and in which no stock in trade is sold. The home shall continue to be used as a home and to appear as such, with minimal exterior evidence of the home occupation/profession.

HOSPITAL. A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

HOSPITAL, ANIMAL. A building or structure for the diagnosis and medical or surgical care of sick or injured animals.

HOTEL OR MOTEL. A building or group of buildings where transient guests are lodged for hire.

JUNK. Scrap, refuse, litter, waste or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal, or other use or disposition.

JUNKYARD. Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of waste paper, rags, scrap metal or other scrap or discarded goods, materials, machinery or two or more unregistered and inoperable motor vehicles or other type of junk.

KENNEL. A commercial establishment for the keeping, breeding, boarding or training of four or more mature dogs, cats or other domestic animals, excluding common farm animals (horses, cows, pigs, goats, sheep, etc.).

LANDFILL. A site for solid waste disposal operated in accordance with applicable State Law.

LAUNDRETTE. A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential resort hotel or club.

LIVESTOCK. Agricultural animals raised for direct human consumption or use or for the consumptive use of their products, including eggs, milk, hair, hide or meat, and specifically including hogs, horses, ponies, cattle, sheep, goats, fish, fowl, fur-bearing animals, and the like. See also Agriculture.

LIVING SPACE. Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

LOT. A designated parcel, tract or area of land such as may be described as a unit on a deed, plat, map or tax roll listing.

MANUFACTURING. Mechanical or chemical transformation of materials into new products through assembly of components, the manufacturing of products, or the blending of materials such as oils, plastics, resins or liquors.

MARINA. A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for boat owners, crews and guests.

MOBILE HOME. A structure intended for transport on a permanent chassis in one or more sections, designed for relocation with only minor preparation such as reattachment of wheels, lights and towing apparatus, and bearing the insignia for manufactured housing issued by the U.S. Dept. of Housing and Urban Development. A distinction is made between mobile homes and other manufactured housing for zoning purposes.

MODULAR HOME. A manufactured dwelling designed and constructed for transportation to a site on a separate chassis and for installation on a permanent foundation.

MOBILE HOME PARK. A lot intended for the long-term parking of two or more mobile homes, which may include services and facilities for residents.

NEIGHBORHOOD GROCERY OR CONVENIENCE STORE. A retail commercial establishment that supplies groceries and other daily household necessities to the immediate surrounding area.

NONCONFORMING USE, LOT OR STRUCTURE. A use, lot, or structure which was lawful prior to the adoption, revision or amendment of the Local Law but which fails, by reason of such adoption, revision or amendment to conform to the requirements of the Local Law which is in effect.

NUISANCE. An interference with the enjoyment and use of property, including smoke, odors, waste materials, radiation, noise, vibration, heat and glare.

NURSING HOME. A proprietary facility, licensed or regulated by the State of New York for the accommodation of convalescents or other persons who are not acutely ill or not in need of hospital care, but who require skilled nursing and related medical services which are prescribed by or performed under the direction of a person or persons licensed to provide such care or services in accordance with the laws of the State of New York.

NURSERY SCHOOL. Facilities for the daytime care or instruction of two or more children from two to five years old inclusive, and operated on a regular basis, for pay.

PARKING SPACE. An area of at least two hundred (200) square feet to be used for the parking of a passenger vehicle and not located on a street or highway.

PERSONAL SERVICE SHOP. A business where professional or personal services are provided for gain and where the sale of retail goods, wares, merchandise, articles or things is only accessory to the provision of such services, including but not limited to the following: barber shops, beauty shops, tailor shops, Laundromats, shoe repair shops, etc.

PLACE OF PUBLIC ASSEMBLY. *A parcel of land or a building or structure where persons may congregate for civic, political, religious, educational, social, recreation, amusement or dining in any one or more places, rooms or enclosures, whether or not seating accommodation is provided.*

PLANNED DEVELOPMENT DISTRICT. A tract of land in single ownership, or controlled by an individual, partnership, cooperative or corporation designed for and capable of being used for one or more residential, commercial, industrial or recreational uses which have certain facilities in common and which have been designed as an integrated unit.

PREMISES. A lot, plot or parcel of land, including any structure thereon.

PRIVATE CLUB OR LODGE. Building and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

PRINCIPAL USE/STRUCTURE. The primary or predominant use of any lot; the structure within which the principal use is conducted.

PUBLIC OR PRIVATE UTILITY. A structure used for or in conjunction with the transmission, distribution or regulation of water, sewer, gas, electricity or other public utility service. This excludes Solar Energy Facilities, which are defined and subject to separate regulations in this ordinance.

RECREATIONAL VEHICLE. A mobile recreational unit including travel trailer, pickup, camper, converted bus, tent-trailer, camper trailer, tent or similar device used for temporary portable housing.

REPAIR. The restoration to good or sound condition of any part of an existing building or structure for the purpose of its maintenance.

RESTAURANT. A building where food and beverages are offered for sale to the public for consumption at table or counter either inside or outside the building on the lot. As an accessory use, take-out service of food and beverages for off-site consumption may be provided.

RIDING STABLE. A farm where land and buildings are used to house horses and for their exercise and training, which may include a school, boarding stables, tack shop or other related uses.

ROADSIDE STAND. A semi-permanent structure, stand or location for the sale of any product or material on a temporary, part-time or seasonal basis.

SAFETY FAN. An area on a shooting range designed to contain all projectiles fired within the range.

SETBACK. The shortest distance from the highway right-of-way or a property line to part of a building or structure measured at right angles to such a right-of-way or property line, not including cornices, at or below grade structures; but including vestibules, decks (attached or unattached) and porches. When the highway right-of-way fronts a lot on an angle or curve, the "setback" line is a continuation of the "setback" line of the adjoining lots extended to conform to the angle of such right-of-way.

SEWERAGE. System for treatment and disposal of wastes from sanitary drains. Sewage treated and disposed in sewerage systems shall not consist of industrial wastes.

SHOOTING RANGE. A place or facility, including its component features such as safety fans or shortfall zones, berms, buildings, structures and other associated improvements, that is designed or intended as a place for the regular and repeated discharge of firearms on a planned and/or structured basis, for the purpose of target practice or target shooting, skill development and training, recreation and/or competitions, including skeet shooting, trap shooting and/or other similar shooting activities, and is open to use by persons other than the owner of the property and the owner's family and social guests, whether the facility is operated by a club or other type of membership group or social organization, or by a private person or entity.

SHOOTING STATION. A fixed point within a shooting range from which firearms are discharged.

SHOTFALL ZONE. An area within which the shot, wads or pellets contained in a shotgun shell typically fall.

SIGN. Any device affixed to, painted, or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business. (These regulations shall not apply to any flag insignia of a government or government agency, school or religious group, or any official traffic control device.) Each display surface shall be considered to be a "sign".

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises, if at all. A commercial billboard shall be construed to be an advertising sign.

SIGN, BUSINESS. A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed. A "FOR SALE" or "TO Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

SIGN, FLASHING. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of these regulations, any revolving illuminated sign shall be considered a "flashing sign".

SITE PLAN. Development plan for one or more lots on which is shown the existing and proposed conditions, including natural and made conditions, structures, lighting, drainage, walkways, signs, screening, and ingress and egress.

SOIL PERCOLATION TEST. Measure of the rate of movement of water downward through a soil conducted in accordance with the procedures set forth in Appendix 75A of the New York State Sanitary Code.

SOLAR ENERGY SYSTEM. An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment that is subject to regulations in Article VII.

SPECIAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such use may be permitted in certain zoning districts as a special use, if specific provision for such special use is made in these Zoning Regulations.

STORAGE CONTAINERS. Any portable container, receptacle, or device of a type commonly used for the temporary storage of personal property, garbage, rubbish, refuse, construction debris, or other materials. The term shall include, but not be limited to, trailers, shipping containers, and dumpsters.

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

STORY ABOVE GRADE. Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is;

1-More than 6 feet (1829mm) above grade plane.

2-More than 6 feet (1829) above the finished ground level for more than 50 percent of the total building perimeter.

3-More than 12 feet (3658mm) above the finished ground level at any point.

STORY, HALF. That portion of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

STRUCTURAL ALTERATION. Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

STRUCTURE. An assembly of materials forming a construction formed of one or more components, structural parts for occupancy or use, including building.

TAVERN. A building or part thereof where, in consideration of payment therefore, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

THEATRE, OUTDOOR. An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

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

TRUCK TERMINAL. The use of land, buildings or structure for the purpose of maintenance, servicing, storage or repair of commercial vehicles, but does not include automobile service stations or transportation sales or rental outlets.

USE. The purpose or activity for which lands or buildings are designed, arranged or intended, or for which lands or buildings are occupied or maintained.

VACATION RENTAL. A one-family dwelling used for providing overnight accommodations and a morning meal to not more than ten transient lodgers and containing not more than five bedrooms for such lodgers.

VARIANCE. Written authority from the Zoning Board of Appeals to deviate from the use or area regulations. Variances "run with the land" and are not cancelled by a change of ownership or the passage of time unless specified otherwise by the Zoning Board of Appeals. Use variances may be granted by the Board of Appeals for uses not permitted in the district. Area variances are departures from the dimensional standards in this Local Law. The different standards for use and area variances are in Article IX, Section 52.

YARD, FRONT. An open, unoccupied space on the same lot with the building between the front line of the building and the street or highway right-of-way, and extending the full width of the lot.

YARD, REAR. An open, unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of the building and the rear lot line and extending the full width of the lot.

YARD, SIDE. An open, unoccupied space on the same lot with the building, situated between the building and the side lot line, or for corner lots the side street line, and extending from the front yard to the rear yard.

ARTICLE II

LAND USE DISTRICTS

Section 11. ESTABLISHMENT OF DISTRICTS. For the purposes included in Section 3, Statement of Purposes, the Town is hereby divided into the following districts:

R - Rural District

H - Hamlet District

RP - Rural Place District

PD - Planned Development District

RC - Resource Conservation District

Section 12. LAND USE DISTRICT MAP. District boundaries are as shown on the map entitled "Town of Brasher - Land Use Districts", which accompanies, and which, with all explanatory matter, is hereby made a part of these Regulations.

Section 13. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Land Use Districts map, the following shall apply:

- A.** Boundaries indicated as approximately following the center lines of roads, highways or streets shall be construed to follow the center lines;
- B.** Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- C.** Boundaries indicated as approximately following platted lot or property lines shall be construed as following such lot or property lines;
- D.** Boundaries indicated as following the boundary of wetlands for the boundary of flood hazard areas shall be construed to be the official boundary as determined by the New York State Department of Environmental Conservation and/or the Federal Emergency Management Agency.
- E.** Boundaries indicated as approximately following Town limits shall be construed to follow such limits.
- F.** Where features existing on the ground are at variance with those shown on the Land Use Districts Map, or in circumstances not covered by items A through E above, the Board of Appeals shall interpret the district boundaries.

ARTICLE III

DISTRICT REGULATIONS

Section 14.

RURAL DISTRICT (R)

A. DESCRIPTION. The area within this district has been identified as viable for continued agricultural and low density rural residential and outdoor recreational use and is protected from detrimental development because of soil type and susceptibility to seasonal high groundwater and is generally beyond the urbanized areas.

B. PURPOSE. The Rural District is intended to provide an area for continued agricultural, low density residential, and recreational development. Large lot sizes will provide safeguards against public health problems due to poorly performing septic systems resulting from the difficult soils.

C. PERMITTED USES. Permits for the following new uses shall be issued by the Code Enforcement Officer upon evidence a proposal will meet minimum lot dimension requirements.

- Agriculture
- One-and two - family dwellings, including modular homes and camps
- Mobile home, and mobile home as an accessory use, subject to the provisions in Article V, Section 29
- Accessory structure or use

D. USES REQUIRING A SPECIAL PERMIT. The following uses are permitted subject to the special permit standards and requirements listed in Articles IV, VI, VII or VIII. Special Permits are issued by the Enforcement Officer after review and approval by the Town Planning Board.

- Agribusiness, both wholesale and retail
- Animal hospital, kennel, riding stable, livestock
- Auto service and repair, body shop
- Campground, golf course, and other, similar, recreational use.
- Commercial Excavation and mining of topsoil or subsurface deposits
- Commercial Storage
- Fuel oil storage facilities
- Home occupation
- Junkyard and salvage operation
- Light Industry, manufacturing, or assembly
- Lumber or feed sales and storage
- Mobile Home Park
- Public and semi-public buildings and grounds
- Places of public assembly, such as social clubs and churches
- Public or private utility
- Sawmill
- Shooting Range
- Slaughterhouse
- Solar energy facilities and conversion systems
- Structures and uses accessory to those listed above
- Vacation Rental
- Welding Shop

E. Rural District Lot and Yard Specifications				
Use	Minimum Lot Size	Minimum Yard Dimensions		
		Front	Side	Rear
Accessory use or structure	Apply standards for principal use			
Agribusiness	2 acres	75'	20'	25'
Agriculture	10 acres	N/A		
Animal hospital, kennel, riding stable, livestock	5 acres	75'	20'	25'
Auto service and repair	1 acre	75'	20'	25'
Auto body shop, welding shop	2 acres	75'	20'	25'
Campground, recreation area, golf course	As determined by Planning Board			
Commercial excavation and mining, slaughterhouse, fuel oil storage facilities	5 acres	As required in Article V, Section 29		
Commercial storage	As required in Article VI, Section 32			
Home occupation	Apply standards for dwelling			
Junkyard and salvage operation	20 acres	As required in Article V, Section 29		
Light industry, manufacturing, assembly, sawmills	2 acres	75'	25'	25'
Lumber or feed sales and storage	2 acres	75'	25'	25'
Mobile home, and mobile home as an accessory unit	30,000 sq. ft.	60'	20'	25'
Mobile home park	As required in Article V, Section 29			
One family dwelling	30,000 sq. ft.	60'	20'	25'
Places of public assembly, such as social clubs and churches	2 acres	75'	25'	25'
Public and semi-public buildings and grounds	2 acres	75'	20'	25'
Public or private utility	As determined by Planning Board			
Shooting range	10 acres	As required in Article VII, Section 33-35		
Solar energy system	As required in Article VIII, Sections 40 and 42			
Two family dwelling	1 acre	60'	20'	25'
Vacation rental	Apply standards for dwelling, and as required in Article V, Section 29			

Notes:

Minimum lot size assumes that a satisfactory percolation test as well as other sanitary and parking requirements can be met.

Some parcels and soil types may require larger lots, as determined by the Planning Board.

Section 15.

HAMLET DISTRICT (H)

A. PURPOSE. To provide for more intensive residential and commercial uses where municipal services are available, or on soils suitable for such intensive use.

B. PERMITTED USES. Permits for the following new uses shall be issued by the Code Enforcement Officer upon evidence a proposal will meet minimum lot dimension requirements:

- One - and two-family dwellings, including modular homes, double wide trailers on permanent foundations.
- Accessory structures or uses

No permits will be issued for new single wide mobile home sites in the hamlet districts.

C. USES REQUIRING A SPECIAL PERMIT. Permits shall be issued by the Code Enforcement Officer for each use listed below by direction of the Town Planning Board.

- Bar or tavern
- *Place of public assembly* and fraternal club
- Commercial storage
- Drive-in restaurant
- Fire station
- Gasoline station, garage, auto wash, automobile service and repair
- Heating, plumbing, electrical supplies and repairs and similar businesses
- Home occupation/profession
- Hotel, motel, restaurant
- Livestock as accessory use
- Mobile home park
- Multi-family dwelling
- Nursery school I day care center
- Public or private utility structure or use
- Professional or business office
- Replacement of existing, single wide mobile home
- Retail store
- Vacation rental

D. Hamlet District Lot and Yard Specifications				
Use	Minimum Lot Size	Minimum Yard Dimensions		
		Front	Side	Rear
Accessory structure or use	Apply standards for dwelling			
Bar or tavern	1 acre*	75'	25'	25'
Church or fraternal club	2 acres*	75'	25'	25'
Commercial storage	As required in Article VI, Section 32			
Drive-in restaurant	2 acres*	75'	25'	25'
Fire station	1 acre	60'	20'	30'
Gasoline station, garage, auto wash, automobile repair	1 acre*	75'	25'	25'
Heating, plumbing, electrical supplies and repairs, etc.	2 acres*	75'	25'	25'
Home occupation/profession	Apply standards for dwelling			
Hotel, motel, restaurant	1 acre*	75'	25'	25'
Livestock as an accessory use	As required in Article V, Section 29-I			
Mobile home park	As required in Article V, Section 29-L			
Multi-family dwelling:				
3-10 units	1 acre plus 10,000 sq. ft. per unit beyond 2 units	60'	25'	25'
11+ units	1.5 acres plus 7,500 sq. ft. per unit beyond 10 units	60'	25'	25'
One- or two-family dwelling and replacement of existing mobile home by another mobile home	15,000 sq. ft.	60'	25'	25'
Professional or business office	1 acre	60'	25'	25'
Public utility or private utility structure or use	1 acre	60'	25'	25'
Nursery school/daycare center	2 acres	60'	25'	25'
Retail store	1 acre*	75'	25'	25'
Solar energy system	As required in Article VIII, Section 40			
Vacation rental	Apply standards for dwelling; also, as required in Article IV, Section 20			

Notes:

Without public sewer the acreage is doubled

Allowance may be made to line up the frontage of proposed buildings with the average of nearby buildings

*The Planning Board may require a larger minimum lot size if the nature and scale of the proposed use warrants it

Section 16.

RURAL PLACE DISTRICT (RP)

A. PURPOSE. To recognize and guide the development of the small places which have developed as mainly residential areas. There has not historically been a mix of uses in such places. The district encourages low density housing and allows for basic services.

B. PERMITTED USES. Permits for the following new uses shall be issued by the Code Enforcement Officer upon evidence a proposal will meet minimum lot dimension requirements:

- One- and two- family dwellings, including modular homes
- Mobile home
- Accessory structures and uses

C. USES REQUIRING A SPECIAL PERMIT. Permits shall be issued by the Code Enforcement Officer for each use listed below by direction of the Town Planning Board after a public hearing held in the affected rural place, if practical:

- Bar or tavern
- *Cemetery*
- Convenience-type retail store which may include gasoline sales
- Home occupation
- Places of public assembly, such as social clubs and churches
- Solar energy facilities
- Vacation Rental

D. Rural Place District Lot and Yard Specifications				
Use	Minimum Lot Size	Minimum Yard Dimensions		
		Front	Side	Rear
Accessory structure or use	Apply standards for dwelling			
Bar or tavern	1 acre*	75'	25'	25'
Cemetery	As required in Article V, Section 29			
Convenience store, including gas sales	30,000 sq. ft.	75'	25'	25'
Home occupation	Apply standards for dwelling			
One-family dwelling and mobile home	30,000 sq. ft.	60'	15'	25'
Place of public assembly	1 acre*	75'	25'	25'
Solar energy system	As required in Article VIII, Section 40			
Two family dwelling	1 acre	60'	15'	25'
Vacation rental	Apply standards for dwelling, and as required in Article V, Section 29			

Notes:

*The Planning Board may require a larger minimum lot size if the nature and scale of the proposed use warrants it

Section 17.

PLANNED DEVELOPMENT DISTRICT (PD)

A. PURPOSE. Residential, Commercial, or Industrial development is allowed in the Town in a "Floating District."

1. The purpose of the Planned Unit Development shall be:
 - a. to provide for new residential, commercial, or industrial districts in which economies of scale or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of the Zoning Regulations.
 - b. to ensure that regulations of this section are so interpreted and applied that the residents or occupants of the PUD will benefit and that the residents or occupants of adjacent properties will be protected.

2. Projects for a Planned Unit Development may be established in accordance with the procedure specified as follows:

Application for creation of a Planned Development District shall be made to the Town Board. This involves approval of the development plan and an amendment to the Town Zoning Map. The applicant shall furnish basic data pertaining to the boundaries of the proposed district, existing zoning, topography, drainage and soil conditions, existing uses, and such preliminary plans as may be required for an understanding of the proposed development. The Town Board shall refer the application to the Planning Board for preliminary review within ten (10) days after receipt of the application.

B. SPECIFICATIONS.

1. A Planned Residential District shall have a minimum area of three (3) acres.
2. A Planned Commercial or Industrial District shall have a minimum area of five (5) acres.
3. The calculation of area for a planned district shall not include easements, existing parks, existing streets, or otherwise dedicated land; water areas in excess of five (5) percent of the minimum gross acreage; or land undesirable by reason of topography, drainage, or adverse subsoil conditions.

C. PLANNING BOARD REVIEW OF PLANNED UNIT DEVELOPMENT.

The Planning Board shall review any Planned Unit Development application and may require such changes in the preliminary plans as are found to be necessary to meet the requirements of this Local Law to protect the established or permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. In reaching its decision on the proposed application and/or changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:

1. The existing character of the neighborhood.
2. The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity.
3. The pedestrian circulation and open space in relation to the structures.

4. The traffic circulation features of the proposed district and the amount, location, and access to automobile parking areas and loading areas.
5. The height and bulk of buildings.
6. The proposed location, type, and size of display signs, driveways, and landscape features.
7. The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
8. Storm drainage and sanitary waste disposal in and adjacent to the development.

D. PRELIMINARY APPROVAL. The Planning Board shall approve, approve with modifications, or disapprove the application and shall report its findings to the Town Board within forty-five (45) days following the date of referral to the Planning Board by the Town Board. Planning Board approval of the preliminary plans shall not constitute or imply a permit for or approval of construction plans.

In the event the Planning Board disapproves a building project within a Planned District or approves with modifications which the applicant is unwilling to make, an affirmative vote of not less than a majority plus one vote (four out of five) of the membership of the Town Board shall be required to approve the said project.

E. PUBLIC HEARING. The Town Board shall hold a public hearing on any proposal to create or change a Planned Development district, with public notice as provided by law and, as in the case of any amendment to the Zoning Regulations, to establish and define the type and boundaries of the Planned District after a public hearing.

F. REFERRAL TO COUNTY PLANNING BOARD. The Town Board shall, before taking action on proposed Planned Development Districts which fall under Section 239-m of General Municipal Law, refer the application to the St. Lawrence County Planning Board.

Section 18.

RESOURCE CONSERVATION DISTRICT (RC)

A. PURPOSE. To protect special or unique natural resources; to promote the use of scenic resources for the pleasure and welfare of the public; and to safeguard people and property against damage due to natural causes such as flooding.

B. PERMITTED USES. The district consists of wetlands regulated by the New York State Department of Environmental Conservation and Flood Hazard Zone A areas as designated by local law number 1 of 1987. These public agencies may restrict the use of such areas. Permits, when required by the regulating agencies, are issued by them, and not by the Town.

ARTICLE IV

GENERAL STANDARDS

The following standards are generally applicable throughout the Town.

Section 19.

LOT AREA, LOT WIDTH AND YARDS

- A. No land use shall be hereafter commenced on a lot with a street frontage of less than one hundred feet (100') unless otherwise provided in this local law.
- B. Yards for principal buildings shall equal or exceed the standards set forth for each district.
- C. Accessory buildings shall not be constructed nearer to the street line than is permitted for principal buildings, nor nearer to any side or rear lot line than one-half the distance established for principal buildings.
- D. On every corner lot, there shall be provided on the side street a side yard for principal and accessory buildings equal in depth to the required front yard depth on said side street.
- E. In Rural or Rural Place Districts, a single-family dwelling may be erected on a lot of less than 30,000 s.f. and/or with a frontage of less than 100 feet if such lot was a lot of record at the time this Local Law became effective.
- F. If the alignment of existing buildings within one hundred (100) feet on each side of the lot in question and within the same block and district is nearer the street than the setback line above prescribed, any new building or structure may extend as near the right-of-way line as the existing alignment of buildings.

Section 20.

REDUCED LOT AREA

No lot shall be so reduced in area that any required yard (open space) will be smaller than that prescribed.

Section 21.

SEWAGE DISPOSAL SYSTEMS

Construction, alteration, repair or extension of any facility or part of a facility intended or used for disposal of residential sewage must comply with sewer district regulation if applicable, or with Appendix 75-A of the New York State Sanitary Code Administrative Rules and Regulations or with the Town of Brasher Sewer Ordinance. Non-residential sewerage systems must comply with "Standards for Waste Treatment Works - Institutional and Commercial Sewerage Facilities." "Appendix 75-A" and "Standards for Waste Treatment Works" are hereby adopted by the Town of Brasher. A permit is required for the foregoing activities prior to commencement of work, and a certificate of compliance must be issued prior to use. The following additional regulations apply:

- A. It shall be unlawful for any person to use or maintain any individual sewage disposal system that is not in good operational order, is a source of pollution to any of the surface waters of the State, permits the seepage of sewage to groundwater, or interferes with the enjoyment or use of neighboring properties.
- B. It shall be unlawful for any person to abandon the use of a septic tank or seepage pit, unless at the time of such abandonment, the septic tank is filled with clean, granular soil or inert, free-flowing, dense material.

- C. It shall be unlawful for any person to use an individual sewage disposal system for disposal of waste chemicals, petroleum derivatives or hazardous or toxic materials generally.

Section 22.

OFF-STREET PARKING AND LOADING

A parking space shall be not less than ten (10) feet by twenty (20) feet, exclusive of access ways and driveways. This exclusion does not apply to one- and two-family dwellings or to mobile homes. All principal buildings and uses shall provide adequate off-street parking in accordance with the standards listed below. These standards are minimum requirements. The Town Planning Board may impose additional standards.

- A. One and two-family dwelling, mobile home: two (2) parking spaces for every dwelling unit.
- B. Multi-family dwelling: three (3) parking spaces for every 2 dwelling units.
- C. Home occupation: one (1) parking space plus one (1) space for every 300 square feet of space devoted to the use. These standards are in addition to those for the residential use.
- D. Hotel, motel, bed and breakfast: 1.25 spaces for every guest room.
- E. Restaurant, bar, tavern: twenty (20) parking spaces for every 1,000 square feet of business area (including kitchen, bar, storage areas, etc.).
- F. Retail store, professional or business office: one (1) parking space for every 150 square feet of business area.
- G. Automobile service and repair or body shop: one (space) per employee per shift plus three (3) spaces per service bay.
- H. Church, theater, club or other area of public assembly: one (1) space for every three seats. Clubs which may serve food and beverages will be required to meet the standards for restaurants/taverns.
- I. Lumber, feed sales and storage, heating, plumbing, electrical supplies and repairs, light industry and manufacturing, and other such industrial, warehouse, wholesale or large retail uses: one (1) space per employee, plus three (3) parking spaces for every 1,000 square feet of business area.
- J. Municipal building, library, charitable institution, and similar places of public assembly: one (1) parking space for each full-time employee plus 1 for every three (3) seats in areas of public assembly.
- K. Riding stables, animal hospital, kennel: one (1) space for each employee plus a minimum of six (6) additional spaces for client and/or customer parking.
- L. Trucking operations, fuel oil storage facilities, gasoline stations
- M. Unspecified uses: to be determined by the Town Planning Board.

Section 23.

FENCES AND VISIBILITY AT INTERSECTIONS

- A. Except where otherwise required for visibility at intersections, solid fences are allowed in required side or rear yards in all districts in which residences are allowed, subject to the following:
 - 1. The height shall not exceed six feet.
 - 2. Solid fencing shall not be located on or within two feet of any lot line.
 - 3. A finished side must face the adjacent lot if the fence is within the yard required in the district.

- B. On a corner lot no fence, wall, hedge or other structure or planting more than three and one-half (3 1/2) feet in height above the surface of the road shall be erected, placed or maintained within the triangular area formed by the intersecting street right-of-way lines at points which are thirty (30) feet distant from the point of intersection measured along said street lines.

Section 24.

SCREENING FOR NON-RESIDENTIAL USES

In any case where a commercial or industrial use shall be contiguous to and abut upon any residential use, conforming or nonconforming, the Town Planning Board may impose additional standards.

Section 25.

BUILDING HEIGHT

Height of buildings is not explicitly limited by this Local Law. Height may be regulated as part of a site plan review where height regulation achieves a purpose of such special process.

Section 26.

SIGN REGULATIONS

- A. No sign, billboard, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except under permit as expressly set forth in this local law.
- B. Billboards shall be authorized only after design and location approval granted by the Planning Board after public hearing and renewable annually (Subject to State Regulations)
 - 1. In considering an application for a billboard permit, the Planning Board shall consider the matters of safety (sight distance, distraction) and aesthetics.
 - 2. No billboard shall be higher than twenty (20) feet nor larger than two-hundred (200) square feet.
 - 3. Billboards are prohibited in the following districts: H, PD, RC, RP.
 - 4. All billboards shall be a minimum of 300' from the nearest billboard and from the boundary of any district in which they would be prohibited.
 - 5. All billboards and environs shall be kept in good condition, and discarded sign material shall be removed from the site.
 - 6. All billboards shall be removed by the owner within thirty days following expiration of the permit.
- C. Signs for Accessory Businesses
 - 1. Signs for home occupations shall not be lighted nor be larger than eight (8) square feet nor more than eight (8) feet above the ground at maximum height nor more than one (1) in number.
 - 2. Signs for other accessory businesses shall not be larger than thirty-two (32) square feet nor more than eight (8) feet above the ground at maximum height nor more than two (2) in number.
 - 3. Free standing signs may be located within required front yards but not closer than twenty-five (25) feet from the pavement of the roadway.
 - 4. The following types of signs or artificial lighting are prohibited:
 - a. Signs which compete for attention with or may be mistaken for a traffic signal.
 - b. Artificial lighting which directly illuminates an abutting property.

D. Signs for Principal Business Uses

1. No sign shall be higher than twenty (20) feet from the general elevation of the site.
2. No general advertising signs unrelated to the permitted use of the premises are allowed.
3. No sign shall project into or over a public right-of-way.
4. No sign shall be attached to a public utility pole or traffic control structure.
5. A maximum of two (2) signs per site is permitted, not to exceed sixty-four (64) total square feet.

E. Electronic Reader Board Signs

Each business/institution shall be allowed one electronic reader board (ERB) sign subject to the following conditions.

1. *Only one ERB sign is permitted per parcel.*
2. *The minimum duration of a message must be 8 seconds**
3. *Transition time between messages must be instantaneous**
4. *Maximum brightness is 5,000 cd/m² (daytime) and 280 cd/m² (nighttime)*
5. *All ERB signs must be put in a static mode from 11:00 p.m. to 6:00 a.m.*

F. Temporary Signs

Temporary unlighted signs erected by and for non-profit organizations such as churches, American Legion, Scouts, political organizations, etc., advertising suppers, banquets, benefits, fundraising sales, etc., may be erected for a forty (40) day period without permit in any district, provided that the sign will not constitute a traffic hazard, the property owner has given permission, and it is removed within forty-eight (48) hours after the advertised event. These provisions shall also apply to the occasional public sale of household items.

Section 27.

DISPOSAL OF JUNK, WASTE OR REFUSE

No land shall be used for the open storage, dumping or disposal of refuse, whether or not used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

Temporary storage of such materials is permitted within buildings or in solidly screened areas not less than 100 feet from any public street. No private land area shall be used for final disposition of any solid waste except by owner of said property generated on site.

ARTICLE V

SPECIAL PERMIT STANDARDS AND REQUIREMENTS

Section 28.

GENERAL STANDARDS FOR SPECIAL USES

All special uses are subject to the following general standards and, in addition, those special uses which are included in Article V shall have additional regulations as stipulated in that Article. For the application and review process see Article IX Sections 48 and 49.

- A.** General Provisions - Special permits are issued by the Enforcement Officer after approval by the Planning Board. Each specific use shall be considered as an individual case.
- B.** Required Site Plan - A site plan for the proposed use shall be submitted with an application for a special permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of these Regulations. Required submissions are listed in Article IX Section 48.
- C.** Expiration - A special permit shall expire if the special use or uses shall cease for more than one year for any reason or if construction has not commenced or continued for a period of one year.
- D.** Standards Applicable to all Special Uses
 - 1. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the locations of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district; and the location, nature, and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 - 2. Lot size, site design and special conditions shall insure that operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, odors, glare, vibrations, or flashing lights, at the lot line, than would be the operations of any permitted use. Screening shall be required where deemed appropriate by the Planning Board.
 - 3. Special uses shall comply with Article V of these regulations.

Section 29.

SPECIFIC STANDARDS FOR SPECIAL USES

- A.** Animal Hospital, Slaughterhouses, Riding Stables, Kennel
 - 1. Minimum lot size shall be five (5) acres.
 - 2. All structures shall be located at least 200 feet from any adjacent property which would permit a residential use.
- B.** Cemetery, Recreation Area, Nursery School / Day Care Center, Campground (per NYS Health Code)
 - 1. The proposed use will not interfere with the established character of the neighborhood nor the peaceful enjoyment of adjoining residential uses. In particular, this shall mean that traffic, light, dust, odor and noise likely to be generated by such facility will not unduly interfere with adjoining uses.
 - 2. The location and arrangement for ingress and egress shall be so designed as to minimize traffic congestion and hazard.

3. Adequate and suitably located off-street parking shall be provided in accordance with the requirements of these Regulations.
4. Such site amenities and landscaping as are needed to maintain or improve the visual character of the area and to provide a buffer between any adjoining use requiring such consideration shall be provided as required by the Planning Board.

C. Commercial Excavation and Mining

1. Upon receipt of a notice addressed to the Town Supervisor from the Department of Environmental Conservation (DEC) regarding a complete application for a mining permit, the Town Supervisor or Town Clerk shall contact and inform the DEC of the date the notice was received, and forward copies of the notice and completed application to the Town Planning Board for review and final action. The New York State Mined Land Reclamation Law supersedes all other state and local laws related to mining and reclamation, and provides the Town to schedule a public hearing, take action, and respond within 30 days of receiving the DEC notice.
2. Upon taking final action, the Town Planning Board shall submit written comments to the DEC and applicant that state: whether mining is permitted at the proposed location; the Planning Board's decision; and the recommended conditions of approval in the DEC mining permit regarding ingress and egress to locally controlled roads; routing on locally-controlled roads, setbacks, barriers, dust control and hours of operation.
 - a. Whether mining is permitted at the location.
 - b. Ingress and egress to locally-controlled roads: Truck access to any excavation site shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties. At a minimum, there shall be 500 feet of sight distance at the entrance to the facility. In order to prevent dust, such entrances shall be kept wet, treated with chemical dust deterrents, or paved. All ingress and egress points into the site shall be secured from unauthorized access or trespass.
 - c. Routing of mineral transport vehicles on locally-controlled roads: In consultation with the Town Highway Superintendent, necessary improvements to Town roads used as haulage ways shall be based on the width, bearing capacity and type of road surface of all Town roads that are proposed to be used by truck traffic to or from the site, and based on the number and weight of the vehicles entering and existing the property.
 - d. Comment as requested on the requirements and conditions as specified in the DEC permit concerning setbacks from property lines and rights-of-way, and fabricated or natural barriers designed to restrict property access (if needed), including type, length, height and location.
 - e. Dust control: All dust resulting from excavation, processing or use of heavy equipment including trucks shall be controlled by using water, suitable mechanical, and approved chemical control methods identified in the DEC mining permit application. Oils or petroleum products shall not be used in the site or on any haul-road to suppress dust. Visible dust shall not be allowed to leave the permitted area.

- f. Hours of operation: Operation shall be limited between the hours of 6:00 am to 6:00 pm, except when mitigating natural disasters or following prior approval from the Planning Board for specific projects that are restricted to night operations.
 - g. Conformance with Plans: All activities authorized by the DEC permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Mining operations shall maintain a copy of a current DEC permit at the Town Offices. Delinquency of maintaining a current DEC permit after a period of one year constitutes abandonment.
 - h. Enforcement of reclamation requirements contained in the DEC permit: A plan for restoration and rehabilitation of a commercial earth excavation area or pit shall accompany the permit and shall be in conformity with the applicable provisions of the State Mined Land and Reclamation Act.
 - i. Bond, Surety to Remain in Force: A copy of a required reclamation bond or other surety, in an amount determined by the DEC, shall be submitted to the Town, and shall be maintained in full force and effect. Such a bond or other surety shall not be terminated until the reclamation of the mined area is approved by the DEC in writing.
- D. Gasoline Station, Garage, Auto Wash, Automobile Service and Repair**
- 1. The minimum lot area shall be 1 acre.
 - 2. Lot frontage on any street shall be at least 150 feet.
 - 3. Such use shall not be located within 200 feet of any lot occupied by a residence, school, hospital or religious institution. Measurement shall be made between the nearest respective lot lines.
 - 4. Bulk fuel shall be stored in accordance with Part 1002 of the New York State Uniform Fire Prevention and Building Code at least 35 feet from any property line.
 - 5. No exterior storage of dismantled vehicles, vehicle parts or salvage materials shall be permitted for a period of more than 10 days.
 - 6. No exterior storage of disabled vehicles shall be permitted for more than 30 days.
- E. Home Occupation/Profession**
- 1. The home shall continue to appear as a residence.
 - 2. The Home Occupation/Profession shall not cause a significant increase in traffic in the vicinity.
 - 3. No offensive noise, vibration, glare, fumes, odors or electrical interference shall be produced.

- F. Hotel, Motel, Restaurant, Bar, Tavern, Convenience store
1. Minimum lot size shall be one (1) acre. The Planning Board may require a larger minimum lot area if necessary, to accommodate the nature and scale of the proposed use.
 2. Such use shall be fenced adequately or screened from any adjacent residential property and lighting shall be directed away from adjacent uses and dwellings.
 3. Ingress and egress shall be designed to minimize traffic congestion and adequate off-street parking shall be provided in accordance with Article V of these Regulations.
- G. Junkyard (Must conform to N.Y.S. General Municipal Law and N.Y.S. Highway Law)
1. Junkyards must meet all applicable, current standards of the State.
 2. Minimum lot size shall be 20 acres.
 3. Such uses shall not be located within 100 feet of any road right-of-way and 200 feet from any other property line or lake, river or stream.
 4. All junkyard operations shall be fenced and screened from public view and from adjacent properties by means of vegetation, earth berm, or solid fencing.
- H. Light Industry, Manufacturing or Assembly; Lumber or Feed Sales/Storage, Heating, Plumbing, Electrical Supply and Repair, Welding Shop, Fuel Oil Storage Facility, Saw Mill
1. Minimum lot size shall be 2 acres. The Planning Board may require a larger minimum lot area if necessary, to safely accommodate the nature and scale of the proposed use.
 2. All structures shall be located at least 100 feet from any adjacent residential use or property which would permit a residential use. The Planning Board may require screening from adjacent properties, as needed.
 3. All fabrication or other processes activities shall be conducted within an enclosed building and there shall be no exterior storage of materials within ten feet (10') of any lot line.
 4. There shall be no on-premises disposal of wastes.
- I. Livestock as an Accessory Use in Hamlet District
- Livestock may be kept in the Hamlet District on lots greater than 30,000 sq. ft. as long as there is 1.5 acres additional per animal and accumulations of manure and animal shelters are located outside Sewer District boundaries, except on active farms.

J. Mobile Home

It is the intent of these zoning regulations to recognize the modern mobile home as an alternative source of affordable housing outside the hamlets of Brasher Falls and Helena. However, because mobile homes may present special problems which are uncharacteristic of conventional housing, the location and maintenance requirements of this subsection are designed to ensure that mobile homes are safe and compatible with surrounding uses. Mobile homes may be located on individual lots or parcels of land, where permitted, subject to the specific requirements of this subsection. A mobile home must meet all of the following standards:

1. The mobile home shall be occupied only as a single-family residence.
2. Prior to installation on a lot in the town mobile homes must bear a certifying seal that the unit meets standards in effect at the time of manufacture. Installation of units not bearing such a seal is prohibited. Non-certified units located within the Town prior to the effective date of this local law may not be relocated beyond the borders of a lot of record. Relocation of a pre-existing unit to a new lot is considered equivalent to a relocation from outside the Town.
3. The mobile home shall have a sewage disposal system which meets the requirements of Article IV Section 21.
4. The mobile home shall conform with all of the area requirements for a one family dwelling.
5. The bottom portion of the mobile home shall be enclosed with masonry, metal, wood or other suitable 'skirt', properly ventilated, within sixty (60) days after location in the mobile home park. Notification of such requirements shall be the responsibility of the mobile home park operator for owner-occupied units. The mobile home should be either permanently attached to a masonry foundation extending to below the frost line or must be mounted on a concrete pad at least four inches in thickness poured over a drained sub-base of gravel or crushed stone whenever practical. Tie-downs are required for all units.

K. Mobile Home as an Accessory Use

A mobile home may be located on a residential lot outside the Hamlet District as an accessory dwelling unit for family members or hired help on farms, subject to the following restrictions:

1. The mobile home shall be located in conformance with the yard and parking requirements of a one-family dwelling.
 - a. The mobile home shall have an adequate supply of water and a sewage disposal system which conforms to Article IV, Section 21.
 - b. The exterior of the accessory mobile home and the parcel of land on which it is located shall be maintained in a neat, orderly and presentable condition. Failure to maintain the property may result in revocation of the special permit.

2. A mobile home may be located as an accessory dwelling unit for a caretaker, watchman or security guard on a non-residential lot. The Planning Board may impose conditions on the location of such mobile homes to protect neighboring uses. Sanitary provisions must comply with these regulations.

L. Mobile Home Park

Mobile Home Parks may be located in the Rural (R) and Hamlet (H) Districts subject to the specific requirements of this subsection.

1. A mobile home park shall have a minimum lot size of 5 acres.
2. Within the mobile home park, minimum site area for individual mobile homes shall be 7,500 square feet, and within the individual site, yard requirements shall be as follow:

front yard	20 feet
side yard (each)	15 feet
rear yard	15 feet

3. Sanitary Facilities - An adequate water supply and sewage disposal system shall be provided for all mobile home lots within the park and shall be approved by the New York State Department of Health and the New York State Department of Environmental Conservation, as required by State Law. At a minimum, sanitary provisions must comply with these regulations as they apply to individual mobile home installations.
4. Utility Installations - All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the New York Board of Fire Underwriters and the local utility company. Whenever possible, electrical transmission and other utility lines should be placed below the ground.
5. Fuel tanks, where used, shall be placed at the rear of the mobile home and at a distance at least five (5) feet from any exit and shall have a safety shut-off at the tank.
6. Roadways - No individual mobile home, within a mobile home park, shall have access to an existing street. Internal roadways within a mobile home park shall have a minimum right-of-way of 50 feet. Roadways must be drained so as to avoid standing water.
7. Off-Street Parking - Two off-street parking spaces shall be provided for each mobile home lot in the mobile home park outside the 50-foot right-of-way. The mobile home park must otherwise comply with off- street parking requirements as set forth elsewhere in these regulations.
8. Recreation Area - Open space of 10 percent of the land area, suitable for recreation and play purposes, shall be designated on the site plan and shall be an integral part of any proposed mobile home park.

9. Improvements - The bottom portion of the mobile home shall be enclosed with a masonry, metal, wood or other suitable 'skirt' properly ventilated, within sixty (60) days after location in the mobile home park. Notification of such requirements shall be the responsibility of the mobile home park operator, for owner-occupied units. The mobile home should be either permanently attached to a masonry foundation extending to below the frost line or must be mounted on a concrete pad at least four inches in thickness poured over a drained sub-base of gravel or crushed stone whenever practical. Tie-downs are required for all units.
10. Sidewalks, lighting and landscaping shall be in keeping with surrounding development, the unique features of the site, and the health and safety of the occupants of the mobile home park as determined by the Planning Board. Attractive site development and landscaping shall be a consideration in determining the adequacy of the proposed mobile home park.
11. Each mobile home shall be occupied only as a single-family residence.
12. Prior to installation in a mobile home park mobile homes must bear a certifying seal that the unit meets standards in effect at the time of manufacture. Installation of units not bearing such a seal is prohibited.

M. Multi-family Dwelling

1. Multi-family dwellings are permitted only if the units are serviced by a municipal sewer system or if adequate sewage treatment can be provided on-site to accommodate the number of persons who will reside in the dwellings. The maximum gross density allowable for multi-family dwellings shall not exceed the standards in Article III Section 15.
2. Applications submitted for special permit approval shall include specific plans for sewage disposal, water supply, storm drainage, landscaping and lighting.
3. Adequate off-street parking shall be provided in accordance with the requirements of Article IV Section 22 of these Regulations.

N. Public or Private Utility

1. Such facilities shall not be located on a roadway of predominantly residential use unless no other site is available, and shall be so located as to necessitate minimal travel of service vehicles over such roadways.
2. Adequate fences, barriers and other safety devices shall be provided to provide protection and screening for adjacent uses, as specified by the Planning Board.

O. Vacation Rental

1. The dwelling shall not exceed five guest rooms. The application shall include a floor plan that depicts the location of each guest room.
2. The site plan shall depict the following off-street parking: one space per dwelling; one per non-resident employee; and one per guest room.
3. The site plan shall depict any outdoor features such as courtyards, fire pits, gazebos, swimming pools, hot tubs, etc. that may be used by guests and note their proximity to adjacent uses. The Planning Board may require fencing and landscaping to minimize impacts to neighboring uses.

4. If the business and property will be marketed and rented as a venue for gatherings such as weddings, receptions, reunions, graduation parties, etc. the site plan shall depict areas sufficient for temporary parking and a location for loading/unloading to accommodate such activities.
5. The site plan shall depict any square footage that may be used for accessory retail activity (e.g. antique furniture, arts and crafts, maple syrup, craft beers and wines, honey, baked and canned goods, etc.) that will be sold to guests and general public, and adequate access, egress, and parking to accommodate this activity. Not more than 20% of the gross floor area of the structure shall be dedicated to such retail use.
6. The use shall adhere to screening, fencing, lighting and signing requirements specified elsewhere in this code.

ARTICLE VI

COMMERCIAL STORAGE

Section 30.

APPLICATION FOR PERMIT

- A. Every person, firm, corporation, or legal entity who wishes to place a storage container at any location within the Town of Brasher shall be required to obtain a permit therefor from the Code Enforcement Officer in any of the following circumstances:
 - 1. When the container is manufactured and designed to be transported, serviced, and/or manipulated by motorized or mechanical apparatus, except when such container is designed exclusively for frequent curbside pickup as part of a residential use.
 - 2. When the container is placed in whole or in part on public property.
 - 3. When the container is placed on private property for more than three months. (Containers placed at locations for less than three months must be reported and registered with the Code Enforcement Officer.
- B. Obtaining said permit shall be the responsibility of the person, firm, corporation or legal entity that owns or occupies the premises on which the container is to be placed, or any person, firm, corporation or legal entity engaged in the business of providing storage containers.
- C. Application for such permit shall be made on forms provided by the Code Enforcement Officer. Each applicant shall state:
 - 1. The name, address and phone number of the applicant, and, if the applicant is engaged in the business of providing storage containers, the name, address, and phone number of the person, firm, corporation or legal entity to whom each container will be provided.
 - 2. If the applicant is an agent, the name, address and phone number of the person, firm, corporation or legal entity that he or she represents.
 - 3. The area or areas within the Town where the applicant wishes to place one or more storage containers.
 - 4. A detailed description of each storage container applied for, including each container's height, weight, square footage, length, and width.
 - 5. The location of each proposed storage container, including a drawing or map showing the location of nearby buildings, sidewalks, streets, alleys, and other public ways.
 - 6. The period of each storage container shall remain in place.
 - 7. Any other information shall be required by the Code Enforcement Officer to properly and adequately review the application.
- D. Each application shall be accompanied by the required permit fee.
- E. The Code Enforcement Officer shall have the authority to reject any application that presents, in his or her judgement, a dangerous or hazardous situation to any person or persons or to the public. In rejecting any such application, the Code Enforcement Officer shall state the reasons for rejection.

- F. Any person, firm, corporation or legal entity engaged in the business of providing storage containers shall contain proof that the applicant has in effect commercial general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, naming the Town of Brasher as additional insured. Each applicant shall also execute a hold harmless agreement indemnifying the Town against loss, including costs and expenses, resulting from injury to person or property as a direct or indirect result of his or her enterprise.
- G. Every person, firm, corporation or legal entity engaged in the business of providing storage containers shall file a letter with the Code Enforcement Officer indicating its business office and telephone number, and shall inform the Code Enforcement Officer of the locations of all storage containers he or she provides that are subject to permit under this chapter.

Section 31.

REMOVAL; PENALTIES FOR OFFENSES

- A. The Code Enforcement Officer may cause any storage placed in violation of this chapter or in violation of the terms of any issued permit to be removed. Such removal may be affected without the notice when the Code Enforcement Officer determines, in his or her sole discretion, that the container presents an imminent danger or hazard to a person or persons or to the public. The Code Enforcement Officer shall, to the extent practicable, notify the permittee of the container to be removed. If the permittee cannot be located despite reasonable efforts, or if the permittee fails or refuses to remove the container within a reasonable time, the Code Enforcement Officer shall have authority to remove the container, and may cause such removed container to be discarded or destroyed or sold at public auction.
- B. Any person who violates any provision of this Article shall, upon conviction, be subject to a penalty set in 4

Section 32.

DESIGN STANDARDS

The Planning Board, in reviewing the site plan for any proposed commercial or industrial conditional use application, shall consider its conformity to the Town of Brasher Comprehensive Plan and the various other plans, regulations and ordinances of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire Town shall be part of the review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets.

The Planning Board shall further consider the following specific factors:

- A. Building design and location. Building design and location shall be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, shall generally be placed along the edges and not in the middle of open fields. They shall also be sited so as to not protrude above tree tops or the crest lines of hills seen from public places and busy highways. Building color, materials and design shall be adapted to surroundings as opposed to adaptation of the site to the building or the building to an arbitrary national franchise concept.

- B.** Long building facades. Facades of more than 100 feet in length shall incorporate recesses and projections, such as windows, awnings and arcades, along 20% of the façade length. Variations on rooflines shall be added to reduce the massive scale of these structures and add interest. All facades of such a building that are visible from adjoining streets or properties shall exhibit features comparable in character to the front so as to better integrate with the community. Where such facades face adjacent residential uses, earthen berms planted with evergreen trees shall be provided. Loading docks, garbage dumpster facilities and other accessory facilities shall be incorporated in the building design and screened with materials comparable in quality to the principal structure. Sidewalks shall be provided along the full length of any façade with a customer entrance and integrated into a system of internal landscape-defined pedestrian walkways breaking up all parking areas.
- C.** Lighting and signage. The use shall not detract from the character of the neighborhood by producing excessive lighting or unnecessary sign proliferation. Recessed lighting and landscaped ground signs are preferred.
- D.** Drainage systems. Storm drainage, flooding and erosion and sedimentation controls shall be employed to prevent injury to persons, water damage to property and siltation to streams and other water bodies.
- E.** Landscape preservation. Trees, shrubs and other landscaping shall be used to buffer or soften a use in terms of visual or other impacts on adjoining property owners. Impacts on other Town residents and visitors, on whom the local economy often depends, shall also be considered. Existing landscape features such as stone walls, hedgerows, tree borders and individual large trees shall be retained for this purpose, and removal shall be limited to the area of building or driveway construction unless additional sight distance is required.
- F.** Driveway and road construction. Whenever feasible, existing roads onto or across properties shall be retained and reused instead of building new, so as to maximize the use of present features such as stone walls and tree borders and avoid unnecessary destruction of landscape and tree canopy. Developers building new driveways or roads through wooded areas shall reduce removal of tree canopy by restricting clearing and pavement width to the minimum required or safely accommodating anticipated traffic flows.

ARTICLE VII

SHOOTING RANGES

Section 33.

LEGISLATIVE FINDINGS

The Town Board finds that shooting ranges, by their very nature, pose a potential risk to public safety if not properly located, designed and constructed, and can also adversely impact public health, safety and welfare by virtue of their noise generation and other impacts on the environment. The Board further finds that protection of the public safety and the preservation of community character by controlling the adverse secondary impacts associated with shooting ranges is a legitimate governmental purpose and goal, and that this Board is appropriately exercising its authority to adopt appropriate land use controls to achieve these goals.

Section 34.

LEGISLATIVE INTENT AND PURPOSE

It is the purpose of this local law to establish particular standards for the issuance of special permits applicable to land uses involving the construction and/or expansion of shooting ranges in order to decrease risks to public safety, preserve the quality of life for residents, and protect and preserve the character of the Town.

Section 35.

DESIGN STANDARDS

- A.** Minimum lot size requirement for shooting ranges shall be ten acres.
- B.** No part of a shooting range shall be located within 200 feet of a property line, and no closer than one-half mile (2,640 feet) from an existing residential dwelling.
- C.** A shooting range shall be setback at least 200 feet from any wetland that is delineated in the Resource Conservation District.
- D.** Shooting ranges on waterfront lots are prohibited as they pose a health and safety hazard to persons who may live across the waterbody from the range.
- E.** Shooting ranges shall be oriented to take advantage of natural terrain and vegetation, to avoid watercourses and wetlands, to minimize the effects of glare from the sun and to minimize noise impacts and safety risks to adjoining property owners and those traveling on public roads.
- F.** Any portion of a shooting range that abuts a public road shall have a safety fence six feet in height erected along the entire portion of the perimeter of the shooting range that adjoins the highway. The fence shall be located not less than 30 feet from the edge of the highway right of way. A gate shall be erected to permit vehicular entry into the shooting range from the public road. The gate must contain an automatic closing and locking mechanism that requires a key or a code to open the gate each time someone enters or exits the premises. The gate must be kept locked at all times the shooting range is not open and under supervision of the owner/operator.

- G.** All shooting ranges shall be designed, constructed, maintained and operated in such a manner as to contain all bullets, shot, or other debris on the range facility, and in accordance with the recommendations set forth in the most recent edition of the "NRA Range Source Book" published by the National Rifle Association, and the most recent edition of "Best management Practices for Lead at Outdoor Shooting Ranges" published by the United States Environmental Protection Agency. Minimum design features shall include, but shall not be limited to:
1. Adequate backstop
 2. Adequate side berms
 3. Appropriate firing line covers/safety baffles
- H.** Shooting shall not occur before 9:00 a.m. Mondays through Saturdays, and no earlier than 10:00 a.m. on Sundays. All shooting shall cease not less than one hour prior to sunset.
- I.** Firearm types used at shooting ranges are restricted to rifles, shotguns, pistols and similar firearms. The use of fully automatic firearms and explosives is prohibited. The use of bows and crossbows shall also be permitted.
- J.** All firing line locations shall be located such that the sound levels generated by the discharge of firearms on the range does not at any time generate a sound level in excess of 90 dBA within 100 feet of the property line of the shooting range. Sound levels shall not exceed 85 dBA within 100 feet of the property line for more than eight hours out of any calendar day.
- K.** Warning signs shall be posted around the entire perimeter of the shooting range in 100-foot intervals, including on the security fence, identifying the premises as a shooting range and warning of lethal danger. The size and spacing of all such signs shall be so as to be readily visible to anyone within 100 feet of the range perimeter.
- L.** The owner/operator of the shooting range shall keep on file with the Town Clerk a current certificate of insurance indicating it has in force and effect general liability insurance coverage with coverage limits of not less than \$1,000,000 per occurrence for bodily injury and death, and not less than \$500,000 for property damage.
- M.** No shooting range shall operate except upon the issuance of a certificate of compliance issued by the Town of Brasher Code Enforcement Officer signifying the issuance of a special permit and compliance with the provisions of this section. The certificate of compliance must be renewed annually, and may be revoked at any time upon the determination of the Code Enforcement Officer that the shooting range is being operated in violation of the provisions of the special permit or the provisions of this section. A fee, as determined from time to time by resolution of the Town Board shall be applicable to the issuance of this certificate.
- N.** A condition of all certificates of compliance to operate a shooting range shall be that the operator maintain a continuous, permanent log in which all participants/users of the range shall sign in and out indicating the date and times of arrival and departure, and type of firearm(s) being used. This log shall be made available for inspection upon any reasonable request therefore by the Town Code Enforcement Officer and/or law enforcement officials.

- O. All applications for a special permit to establish or expand a shooting range shall be accompanied by a site plan drawn by a licensed design professional to an appropriate scale which includes the following:
 - 1. Property lines for any and all parcels upon which the range facility will be located, north arrow, drawn to scale, date, ownership information for the site, and all existing roads and structures within 1,000 feet of the site;
 - 2. Complete layout of all range facilities, including all buildings, shooting stations and other structures, firing lines, target areas, shot-fall zones or safety fans, backstops, berms and baffles;
 - 3. Such other information as the Planning Board may deem appropriate and relevant to determining compliance with the provisions of this section.

ARTICLE VIII

SOLAR ENERGY SYSTEMS

Section 36.

PURPOSE

The Town Board of the Town of Brasher enacted these regulations to advance and protect the public health, safety, and welfare of the Town of Brasher, including:

- A. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
- B. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
- C. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.
- D. Promoting the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary therefor.

Section 37.

FINDINGS AND DETERMINATION

- A. Solar Energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce the Town of Brasher's energy load. Energy generated from solar energy systems can be used to offset energy demand on the New York State power grid when excess solar power is generated.
- B. These regulations aim to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary thereof.
- C. Applications for the installation of solar energy systems that are reviewed by the Code Enforcement Officer and referred to the Town Planning Board for its review and action, may be approved, approved with conditions, or denied.

Section 38.

DEFINITIONS

Except as may be specifically defined below *and in Article I, Section 10*, all terms and phrases shall be as defined in the publication "A PLANNERS DICTIONARY", edited by Michael Davidson and Fay Dolnick; published by the American Planning Association, Planning Advisory Service Report Nos. 521/522, for this Local Law. Copies are available in the Town Clerk's Office, The Code Enforcement Officer's Office, The St. Lawrence County Planning Board's Office, and the Town Attorney's Office.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM. A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

COMMERCIAL SOLAR COLLECTION SYSTEM. A photovoltaic Collection System that produces more than one (1) megawatt (MW) per hour of energy for the purpose of sale on the Power Grid. *Commercial Solar Collection Systems do not include any type of energy storage system such as battery banks or compressed air. Such energy storage systems require separate review and approval.*

GROUND-MOUNTED SOLAR ENERGY SYSTEM. A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM. A Solar Energy System that is ground-mounted and produces more than one hundred ten percent (110%) of energy used onsite and developed primarily for the purpose of offsite sale or consumption.

ROOF-MOUNTED SOLAR ENERGY SYSTEM. A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ENERGY EQUIPMENT. Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM. An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR ON-FARM EQUIPMENT. A photovoltaic system on property used for Agriculture within an Agricultural District that does not produce more than one hundred ten percent (110%) of the energy used for farm operations.

SOLAR PANEL. A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Section 39.

APPLICABILITY

- A. The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date.
- B. All solar energy systems shall be designed, erected, and installed in accordance with all applicable federal, state, local and industry codes regulations and standards.

Section 40.

SOLAR AS AN ACCESSORY USE OR STRUCTURE

- A. Roof-Mounted Solar Energy Systems
 - 1. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure that is building code compliant and which can safely support the system, providing that, however, those roof-mounted systems capable of generating over one megawatt of electricity are also subject to the standards set forth in this Local Law.
 - 2. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
 - 3. Aesthetics. Roof-Mounted Solar Energy System installations having panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - 4. Roof-Mounted Solar Energy Systems must allow adequate access for emergency responders in compliance with the International Residential Code (IRC-2015) Sections 324 and 907 and International Fire Code Section (IFC-2015) 605 and National Electric Code (NEC-2017)-Sec. 690.

B. Ground-Mounted Solar Energy Systems.

1. Ground-Mounted Solar Energy Systems that are used for agricultural operations in an Agricultural District and produce no more than one hundred ten percent (110%) of on-farm energy use are exempt from site plan review.
2. Height and Setback: Ground-Mounted Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district in which the system is located. No Ground-Mounted Solar structure may exceed twenty-five feet (25') in height.
3. Lot Coverage: Systems are limited to ten percent (10%) of lot coverage on a residential property. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage. Photovoltaic Systems and devices used for Agriculture are not limited to lot coverage if the system produces less than one hundred ten percent (110%) of the farm energy demand.
4. No such systems in residential districts shall be installed in a front yard and all such systems shall require site plan review.

C. Permit Required

1. No accessory photovoltaic structure shall be erected until a permit has been issued by the Code Enforcement Officer, who shall issue permit in accordance with this local law, and the most current Town of Brasher Land Use and Development Code.
2. Application must be made with the Town Clerk on forms approved by the Town. All information on the application form must be completed. In addition, the following information is also required to show that the design shall comply with the International Residential Code (IRC-2015) Sections 324 and 907 and International Fire Code Section (IFC-2015) 605 and National Electric Code (NEC-2017)-Sec. 690 to constitute a complete application:
 - a. a drawing showing the location of a clearly visible, accessible, and labeled disconnect on the exterior of the structure.
 - b. a drawing showing the location of the electric meter labeled that the structure is supplied by two sources.
 - c. on roof mounted systems a drawing must show the required setbacks for emergency responder access.
 - d. the equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

Section 41.

LARGE-SCALE SOLAR ENERGY SYSTEMS

- A. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit only within the Rural District subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer and referred, with comments, to the Town Planning Board for its review and action, which can include approval, approval with conditions, or denial.

- B. A photovoltaic system on property used for agricultural operations within an Agricultural District that does not produce more than one hundred ten percent (110%) of the energy used for farm operations will be permitted as on-farm equipment and not require special permit review.
- C. Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions.
 - 1. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - 2. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
 - 3. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - 4. Property Operation and Maintenance Plan. Such a plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - 5. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after Large-Scale Solar Energy System has not used the electrical energy produced at that site for a twelve (12) month period and can no longer be used, it shall be removed by the applicant and any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

Section 42.

SPECIAL USE PERMIT STANDARDS

- A. Height and Setback. Large-Scale Solar Energy Systems shall adhere to setback requirements of the underlying zoning district and the structure must not exceed twenty-five feet (25') in height.
- B. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 5 acres.
- C. Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed eighty percent (80%) coverage of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

- D. All Ground Mounted Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contract information shall be placed on the entrance and at intervals along the perimeter of the fencing.
- E. The type of fencing shall be determined by the landowner and must be approved by the Town of Brasher Planning board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
- F. Any application under this Section shall meet any substantive provisions contained in the most current Town of Brasher Land Use and Development Code that, in the judgement of the Town Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Town Planning Board may waive the requirement for site plan review.
- G. The Town of Brasher may impose conditions on its approval of any special use permit under this Section in order to enforce the standards referred to in this Section or to discharge its obligations under the State Environmental Quality Review Act, (SEQRA).
- H. Site plans for all large-scale solar energy systems must demonstrate satisfaction of the New York State Department of Agriculture and Markets "Guidelines for Agricultural Mitigation for Solar Energy Projects" if located on farmland in an Agricultural District. For all proposed solar energy systems on farmland (both in and out of an Agricultural District) the site plan shall identify current agricultural production activities, any farmland improvements, and indicate the type and extent of prime soils that may be present. Large-scale solar energy systems should be concentrated away from, and minimize displacement of, active agricultural land and prime soils, prime if drained soils, and soils of statewide importance.
- I. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at a grade with the use of geotextile fabric, have a maximum width of 16', shall not be constructed of impervious materials, and shall be designed to minimize the extent of roadways constructed and soil compaction.
- J. Any above ground transmission lines that are used to accommodate the system shall provide 18' of clearance as measured from the shortest distance between the electrical lines and final grade. The installation of guy wires to utility poles is discouraged.
- K. The applicant shall provide the Town with the name and contact information of the new owner within 30 days of the array(s) being sold.
- L. To minimize cybersecurity threats to the electrical grid, submit evidence that malware prevention, detection, and mitigation software or programming has been installed where electronic information exchanges take place between the solar array and the utility's distribution control system.

Section 43.

ABANDONMENT AND DECOMMISSIONING

Solar Energy Systems are considered abandoned after twelve (12) consecutive months of discontinued use to generate electrical energy at that site and all equipment above grade and to a depth of four (4) feet below grade shall be removed from the site. In addition, the soil shall also be recompact to a depth of two (2) feet, regraded and reseeded to resemble its original state. The foregoing must be accomplished within not more than one (1) year from the date of cessation of energy generating activities at the site. Applications for an extension not exceeding a period of six (6) months may be requested and will be reviewed by the Code Enforcement Officer.

- A. Financial Assurance for Decommissioning Bond or Fund for Large Scale Energy Systems. The applicant and his successors and assigns shall continuously maintain a bond or fund in the amount of the decommissioning costs according to this section: It will be payable to the Town for the removal and restoration of the non-functional or inoperable device.
- B. This financial assurance will be in place before the commencement of construction and will be in the amount of the net decommissioning costs, to be determined by a qualified independent engineer licensed to practice in the State of New York, at the applicant's expense. This estimate is then reviewed by engineers hired by the Town, at the Applicant's expense. This estimate will be determined and reviewed every two years.
- C. This financial assurance may be in the form of a letter of credit, a bond, escrow account, a parent guarantee or other form approved by the Town. The applicant will make an initial deposit of an amount determined by the Town Board to the fund. A special Permit application will not be processed until proof of deposit has been provided by the Applicant. All costs of this financial assurance shall be borne by the Applicant.

Section 44.

RESERVED

Section 45.

RESERVED

Section 46.

NOTIFICATION

Within thirty (30) days of transfer of ownership of a large-scale energy system, notification of a change in ownership and new contact information shall be submitted to the Town as part of the project review file.

ARTICLE IX

ADMINISTRATION AND ENFORCEMENT

Section 1.

TOWN PLANNING BOARD

A. CREATION. A Town Planning is hereby created. Said Board shall consist of five (5) members appointed by the Town Board. No person who is a member of the Town Board shall be eligible for membership on the Planning Board. Original terms shall be of one, two, three, four, and five years' duration. Subsequent terms shall be five years. The Town Board shall designate the Chairman of the Planning Board. The Planning Board shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under this Local Law.

B. VACANCIES. If a vacancy shall occur otherwise than by expiration of term, the Town Supervisor shall appoint a new member for the unexpired term.

C. ALTERNATE MEMBERS. The Town Board shall have the authority to establish alternate members to substitute for a member who is unable to participate because of a conflict of interest. Alternate members of the Planning Board shall be appointed by resolution of the Town Board, for the terms established. The Chair of the Planning Board may designate an alternate member to substitute for a member who is unable to participate. Such designation shall be entered into the minutes of the Planning Board meeting at which the substitution is made.

When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. All provisions relating to training attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

D. TRAINING. Each member of the Planning Board shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this training requirement. To be eligible for reappointment to such board, such members shall have completed this training requirement. This training may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

E. REMOVAL. A Planning Board member may have his or her appointment terminated for cause by a resolution by the Town Board after a public hearing. Any member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

F. POWERS AND DUTIES. The Town Planning Board shall have all the powers and duties prescribed by this Local Law. In particular:

1. Enforce the town zoning regulations.
2. Hear and decide on all matters referred to it.
3. To perform land use planning functions.

G. PROCEDURE. The Planning Board shall act in strict accordance with the procedures specified by New York State Town Law and by this Local Law as prescribed by the Town of Brasher zoning regulations. In particular, the Board shall conduct itself according to the following:

1. Meetings - All meetings of the Town Planning Board shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings of the Planning Board shall be open to the public.

2. Records - The Board shall keep minutes of its proceedings, including its examinations, findings and official actions and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of the Board shall be recorded in the minutes which shall fully set forth the reasons for the decision of the Board and the findings of fact on which the decision was based, and an appropriate record of every official determination of the Board shall be on file in the office of the Town Clerk.
3. Voting Requirements - The concurring vote of a majority of the full membership of the Planning Board shall be required to constitute an official action by the Board.

Section 2.

PERMIT APPLICATION REQUIREMENTS

Required plans and data to be submitted in accord with the procedures as outlined in this Local Law shall be prepared according to the following except as they may be specifically waived by the Enforcement Officer or Town Planning Board.

Building/Use Permit; Special Permit

- A. **SITE PLAN.** A minimum of two (2) copies and such additional copies as the Enforcement Officer may specify, to scale, to include:
 1. Location map showing boundaries and dimensions of the parcel or tract of land, contiguous properties, and any easements or public rights-of-way.
 2. Existing features of the site include existing land use, land and water areas, existing buildings and water or sewer systems on or immediately adjacent to the site, and surface drainage characteristics.
 3. The proposed location and arrangement of the use and any buildings or installations on the site.
 4. Sketch of any proposed building or structure, including exterior dimensions and elevations of front, side and rear view.
- B. **ACCOMPANYING DATA.** To include the following:
 1. Application and required fee, if any.
 2. Name and address of applicant and any professional advisors.
 3. Authorization of owner if applicant is not the owner of the property in question.
 4. Description of materials and method of installation for any equipment or installation for which the permit is being sought.
 5. Results of any required on-site investigation including percolation test, where applicable.
- C. **SPECIAL CONSIDERATIONS.** To include, where applicable; such additional information, data, and analysis as is required on any application form prepared by the Town, or as the Enforcement Officer, Town Board, Town Planning Board, or Board of Appeals may specify in the administration and enforcement of this Local Law.

Section 3.

SPECIAL USE PERMIT

The Brasher Town Planning Board is hereby authorized to approve the establishment of special uses, and may adopt such rules and regulations as are deemed necessary, consistent with Town Law, to exercise this power.

On application, the Town Planning Board may authorize the Enforcement Officer to grant a special permit for any use for which approval of the Planning Board is required by this Local Law. For purposes of this local law the terms "special permit" and "site plan approval" are synonymous. The process for consideration of a Special Permit application shall be as follows:

- A. **APPLICATION COMPLETENESS.** The Enforcement Officer shall determine the completeness of any application and shall notify the applicant within ten (10) working days of the date of submission if such application is incomplete or deficient in any way, and shall further specify the deficiencies. The Code Enforcement Officer shall refer all complete applications to the Town Planning Board.
- B. **NOTIFICATION AND PUBLIC HEARING.** The Town Planning Board shall schedule and hold a public hearing within *sixty-two (62)* days of the date of submission and render its decision within *sixty-two (62)* days of the date of hearing. Five days' notice is required for any hearing. These respective timeframes may be extended only by mutual agreement between the applicant and the Board.
- C. **PROJECT REFERRAL.** Where any Special Permit involves lands within five hundred (500) feet of: an adjoining municipality, State or County park or recreation area, State or County land on which there is a public building or institution, or a State or County highway or right of way, or farm operation in an agricultural district, the application shall be referred to the St. Lawrence County Planning Board and acted upon within thirty (30) days in accord with Section 239-m of the New York State General Municipal Law. The Planning Board shall receive the County Planning Board's response prior to taking final action, or shall wait until the County review period ends.
- D. **VOTING REQUIREMENTS.** The concurring vote of a majority of the full membership of the Planning Board shall be required to constitute an official action by the Board.
- E. **EXTRAORDINARY VOTE.** If the County Planning Board disapproves or approves an appeal with condition(s), the *Planning Board* shall not act contrary to the decision except by a vote of a majority plus one of the full membership of the Board of Appeals.
- F. **NOTIFICATION OF DECISION.** Notification of the Town Planning Board's decision to approve or disapprove the application, and the reasons therefore, will be given in writing to the Enforcement Officer, a copy filed immediately with the Town Clerk, and a copy of the Board's determination furnished to the applicant.

Section 4.

ZONING BOARD OF APPEALS

- A. **CREATION.** A Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Town Board. No person who is a member of the Town Board or planning board shall be eligible for membership on the Board of Appeals. Original terms shall be of one, two, three, four, and five years' duration. Subsequent terms shall be five years. The Town Board shall designate the Chairman of the Appeals Board.

B. VACANCIES. If a vacancy shall occur otherwise than by expiration of term, the Town Supervisor shall appoint a new member for the unexpired term.

C. ALTERNATE MEMBERS. The Town Board shall have the authority to establish alternate members to substitute for a member who is unable to participate. Alternate members of the Zoning Board of Appeals shall be appointed by resolution of the Town Board, for the terms established. The Chair of the Zoning Board of Appeals may designate an alternate member to substitute for a member who is unable to participate. Such designation shall be entered into the minutes of the Zoning Board of Appeals meeting at which the substitution is made.

When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. All provisions relating to training attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

D. TRAINING. Each member of the Zoning Board of Appeals shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this training requirement. To be eligible for reappointment to such board, such members shall have completed this training requirement. This training may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

E. REMOVAL. A Zoning Board of Appeals member may have his or her appointment terminated for cause by a resolution by the Town Board after a public hearing. Any member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

F. POWERS AND DUTIES. The Board of Appeals shall have all the powers and duties prescribed by this Local Law. In particular:

1. Interpretations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from, and shall make such order requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, or decision the appeal is taken.
2. Use Variances. The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the ordinance or local law.

No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the board of appeals that:

- a. under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;

- b. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- c. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- d. that the alleged hardship has not been self-created.

The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- 3. Area variances. The zoning board of appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such ordinance or local law, to grant area variances from the area or dimensional requirements of such ordinance or local law.

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance
- b. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- c. whether the requested area variance is substantial;
- d. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- e. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- 4. Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

G. PROCEDURE. The Board of Appeals shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under this Local Law. In particular, the Board shall conduct itself according to the following:

1. Meetings - All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings of the Board of Appeals shall be open to the public.
2. Records - The Board shall keep minutes of its proceedings, including its examinations, findings and official actions and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of the Board shall be recorded in the minutes which shall fully set forth the reasons for the decision of the Board and the findings of fact on which the decision was based, and an appropriate record of every official determination of the Board shall be on file in the office of the Town Clerk.
3. The Board of Appeals shall act in strict accordance with the procedures specified by New York State Town Law and by this Local Law. In addition, the following rules apply:
 - a. Eligible Applicant or Appellant - An application or appeal to the Board of Appeals may be initiated by any person or party aggrieved under, or with a legitimate interest in, this Local Law including the Town and its officials. An appeal for an interpretation or variance may be made only after a determination and notification of action taken by the Enforcement Officer or other body of original jurisdiction, except where such appeal is instituted by an official of the Town.
 - b. Application - All appeals and applications made to the Board of Appeals shall be in writing, in the form prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Local Law involved and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted (see tests for variances given above). Such appeal shall be taken within thirty (30) days of the date of notification of the determination which is being appealed. The Enforcement Officer shall transmit to the Board all of the records concerning the case which is being appealed.
 - c. Project Referral – Where any appeal for variance involves lands within five hundred (500) feet of: an adjoining municipality, State or County park or recreation area, State or County land on which there is a public building or institution, or a State or County highway or right of way, or farm operation in an agricultural district, the appeal shall be referred to the St. Lawrence County Planning Board and acted upon within thirty (30) days in accord with Section 239-m of the New York State General Municipal Law. The Zoning Board of Appeals shall receive the County Planning Board's response prior to taking final action, or shall wait until the County review period ends.

- d. Notification and Public Hearing - The Board of Appeals shall fix a reasonable time for a public hearing in connection with an appeal and shall give notice thereof by publication in the official newspaper at least five (5) days prior to that date; and shall, at least five (5) days before such public hearing, mail notice thereof to the appellant and to the adjacent landowners.
- e. Decision and Notification – Within sixty-two (62) days from the date of any public hearing, the Board shall render a determination on any appeal and notify the applicant in writing within five (5) working days of the date of determination. Every decision of the Board of Appeals shall be by resolution. The Board of Appeals shall notify the Enforcement Officer, Town Clerk and Town Board of the action taken on any application before the Board with respect to an interpretation or variance.
- f. Voting Requirements - The concurring vote of a majority of the full membership of the Board of Appeals shall be required to constitute an official action by the Board.
- g. Default Denial - If an affirmative vote of a majority of the full membership of the Board is not attained to grant a variance, or to reverse an order, requirement, decision or determination of the Code Enforcement Officer, the appeal is denied. The Board may amend a failed motion or resolution and vote on an amended motion or resolution within sixty-two (62) days of a public hearing without being subject to a rehearing process.
- h. Extraordinary Vote - If the County Planning Board disapproves or approves an appeal with condition(s), the Board of Appeals shall not act contrary to the decision except by a vote of a majority plus one of the full membership of the Board of Appeals.
- i. Rehearing - A motion to hold a rehearing to review any order, decision or determination by the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board present is required for such rehearing to occur. A rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify or annul its original decision upon the unanimous vote of all members present, provided the Board finds no action has been taken by persons affected by the Board's original decision.

Section 5.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

- A. The State Environmental Quality Review Act requires that local governments examine the environmental impact of all actions they permit, fund, or construct Article 8 and Part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.
- B. All "Type I" actions (8 NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.
- C. For zoning actions reviewed by the Town, the following bodies shall be SEQR lead agency, unless otherwise delegated by the Town Board.

1. Text amendments	Town Board
2. Map amendments	Town Board
3. Special Permits	Planning Board
4. Variances	Bd. of Appeals

- D. If in the opinion of the SEQR local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement (DEIS). Review, notice and action on the DEIS shall be conducted according to Part 617.

Section 6.

ISSUANCE OF PERMIT

- A. **NOTICE OF DETERMINATION.** The Enforcement Officer shall review the application and shall issue or refuse to issue the applied for Building/Use Permit, or advise the applicant of any required additional information or referral required within ten (10) working days of receipt of their application. Notice of refusal to issue any Permit shall be given to the applicant in writing and shall state the reasons for said refusal. Approval of the application shall be indicated by issuance of the Building/Use Permit.
- B. **DURATION OF VALIDITY.** A Building/Use Permit issued under these Regulations shall be valid for a period of one (1) year from the date of issuance and shall thereafter be deemed null and void; except as application may be made to an considered by the Board of Appeals, which Board may, for due cause Shown, authorize a one (1) year extension without cost to the validity of the Permit.

Section 7.

CERTIFICATE OF COMPLIANCE

- A. **CERTIFICATE REQUIRED.** No project or action required to obtain a Building/Use Permit above shall be occupied, opened, put into operation or be deemed complete and approved until a Certificate of Compliance shall have been issued by the Enforcement Officer.
- B. **APPLICATION.** Application for a Certificate of Compliance shall be made coincidental with any application for a Building/Use Permit. Such application shall be valid for the duration of the validity of the Permit.
- C. **NOTIFICATION OF PROJECT COMPLETION.** Upon completion of any project or action for which a Building/Use Permit and Certificate of Compliance are required, it shall be the responsibility of the applicant to immediately notify the Enforcement Officer of such project completion.
- D. **NOTIFICATION OF DETERMINATION.** The Enforcement Officer shall inspect each project or action for which a Certificate of Compliance is required before issuing such Certificate. A Certificate of Compliance shall be issued only if the proposed use of the building, system or land conforms to the provisions of these Regulations and to the application based on which the Building/Use Permit was issued. Issuance of the Certificate or written notification of refusal to issue the same and the reasons therefore are to be accomplished within ten (10) working days from the date of notification of project completion.

Section 8.

ENFORCEMENT

- A. ENFORCEMENT.** This Local Law shall be administered by a person called the "Enforcement Officer", designated by the Town Board, who shall not grant any permit or certificate where any proposed project or installation would be in violation of any provision of the Local Law. The Enforcement Officer shall establish procedures and make inspections as are necessary to carry out his duties in the administration and enforcement of this Local Law. Further, the Enforcement Officer shall prepare and submit a written record and report of all official actions, including permits and certificates issued and denied, to the Town Board on a monthly basis or as otherwise directed by the Town Board with copies transmitted to the Board of Appeals.
- B. CITIZEN COMPLAINT.** Any resident, property owner or other person of legitimate interest may file with the Enforcement Officer a written, signed complaint against any alleged violation of this Local Law. It shall be the duty of the Enforcement Officer to investigate such alleged violation and to report to the Planning Board and Town Board in a timely manner, which report shall be filed and be part of the public record of the Town.
- C. NOTIFICATION AND CORRECTION.** Any building or use which does not comply with this Local Law shall be so recorded by the Enforcement Officer and a report there of filed with the Town Board. The Enforcement Officer, at the direction of the Town Board, shall give official written notice to this effect to the owner of record. The owner shall initiate measures to correct such noncompliance within thirty (30) days from the date of notification. If within this (30) day period application is not made to initiate a process for correction and if thereafter such correction is not pursued according to an agreed-upon timetable and to the satisfaction of the Town Board, the Town Board shall institute proceedings to compel compliance, civilly and/or criminally and assess such penalties as are provided for herein.
- D. Civil Penalties.** In addition to those penalties prescribed by State law, any Person who violates any provisions of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy/Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Enforcement Officer pursuant to any provision of this local law, shall be liable for a civil penalty of at least \$100.00 and not more than \$200.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.

- E. **Injunctive relief.** An action or a proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy/ Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Enforcement Officer pursuant to any provision of this local law. In Particular, but not by way of limitation, where the construction or use of a building or a structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code, or this local law, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without appropriate authorization from the Town Board of this Town.
- F. **Remedies Not Exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section of this local law, in any other section of this local law or any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalty specified in Section 382 of the Executive Law of the State of New York and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Section 382 of the Executive Law of the State of New York.

Section 9.

APPEAL AND COURT REVIEW

- A. **APPEAL.** All appeals for relief from the application of these Regulations in matters of interpretation or requests for variance shall be directed to the Board of Appeals whose duties and procedure for consideration of appeal are as set forth in Section 36 of these Regulations.
- B. **COURT REVIEW.** Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, Town Board or any official instrument of the Town in the Administration of this Local Law may, after exhausting administrative remedies, apply to have the decision reviewed in the manner provided by Article Seventy-Eight of the Civil Practice Law and Rules, provided the proceeding is commenced within thirty (30) days after the filing of the decision in the office of Town Clerk. Costs shall not be allowed against the Town unless it appears to the Court that the Town or its representatives acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Section 10.

INTERPRETATION

- A. **INTERPRETATION.** Terms and words used herein are defined in Article I of this Local Law. In their interpretation and application, the provisions of this Local Law shall be held to the minimum requirements, adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the most restrictive or that imposing the highest standard shall govern.

- B. INVALIDITY.** No approval, permit or certificate authorized or granted by an official of the Town in contradiction to the provisions of this Local Law shall vest any rights or interest to the recipient irrespective of any action taken or obligation incurred in reliance on such authorization, nor shall the Town be liable for same under any such invalid authorization.
- C. LIABILITY.** Nothing in this Local Law, including the issuance of a Building/Use Permit, Certificate of Compliance, or Special Permit shall be construed to insure or in any way guarantee any building, structure, improvement or installation against defect, failure or other shortcoming, and the Town shall not be liable for same.

Section 11.

SEPARABILITY

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

Section 12.

AMENDMENTS

- A.** The Town Board may on its own motion, on petition, or on recommendation of the Planning Board or Board of Appeals, amend these regulations pursuant to the applicable requirements of law.
- B.** All proposed amendments shall be referred to the Town Planning Board for a report and a recommendation. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute their recommendation for approval of the proposed amendment.
- C.** Any proposed amendment governed by Section 239-m of the General Municipal Law shall be referred to the St. Lawrence County Planning Board for their recommendation prior to a decision by the Town Board, as in the case of variances.
- D.** Before any amendment, there shall be a public hearing thereon as provided by law. Notice of the hearing shall be published in a paper of general circulation at least ten (10) days prior to the hearing. This hearing may be held prior to receiving notice of the action of the County Planning Board, if required.
- E.** After the public hearing and referral to the Planning Board, a majority vote of the members of the Town Board shall be required to amend these Regulations. In the case of a protest against such change signed by the owners of 20% or more of the land area included in the proposed change, such amendment shall not become effective except by the favorable vote of at least four-fifths of the members of the Town Board.

Section 13.

EFFECTIVE DATE

The "TOWN OF BRASHER ZONING REGULATIONS" shall become effective immediately upon filing with the New York State Secretary of State.

