

## Chapter 525. ZONING

[HISTORY: Adopted by the Town Board of the Town of Southport 8-27-1946; printed as codified as Ch. 30 of the 1975 Municipal Code, as amended; amended in its entirety 6-10-2008 by ordinance (Res. No. 114-2008). Subsequent amendments noted where applicable.]

### **GENERAL REFERENCES**

Land use boards — See Ch. 15.

Empire Zones — See Ch. 39.

Air pollution — See Ch. 185.

Numbering of buildings — See Ch. 227.

Unsafe buildings — See Ch. 234.

Uniform construction codes — See Ch. 245.

Building permit fees — See Ch. 286, Art. I.

Flood damage prevention — See Ch. 307.

Mobile homes and mobile home parks — See Ch. 352.

Property maintenance — See Ch. 402.

Signs — See Ch. 425.

Stormwater management; erosion and sediment control — See Ch. 452.

Subdivision of land — See Ch. 464.

Swimming pools — See Ch. 468.

Vehicles and Traffic – See Ch. 497

[525a Use Req Table](#)  [525b Bulk and Density Cont Sch](#) 

### Article I. Title, Purpose and Authority

#### §525-1.Short title.

This chapter shall be known as the "Zoning Law of the Town of Southport, N.Y." and may be cited as "Town of Southport Zoning Law."

§525-2.Authority.

Pursuant to Article 16 of the Town Law of the State of New York, the Town Board of the Town of Southport, in the County of Chemung, State of New York, hereby resolves, enacts and publishes as follows.

§525-3.Purpose.

- A. The zoning regulations and districts herein set forth and as identified upon the Zoning Map of the Town of Southport<sup>[1]</sup> are made to promote the public health, public safety, and general welfare of the Town of Southport and specifically:
- (1) To encourage the most appropriate use of land in the community in order to conserve the value of property.
  - (2) To eliminate the spread of strip business development and provide for more adequate and suitably located commercial facilities and consequently eliminate many roadside hazards and add to community attractiveness.
  - (3) To create a suitable system of open spaces and recreation areas, and to protect and enhance existing wooded areas, scenic areas, farmland and waterways.
  - (4) To ensure the adequate and safe control and conveyance of stormwater flows generated by new development.
  - (5) To regulate building densities in order to assure access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, to lessen congestion on streets and highways, to provide efficient municipal utility services, and to accommodate solar energy systems and equipment and access to sunlight necessary therefor.
  - (6) To improve transportation facilities and traffic circulation, and to provide adequate off-street parking and loading facilities.
  - (7) To assure privacy for residents and freedom from nuisances and things harmful to the health, safety, and general welfare of the public.
  - (8) To protect the community against unsightly, obtrusive, and nuisance land uses and operations.
  - (9) To enhance the aesthetic aspects throughout the entire Town and maintain its natural beauty.

[1]: *Editor's Note: The Zoning Map is available in the Code Enforcement Office.*

- B. This chapter has been made with reasonable consideration for the character of each district and a district's suitability for particular uses and, with a view to conserving the value of the property, to encourage the most appropriate use of the land throughout the Town.
- C. These purposes are achieved through this chapter regulating and restricting the height, number of stories and size of buildings and other structures; restricting the density of population; regulating the size of yards and other open spaces; regulating and restricting the location and use of buildings, structures, and land for trade, industry, residential or other purposes; creating districts for such purposes and establishing boundaries; continuing a Zoning Board of Appeals to determine and vary the application of various provisions of this chapter in harmony with its general purposes and intent and in accordance with general and specific rules herein contained; and providing for the enforcement of such law.

## Article II. Interpretation; Definitions and Word Usage

### §525-4. Word usage; severability; interpretation; conflict with other legislation.

- A. The following rules of construction of language shall apply to the text of this chapter:
- (1) Words used in the present tense include the future tense.
  - (2) Words used in the singular include the plural, and words used in the plural include the singular.
  - (3) Words used in the masculine form shall also include the feminine.
  - (4) The word "lot" includes the word "plot" or "parcel."
  - (5) The word "person" includes an individual, partnership or corporation.
  - (6) The word "shall" is mandatory; the word "may" is permissive.
  - (7) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
  - (8) A "building" or "structure" includes any part thereof.
  - (9) The phrases "to erect," "to construct," and "to build" each have the same meaning and include to excavate for a building and to relocate a building by moving it from one location to another.
  - (10) Other words not defined above or in §525-5, Definitions, shall be as defined in the New York State Uniform Fire Prevention and Building Code or as used in their common meaning.
- B. If any section, paragraph, subdivision or provision of the law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudicated invalid, and the remainder of this chapter shall remain valid and in full effect.
- C. This chapter shall be interpreted in such a way wherever possible so that the meaning of the words, phrases and sections herein shall make them valid and legal in their effect.
- D. Whenever the requirements of this chapter are at variance with the requirements of other lawfully adopted laws, rules, regulations or ordinances of the Town, the one of these with the most restrictive provisions or those imposing the higher standards shall govern.

### §525-5. Definitions.

The following words or phrases as used in this chapter are defined as follows:

**ACCESSORY DWELLING UNIT** A second dwelling unit either in or added to a one-unit dwelling, or in a separate accessory structure on the same lot as the principal structure, for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation, and sleeping. Such a dwelling shall be clearly accessory and incidental to the principal dwelling

**ADULT USE AND ENTERTAINMENT ESTABLISHMENTS** A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless servers, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear exotic or erotic pasties or G-strings or both; adult arcades, adult bookstores or adult video stores; adult cabarets; adult motels; adult motion-picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age and are those businesses defined as follows:

**ADULT BOOKSTORE** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, computer programs, videotapes or compact disks, films for sale or viewing on premises by use of motion-picture devices or any other coin-operated means, other periodicals, and any other similar paraphernalia, or other devices and paraphernalia which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical areas or an establishment that causes the exclusion of minors by reason of age.

**ADULT ENTERTAINMENT CABARET** A public or private establishment which is licensed to serve food, nonalcoholic beverages and/or alcoholic beverages, which features topless dancers, entertainers, male or female impersonators, who remove most or all of their clothing to reveal gender-related portions of the anatomy, or similar entertainers.

**ADULT MOTION-PICTURE THEATER** A building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical areas for observation by patrons therein.

**AGRICULTURAL USE** The production, keeping or maintenance, ~~for sale or lease,~~ of plants and animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees, forest products and forestry uses; fruits of all kinds, including grapes, nuts, berries and vegetables.

**AGRICULTURAL USE, INDUSTRIAL** Any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

**AGRICULTURAL USE, PERSONAL** The production, keeping or maintenance, of plants and animals where the sale, if any, of agricultural products is limited to those products produced on the lot and such sales are only permitted from a single temporary roadside stand or display.

**AIRPORT** Any lot or other facility designed to be used and/or operated either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings.

**ALTERATION** Any change, rearrangement, addition or enlargement to a building, other than repairs, and any modification in construction.

**ALTERNATIVE DWELLING PARK** Any existing trailer or mobile home park, previously approved under the provisions of an applicable local law or ordinance shall be defined as an alternative dwelling park.

**AMUSEMENT GAME CENTER** A continuous commercial use in which six or more mechanical, electrical or electronic machines or devices used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin, token, etc., or for their operation or use of which a charge is made.

**ANTENNA** A fixed-base structure used for receiving or transmitting telephone, television and/or radio electromagnetic signals from orbiting satellites or ground communication sources.

**ANTIQUÉ SHOP** Any premises used for the sale or trading of articles of which 80% or more are over 50 years old or have collectable value.

**APPLICANT** Owner of a parcel on which a development is proposed, and the developer of such parcel.

**AQUIFER** An area consisting of saturated, permeable geologic material capable of yielding water to wells and springs.

**ATTIC** That space of building which is between the top of the uppermost floor construction and the underside of the roof. (See "story.")

**BASEMENT** Any space of a building which is partly below finished grade but having more than 1/2 of its height measured from floor to ceiling above average finished grade. (See also "cellar.")

**BED AND BREAKFAST** A building containing a single operator occupied dwelling unit in which at least one, but not more than four, sleeping rooms are provided by the owner for compensation, for the accommodation of transient guests with no more than one meal served daily and the entire service is to be included in one stated price.

**BILLBOARD** See "sign, off-premises."

**BOARDINGHOUSE** A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six, sleeping rooms are offered for rent, with or without meals to non-transient guests. A "lodging house" or "rooming house" shall be deemed a boardinghouse.

**BUFFER** An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier, the land shall be covered with natural plantings or man-made material to provide a continuous physical screen preventing visual access and reducing noise.

**BUILDING** Any structure which is wholly or partially enclosed within exterior walls, is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or property.

**BUILDING, ACCESSORY** A detached building subordinate to a principal building used for purposes customarily incidental to use of the principal building.

**BUILDING AREA** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, including open or enclosed porches, attached carport or garage but exclusive of terraces, and uncovered steps. Such horizontal area of each building is the area within and circumscribed by the exterior faces of the outer walls and/or architectural elements of the building.

**BUILDING GROUP** A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

**BUILDING HEIGHT** The vertical distance measured from the average finished grade to the highest point and to the mean height between the eaves and ridge for a pitched, gable, hip, gambrel and mansard roof.

**BUILDING LINE** The line, established by statute, local law or ordinance, beyond which the exterior surface of a building on any side shall not extend, as specifically provided in [Article V. §525-24](#) ~~Article XIV. §525-24~~ of this chapter. In the instance of a cantilevered section of a building or projected roof or porch, the building line shall be measured from the most projected surface.

**BUILDING, PRINCIPAL** A building in which is conducted the main, primary or principal use of the lot on which said building is situated.

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

**BULK, NONCONFORMING** That part of a structure or tract of land which does not conform to one or more of the applicable density control and bulk regulations of this Zoning Law, either following its effective date or as a result of subsequent amendment thereto.

**BULK STORAGE** Materials stored in large quantities which are dispensed in smaller units for use or consumption as regulated by the New York State Department of Environmental Conservation.

**CAMPGROUND** A property used for the parking of occupied travel trailers and/or tents or other shelters as temporary residences.

**CAR WASH** A building, premises or portions thereof where vehicles are washed either by the patron or others using machinery and mechanical devices specifically designed for this purpose.

**CELLAR** That non-habitable space of a building that is partly or entirely below average finished grade, which has more than half its height, measured from the floor to the ceiling, below the average established curb level or finished grade of the ground adjoining the building. (See also "basement.")

**CHURCH or PLACE OF WORSHIP** A building or premises primarily used for regular public worship by members or representatives of a religious sect, group, or organization as defined by state statute, and including any accessory uses.

**CLUB, MEMBERSHIP** A certified, not-for-profit organization catering exclusively to members and their guests, or premises and buildings for recreational, educational, or athletic purposes which are conducted for or primarily by members and their guests, for which a membership or similar fee is paid.

**COMMERCIAL VEHICLE** Any vehicle with a net vehicle weight of five tons or more and/or more than three axles, or trailer longer than 24 feet zero inches used for the transportation of persons or goods primarily for gain. This definition shall include the "tractor" portion of a tractor-trailer rig.

**CONDOMINIUM** A building, or group of buildings, in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

**CONSULTED AGENCIES** Shall include but not be limited to the following: Code Enforcement Officer, Town Highway Superintendent, Fire Departments, Chemung County Sewer District #1, Chemung County Department of Public Works, other local and county officials, designated private consultants, representatives from federal and state agencies, including, but not limited to, the Soil Conservation Service, the Department of Transportation, and the Department of Environmental Conservation.

**CONTRACTOR'S EQUIPMENT YARD** Any lot used for the storage or keeping of construction equipment, machinery, or vehicles, or parts thereof, whether inside or outside a building.

**CONVALESCENT HOME** A building used for accommodation and care of persons receiving non-skilled, long-term care, meeting the New York State Department of Social Services (NYSDSS) definition of a "proprietary" facility. (See also "nursing home.")

**CONVENIENCE FOOD MART** A commercial retail use that combines two principal uses on a single parcel; the sale of motor vehicle fuel and accessory substances, as well as the sale of groceries.

**COVERAGE** That lot area or percentage of lot area covered by buildings, including accessory structures and all other impervious surfaces.

**CRAFT SHOP** Any business establishment that produces on the premises articles for sale of artistic quality or effect or handmade workmanship. Examples include candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting and other associated activities.

**CREMATORY** A location containing properly installed, certified apparatus intended for use in the act of cremation.

**DAY-CARE CENTER** A place which provides day care of children or adults as defined and regulated by NYS DSS regulations. The name, description, or form of the entity which operates a day-care center shall not affect its status as a day-care center. The term "day-care center" shall not refer to care provided in:

- A. A day camp as defined in the State Sanitary Code (10 NYCRR Chapter 1).
- B. An after-school program operated for the primary purpose of religious education.
- C. A facility:
  - (1) Operated by a public school district; or
  - (2) Providing day services under an operating certificate issued by the Department of Mental Health.

**DAY CARE, FAMILY HOME** Family day care home shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children.

**DAY CARE, GROUP FAMILY HOME** Group family day care home shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a family home for seven to twelve children of all ages, except for those programs operating as a family day care home, which care for seven or eight children. A group family day care program may provide child day care services to four additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year in which school is not in session.

**DECK** A flat roofless platform structure attached to a principal structure. For purposes of the setback requirements of this chapter, a deck is considered part of the structure to which it abuts and/or is attached.

**DEVELOPER** Any entity or person undertaking a proposed development.

**DEVELOPMENT** Any man-made changes to improved or unimproved real estate, including, but not limited to, the construction or reconstruction of buildings, construction of tanks or other storage facilities, pumps, pumping stations, waste treatment or disposal facilities or commercial excavation dredging, filling, mining, or grading.

**DISTRIBUTION CENTER** A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

**DISTRICT** That mapped portion of the Town within which specific uses are permitted according to the designation applied thereto in Article III and in conformity with the provisions of this chapter.

**DRIVE-THROUGH USE** Any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

**DRIVEWAY** An improved way providing ingress and egress to a lot from a public road.

**DUMP** See "solid waste disposal facility."

**DWELLING, DETACHED** A dwelling unit that has two side yards.

**DWELLING, IN-GROUND** A dwelling that is constructed principally below the finished average grade elevation of the lot on which it is located and with at least one wall open for a height of at least six feet and/or provide for special light, ventilation and egress designs.

**DWELLING, MULTIUNIT** A building containing three or more dwelling units with shared or individual entrances and shared or individual other essential facilities and services.

**DWELLING, ONE-UNIT** A building containing one dwelling unit.

**DWELLING, TWO-UNIT** A building containing two dwelling units.

**DWELLING UNIT** One or more rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, living, sanitary and sleeping facilities. This shall include mobile homes and factory-manufactured units, provided that they meet the standards of this chapter and the Uniform Fire Prevention and Building Code as may be hereafter amended. It shall not include motel, hotel, boardinghouse and lodging establishments.

**EXTRACTION, COMMERCIAL** Extraction of an amount greater than 1000 tons or 750 cubic yards of earth material during a period of 12 successive months, (the threshold above which a permit is required pursuant to the New York State Mined Land Reclamation Law [Environmental Conservation Law Article 23, Title 27] as of June 27, 2005), for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal, and/or removal of such materials for sale, other than what may be required for the erection of buildings.

**EXTRACTION, PRIVATE** Extraction of an amount equal to or less than 1000 tons or 750 cubic yards of earth material during a period of 12 successive months, (the threshold above which a permit is required pursuant to the New York State Mined Land Reclamation Law [Environmental Conservation Law Article 23, Title 27] as of June 27, 2005), for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal, and/or removal of such materials for sale, other than what may be required for the erection of buildings.

**FACTORY-MANUFACTURED HOME** A dwelling unit constructed off-site, consisting of one or more segments and designed to be permanently anchored to and supported by a foundation, to become a fixed part of the real estate. Such dwelling unit shall bear an insignia of approval issued by the Division of Housing and Community Renewal of the State of New York.

**FAMILY** A household consisting of a single housekeeping unit occupied by one or more persons (see New York State Uniform Fire Prevention and Building Code).

**FENCE** An artificially constructed, freestanding structure or barrier of wood, masonry, stone, wire metal, or any other manufactured material or combination of materials.

**FILLING STATION, MOTOR VEHICLE** A building or other structure or a tract of land with pumps and storage tanks used primarily for the storage and sale of gasoline or other motor fuels and for other uses accessory thereto. The sale of lubricants, accessories, or supplies and the repair of motor vehicles (which does not require mechanical equipment) are permitted accessory uses.

**FINISHED GRADE** The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade in computing height of buildings and other structures or for other purposes shall be the average elevation of all finished grade elevations around the periphery of the building.

**FLEA MARKET** A building or open area in which stalls or sales areas are set aside and rented or otherwise provided for at least five days per month, and which are intended for use by various unrelated

individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered to be flea markets.

**FLOOR AREA** The aggregate sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior walls or from the center lines of walls separating the buildings.

- (1) The floor area of a building or buildings shall include:
- (2) Basement space.
- (3) Elevator shafts and stairwells at each floor.
- (4) Floor space for mechanical equipment, with structural headroom of seven feet six inches or more.
- (5) Penthouses.
- (6) Attic space (whether or not a floor has actually been laid) providing structural headroom of seven feet six inches or more for at least 50% of the area.
- (7) Interior balconies and mezzanines.
- (8) Enclosed porches.
- (9) Attached garages.

A. However, the floor area of a building shall not include:

- (1) Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- (2) Elevator and stair bulkheads, accessory water tanks, and cooling towers.
- (3) Floor space used for mechanical equipment, with structural headroom of less than seven feet six inches.
- (4) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches for 50% of the area.
- (5) Uncovered steps and/or exterior fire escapes.
- (6) Terraces, breezeways, open porches, and outside balconies and open spaces.

**FLOOR AREA, GROSS** See "Gross Floor Area"

**FOOTPRINT** The perimeter of a structure at ground level as depicted at a specified scale on a drawing.

**FUEL BULK STORAGE TERMINAL** The area used for the temporary storage of large quantities of fuel for transfer to trucks, train cars or other forms of transportation.

**FUNERAL HOME** A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, funeral homes do not include crematories.

**GARAGE, PRIVATE** A carport or enclosed structure, whether accessory or attached to the principal structure, for use by the inhabitants of the structure for the storage of vehicles, boats, and/or other personal property.

**GROSS FLOOR AREA** A square foot number representing the entire area of a building including all stories, common areas, storage, mechanical areas, and space occupied by interior structures and partitions excluding basement area.

**GROSS VEHICLE WEIGHT RATING (GVWR)** The maximum operating weight of a vehicle as specified by the manufacturer and typically posted on a vehicle's left door or doorframe. Neither the actual vehicle weight nor the registration weight shall be used to determine GVWR.

**GROWN ON THE PREMISES** Produce resulting from the tillage of the soil of the premises or produced naturally from trees or vines growing in or on the soil of the premises, or grown for majority of the life of the produce in a greenhouse on the premises.

**HELIPORT** Any lot or other facility designed to be used and/or operated either publicly or privately by any person for the landing and taking off of helicopters, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings.

**HOME OCCUPATION** A business conducted as an accessory use, which is customarily incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof. A home occupation shall be carried on wholly within the enclosed walls of a dwelling unit by the business proprietor of such use, who shall be an occupant of such dwelling unit, and other occupants of such dwelling unit or any accessory dwelling unit.

**HOSPITAL** An institution for the full-time care and treatment of the sick and injured, equipped with the technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury which requires bed care. Source: § 206-a, Public Health Law.

**HOTEL or MOTEL** A building and/or buildings, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining and/or meeting facilities. This term shall not be deemed to include a bed-and-breakfast or a boardinghouse.

**HOUSE TRAILER** A transportable, factory-built structure designed to be used as a year-round dwelling unit and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

**IMPROVEMENT** Private driveways, county sewer, Town and domestic water supply, stormwater management system and its components, traffic control devices, roadway improvements and other such facilities as proposed on a site plan, inasmuch as the responsibility for maintenance is that of a public entity.

**INCIDENTAL, CUSTOMARILY** Means, for purposes of the definitions of accessory use and accessory structure, a structure or use which commonly accompanies or is associated with the type of principal land use that is located on the same property. For purposes of this Code the term Incidental means the accessory use or accessory structure is minor or subordinate to the principal land use.

**INDUSTRIAL USE** Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.

**INDUSTRY, COTTAGE** Any small-scale business conducted as an accessory use, which is customarily incidental to or secondary to the residential use of the dwelling unit and does not change the character thereof, conducted either in the dwelling unit or the accessory building(s), by the business proprietor of such use, who shall be an occupant of the dwelling, other occupants and up to a maximum of three employees.

**INN** A building containing a one-unit dwelling in which at least five but not more than 12 sleeping rooms are provided by the owner for compensation, for the accommodation of transient guests with no more than one meal served daily, and the entire service included for a stated price.

**KENNEL** Any premises maintained for animals wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs, cats, ferrets and similar mammals.

**KINDERGARTEN** Any place operated on a regular basis for the purpose of providing state-certified instruction for children at least five years of age by December 1 of the entry year and no older than six years of age by the same date. The term "school" includes kindergarten.

**LARGE TREE(S)** A live deciduous tree that is a minimum of 12 inches diameter breast height (dbh).

**LIVE-WORK UNIT** A lot that contains a dwelling unit and one or more business or commercial uses in a single building.

**LOT** A measured unit of contiguous land, whether improved or unimproved, having fixed boundaries and designated on a plat or survey devoted to a specific use or occupied by a building or a group of buildings united by a common interest, use or ownership, which abuts and is accessible from a private or public road and is not divided by a watercourse, existing road, or public right-of-way.

**LOT AREA** The total area within the lot boundary lines excluding any area included in a right-of-way and any area within 25 feet of the center line of a private road.

**LOT, CORNER** A lot situated at the junction of and adjacent to two or more intersecting roads when the interior angle or intersection does not exceed 135°.

**LOT COVERAGE** See "coverage."

**LOT, DEPTH OF** The mean distance from the front lot line to the rear lot line.

**LOT LINE** The line bounding a lot defined herein.

**LOT LINE, FRONT** A lot line which is coincident with the right-of-way line of a public road or which is measured 25 feet from the center line of a private road.

**LOT LINE, REAR** A lot line which is coincident with the line bounding the rear yard of a lot.

**LOT, THROUGH** A lot which faces on two roads at opposite ends of the lot and which is not a corner lot.

**LOT WIDTH** The width of a lot measured along the minimum front yard setback.

**MALL** A building or building group, containing a combination of three or more separate business and/or industrial uses.

**MANUFACTURE, FABRICATION, ASSEMBLY AND OTHER MATERIALS HANDLING** The mechanical or chemical transformation of materials or substances into new products, including assembly of component parts, the manufacturing of products, and the blending of materials.

**MEDICAL CLINIC** A place where medical or dental care is furnished to persons on an outpatient basis by two or more physicians who have common offices in a building which may also offer laboratory, medical procedures, and testing facilities to patients on an outpatient basis and not just in conjunction with normal clinic services.

**MOBILE HOME** A dwelling unit bearing a seal issued by the Federal Department of Housing and Urban Development that is manufactured as a relocatable living unit, which is designed to be transported on a single permanent chassis and to be installed on a site with or without a permanent foundation when connected to utilities. This does not include Department of Motor Vehicle registered recreation vehicles,

travel trailers or dwelling units that are prebuilt in one or more parts and transported to and assembled on a permanent foundation.

**NOTICE OF COMPLIANCE** A notice issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building and/or land. The notice shall acknowledge completion of all requirements of this chapter, any conditions of approval attached to such use by the authorized Board, and any adjustments thereto granted by the Zoning Board of Appeals. The notice is a permit to occupy and use the structure and/or lot in accordance with the approval.

**NURSERY, PLANTS** A building or structure and lands for the growing of flowers, fruits, vegetables, plants, shrubs, trees or other similar vegetation, together with garden accessories which are sold at retail from such building or lot to the general public.

**NURSING HOME** A skilled nursing care facility as defined by the New York State Department of Social Services regulations and as may be amended from time to time.

**OFFICE, GENERAL BUSINESS** A nonretail office or agency providing service to the general public or other offices and agencies, such as insurance brokers, real estate and/or travel agents, computer programming, consulting organizations, etc.

**OFFICE, PROFESSIONAL** An office principally occupied by a professional licensed by the State of New York, such as a lawyer, engineer, architect, accountant, physician, dentist, or similar occupation.

**PARCEL** See "lot."

**PARK, ALTERNATIVE DWELLING** A contiguous parcel of land owned by a person on which two or more mobile homes of less than 1,200 square feet and/or having an overall exterior dimension of less than 20 feet, or two or more one unit dwellings of less than 1,200 square feet and/or having an overall exterior dimension of less than 20 feet, are located.

**PARKING LOT** Any tract of land the principal use of which is the storage of motor vehicles not as accessory to any other use on the same or any other lot and which may contain parking space rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

**PARKING SPACE** An off-road space available for parking one vehicle, not including the maneuvering area and access drives thereto.

**PERSONAL SERVICE ESTABLISHMENT** A nonretail business principal use providing services related to an individual's care and upkeep needs, and/or the care and upkeep of personal attire, such as a barber, beautician, tailor, tattoo, body piercing, massage, tanning salon, pedicure/manicure services.

**PLAZA** See "mall."

**PREMISES** A lot, including any uses thereon.

**PRESS PUBLISHING** the occupation, business, or activity of preparing and issuing books, journals, and other material for sale.

**PUBLIC SEWERS** A wastewater collection and/or treatment facility owned and operated by a public agency or private organization.

**RECREATIONAL USE, COMMERCIAL** Any business establishment, however designated, whose primary use is an outdoor recreational activity such as miniature golf, golf, baseball, swimming, and/or any similar sport activity.

**RESEARCH FACILITY** An industrial use that primarily involves research, testing, and/or product development rather than the production or manufacture of a product.

**RESIDENTIAL CLUSTER DEVELOPMENT** A subdivision approved in accordance with the provisions of Article **VI** of this chapter, where the Planning Board may modify the applicable bulk provisions of this chapter without changing the overall density on the parcel.

**RESTAURANT, FAST-FOOD** Any business establishment where food and/or beverages are sold in a form ready for consumption and where, by design or packaging techniques, a significant portion of the consumption may take place outside the confines of the building.

**RESTAURANT, STANDARD** Any business establishment, however designated, whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises.

**RETAIL USE** A business or commercial use or activity involving primarily the sale of merchandise or stock-in-trade to the public which may include some fabrication on premises of merchandise/materials that are sold on the premises.

**RETAIL USE, SPECIALTY LOW-PROFILE** A retail use that, by the nature and/or size of the activity, merchandise or stock sold, is not anticipated to generate significant vehicular and/or pedestrian traffic at any given time.

**RIGHT-OF-WAY** The property under public control, ownership, easement, by deed or use by law normally used for movement of vehicles, and/or persons, including, but not restricted to, any paved area.

**ROAD** An existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on the Official Map and recorded in the office of the County Clerk.

**ROAD, LOCAL** A road designed primarily to provide access to abutting properties.

**ROAD, MARGINAL ACCESS** Those roads which are parallel to and adjacent to primary roads and highways and which provide access to abutting properties and protection from through traffic.

**ROAD, PRIMARY** A road which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic areas.

**ROAD, PRIVATE** A drive that services or is designed to serve no more than two principal uses and is built to Town specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Town.

**ROAD, PUBLIC** A road that serves three or more principal uses, that is built to Town specifications and is dedicated to the Town for maintenance.

**ROAD, SECONDARY** A public road which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a primary road.

**ROADSIDE STAND** A use with or without a structure, that is accessory to a principal use, not for year-round use and at which agricultural produce grown on the premises is offered for sale to the general public.

**SALVAGE YARD** An area of land with or without buildings used for or occupied by the storage, the keeping, or the salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange and/or purchase and sale of materials, and including scrap metals or other scrap,

used or salvaged building materials, or the dismantling or demolition of automobiles or other vehicles, household appliances, machinery or parts thereof, with the exception of agricultural machinery.

**SCHOOL, PRIVATE** An elementary or secondary school facility as established by a person other than public school authorities, giving instruction in the 10 common branches of arithmetic, reading, spelling, writing, the English language, geography, history, civics, hygiene and physical training, registered and/or certified under the regulations of the Commissioner of the New York State Department of Education or chartered by the Regents of the University of the State of New York.

**SEASONAL BUSINESS** An accessory use that involves the sale of seasonal products appropriate to the season for a period of time not to exceed six weeks in any six consecutive calendar months.

**SEASONALLY USED RECREATIONAL VEHICLE** A travel trailer, camping vehicle, fifth-wheel trailer, slide-in camper, or any other manufactured unit commonly known as a recreational vehicle, other than a motorhome, that is an accessory use on private property, and is maintained in a roadworthy condition and is occupied not less than once in each calendar year.

[Added 8-10-2010 by ordinance (Res. No. 137-2010)]

**SETBACK** The required distance in feet from:

- (1) Any survey boundary forming a lot or contiguous parcel.
- (2) The right-of-way of a public road.
- (3) A distance measured 25 feet from the center line of a private road.

**SIGN** Any letter, number, mark, symbol, figure, picture, exemplary devices and/or banner positioned in near spatial relationship as a collection and/or aggregation thereof expressing an idea, instruction, product, commodity, business, service and/or other entertainment, and which includes any surface area or portion of a structure in immediate proximity to and to which such symbol is attached, or such structure designed or intended to be in immediate proximity to and to have such symbol attached thereto.

**SIGN, ACCESSORY** A sign other than the principal business sign which relates to the business or profession conducted or to a good or service sold or offered for sale on the premises.

**SIGN, ADVERTISING** A sign that directs attention to a business, good, service or entertainment conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises if at all.

**SIGN AREA** The area within the fewest and shortest straight lines that can be drawn around the outside perimeter of a sign including all decorations and lights, but excluding the supports if they are not used for advertising purposes. A single face of a sign shall be counted as part of the sign area, except that any neon tube, string of lights, or similar device shall be deemed to have minimum dimensions of one foot within a sign.

**SIGN, DIRECTIONAL** A sign that directs travelers to essential services such as gas, food and lodging.

**SIGN, DIRECTLY ILLUMINATED** A sign that incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent materials or electricity or radioactivated or gaseous material or substance.

**SIGN, FLASHING** An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

**SIGN, ILLUMINATED** A sign that:

- (1) Is designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection; and
- (2) Any illumination elements that function(s) to attract attention as a sign expressing an idea, instruction, product, commodity, business, service and/or entertainment.

**SIGN, INDIRECTLY ILLUMINATED** A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

**SIGN, OFF-PREMISES** A sign or structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold, or offered elsewhere than upon the lot on which such sign is situated. (See also "billboard.")

**SIGN, PORTABLE** Any sign that is not permanently affixed to the ground or another structure and is capable of being easily transported or moved by the property or business owner.

**SIGN, PRINCIPAL BUSINESS** The primary sign or signs which include the business name and direct attention to a business or profession conducted on the premises.

**SIGN, REPRESENTATIONAL** Any three-dimensional sign which is built so as to physically represent the object advertised.

**SINGLE OWNERSHIP** Possession of a lot under control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 10 years, regardless of any division of such land into parcels, at the time of submittal of a site plan application.

**SITE PLAN** Maps and supporting information required pursuant to Article **IX** for uses specified in § **525-21**, Use Regulation Table.

**SOLAR COLLECTOR** A device, or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes to a structure's energy supply, and components for containing and supporting such device.

**SOLAR COLLECTOR, DETACHED** A solar collector, as defined herein, physically detached from the structure for which solar energy is to be supplied.

**SOLAR ENERGY SYSTEM** A complete design or assembly consisting of a solar energy collector (herein called a "solar collector"), an energy storage facility (where used) and components for the distribution of transformed energy (to the extent that they cannot be used jointly with a conventional energy system). Passive solar energy systems which fulfill any other functions are not included in this definition.

**SOLAR REFLECTOR** A device for which the sole purpose is to increase the solar radiation received by the solar collector.

**SOLID WASTE DISPOSAL FACILITY** Any facility as defined and regulated in 6 NYCRR Part 360 and as hereafter amended.

**SPECIALIZED REPAIR** A building or premises used primarily for the indoor repair of highly technical specialized equipment, such as electronic equipment, electrical systems, computer systems and circuits, and other similar operating and support systems. A use that is primarily devoted to the general mechanical and body repair of motor vehicles and/or small engines shall not be deemed to meet this definition.

**STABLE, COMMERCIAL** Any establishment where horses, donkeys, mules, or similar animals are kept for training, riding, driving or stabling, for compensation or incidental to the operation of any club, association or similar establishment.

**STABLE, PRIVATE** A building accessory to a residential use in which horses, cows, sheep and/or other large mammals are kept for private use and not for remuneration.

**STORAGE FACILITY** A building or grouping of buildings designed and constructed for the common, long-term and/or seasonal interior storage of individual or business property, whether partitioned or not. The wholesale storage and/or transfer of goods by commercial enterprises shall not meet this definition.

**STORAGE FACILITY, MINI-UNIT** A storage facility that is constructed such that it is divided by interior walls and each unit for rent has a separate exterior entrance.

**STORAGE UNIT, TEMPORARY** Temporary (or portable) storage units are transportable units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis.

### **STORY, HEIGHT OF**

- (1) The height in stories of a building shall be determined from the datum established by the average elevation of the finished grade adjoining the exterior walls of a building or structure, where such walls face legal open space or abut other open space which is level for 10 feet or more. Areaways, driveways and entrances of abrupt change in elevation totaling 10% or less of the length of the wall shall not be included in determining the average elevation.
- (2) The following locations shall not be deemed to be a story:
- (3) A basement where the finished floor immediately above is less than seven feet above the average elevation of the finished grade as described in this section;
- (4) A cellar;
- (5) An attic not meeting the requirements for habitable space;
- (6) Roof construction enclosing stairs or equipment other than elevators, provided that they are less than 12 feet in height and do not occupy more than 30% of the area of the roof on which they are located, and elevator hoistway and elevator machine rooms;
- (7) For one- and two-family dwellings, a mezzanine with a floor area less than 1/3 of the floor immediately below;
- (8) For multiple dwellings, a mezzanine with a floor area less than 5,000 square feet and less than 1/3 of the floor area space wherein the mezzanine is contained; or
- (9) For general building construction, a mezzanine with a floor area less than 10,000 square feet and less than 1/3 of the floor area space wherein the mezzanine is contained.

**STREAM** Any perennial or intermittent watercourse as identified on USGS maps with a solid blue line for perennial streams and with a dotted blue line for intermittent streams.

**STREAM BANK** The land area immediately adjacent to and which slopes toward the bed of a stream and which is necessary to maintain the integrity of a stream. A stream bank will not be considered to extend more than 50 feet horizontally from the mean high water line, with the following exception: Where a generally uniform slope of 45 degrees or greater adjoins the bed of the stream, the stream bank is extended to the crest of the slope or the first definable break in slope, either a natural or constructed (i.e., road or railroad grade) feature, lying generally parallel to the stream.

**STRUCTURE** A static construction of building materials, framed of component structural parts for occupancy or use, including, but not limited to, buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, reviewing stands, and gasoline pumps.

**STRUCTURE, ACCESSORY** A structure detached from, on the same lot, and subordinate to a principal structure used for purposes customarily incidental to those of the principal structure. Accessory structures include, but are not limited to, portable, removable or permanent enclosures, shade structures, carports, garages and storage sheds.

**STRUCTURE, PRINCIPAL** A structure in which is conducted the main or principal use of the lot on which said structure is situated. Such structure(s) includes any open or enclosed porch, carport, garage, or similar structure attached to such structure.

**THEATER, SINGLE AND MULTIPLEX** A building or part of a building used for motion pictures or live performances which may include dinner theaters.

**TOWNHOUSE** A multiunit dwelling having separate external entrances to each unit and common vertical party walls.

**TRANSIENT GUEST** Any person who shares a dwelling unit on a nonpermanent basis for not more than 30 days (Chapter 1, Title 10, Part 21, New York State Sanitary Code).

**TRAVEL TRAILER** A registered vehicle which is used, or designed to be used, for seasonal and/or temporary living or sleeping purposes and which is customarily standing on wheels or rigid supports. A recreational vehicle (RV) is also considered a travel trailer.

**TRUCK TERMINALS** A building or part of a building or premises used for the short-term storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

**USE** Includes the following:

- (1) The purpose for which any lot or structure may be arranged, designed, intended, maintained, or occupied; and/or
- (2) Any occupation, activity, or operation conducted in any structure or on lot.

**USE, ACCESSORY** A use which includes all of the following:

- (1) Controlled by the person exercising the principal use;
- (2) Incidental and customarily associated with the principal use;
- (3) Located on the same lot with such principal use or building; and
- (4) Does not have any greater impact on the environment than the principal use.

**USE, CULTURAL** A property whose principal use services the public such as but not limited to museums, art galleries, and libraries in public, private or nonprofit facility.

**USE, EXTRACTIVE** The removal and sale of any soil, gravel or earth product from a property. Grading in preparation for site construction under approved plans by the appropriate Town entity, where earth material is moved on site or removed off site incidental to construction activities, shall not be deemed an extractive use.

**USE, NONCONFORMING** A use of land, existing legally at the time of enactment of this chapter, that does not conform to the zoning regulations of the district in which it is situated.

**USE, PRINCIPAL** The main or primary permitted use of a lot or structure.

**UTILITY, PUBLIC** Any public utility use, equipment or structure that is not a "major public utility use." A public utility use does not include any use subject to the jurisdiction of the public service commission pursuant to Article Seven or Article Eight of the Public Service Law.

**VARIANCE, AREA** An authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or topographical requirements of the applicable zoning regulations.

**VARIANCE, USE** An authorization by the Zoning Board of Appeals for the use of land in a manner or for a purpose which is otherwise not allowed or prohibited by the applicable zoning regulations.

**VEHICLE FILLING STATION** An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle fuel or oil and other lubricating substances, which may include as accessory uses sale of motor accessories, and which may or may not include facilities for lubricating, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding or painting.

**VEHICLE REPAIR** A building or premises used for the general mechanical and/or body repair of licensed motor vehicles, including painting, and the accessory sale of related vehicle parts, maintenance products, and accessories. A junkyard or salvage yard is not to be considered as meeting this definition.

**VEHICLE SALES** A lot or structure for the display, sale, or lease of new or used automobiles, trucks, trailers, motorcycles, recreational vehicles, snowmobiles, boats, lawn and garden vehicles, and light industrial vehicles.

**VEHICLE SALES AND REPAIR, HEAVY EQUIPMENT** A lot or structure for the display, sale, lease or repair of new or used heavy construction equipment that is industrial in nature (such as backhoes, graders, dump trucks, and excavators) and/or large-scale agricultural equipment.

**VETERINARY OFFICE OR HOSPITAL** A building for the treatment and/or examination of animal illness, including facilities for boarding animals receiving examination or treatment. This definition is deemed to include "animal hospital or clinic."

**WAREHOUSE** A building or premises used for the wholesale storage and/or transfer of goods by commercial or industrial enterprises.

**WATERCOURSE** Any river, stream or naturally occurring channel of water or any man-made culvert which flows directly into one of the aforementioned.

**WHOLESALE (STORE, BUSINESS, ESTABLISHMENT)** Any lot, premises or structure which is engaged in selling to retailers or jobbers rather than directly to retail customers.

**WIND FARM** A principal use that incorporates one or more wind energy conversion systems on a lot for the sole purpose of generating electric power for sale to utility companies.

**YARD, FRONT** An open area extending equidistant between a front lot line and the rear line of a minimum front yard setback and projecting to the side lot line(s).

**YARD, REAR** An open area extending equidistant between the rear lot line and the minimum rear yard setback and extending the full width between the minimum side yard setbacks.

**YARD, SIDE** An open area extending equidistant between the minimum side yard setback and the side line of a lot and extending from the rear line of the front yard to a lot line opposite to the front lot line.

### **Article III. Establishment of Districts**

§525-6. Conformity with requirements.

No building, structure, or lot shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, constructed, altered, or reconstructed, unless in conformity with the requirement herein specified for the district in which it is located, except as hereinafter provided.

§525-7. General requirements.

- A. No structure shall hereafter be erected, constructed, altered, or reconstructed except in conformance with the requirements and procedures of this chapter.
- B. No part of a required yard or other open space around any structure required for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space required for another structure.
- C. No lot shall be reduced in size so that its area or any of its dimensions or open spaces would be smaller than required by this chapter.
- D. No structure or lot shall be used for any uses other than those uses permitted for the zoning district as set forth in [Article IV. §525-20](#)~~Article IV. §525-20~~, Use Regulation Table.
- E. This chapter shall be interpreted and applied so that it provides the minimum requirements for the promotion of the public health, safety and general welfare.
- F. A use not specifically permitted shall be deemed to be prohibited.
- G. Regardless of any other provisions of this chapter, any use that is noxious or offensive and constitutes a public nuisance by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health or safety is prohibited.
- H. Approval of a use under this chapter shall not abrogate an applicant's responsibility to obtain all other required local, county, state or federal permits or approvals as appropriate.

§525-8. Zoning districts.

[Amended 5-10-2011 by ordinance (Res. No. 87-2011)]

In order to fulfill the purpose of this chapter, the chapter establishes the following districts:

- AR Agricultural
- R1 Residential – Low Density
- R2 Residential – Moderate Density
- R3 Residential – High Density
- CN Commercial Neighborhood
- CR Commercial Regional
- I Industrial
- C Conservation

§525-9. Zoning Map.

The location and boundaries of said zoning districts are hereby established on a map designated "Zoning Map of the Town of Southport," which map is kept on file and will be available for public viewing in the Office of the Town Clerk, and such map is hereby declared to be part of this chapter.

§525-10. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundary of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Center line and right-of-way lines. Where district boundaries are indicated as approximately following the center line or right-of-way lines of a road, public utility easement, or watercourse, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a center line or right-of-way of such road, public utility or watercourse is moved not more than 20 feet.
- B. Lot or boundary lines. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by use of the scale shown on the Zoning Map.
- D. In the event of a questionable district boundary, the questionable boundary shall be referred to the Zoning Board of Appeals, and it shall, to the best of its ability, establish the exact boundary.
- E. Precise district boundary determinations made by the Zoning Board of Appeals in accordance with the above rules shall be considered final and conclusive and may only be altered by amendment of the Zoning Map by the Town Board.
- F. Lots divided by zoning district lines. Where a lot is divided by a district boundary line, the requirement for each respective district shall apply, except:
  - (1) In all cases where a lot in one ownership, other than a through lot, is divided by a district boundary so that 50% or more of such lot lies in the less restricted district, the requirement prescribed for such less restricted district shall apply to the more restricted portion of said lot for a distance of 30 feet from the zoning district boundary. For purposes of this chapter, the more restricted district shall be deemed that district that prohibits a particular intended use of a lot or that sets a higher standard with respect to setback, coverage, yards, screening, landscaping and/or similar requirements.
  - (2) In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the requirement applicable to the greater part of the lot shall apply to the entire lot.
- G. Buildings divided by zoning district lines. Where a district boundary line divides a building existing on the effective date of this chapter, so that 50% or more of such building lies within the less restricted district, the requirement prescribed by this chapter for such less restricted district (as defined in Subsection F above) shall apply to the entire building. Such provisions shall apply only if, and as long as, the building is in single ownership and its structural characteristics prevent its uses in conformity with the requirements of each district.

Article IV. Use Districts

§525-11. Agricultural (AR) intent.

This district delineates predominately agricultural and low density single-family residential areas and areas where such development should occur in the future. These areas are typically not suitable for more intensive development due to a lack of infrastructure or other environmental limitations. The purpose of this district is to maintain a rural, low-density character and conserve agricultural land by prohibiting uses that are incompatible in development type and intensity of use.

§525-12. Residential Low Density (R1) intent.

This district delineates predominately low-density single-family residential areas and areas where such development should occur in the future. Its purpose is to protect the integrity of these residential areas by prohibiting uses that are incompatible in development type and intensity of use.

§525-13. Residential Moderate Density (R2) intent.

This district delineates predominately moderate-density single-family residential areas and areas where such development should occur in the future. Its purpose is to protect the integrity of these residential areas by prohibiting uses that are incompatible in development type and intensity of use.

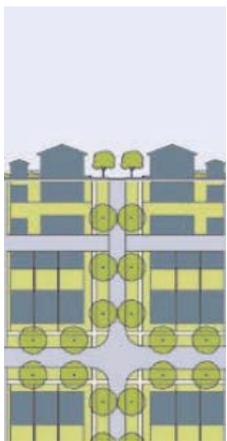
§525-14. Residential High Density (R3) intent.

This district delineates residential areas with a mixture of moderate- and high-density housing types and areas where such development should occur in the future. Its purpose is to protect the integrity of these residential areas by prohibiting uses that are incompatible in development type and intensity of use.

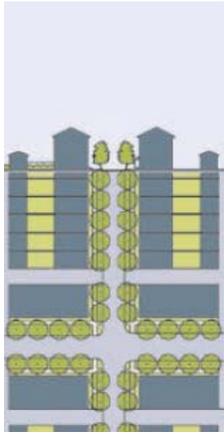
§525-15. (Reserved)

[1]:*Editor's Note: Former § 525-16, Multiple Residential (MR) intent, was repealed 5-10-2011 by ordinance (Res. No. 87-2011); see now Article VII,*

§525-16. Commercial Neighborhood (CN) intent.

	<p><b>CN – Commercial Neighborhood</b>          Commercial Neighborhood zone consists of residential and commercial urban fabric, with a range of building types that accommodate a variety of uses including retail, offices, some single family and multi-family dwellings, including row houses and apartments above shops. Commercial buildings complement the character of residential buildings, and existing houses may accommodate commercial uses. Buildings are placed close to sidewalks. Streets have steady street tree planting.</p>	<p><b>General character</b></p>	<p>Shops mixed with residences (including single-family, multi-family dwellings and apartments above shops), offices and civic buildings; trees located within the public right of way; substantial pedestrian activity</p>
		<p><b>Building placement</b></p>	<p>Shallow setbacks, buildings placed close to the street with parking behind, defining a street wall</p>
		<p><b>Frontage types</b></p>	<p>Common Lawn          Porch &amp; Fence          Terrace or Lightwell          Forecourt</p>
		<p><b>Typical building height</b></p>	<p>1 to 2 stories, with variation</p>
		<p><b>Type of civic space</b></p>	<p>Median landscaping, parks, plazas and squares</p>

§525-17. Commercial Regional (CR) intent.

	<p><b>CR – Commercial Regional</b>                  Commercial Regional zone consists of moderate density buildings that accommodate the greatest variety of uses of regional importance. Buildings accommodate primarily commercial uses including retail, offices, and semi-industrial uses in designated areas. Mixed-use buildings may include dwellings. Setbacks and landscaping are variable. Streets feature curbs and sidewalks.</p>	<p><b>General character</b></p>	<p>Medium density mixed-use buildings, shops, offices and semi-industrial commercial buildings in designated areas close to major roads. Entertainment, civic and cultural uses. Some apartments in mixed-use buildings. Buildings are set back slightly from the street. Accommodates vehicles as well as pedestrian access.</p>
		<p><b>Building placement</b></p>	<p>Shallow setbacks, buildings placed close to the street with parking behind, defining a street wall where possible. Side yards create buffers in semi-industrial areas.</p>
		<p><b>Frontage types</b></p>	<p>Porch &amp; Fence                  Terrace or Lightwell                  Forecourt                  Stoop                  Shopfront &amp; Awning                  Gallery                  Arcade</p>
		<p><b>Typical building height</b></p>	<p>1 to 2 stories, with variation</p>
		<p><b>Type of civic space</b></p>	<p>Median landscaping, parks, greens and plazas</p>

§525-18. Industrial (I) intent.

This district delineates predominately industrial areas and areas where such development should occur in the future. Its purpose is to allow industrial activity in areas where it will create no detrimental or significant adverse impact on the environment or the community as a whole.

§525-19. Conservation (C) intent.

This district delineates open, publically owned and/or environmentally sensitive areas. Its purpose is to protect the integrity and benefit of these areas, maintain open space, and allow for the free flow of streams at flood events by prohibiting uses that are incompatible in development type and intensity of use. Typically, only the least-intensive and carefully considered types of development are compatible with the goals of this district.

The Conservation District supports low intensity recreational and agricultural uses that are compatible with the flood hazard and do not require the construction of new buildings. Buildings are prohibited, except for small structures on parcels larger than 10 acres that are a “necessary appurtenance” of the agricultural, recreational, or open space use (such as restrooms and storage sheds). Recreational vehicles, trailers, and portable toilets must be adequately anchored to resist flotation. Open pavilions are not considered buildings, and are thus permitted. Filling, storage, and other encroachments on natural drainage and flood flows are prohibited in the Conservation District.

§525-20. Use Regulation Table.

The Use Regulation Table for uses permitted in each zoning district is as follows.<sup>[1]</sup>

[1]: Editor's Note: The Use Regulation Table is included at the end of this chapter.

§525-21. Activities prohibited in all districts.

- A. No effluent or matter of any kind shall be discharged into any stream or body of surface water which:
  - (1) Violates established stream requirements of the New York State Department of Environmental Conservation or otherwise causes odors or fumes or which is poisonous or injurious to human, plant, or animal life; or
  - (2) Causes an increase in projected flood heights.
- B. The practice of soil stripping shall be limited to the incidental filling of areas within the Town to bring them up to grade, except insofar as is necessary for typical agricultural practices or incidental to excavation for cellar and other structure.
- C. Unless conducted under proper and adequate requirements, no use shall be permitted which will produce corrosive, toxic, or noxious fumes, gas, materials, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, odors, dust, waste, noise or vibration, or other objectionable features so as to be detrimental to the public health, public safety, or general welfare.
- D. The dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way.

§525-22. Exceptions in all districts.

- A. Public properties. Nothing in this chapter shall restrict construction or use in the exercise of governmental use of a governmental building or lot.
- B. Public utilities. Nothing in this chapter shall restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the laws of the State of New York. Other facilities may be constructed subject to a site plan approval.

Article V. Bulk and Density Control Requirements

§525-23.Intent.

This article is established in the interest of promoting public health, safety and welfare by providing open space for the access of light and air circulation, preventing conflagration, facilitating firefighting, meeting current and future septic disposal needs, protecting water supplies and environmentally sensitive areas, providing noncongested traffic movements, and protecting views.

§525-24. Bulk and Density Control Schedule.

The Bulk and Density Control Schedule of required conditions for each zoning district is as follows.<sup>11</sup>

[1]:*Editor's Note: The Bulk and Density Control Schedule is included at the end of this chapter.*

§525-25. Yard requirements.

Except as herein provided, no structure shall be erected or altered, or lots used, except in accordance with the requirements set forth in this article and the Bulk and Density Control Schedule.<sup>11</sup> No principal building shall be erected or altered in a setback.

[1]:*Editor's Note: The Bulk and Density Control Schedule is included at the end of this chapter.*

§525-26. Special requirements relating to front yard.

- A. On any lot with more than one front yard, all yards, other than front yard, shall be deemed to be a side yard.
- B. The minimum front yard setback on a lot may be reduced under the following conditions:
  - (1) Lots adjoining the two sides of the subject lot have principal buildings located within less than the minimum front yard setback established for the district; and
  - (2) The lot width of the subject lot is 250 feet or less; and
  - (3) The reduced front yard setback on the subject lot shall be no less than a distance equal to the average distance between the front lot line and the building line on the adjoining lots.
- C. The minimum front yard setback on a lot shall be increased under the following conditions:
  - (1) Lots adjoining the two sides of the subject lot have principal buildings located at greater than the minimum front yard setback established for the district; and
  - (2) The lot width of the subject lot is 250 feet or less; and
  - (3) The increased front yard setback on the subject lot shall be no less than a distance equal to the average distance between the front lot line and the building line on the adjoining lots, except that in no instance shall it be greater than 50 feet; and
  - (4) In such instances, unenclosed porches may encroach up to eight feet into the front yard setback.

**§525-27. Special requirements relating to side yard:**

- A. A structure having a semidetached, townhouse or multiunit dwelling shall meet the side yard setback only at the end of the structure facing the side yard.
- B. Where the side wall of a building is not parallel to the side lot line or the side lot line is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any one point than 1/2 the otherwise required minimum width setback.

**§525-28. Projection into yard.**

Only the following shall be permitted to project into a minimum yard setback:

- A. Awnings and canopies may project a maximum of six feet.
- B. Cornices, eaves, passive solar devices, other such architectural features, and roof-mounted antennas may project a maximum of two feet.
- C. Exterior uncovered and unenclosed handicap access facilities may project up to the lot line if required to meet the access requirements of the Americans with Disabilities Act (ADA).
- D. Except as provided in Article **X**, unroofed and unenclosed paved surfaces may project up to the lot line.

**§525-29. Compliance with density.**

- A. No subdivision of a lot shall create a lot that is not in compliance with any provision of the Bulk and Density Control Schedule.<sup>11</sup>

*[1]: Editor's Note: The Bulk and Density Control Schedule is included at the end of this chapter.*

- B. There shall be no more than one principal structure containing any dwelling unit on a lot except as may be approved under site plan review and approval.

§525-30. Distance between principal structures on same lot.

Where there are two or more principal structures on a lot in any district, the space between such structures shall be at least equal to the height of the taller structure.

§525-31. General exception to height requirements.

The limitations on the height of a building shall not apply to parts of a structure which are nonhabitable, including silo, chimney, heating, ventilating and air-conditioning (HVAC) equipment, skylight, tank, bulkhead, spire, elevator shafts, enclosed stairwells or antenna.

§525-32. Through lot.

In the case of a lot running through from one road to another road, the front of such lot shall, for the purposes of this chapter, be considered that frontage upon which the majority of the buildings in the same block front, but in case there has been no clearly defined frontage established, the owner may, when applying for a building permit, specify on the permit application which lot line shall be considered the front lot line. The rear portion of such a lot shall, however, be a front yard for the purposes of determining required setback and locations of permitted structure and use.

§525-33. Special Dimensional Requirements

- A. In the AR District, Agriculture, Personal uses shall have a minimum lot area of 5 acres. Agriculture uses shall have a minimum lot area of 10 acres and front, side and rear setbacks of 150 feet. Agriculture, Industrial uses shall have a minimum lot area of 100 acres.,
- B. Multi-unit dwellings in the R3 district shall have a minimum lot area of 3,000 square feet per unit.

Article VI. Residential Cluster Development (RCD)

§525-34.Intent.

The RCD is intended to enable and encourage flexibility in the design and development of land in such a manner as to promote the most appropriate use of land, to facilitate adequate and economical provision of services, to preserve those areas in the Town that are suitable for agricultural use, to protect and conserve open space use and environmentally sensitive features, and to preserve scenic qualities.

§525-35.Applicable zoning districts.

RCD shall be considered applicable in the AR Zoning District.

§525-36.Permitted uses.

All one-unit and two-unit dwelling and ancillary uses as specified in § 525-21, Use Regulation Table, for the applicable districts are permitted.

§525-37.Dimensionality requirements.

Dimensionality requirements as set forth in Bulk and Density Control Requirements, may be varied by the Planning Board based on set conditions and the merits of the specific proposal in meeting the objectives of this article.

§525-38.Authorization of Planning Board to grant or deny RCD.

In accordance with § 278 of the Town Law, the Town Board authorizes the Planning Board, simultaneously with the approval of a plat, to modify the applicable bulk and density provisions of this chapter, subject to the conditions hereinafter set forth, where such modification would benefit the Town by providing an alternate method of development of the plat. In no instance shall the number of dwelling

units exceed the number permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming with the minimum lot size and density requirements of the zoning district. The Town Board, pursuant to § 278 of the Town Law, authorizes the Planning Board to require that the developer submit an application which reflects and incorporates RCD modifications where the objectives stated herein and/or in Article I are met to a greater degree than if the development were permitted to occur in a conventional manner. The Planning Board shall comply with all procedures and requirements set forth in this article when implementing such power.

#### §525-39.Requirements governing RCD.

Any RCD shall conform to the following requirements which are regarded as minimum requirements:

- A. The RCD shall apply only to lands that have a minimum of 20 contiguous acres in the AR district where:
  - (1) It shall be determined that such development will not be detrimental to the health, safety or welfare of persons residing in the vicinity or to property or improvements in close proximity; and
  - (2) The proposed development shall create an attractive residential environment that is in conformity with the intent of this article and the Town Comprehensive Plan.
- B. No proposed lot in an RCD shall be reduced to less than 15,000 square feet and shall conform to no less than the minimum yard setbacks for the R1 Zoning District.
- C. All RCD plans shall be prepared with the assistance of a Professional Engineer licensed in New York State and shall be consistent with the spirit and intent of Chapter 525, Zoning.
- D. In cases where a developer has proposed architecturally unusual groups of dwellings and/or accessory structures, the Planning Board, after reviewing the plans and elevations, may recommend approval of smaller minimum lot sizes than those specified, provided that the sanitary sewer systems are approved by the [NYSDEC Chemung County Health Department](#), that the gross density does not exceed that permitted within the zoning district in which the land is located, and the layout is not detrimental to the health, general welfare, and aesthetic character of the community.
- E. Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the developer and the Planning Board. If such time frame is not met by the developer, the RCD approval shall be revoked.

#### §525-40.Review process.

The process involves the following steps:

Conservation analysis.

Sketch plan.

Preliminary plat review.

Final plat review.

- A. Conservation analysis.
  - (1) Applicants shall prepare a conservation analysis, consisting of inventory maps, survey and topographic maps, written description of the land, and a written analysis of the conservation value of various site features.
  - (2) The conservation analysis shall identify site features with conservation value on the parcel, including but not limited to the following:
    - (a) Constrained acreage, as defined in § [525.43E](#) below.

- (b) Active farmland, agriculture districts, prime agricultural soils and/or soils of statewide importance for farming.
  - (c) Existing or proposed public trail corridors.
  - (d) Scenic viewsheds, as determined through the completion of a NYS Department of Environmental Conservation visual environmental assessment form, or as otherwise defined in any natural resources inventory or similar plan adopted by resolution of the Town Board.
  - (e) Unique geological features.
  - (f) Documented aquifers and aquifer recharge areas.
  - (g) Sites identified as historic on any federal, state, or local register of historic places.
  - (h) Public parks and publicly accessible recreation lands.
  - (i) Unfragmented forestland.
  - (j) Buffer areas necessary for screening new development and existing mining operations from adjoining parcels and from other publicly accessible areas including roads, parkland, and nature preserves.
  - (k) Stone walls.
  - (l) Highly erodable soils.
  - (m) Trees 30 inches in diameter or larger when measured 4 1/2 feet above the adjacent grade, which are of sound health and provide a unique character to the site.
  - (n) If requested by the Planning Board after the initial submission of the conservation analysis, other land area exhibiting present or potential future recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.
- (3) The conservation analysis shall result in a composite map (i.e., overlay map) based on the information collected above, and shall identify areas that are suitable for development and those lands which have conservation value and may be unsuitable for development.

B. Planning Board action on conservation analysis.

- (1) The Planning Board shall make a determination as to which land has significant conservation value and should be protected from development by conservation easement or deed restriction. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the conservation findings). The Planning Board may incorporate information provided by, but not limited to, its own research, site visits, consultants, other qualified experts or agencies or from public comments. If, as a result of the SEQRA review, information arises to cause the conservation analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
- (2) The outcome of the conservation analysis and the Planning Board's conservation findings shall be used as the basis for sketch plan review.

C. Density calculation.

- (1) The density is the developable area divided by the minimum lot size as provided in the Dimensional Table. Editor's Note: The Dimensional Table is included at the end of this chapter.
- (2) The permitted density shall not be reduced as a result of the conservation analysis.
- (3) The density established shall be no greater than normally permitted under a conventional subdivision except as allowed herein.
- (4) The Planning Board shall first determine the developable or "unconstrained land."

- (5) To determine the developable land area, subtract the constrained land from the total acreage of the parcel. Constrained land includes:
  - (a) Delineated wetlands (NYS Department of Environmental Conservation and US Army Corps of Engineers). For wetlands falling under the jurisdiction of the NYSDEC, any upland buffer areas as defined by the NYSDEC shall also be included in constrained land calculations.
  - (b) Watercourses/water bodies.
  - (c) One-hundred-year floodplains.
  - (d) Slopes over 15% which are 2,000 square feet or more of contiguous sloped area.
- (6) Fifteen-percent-development-loss factor, to take into account loss of developable area to roadways, stormwater areas, and drainage or utility easements. The residential density shall equal the developable area divided by the permitted number of acres per unit (the minimum lot size) for each zoning district. All fractional units shall be rounded down.
- (7) Prior to the establishment of the overall density, the owner may provide the Planning Board with a preliminary plat of the site showing how it may be subdivided in a conventional manner conforming to the requirements of this chapter for that district or districts.
- (8) At least 40% of the total acreage shall be preserved by conservation easement or deed restriction and shown as such on the sketch plan, based upon the conservation analysis.
  - (a) Applicants wishing to conserve greater than 40% open space may receive additional density on the site, as follows:
    - [i] Additional 20% density allowed if public access is provided to the protected open space.
    - [ii] Additional 10% density allowed for every 10% of additional open space protected on the parcel.
- (9) The maximum additional density bonus shall be capped at 40% above the density otherwise allowed.

D. Initial sketch plan review.

- (1) At the conclusion of the conservation analysis process, a sketch plan shall be submitted.
- (2) The sketch plan shall show the following:
  - (a) Preferred locations for intensive development as well as acceptable locations for less dense development.
  - (b) Proposed lot locations and roads.
  - (c) Land to be permanently preserved and recommended conservation uses, ownership, and management guidelines for such land. The open space protected pursuant to this section must have conservation value, which shall be determined in the course of the conservation analysis.
  - (d) Land suitable for stormwater management facilities, which may be located within the preserved land area.

E. Preliminary and final plat review.

Once the sketch plan is approved, the applicant must follow all processes and requirements pertaining to preliminary and final plat for major subdivisions pursuant to Chapter 225, Subdivision of Land.

F. Dimensional requirements in conservation subdivisions.

- (1) The Planning Board shall determine appropriate lot sizes in the course of its review of a conservation subdivision based upon the criteria established in this section and the requirements of the NYS Department of Health, Town services and/or private water/sewage systems may be used to meet these requirements.
- (2) In order to permit a clustered lot configuration, wells and septic systems may be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.
- (3) The applicant shall specify dimensional requirements for a proposed conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the final plat.

G. Conservation subdivision design guidelines

The following guidelines should be considered and may be required in the process of designing and siting houses in a conservation subdivision. When locating new houses on the land there are many options in the siting, configuration, size and arrangement of elements in the landscape. These choices define the character of the developed landscape environment. These guidelines are examples of the preferred method to design and site uses but should not be considered the only acceptable solution.

- (1) Preservation of scenic features. Relate the location of structures to existing scenic features such as individual large trees within open fields, stone walls, hedgerows, historic buildings, and unpaved country roads if they exist on the site. Avoid locating structures in areas which disrupt the relationship of the rural features. Locating structures in the midst of an open field is discouraged.
- (2) Placement of structures. Wherever practical, structures shall be sited to be as visually inconspicuous as possible, when seen from a distance and from lower elevations, and to minimize impact on open and agricultural lands. Wherever possible, the Planning Board may require that structures be located at the edge of the agricultural land to minimize the loss of such land.
- (3) Vegetation. Existing vegetation on site shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures as seen from public roads or parks or other public views.
- (4) Wherever practical, buildings shall be sited so that they do not protrude above treetops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees or hilltops.
- (5) Wherever practical, all electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

H. Professional assistance.

The Planning Board, subject to the approval of the Town Board, may require an applicant for conservation subdivision to deposit in an escrow account a reasonable amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be

returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the Town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by Town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

I. Permanent open space in conservation subdivisions.

- (1) Open space set aside in a conservation subdivision shall be permanently preserved as required by this section. Developed lands shall not impact the conservation value of the permanent open space.
- (2) The open space protected pursuant to this section must have conservation value as determined by the conservation findings.
- (3) Permanent preservation.
  - (a) A permanent deed restriction or a conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes shall be granted with the approval of the Planning Board. Such deed restriction or conservation easement shall be approved by the Planning Board and shall be required as a condition of final plat approval.
  - (b) The permanent protection shall prohibit residential, industrial, or commercial use of open space land, including power generation facilities (except in connection with agriculture, forestry, and passive recreation), and shall not be amendable to permit such use. Access roads, driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures shall be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.
- (4) Permanent open space may be preserved as a portion of one or more large lots or may be contained in a separate open space lot
- (5) Public hearing on RCD.
  - (a) A public hearing, as specified in New York State Town Law, shall be held by the Planning Board regarding the RCD subdivision plat.

J. Notations on final plat.

Preserved open space land shall be clearly delineated and labeled on the subdivision final plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The final plat shall clearly show that the open space land is permanently preserved for conservation purposes required by this chapter, and shall include deed recording information in the County Clerk's office.

K. Ownership of open space land.

- (1) Open space land shall under all circumstances be protected but may be owned in common by a homeowners' association (HOA), offered for dedication to Town, county, or state governments, transferred to a nonprofit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.
- (2) If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:

- (a) The HOA must be established before the approved subdivision final plat is signed, and must comply with all applicable provisions of the General Business Law and filed with the Town Clerk.
- (b) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
- (c) The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
- (d) The HOA must be able to adjust the fees to meet changed needs.
- (e) The applicant shall make an irrevocable, conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may only be accepted upon any one of the following circumstances:
  - [i] Upon the failure of the HOA to take title to the open space from the applicant or other current owner;
  - [ii] Upon dissolution of the association at any future time;
  - [iii] Upon failure of the HOA to fulfill its maintenance obligations hereunder; or
  - [iv] Upon failure to pay its real property taxes.
- (3) Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- (4) The Town's counsel shall find that the HOA documents presented satisfy the conditions stated above, and such other conditions as the Planning Board shall deem necessary.

L. Maintenance standards.

- (1) Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for any purpose or structure prohibited by the conservation easement or for the storage or dumping of any matter, including, but not limited to, fill, refuse, junk, or other offensive or hazardous materials.
- (2) If the Town Board finds that the provisions above are being violated, it may, upon 30 days' written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties.

Article VII.Planned Development District (PDD) Provisions

§525-41.Intent.

- A. Planned Development Districts (PDDs) provide a procedure for allowing flexible land use and design through creative planning and design. PDDs allow development matched to the unique characteristics of the site and allow innovative development techniques that might not otherwise be possible through strict application of standard use, area, bulk and density specifications.
- B. Approved PDDs will enable greater flexibility than conventional zoning while providing a customized regulatory framework that recognizes the unique environmental, physical, and cultural resources of the project area and neighborhood. PDD legislation adopted by the Town Board will replace the

existing zoning for the parcel or parcels becoming PDDs and will become basis for detailed design, review and control of subsequent development.

- C. Planned Development Districts shall advance the goals of the Comprehensive Plan, promote innovation in the design and layout of structures and encourage compact, pedestrian-oriented development and redevelopment, ensure adequate provision of community services, and preserve significant natural features and permanently protect open space resources.
- D. Planned Development Districts shall encourage a mix of uses on one site which is not attainable through traditional zoning. The intent of PDDs is not to circumvent the variance or traditional zoning amendment process in order to establish single uses which would not normally be allowed by the underlying zoning district.
- E. While flexibility is encouraged, it is intended that conformance with the Comprehensive Plan, municipal service availability and the purposes of this chapter shall ensure that the general welfare is protected through equal treatment under this uniform procedure. The Town Board shall consider the health, safety and welfare of the residents, as well as the aesthetics of all proposed project approvals.

#### §525-42.Objectives.

In order to carry out the intent of this chapter, all approved PDDs shall:

- A. Produce a development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Plan.
- B. Preserve significant natural topography, geological features, scenic vistas, and ecosystems.
- C. Prevent the disruption of natural drainage patterns, soil erosion, and uncontrolled surface water drainage.
- D. Preserve and integrate historically significant structures and sites with viable adaptive uses.
- E. Use land efficiently, resulting in smaller networks of streets and utilities and thereby lower development and maintenance costs.
- F. If residential in land use, provide a maximum choice in occupancy tenure (e.g., individual ownership, leaseholds, and condominiums), type of housing (e.g., detached houses, Town houses, garden apartments), lot size, and community facilities.
- G. Provide an adequate and integrated system of open space and recreation areas designed to tie the PDD together internally and link it to the larger community.
- H. Use creative design on the site which allows an orderly transition of land uses.
- I. Adhere to any applicable economic conditions, post-development agreements, or environmental mitigation which may be required.

#### §525-43.General standards.

- A. In accordance with the criteria set forth below, the existing use, dimensional, sign and parking regulations may be altered in order to establish a planned development district; provided, however, that the standards are met.
- B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In cases of ownership by

multiple parties, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.

- C. Location requirements. Planned Development Districts may be created in any zoning district of the Town.
- D. Minimum Area Requirements. The minimum area required to establish a PDD shall be as follows:
  - (1) In the CN, CR, I, and MR zones, the minimum area shall be five (5) acres.
  - (2) In the R1, R2, and R3 zones, the minimum area shall be ten (10) acres.
  - (3) In the AR zone, the minimum area shall be twenty (20) acres.
- E. Minimum setbacks. The minimum setbacks required for the underlying zoning district(s) shall be met at the periphery of the PDD.
- F. Water supply and sewage disposal. PDDs which include a significant number of residential units should be served by a community water system and be provided with sewage disposal facilities, if appropriate, in accordance with the requirements of the Town, the County and the New York State Departments of Health and Environmental Conservation.

#### §525-44.Application review and approval procedure.

- A. General. Whenever a PDD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such Planned Development District in accordance with the following procedures.
- B. Sketch Plan Review Procedure.
  - (1) Prior to the formal filing of a PDD application, the applicant shall submit a sketch plan of the proposal to the Town Board.
  - (2) During Sketch Plan Review, the Town Board, in its legislative capacity, establishes the boundaries of the proposed PDD and set limits on the nature and range of uses, geometric and site controls and overall project planning. Specifically, the Town Board shall review the sketch plan according to the following criteria:
    - (a) The proposal conforms to the Comprehensive Plan.
    - (b) The proposal meets local and regional needs.
    - (c) The proposal meets the intent and objectives and general requirements of this section.
  - (3) Once the Town Board has accepted a PDD sketch plan for consideration, it shall refer the sketch plan to the Planning Board. Such refusal or acceptance and referral shall take place within thirty (30) days of the submittal of the PDD sketch plan.
  - (4) The Planning Board, upon receipt of the referral, shall have sixty (60) days to issue an advisory report to the Town Board on the PDD sketch plan. Failure to issue an advisory report within sixty (60) days shall be equivalent to a neutral recommendation. The advisory report shall make a recommendation as to whether the sketch plan, as submitted, meets the following sketch plan review criteria:
    - (a) The proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.
    - (b) There are adequate services and utilities available or proposed to be made available in the construction of the development.

- (5) Within forty-five (45) days of the Planning Board action, the Town Board shall take action to approve, with or without conditions, or disapprove the proposed PDD sketch plan, based on the criteria set forth above.
- (6) If approved or approved with conditions and accepted, the applicant may proceed to formal PDD application.
- (7) The Sketch Plan shall include:
  - (a) A map identifying the boundaries and physical characteristics of the proposed PDD, including uses and ownership of abutting lands.
  - (b) A conceptual development plan including a succinct narrative of the intent and attributes of the proposed district(s) that describes the location, conceptual design, and use of any lots and structures.
  - (c) The proposed amount, location and use of open space.
  - (d) Any anticipated changes in the existing topography and natural features.
  - (e) The location of the site with respect to nearby streets, rights-of-way, adjacent properties, easements and other pertinent features within two-hundred (200) feet.
  - (f) The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
  - (g) Preliminary use and dimensional requirements, including:
    - [i] Permitted uses, conditional and accessory uses;
    - [ii] Maximum development intensity of residential uses;
    - [iii] Floor area ratio for non-residential uses;
    - [iv] Lot coverage;
    - [v] Build-to distances from public and private ways;
    - [vi] Setbacks for structures and parking areas;
    - [vii] Minimum lot size;
- (8) In addition, the following documentation shall accompany the sketch plan:
  - (a) Evidence of how the proposed mix of land uses is compatible with the goals of local and area-wide Plans.
  - (b) General statement as to how common open space is to be owned and maintained.
  - (c) Description of ownership of the site.

C. Formal application.

- (1) After sketch plan review is complete, a formal application for establishment of a Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the SEQRA.
- (2) The Town Board shall refer the application back to the Planning Board within thirty (30) days. The Town Board shall also refer the application according to the requirements of General Municipal Law 239 -m, -n, and -nn and SEQRA.
- (3) The formal application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.

However, fully engineered plans and construction details are not required at this stage in the process. The following information is required; however, the level of detail shall be sufficient to provide the Planning Board with enough information to understand the proposed PDD:

- (a) The desirability of the proposed land use in the proposed location.
- (b) The existing character of the neighborhood.
- (c) Access, circulation, parking, and transportation management.
- (d) Proposed location, type and size of signs and driveways.
- (e) Existing state; county or Town highways that provide access to the area.
- (f) Vehicular traffic circulation features, including proposed highways and roadways within the PDD.
- (g) Mobility (bikes, pedestrians, etc.) through the district.
- (h) The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity.
- (i) The conceptual footprint, height and bulk of buildings and the intended use for such buildings.
- (j) Other site improvements.
- (k) Phasing program if phases are proposed.
- (l) General landscaping concept and features.
- (m) Preservation of open space and natural areas, including the amount and location of open space, recreation area and pedestrian circulation areas and provisions for permanent protection.
- (n) Infrastructure improvement preliminary plans, including water supply source and delivery, drainage and energy.
- (o) The general plan for the collection and disposal of sanitary wastes.
- (p) The proposed safeguards to be provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general (if a full environmental assessment form was provided instead of a draft EIS).
- (q) Compatibility with the Comprehensive Plan.
- (r) Permitted uses, conditional and accessory uses.
- (s) Maximum development intensity of residential uses.
- (t) Floor area ratio for nonresidential uses.
- (u) Lot coverage.
- (v) Build-to distances from public and private ways.
- (w) Setbacks for structures and parking areas.
- (x) Minimum lot size.
- (y) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas.
- (z) Minimum lot frontages and building massing.
- (aa) Preservation of historic structure(s).
- (bb) Design standards and guidelines.

- (cc) A proposed amendment to the Zoning Code, including, at a minimum, a written metes and bounds description of the property and standards for development.
- (dd) All material and data necessary to conduct review under the State Environmental Quality Review Act.

**§525-45.Planning Board action.**

- A. The Planning Board may require such changes in the preliminary plans as are found necessary or desirable to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.
- B. The Planning Board shall make the required findings outlined below and recommend approval, approval with modifications or disapproval to the Town Board of such PDD application, and shall report its findings to the Town Board within sixty-two (62) days following the date of referral from said Town Board, unless mutually agreed to by the applicant and the Planning Board.
- C. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project, nor imply a permit for said project.

**§525-46.Required findings.**

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

- A. That the PDD is consistent with the objectives and standards of this chapter.
- B. That adequate community facilities and services exist and/or are to be accommodated as part of this planned development.
- C. That the PDD establishes a mix of uses and a physical development pattern which would not be attainable through a traditional zoning amendment, as described in this code.
- D. That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan.
- E. That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable.
- F. That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas.
- G. That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the predevelopment open space resources potentially available for protection.
- H. That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.

**§525-47.Town Board action.**

- A. Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal establishment of the Planned Development District through a Zoning District Map amendment. In particular, any application for creation of a Planned Development District shall be considered a Type 1 action under SEQRA.

- B. Following receipt of Planning Board's findings and recommendation, the Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.
- C. The Town Board shall render a decision on the application within sixty-two (62) days of the public hearing, unless an extension of time is agreed to by the applicant and Town Board, according to the following criteria:
- (1) That the PDD is consistent with the purpose and intent of this Code including, where applicable, the objectives and standards of this Chapter;
  - (2) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;
  - (3) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;
  - (4) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
  - (5) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;
  - (6) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.
  - (7) The Town Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:
    - (a) Visual and acoustical screening
    - (b) Land Use mix
    - (c) Pedestrian and vehicular circulation system
    - (d) Parking and snow removal
    - (e) Sites for public services
    - (f) Protection of natural and/or historical features
    - (g) Requirements or conditions identified during the SEQR process and/or voluntary agreements between the applicant and the community, including economic incentives or infrastructure improvements
- D. If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended so as to define the boundaries of the Planned Development District, and such amendment shall be advertised and recorded in accordance with the requirements of New York State Town Law.

**§525-48. Site plan review within established PDD.**

- A. Application. Application for approval of a building project within an established Planned Development District shall be made in accordance with the procedures Site Plan Review. Application shall be made by the owner(s) or developer(s) of the area to be occupied by the building project.
- B. No building permit or certificate of occupancy shall be issued for any project within a PDD until the Planning Board determines that the proposed project is consistent with the approved PDD.
- (1) The development standards approved by the Town Board shall guide the planning and design of subsequent projects and/or phases of development within the PDD.

- (2) A building project within a Planned Development District shall conform in all respects to the approved plans.
- (3) The Planning Board, as appropriate, shall document that the following requirements have been met prior to approval of a development project within a PDD:
  - (a) The project is in conformance with the approved Planned Development District.
  - (b) The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project.
  - (c) All other zoning requirements of the district, except those modified or specifically deemed not applicable by the administrative officer, shall be met.
  - (d) The development plan shall specify reasonable periods within which development of each phase of the planned development may be started and shall be completed.

#### §525-49.Subdivision review.

Applications for subdivision in a Planned Development District shall be made to the Planning Board in accordance with Subdivision Chapter of the Code of the Town of Southport. In the event of a conflict between such subdivisions regulations and this chapter or any requirement imposed hereunder, the provisions of this chapter of such requirements shall apply.

#### §525-50.Consultant review fees.

The Planning Board may require an applicant for any review, permit or approval to deposit in escrow a reasonable amount established by the Planning Board to pay for the fees and/or costs of any engineer, consultant or attorney designated by the Planning Board to review such application. The fees and/or costs charged by such engineer, consultant or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within forty-five (45) days of final action on the application.

#### §525-51.Conditions to run with land.

All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

#### §525-52.Expiration of approval.

##### A. PDD legislation Repealer.

- (1) The Town Board shall act to return the property to its prior zoning district classification if it finds that:
  - (a) Performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.
  - (b) The PDD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Town Board which may consider any

number of factors in making its determination, including the securing of project financing and changed market conditions.

- (2) If a Planned Development District expires, any buildings constructed or used may continue as a nonconforming use and such shall continue to be bound by the previous PDD approval.

B. PDD Amendment Procedure

- (1) An application for amendment of an established Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by SEQRA. The Town Board shall refer the application to the Planning Board within thirty (30) days of the receipt of application.

- (2) The application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.

C. Procedure. The procedure for an amendment of an existing PDD shall be the same as that required to establish a new PDD, as described herein.

## Article VIII. Site Plan Review and Approval

### §525-53. Intent.

The purpose of this article is to authorize the Town Planning Board to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth herein, by examining such design elements which relate to parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, impact of the proposed use on adjacent land uses and such other elements as may be related to health, safety and general welfare of the community.

The power to approve, approve with modification and/or conditions, or disapprove a site plan for a use is vested in the Planning Board pursuant to § 274-a of the Town Law and the Town Board of the Town of Southport. Where a site plan approval is required, no building permit shall be issued until site plan approval is granted. The Planning Board may impose conditions on a site plan approval that are to be fulfilled prior to the issuance of a building permit, certificate of compliance or occupancy. The Planning Board, in its review of any site plan, shall be guided by the provisions set forth in this article and elsewhere in this chapter. The Planning Board may require that the site plan be prepared by a design engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure or land use as related to same.

### §525-54. Concept plan contents.

The concept plan shall comprise the following data, which shall be clearly labeled with the name of the proposed development, name of the applicant, and tax parcel number of the lot proposed for development:

A. An area map showing:

- (1) All lots proposed for development by the Applicant.

- (2) All of the following data within 1,000 feet of the boundary line of the lot:

- (a) Existing and proposed lots and their ownership;
- (b) Existing and proposed uses;
- (c) Existing and proposed zoning districts;

- (d) Existing and proposed roads;
  - (e) Existing and proposed subdivisions;
  - (f) Existing and proposed easements;
  - (g) Existing and proposed structures;
  - (h) All existing major natural features such as water bodies, watercourses, wetlands, wooded areas, special flood hazard areas and individual large trees;
  - (i) District boundaries, including zoning, fire, school, sewer and water; and
  - (j) All soil classifications.
- (3) The site topography, at a scale of not less than one inch equals 2,000 feet, showing the entire proposed site area and the location of the lots for the proposed development.
- B. A scaled site development map of the concept plan showing existing and proposed:
- (1) Structures.
  - (2) Public and private improvements.
- C. Additional data:
- (1) Name, address and telephone number of applicant.
  - (2) A concise written description of the proposed development, including:
    - (a) Purpose, nature and magnitude of the use, including a density schedule;
    - (b) Projected time frame for the proposed development;
    - (c) Notation of the acreage of the lot proposed for development;
    - (d) Square footage of each proposed structure; and
    - (e) Proposal for the source of water supply and method for sewage disposal.

**§525-55. Action on the concept plan.**

The Planning Board shall evaluate the concept plan and provide written comments to the applicant on its findings.

**§525-56. Site plan application.**

- A. Upon conditional acceptance of the concept plan, the applicant may initiate a site plan application in accordance with this section by submitting to the Planning Board a preliminary site plan.
- B. Site plan application shall comprise:
- (1) Completed forms of the Planning Board required of the applicant;
  - (2) Preliminary plan in accordance with ~~§525-57~~[§525-38](#);
  - (3) Final plan in accordance with ~~§525-58~~[§525-39](#);
  - (4) Environmental assessment form required of the applicant by the rules of the Planning Board;
  - (5) Supplemental engineering and technical reports as appropriate to the contents of the preliminary and final plans and required by the Planning Board; and
  - (6) Other information required by the Planning Board.

**§525-57. Preliminary site plan.**

A. A preliminary plan shall comprise the following data and documentation:

- (1) The documents required in ~~§525-56~~§525-37.
- (2) Report and plan regarding any potential environmental impact associated with the proposed development.
- (3) The mitigation offered or proposed for any environmental impact.
- (4) A preliminary plan drawing that includes the following information:
  - (a) Title drawing, including name, address and telephone number of applicant and the tax parcel number of the lot proposed for development;
  - (b) North point, scale and date, all revision dates (include month, day, year);
  - (c) Boundaries of the development plotted to scale of not more than 100 feet to one inch on a survey map prepared by a design engineer,
  - (d) Existing natural features such as watercourse, water body, wetland, wooded area and individual large trees and a notation of features to be retained;
  - (e) Existing and proposed contours at intervals of not more than five feet of elevation;
  - (f) Location of proposed use and the location, area and the height of all structures;
  - (g) Location of all existing or proposed improvements, whether public or private, including roads, drives, internal drives, driveways, stormwater management system, culverts, retaining walls, fences and easements;
  - (h) Preliminary design of sewage disposal and water supply systems and location of such systems;
  - (i) Location and design of all energy distribution facilities, including electrical, gas and solar energy system;
  - (j) Location of any proposed buffer, barrier and landscaping;
  - (k) Delineation of the extent of each residential area, description of dwelling unit type, and a calculation of the residential density in dwelling units per square foot for each such area;
  - (l) Location of each parking area and vehicle loading area, with access and egress to a drive, internal drive or driveway, including provisions for emergency vehicle access;
  - (m) Design and layout of pedestrian access specifically considering requirements and needs of the type of senior housing facility proposed and ADA;
  - (n) Location, design and size of all signs and outdoor lighting;
  - (o) The approximate location and dimension of the area proposed for recreational open space and/or outdoor amenities appropriate to the type or level of senior housing proposed;
  - (p) Building orientation and site design for energy efficiency;
  - (q) Grading plan and erosion control plan, including the description and location of control measures;
  - (r) Location and design of all stream crossings;
  - (s) Location and design of a stormwater management system; and
  - (t) The lines and dimensions of any lot which is offered, or is to be offered, for dedication to a government for public use, with the purpose indicated thereon, and of any lot proposed to be reserved for the common use of the occupants of the proposed development.

- (5) A stormwater management analysis and plan consistent with the requirements of Chapter **452** of this Code, including all design data and computations used as a basis for the design capacities and the performance of the stormwater management system and the erosion control plan.
  - (6) The Planning Board may require such additional information that appears necessary for a complete assessment of the development under this chapter and the State Environmental Quality Review Act (SEQRA).
- B. Preliminary site plan review. The Planning Board shall review and evaluate potential environmental impact, compliance with this chapter and any other applicable law, rule or regulation and any other significant concern. In its review of the preliminary plan, the Planning Board may hire professional consultants and/or confer with any other agencies, such as the CCHD, NYSDEC, SWCD, etc., and shall consider:
- (1) Adequacy and arrangement of vehicular traffic, including public transportation and bicycle access and circulation, including on-site circulation, and emergency access;
  - (2) Location, arrangement, appearance and sufficiency of off-road vehicular parking and loading;
  - (3) Adequacy of pedestrian access, circulation, convenience and safety;
  - (4) Adequacy of ADA design compliance for site and buildings;
  - (5) Location, arrangement, size and design of building, outdoor lighting and signs;
  - (6) Relationship of the various uses on the project site to one another and their scale;
  - (7) Adequacy of a buffer and barrier between adjacent uses and adjoining lots;
  - (8) Adequacy of any stormwater management system;
  - (9) Adequacy of structures, roads, drives, internal drives, driveways and buffers in areas susceptible to flooding, ponding and/or erosion;
  - (10) Adequacy of flood damage prevention measures consistent with Town of Southport law;
  - (11) Location and adequacy of stream crossings
  - (12) Compatibility of development with natural features of the site and with surrounding land uses;
  - (13) Adequacy of open space for play area, recreation and natural area such as wildlife habitat, wetland and wooded area;
  - (14) Adequacy of orientation of a structure and the site design for energy efficiency, the extent to which the proposed plan conserves energy and energy resources in the community, and the protection of adequate sunlight for a solar energy system;
  - (15) Adequacy of fire-protection water supply and site design to accommodate emergency vehicle access;
  - (16) Consistency of building design, scale, mass, and site location with surrounding development and district intent; and
  - (17) Any other relevant matter.
- C. Action on preliminary site plan.
- (1) The Planning Board shall determine if the preliminary plan is complete and sufficient to make findings pursuant to ~~§525-57~~~~§525-38~~ E below, and if not, require additional information to make the preliminary plan complete and sufficient. A site plan shall not be considered complete and sufficient until a negative declaration is made or a draft environmental impact statement is accepted pursuant to SEQR.
  - (2) When the Planning Board finds the preliminary plan is complete and sufficient, it shall accept the completed preliminary plan.

- D. Public hearing.
- (1) Upon acceptance of the preliminary plan pursuant to Subsection C, a public hearing shall be scheduled within 62 days from the date of such acceptance.
  - (2) Notification of hearing.
    - (a) The public hearing shall be advertised at least 10 days prior to the hearing date in a newspaper of general circulation by the applicant; and
    - ~~(b) The applicant shall notify in writing, and certify to such notification, owners of all properties within 200 feet of the application site; and~~
    - ~~(c)~~(b) The applicant shall post a sign as provided by the Town of Southport on the site documenting the application before the Planning Board.
- E. Findings and decision on preliminary plan. The Planning Board shall act on the preliminary plan within 62 days of the public hearing as follows:
- (1) Evaluate potential environmental impact, compliance with this chapter and any other applicable law, rule or regulation and any other significant concern.
  - (2) Make a decision based on the findings to either approve, with or without conditions, or disapprove the preliminary plan, and shall provide the applicant with a copy of the findings and decision.

#### §525-58. Final site plan.

- A. Final plan requirements. The final plan shall comprise:
- (1) The approved preliminary plan with any modifications thereof and/or additions thereto required by the Planning Board; and
  - (2) All necessary permits from a governmental authority relating to the development pursuant to the site plan or a written assurance from such governmental authority that it is willing to issue such permit upon the performance by the developer of an action that is or will be required of the developer.
- B. Action on the final plan. When the Planning Board finds the final plan is complete pursuant to Subsection A, it shall approve, with or without conditions, or disapprove the final plan and record the reason for disapproval. A copy of the decision and reason shall be given to the applicant. An approval endorsement shall be affixed on a copy of the title drawing of the approved site plan. A copy of the endorsed title drawing shall be given to the applicant.
- C. Notices. Applications which meet the criteria of 239-l and 239-m of the General Municipal Law must be referred to the Chemung County Department of Planning and Development for a maximum 30-day review period prior to the Planning Board decision. Applications that meet the criteria of 239-n shall notify neighboring municipalities.

#### §525-59. Resubmittal of concept plan or preliminary plan.

- A. The Planning Board may require the resubmittal of a concept plan for a proposed development if:
- (1) More than six months has lapsed since the date of giving the Planning Board's written comments on the concept plan for the proposed development; or
  - (2) A submitted preliminary plan contains substantial changes in the scope of the proposed development in comparison with the concept plan commented on; or
  - (3) An applicant who submitted a preliminary plan is different from the applicant who submitted the concept plan commented on for the proposed development.
- B. The Planning Board may require resubmittal of a preliminary plan if:

- (1) More than one year has lapsed since the date of approval of a preliminary plan for a proposed development; or
- (2) A submitted final plan contains substantial changes in the scope of the proposed development in comparison with the preliminary plan approved for a proposed development; or
- (3) An applicant who submitted a final plan is different from the applicant who submitted the preliminary plan approved for a proposed development.

**§525-60. Application for area variance.**

Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features that do not comply with the bulk and density requirements of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to § 267 of the Town Law.

**§525-61. Conditions of site plan approval.**

- A. Waiver of requirements. The Planning Board may, when reasonable, waive these requirements of this Article for site plans submitted for approval. Any such waiver may only be exercised when such a waiver is consistent with the Comprehensive Plan, the purposes of the district where the project is located, where it will not damage the integrity of this code chapter, and is found to be pertinent to the public health, safety and general welfare of the residents of the Town of Southport.
- B. Conditions. The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that guidelines or requirements as to intensity of development as provided in this chapter shall be respected. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this chapter.
- C. The developer is required to comply with all conditions of site plan approval; failure to do so shall be considered a violation of this chapter.

**§525-62. Subdivision approval requirement.**

If the site plan application involves a subdivision of land, the following concurrent procedures shall be followed:

- A. Any subdivision of land shall be included in the concept plan specified in ~~§525-54~~[§525-35](#).
- B. An application for subdivision approval shall, concurrent with the site plan application, be initiated by the applicant and processed with decisions thereon by the Planning Board.
- C. The site plan and subdivision review process shall be run concurrently for the application, including holding a single public hearing to satisfy the requirements of both processes.

**§525-63. Modification or amendment of approved site plan.**

Any proposed modification or change to an approved site plan shall require submission, processing and decision on an amendment to the approved site plan in accordance with this article.

**§525-64. Appeal.**

The applicant or any interested person may appeal a decision of the Planning Board on a site plan. The appeal shall be made to the Supreme Court of New York State for review by a proceeding under Article 78 of the Civil Practice Law and Rules of New York State.

### §525-65. Professional Assistance

The Planning Board, subject to the approval of the Town Board, may require an applicant for site plan review to deposit in an escrow account a reasonable amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the Town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by Town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

## Article IX. Development Requirements

### §525-66. Intent.

The intent of this article is to establish requirements for all development to assure compliance with the articles of this chapter and the Town Comprehensive Plan.

### §525-67. General requirement.

Every development shall comply with the applicable provisions of this article.

### §525-68. Lot size and arrangement.

A lot shall be sized and arranged to not create any degree of nonconformance with this local law.

### §525-69. Lot access.

- A. Insofar as possible, a lot shall not have direct access with a primary road. Access shall be from a marginal access road or a road other than a primary road.
- B. Where a watercourse separates a buildable area of a lot from a road with which the lot has vehicle access, installation of a bridge or other structure, spanning the watercourse, shall be subject to the same design criteria and review as all other stormwater drainage facilities in a development.

### §525-70. Road arrangement and access design.

- A. Intent. It is the intent of this section to assure that all development provide for safe and adequate access to a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new Town road, private road and/or internal drive be:
  - (1) Designed to provide for:
    - (a) Convenient traffic access and circulation;
    - (b) Traffic control and safety;
    - (c) Access for firefighting, snow removal, and street maintenance equipment;

- (d) Stormwater drainage including green infrastructure practices such as bioswales and rain gardens where possible; and
  - (e) Utility location; and
- (2) Arranged to:
- (a) Separate through traffic from neighborhood traffic insofar as practical;
  - (b) Be coordinated to compose a connected system;
  - (c) Be laid out to provide suitable future road connection with an adjoining lot;
  - (d) Conform to the requirements of the Americans with Disabilities Act (ADA); and
  - (e) Minimize total impervious surface while fulfilling all other requirements.
- B. Road and drive requirements.
- (1) A development proposal, subject to site plan review as provided in Article IV. §525-20, shall show and detail all design features for a Town road, private road and/or internal drive sufficient to document compliance with the intent of this section and The Standard for Road Construction in the Town of Southport.
  - (2) A traffic study or analysis may be required to support design considerations and/or to validate the mitigation of any traffic impacts associated with a development.

#### §525-71. Off-road parking.

All development shall provide for off-road parking in accordance with the following provisions:

- A. It shall be the responsibility of the owner of a lot to provide off-road parking spaces for any use which is created, enlarged, or altered after the effective date of this chapter.
- B. A parking space shall be a minimum dimension of nine feet by 18 feet, exclusive of pedestrian access, drive or internal drive, and have access from a drive or internal drive.
- C. Each parking area shall conform to the requirements of the Americans with Disabilities Act (ADA).
- D. The lighting of off-road parking areas shall comply with the requirements set forth in [§525-117](#)~~§525-100~~.
- E. For the purpose of calculating required parking spaces for any use in which patrons and/or spectators occupy benches, pews, or other similar seating facility; each 20 inches of linear dimension of such seating shall be counted as one seat.
- F. An off-road parking area for a residential use shall be restricted to noncommercial vehicles only.
- G. If a use on a lot and a lot are under separate ownership, the right to joint use of parking lot must be evidenced by a deed, lease, contract or other appropriate document. Such document shall be provided to the Planning Board for inclusion in the site plan record.
- H. A required parking area, drive and internal drive on a lot shall not be used for the display of merchandise, goods or wares offered for sale or connected with the use of a lot.

#### §525-72. Required off-road parking spaces.

The minimum number of parking spaces in a parking area for a use shall be as follows:

USE	CN	CR	AR/R1/R2/R3	I	C
RESIDENTIAL					
<b>Single-unit dwelling</b>	2 per unit	N/A	2 per unit	N/A	N/A
<b>Two-unit dwelling</b>	1.5 per unit	1.5 per unit	1.5 per unit	N/A	N/A
<b>Multi-unit dwelling</b>	1.5 per unit	1.5 per unit	1.5 per unit	N/A	N/A
<b>Alternative Dwelling Park</b>	N/A	N/A	1.5 per unit	N/A	N/A
<b>Bed-and-breakfast (up to 4 rooms)</b>	Per SPR	Per SPR	.5 per bedroom	N/A	N/A
<b>Inn (up to 12 rooms)</b>	.5 per room	N/A	Per SPR	N/A	N/A
<b>Boardinghouse (up to 6 rooms)</b>	Per SPR	N/A	N/A	N/A	N/A
<b>Live-Work Unit</b>	1 per 1,000 gfa	1 per 1,000 gfa	1 per 1,000 gfa	N/A	N/A
ACCESSORY USES					
<b>Accessory use/structure</b>	Per SPR	Per SPR	Per SPR	N/A	N/A
<b>Day care – family home</b>	None required other than for single unit dwelling	None required other than for single unit dwelling	None required other than for single unit dwelling	None required other than for single unit dwelling	None required other than for single unit dwelling

<b>Day care – group family home</b>	None required other than for single unit dwelling	None required other than for single unit dwelling	None required other than for single unit dwelling	None required other than for single unit dwelling	None required other than for single unit dwelling
<b>Home occupation</b>	1 per employee	N/A	1 per employee	N/A	N/A
<b>Seasonal business</b>	1 per 500 gfa	1 per 500 gfa	1 per 500 gfa	N/A	N/A
<b>Cottage industry</b>	Per SPR	Per SPR	Per SPR	N/A	N/A
<b>GENERAL USES</b>					
Airport / heliport	N/A	N/A	Per SPR	Per SPR	N/A
Agriculture	N/A	N/A	1 space for every 100 SF of area devoted to sales or display	1 space for every 100 SF of area devoted to sales or display	1 space for every 100 SF of area devoted to sales or display
Agriculture, Personal	None required	None required	None required	None required	None required
Antenna, tower	N/A	N/A	None required	None required	N/A
Churches	1 per 400 gfa	N/A	1 per 400 gfa	N/A	N/A
Club - rod and gun	N/A	N/A	Per SPR	N/A	N/A

Club, membership	Per SPR	Per SPR	1 per 1,000 gfa	N/A	N/A
Day care /nursery school	Per SPR	Per SPR	Per SPR	Per SPR	N/A
Golf Course - driving range	N/A	N/A	Per SPR	N/A	Per SPR
Kennel	Per SPR	N/A	Per SPR	N/A	N/A
Nursing home, convalescent home	Per SPR	Per SPR	Per SPR	N/A	N/A
Private school	1 per 5 seats in the auditorium	1 per 5 seats in the auditorium	1 per 5 seats in the auditorium	N/A	N/A
Public/government use	1 per 500 gfa	1 per 500 gfa	1 per 500 gfa	1 per 500 gfa	1 per 500 gfa
Public utility	Per SPR	Per SPR	Per SPR	Per SPR	Per SPR
Roadside stand	1 space for every 50 SF of area devoted to sales or display	1 space for every 50 SF of area devoted to sales or display	1 space for every 50 SF of area devoted to sales or display	N/A	1 space for every 50 SF of area devoted to sales or display
Stable, commercial	N/A	N/A	Per SPR	N/A	N/A
Stable, private	N/A	N/A	.5 per bay	N/A	N/A
<b>BUSINESS USES</b>					

Adult Uses	N/A	N/A	N/A	Per SPR	N/A
Amusement game center	Per SPR	Per SPR	N/A	N/A	N/A
Antique or craft shop	Per SPR	Per SPR	Per SPR	N/A	N/A
Bank, financial institutions	Per SPR	Per SPR	N/A	N/A	N/A
Bar and nightclub	Per SPR	Per SPR	N/A	N/A	N/A
Barbershops and beauty shops	Per SPR	Per SPR	Per SPR	N/A	N/A
Campground	N/A	N/A	Per SPR	N/A	Per SPR
Car wash	Per SPR	Per SPR	N/A	Per SPR	N/A
Convenience food mart	Per SPR	Per SPR	N/A	N/A	N/A
Cultural uses, museums	Per SPR	Per SPR	N/A	N/A	N/A
Crematory	Per SPR	Per SPR	N/A	N/A	N/A
Drive-through uses	Per SPR	Per SPR	N/A	N/A	N/A
Fitness center/health club	Per SPR	Per SPR	N/A	Per SPR	N/A
Flea market	Per SPR	Per SPR	N/A	N/A	N/A

Funeral home	1 per 400 gfa	1 per 400 gfa	N/A	N/A	N/A
General business office	1 per 500 gfa	1 per 500 gfa	N/A	N/A	N/A
Hotel/motel	1 per room	1 per room	N/A	N/A	N/A
Medical clinic	1 per 400 gfa	1 per 400 gfa	N/A	N/A	N/A
Mini storage	Per SPR	Per SPR	Per SPR	Per SPR	N/A
Motor vehicle filling station	Per SPR	Per SPR	N/A	N/A	N/A
Press Publishing	N/A	N/A	N/A	Per SPR	N/A
Nursery, plants	Per SPR	N/A	Per SPR	N/A	N/A
Personal service	Per SPR	Per SPR	N/A	N/A	N/A
Photographic studio	Per SPR	Per SPR	N/A	N/A	N/A
Nursery, plants	Per SPR	NA	3.5 spaces for each 1000 sf gfa	N/A	N/A
Personal Service	Per SPR	Per SPR	N/A	N/A	N/A
Photographic Studio	Per SPR	Per SPR	N/A	N/A	N/A
Professional office	1 per 400 gfa	1 per 400 gfa	N/A	1 per 400 gfa	N/A

Recreational Use, commercial	Per SPR	N/A	N/A	N/A	Per SPR
Restaurant, fast food	Per SPR	Per SPR	N/A	N/A	N/A
Restaurant, standard	Per SPR	Per SPR	N/A	N/A	N/A
Retail, specialty low-profile	Per SPR	Per SPR	N/A	N/A	N/A
Retail use other than listed	Per SPR	Per SPR	N/A	N/A	N/A
Self-service laundry	Per SPR	Per SPR	N/A	N/A	N/A
Specialized repair	Per SPR	Per SPR	Per SPR	Per SPR	N/A
Storage facility	Per SPR	Per SPR	Per SPR	N/A	N/A
Theater – single and multiplex	N/A	Per SPR	N/A	N/A	N/A
Vehicle repair	Per SPR	Per SPR	N/A	Per SPR	N/A
Vehicle sales	Per SPR	Per SPR	N/A	Per SPR	N/A
Vehicle sales and repair – heavy equipment	Per SPR	Per SPR	N/A	Per SPR	N/A
INDUSTRIAL USES					
Agriculture, Industrial	N/A	Per SPR	Per SPR	Per SPR	N/A

Contractor's equipment storage/maintenance	N/A	Per SPR	Per SPR	Per SPR	N/A
Extraction, commercial	N/A	N/A	Per SPR	Per SPR	Per SPR
Fuel bulk storage terminal	N/A	N/A	N/A	Per SPR	N/A
Manufacture, fabrication, assembly and other materials handling, including offices and showrooms	N/A	N/A	N/A	Per SPR	N/A
Research facilities	N/A	N/A	N/A	Per SPR	N/A
Salvage Yard	N/A	N/A	N/A	Per SPR	N/A
Trucking terminals	N/A	N/A	N/A	Per SPR	N/A
Warehousing, wholesale and retail distribution centers, including offices	N/A	N/A	N/A	Per SPR	N/A
Windfarm	N/A	N/A	Per SPR	Per SPR	N/A

**§525-73. Maximum number of parking spaces.**

In the interest of protecting and preserving the groundwater quality and quantity, no use in the Town shall be permitted to have more than five parking spaces per 1,000 square feet of gross floor area unless such development plans document the need for such additional parking and that, with quantifying analysis, such parking is determined to not adversely impact the aquifer or groundwater. Such additional parking must be specifically approved by the Planning Board.

§525-74. Calculation of required parking spaces.

Whenever a fraction of a space is required, a full space shall be provided.

§525-75. Dimensions for drives and internal drives within parking area.

- A. Parallel curb parking: twelve-foot aisle width for one-directional flow, and twenty-two-foot aisle width for two-directional flow.
- B. Thirty-degree parking: thirteen-foot aisle width for one-directional flow, and twenty-two-foot aisle width for two-directional flow.
- C. Forty-five-degree parking: sixteen-foot aisle width for one-directional flow, and twenty-two-foot aisle width for two-directional flow.
- D. Ninety-degree parking: twenty-two-foot aisle width.

§525-76. Location of required parking spaces in parking area.

- A. AR, R1 and R2 Districts. Required vehicle parking spaces shall be provided either in a garage or in a drive that is located on the same lot and is readily accessible to a road or drive.
- B. R3, CN, CR and I Districts.
  - (1) Required vehicle parking for residential uses may be provided by on-road parking, where permitted.
  - (2) For nonresidential uses, such spaces shall be provided on the same lot or not more than 400 feet therefrom, provided that the criteria in ~~§525-71~~§525-54 are met.
  - (3) Vehicles and equipment for display or for sale shall not be parked or stored within 25 feet of a road right-of-way.
  - (4) Where such parking is situated adjacent to a residential use, it shall be set back a minimum of 10 feet from the residential lot line, and an adequate landscape buffer in conformance with § 525-92 shall be provided within such setback area.

§525-77. Special requirement for CR, CN, and I Zoning Districts.

The Planning Board shall, in the review of all site plans, consider the potential for synergism to exist between adjoining uses and may require that parking areas be designed to accommodate traffic movement between lots without reentering the road system to lessen traffic volumes and turning movement conflicts and provide proper sight distances.

§525-78. Off-road parking waiver.

Off-road parking requirements may be waived in whole or in part upon finding by the Planning Board that:

- A. Satisfactory municipal off-road parking facilities are available within 400 feet of the lot containing the subject use and with proper pedestrian access in accordance with ~~§525-71.G~~§525-54.G.
- B. Satisfactory off-site parking arrangements are proposed in compliance with ~~§525-71.G~~§525-54.G.
- C. The applicant documents the specific use routinely requires less parking spaces than those required under this article.

§525-79. Construction of off-road parking area.

All off-road parking, with the exception of the parking area for a single or two-unit dwelling, shall be provided with a suitable all-weather, dust-free surface, and all individual parking spaces shall be visibly marked with paint or other durable and suitable material. The use of porous pavement for the parking spaces shall be encouraged.

§525-80. Landscaping.

- A. For all off-road parking areas greater than 15 parking spaces, a minimum of 10% of the area devoted to off-road parking shall be landscaped islands or other landscaping areas with lawn, trees, shrubs or other plant materials. These landscaped islands or other landscaping areas shall be constructed at or below grade to allow for the inflow of surface runoff from the parking areas.
- B. To the extent practicable, green infrastructure practices such as bioretention areas, landscaped islands and rain gardens should be incorporated into the landscaping requirements.

§525-81. Shared Parking.

- A. In order to accommodate the usage of the same parking spaces for two (2) or more different land uses, requiring different principal hours of use, a lower number of the required parking spaces may be permitted. Subsequent changes in land uses within the mixed-use development or the adjacent parcels that share parking shall require a new occupancy permit and proof that sufficient parking will be available.
- B. Eligibility: The Shared parking regulations shall apply to mixed-use developments that combine multiple different uses on one parcel and to multiple different uses on adjacent parcels that agree to share parking spaces.
- C. The required minimum parking spaces for shared parking shall be computed as follows;
  - (1) Determine the minimum amount of parking spaces required for each land use as though it were a separate use.
  - (2) Using the table below, determine the number of spaces needed by each use for each of the four time periods by multiplying the parking required for each use by the corresponding percentage of use for that time period.
  - (3) Calculate the total number of spaces needed for all uses for each time period.
  - (4) The time period with the highest number of parking spaces required for the sum of all uses shall be the number of parking spaces required.

(5)

Use	Weekday		Weekend	
	Daytime (8AM – 6PM)	Evening (6PM – 11PM)	Daytime (8AM – 6PM)	Evening (6PM – 11PM)
Office/Industrial	100%	10%	10%	5%
Retail/Personal Services	60%	90%	100%	70%
Hotel	75%	100%	75%	100%
Residential	50%	75%	100%	80%
Restaurant	75%	100%	100%	100%
Entertainment/Recreational	40%	100%	80%	100%
All other uses	100%	100%	100%	100%

- D. To apply for usage of the shared parking requirement, a table shall be submitted showing the breakdown of the gross floor area devoted to each of the above five land use categories. The total amount of required parking shall be tabulated by use and time period. The time period requiring the highest number of parking spaces shall be selected as the basis for the shared parking requirement.
- E. Agreement For Shared Parking Plan. A shared parking plan shall be enforced through written agreement. An attested copy of the agreement between the owners of record shall be submitted to the Zoning Officer who shall forward a copy to the Town Attorney for review and approval. Proof of recordation of the agreement shall be presented to the Zoning Officer prior to issuance of a certificate of occupancy. The agreement shall:
- (1) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;
  - (2) Provide a legal description of the land;
  - (3) Include a site plan showing the area of the parking parcel;
  - (4) Describe the area of the parking parcel and designate and reserve it for shared parking unencumbered by any conditions which would interfere with its use;
  - (5) Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;
  - (6) Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses; and
  - (7) Describe the method by which the covenant shall, if necessary, be revised.

**§525-82. Off-road loading and unloading berths.**

In all districts, except the CN District, a lot or structure which is to be occupied by industrial, commercial, business or similar uses requiring the receipt and/or distribution by vehicles of materials or merchandise, there shall be provided and maintained, on said lot, off-road loading berths.

**§525-83. Required berths.**

Use	Gross Square Feet of Floor Area	Vehicle Loading Berth Requirements
Retail, wholesale storage and other similar business use	3,000 to 15,000	1
	15,001 to 40,000	2
	Each 25,000 additional	1
Motels, hotels, restaurants office building	90,000 or less	1
	90,001 to 300,000	2
	Each 200,000 additional	1
Industrial use	15,000 or less	1
	15,001 to 40,000	2
	40,001 to 90,000	3
	Each 40,000 additional	1

**§525-84. Dimensions of berths.**

Each loading berth, either open or enclosed, shall be a minimum of 55 feet long, 12 feet wide and 14 feet high; except business uses utilizing vehicles not larger than panel trucks may have berths which are a minimum of 20 feet long, 10 feet wide and nine feet high.

**§525-85. Location of berths.**

Loading berths are to be located in such a way vehicles occupying berths do not to interfere with the movement of people and vehicles on public ways and within on-site parking areas.

**§525-86. Landscaping.**

Areas around loading berths shall be provided with buffer as required in [§525-111](#)~~§525-94~~.

**§525-87. Accessory structures.**

A. Intent.

An accessory structure or use shall not create an impact on the environment that is any more significant than that of the principal use.

B. Accessory structure requirements.

- (1) Accessory structures must comply with the dimensional requirements for the district in which they are located.

- (2) No accessory structure shall be closer to a principal or other accessory structure than 6 feet or a distance equal to the height of the accessory building, whichever is greater.
- (3) No accessory structures shall be located between the principal building line and the street, unless said accessory structure is located more than 200 feet from the public right-of-way or meets the following exceptions:
  - (a) Certain accessory structures located on a lot in accordance with an approved site plan, such as a detached garage or carport as part of a building group; or
  - (b) An enclosure of any portion of a yard for a dog or cat, but not including a pen, dog run or kennel; or
  - (c) An animal pen or enclosure used in conjunction with the keeping of or maintaining agriculture livestock and/or horses, or an agriculture use or agricultural industrial use.
- (4) Accessory structures larger than 1,500 square feet of gross floor area which are associated with nonagricultural uses [or accessory structures which are associated with nonagricultural uses that increase the sum of the gross floor area of the existing and the proposed accessory structures to 1,500 square feet or more](#) are subject to site plan review.

C. Exceptions to accessory building locations.

Exceptions to accessory structure and building setback requirements with respect to a lot and adjoining lot having a common lot line are as follows:

- (1) The minimum accessory structure and building setback requirements as set forth in dimensional requirements for the zone in which it located may be reduced under the following conditions, unless otherwise stipulated in Chapter **245** of this Code:
  - (a) When the adjoining lot has an existing accessory structure and building located adjacent to the common lot line and within less than the minimum accessory building setback; and
  - (b) When a lot proposed to contain an accessory structure and building adjacent to the common lot line is 150 feet or less in lot width.
- (2) The minimum accessory structure and building setback requirements as set forth in dimensional requirements for the proposed accessory building may be reduced, unless otherwise stipulated in Chapter **245** of this Code, to a minimum distance that is the average of:
  - (a) The unreduced required accessory structure and building setback set forth in dimensional requirements; and
  - (b) The actual distance between the common lot line and the existing accessory building located on the adjoining lot.

§525-88. Accessory uses.

- A. An accessory building containing an accessory use shall comply with the requirements of [§525-87](#)~~§525-67~~.
- B. An accessory use not involving a structure is prohibited in a front yard except as provided in an approved site plan.

§525-89. Accessory Dwelling Units.

- A. Only one accessory dwelling per family shall be permitted
- B. The owner(s) of the one-unit dwelling with which the accessory dwelling is located shall occupy at least one of the dwelling units on the premises.

- C. An accessory dwelling unit may be located either in the principal building or in an accessory building.

§525-90. Signs.

The purpose of this section is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values and the character of the zoning districts in the Town as stated herein. It is also intended to create a more attractive economic and business climate by promoting attractive signs which clearly present the visual message in a manner that is compatible with their surroundings. By so doing it is intended to enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic safety issues, provide more visual open space, and curb the deterioration of the community's appearance and attractiveness.

- A. No sign of any kind may be altered, erected or established in the Town except in conformance with the requirements in this section.
- B. The only signs permitted are those listed in [§525-91](#)~~§525-74~~.

§525-91. Permitted sign descriptions.

A. Principal use signs.

- (1) Awning: a sign painted, printed, affixed or displayed on an awning attached to an exterior surface of a building containing a general, business or industrial use listed in Article IV. [§525-20](#).
- (2) Facade: a sign painted on, inscribed on or attached to an exterior surface of a building containing a general, business or industrial use or accessory use associated with the general, business or industrial use listed in [§525-20](#)~~Article IV. §525-20~~ and without having any portion thereof extending more than eight inches from the building surface.
- (3) Projecting: a sign attached to and having any portion thereof extending more than eight inches from the surface of a building containing a general, business or industrial use listed in [§525-20](#)~~Article IV. §525-20~~
- (4) Representational: any three-dimensional principal use sign, which is either a projecting or freestanding sign and constructed to physically represent the object advertised.
- (5) Farm: a sign not illuminated used to identify a farm, ranch, stable, or other agricultural use.
- (6) Freestanding: a sign supported by a structure independent of a building and installed on a lot containing a general, business or industrial use listed in [§525-20](#)~~Article IV. §525-20~~.
- (7) Directory: a sign that contains the names of principal uses in a mall.
- (8) Residential: a sign not illuminated and identifying the name of the owner or occupant of or fanciful name of a residential lot or property.
- (9) Real estate: a temporary sign not illuminated and used to offer or advertise a lot or real property for sale or lease.
- (10) Mall: a sign installed on a lot or building of a mall and used to identify or landmark the name of the mall. Such sign shall be a facade, freestanding or awning sign.
- (11) Monument: a sign not illuminated, installed on a lot in an approved residential subdivision, alternative dwelling park, or multiunit dwelling development, used to memorialize or landmark the name of the development.

(12) Window: a sign or group of signs painted, printed, or otherwise displayed on a window of a building containing a general, business or industrial use listed in [§525-20 Article IV. §525-20](#).

B. Accessory signs.

(1) Directional: a sign only indicating direction or calling attention to vehicular or pedestrian traffic entrances by displaying arrows or directional words.

(2) Mandated: any sign required by a federal, New York State, Chemung County or local law or rule.

(3) Memorial: a nonilluminated sign and authorized by the Town Board, Chemung County Legislature, or the governor or legislature of the State of New York to honor or identify a person, organization or place of local or regional historic interest or importance.

(4) Portable: a sign that is temporary and not permanently affixed to the ground or structure and capable of being transported or removed from a lot.

(5) Real estate: a temporary sign not illuminated and used to offer or advertise a lot or real property for sale or lease.

(6) Sandwich board: a two-sided A-frame, temporary sign not illuminated and placed on, without any physical attachment to, the ground.

(7) Service: a sign, not illuminated, that directs travelers to essential services such as gas, food and lodging or a hospital and installed in a right-of-way, under the jurisdiction of a government authority.

(8) Construction: a temporary sign not illuminated and used on property under construction to denote a contractor, design engineer and/or developer or development.

(9) Poster: a temporary sign not illuminated and used to advertise a not-for-profit community event or show, political candidate or issue and/or an election.

(10) Civic: a sign used to identify a civic or religious organization, place of worship, social or membership club or an educational institution and may be installed in a right-of-way under the jurisdiction of a government authority.

(11) Community promotion. A sign designed to promote the Town of Southport and welcome visitors to the Town.

(12) Occupation: a sign not illuminated and used to identify an approved home occupation or cottage industry.

(13) Roadside stand: a temporary sign not illuminated and used to identify a roadside stand.

(14) Awning: a sign painted, printed, affixed or displayed on an awning attached to an exterior surface of a building containing a general, business or industrial use listed in [§525-20 Article IV. §525-20](#).

(15) Facade: a sign painted on, inscribed on or attached to an exterior surface of a building containing a general, business or industrial use listed in [§525-20 Article IV. §525-20](#) and without having any portion thereof extending more than eight inches from the building surface.

(16) Window: a sign or group of signs painted, printed, or otherwise displayed on a window of a building containing a general, business or industrial use listed in [§525-20 Article IV. §525-20](#).

**§525-92. General requirements.**

A. All signs shall comply with the following requirements:

(1) The installation of a sign, except for a residential, occupation, farm, poster and window sign, and as provided in [§525-93 §525-76](#), requires a building permit.

~~(2)~~ A sign shall be constructed and installed in compliance with applicable provisions of Chapter ~~425~~ of this Code.

~~(3)~~(2) No sign shall be located at or near an intersection in violation of ~~§525-99~~~~§525-82~~, Clear vision zone requirements, or in any manner which may cause a traffic hazard at the intersection. A sign shall not be located where, by reason of the position, shape, or color of the sign, it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device, nor shall any sign make use of the word "stop," "look," "drive-in," "left," or "right" or any other word, phrase, symbol, or character in such a manner as to distract, mislead or confuse traffic.

~~(4)~~(3) No sign shall be placed on a roof or on a cupola or similar roof-mounted structure or on top of a parapet or similar architectural element of a building.

~~(5)~~(4) No sign shall be more than 20 feet in height above the finished grade or the grade shown on a grading plan of a site plan approved by the Planning Board. Grading of a site for the purpose of raising the elevation of a sign contrary to this subsection is prohibited, except as shown in an approved site plan.

~~(6)~~(5) Each sign on a lot shall be set back a minimum of five feet from any lot line or right-of-way; no sign shall be permitted in a right-of-way.

~~(7)~~(6) Any illuminated sign or lighting device shall employ only lights of constant intensity and no sign shall be illuminated by or contain flashing, intermittent or moving light or lights. The provisions of this section shall not be applied so as to prohibit a sign changing to show time, temperature, or event or tour schedules.

~~(8)~~(7) Any off-lot sign is prohibited.

B. The following requirements apply to a principal use sign:

(1) A projecting or freestanding sign projecting over a pedestrianway shall have a clearance of not less than 10 feet above the way or finished grade. Projecting signs shall not extend horizontally more than three (3) feet from the plane of the building wall. The mounting device of such sign shall be permitted to extend an additional 6". A projecting or freestanding sign shall not project over a road. No projecting or freestanding sign shall project over a drive, internal drive or parking area unless the sign has a clearance from finished grade of 15 feet.

(2) A principal use sign on a lot containing a general, business or industrial use listed in ~~§525-20~~ Article IV. §525-20 may be illuminated.

C. The following requirements apply to an accessory sign:

(1) A portable sign may be allowed only for a cumulative time period not to exceed 14 days, five times in any calendar year.

(2) Wherever a service and community promotion sign is installed, its sign area shall not exceed the permitted sign area for a freestanding sign in the underlying zoning district in which it is located.

(3) A construction sign shall be removed within 15 days of the completion of construction or the issuance of any certificate of occupancy or compliance, whichever occurs first.

(4) A poster sign may be displayed 30 days prior to an event, show or election and shall be removed within 48 hours after the last day of the event, show or election.

(5) Every directional sign shall not project more than six feet above the finished grade and shall not be located in such a manner as to violate any provisions of ~~§525-99~~~~§525-82~~.

(6) When computing time restrictions for each temporary sign, any fraction of a week used shall be construed to be one full week.

§525-93. Signs permitted in any district.

No building permit shall be required for any sign listed below, provided that they are displayed and located as follows:

<b>Permitted Sign From <del>§525-91</del>§525-74</b>	<b>Maximum Sign Area per Face — Total All Signs  (square feet)</b>	<b>Location Permitted</b>	<b>Number of Signs Permitted</b>	<b>Temporary Sign Time Restriction</b>
Memorial	4	On a lot and installed no higher than 10 feet from finished grade or in a right-of-way as permitted by the authority having jurisdiction	1 for any lot or in the right-of-way as permitted by the authority having jurisdiction	Not applicable
Construction	32	On a lot and no higher than 10 feet above finished grade and located in accordance with <del>§525-92</del> §525-75	1 for any single construction site or development	As prescribed in <del>§525-92.C(3)</del> §525-75.C(3)
Mandated	As permitted by the authority having jurisdiction	As prescribed by the authority having jurisdiction	As permitted by the authority having jurisdiction	Not applicable
Service	As permitted by the authority having jurisdiction. See <del>§525-92.C(2)</del> §525-75.C(2)	In a right-of-way as permitted by the authority having jurisdiction	As permitted by the authority having jurisdiction	Not applicable
Civic	4	In a right-of-way as permitted by the authority having jurisdiction	As permitted by the authority having jurisdiction	Not applicable
Roadside stand	16	On a lot	3	To be displayed only during the time the roadside stand is open to the public

**§525-94. Sign requirements by use and zoning district.**

- A. Sign requirements for a residential use and an accessory use associated with the residential use, listed in ~~§525-20~~§ 525-21 and located in an R1, R2, R3, or CN Zoning District, are as follows, except that the maximum total signage all signs shall not exceed 12 square feet for any use:

Permitted Sign From <a href="#">§525-91</a> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Real estate	4	On a lot offered for sale or lease	1	Sign shall be removed 10 days after the date of closing for the sale of the property
Occupation cottage industry	4	Affixed to a dwelling unit or on a post and no higher than 8 feet above finished grade and located in accordance with <a href="#">§525-92</a> <del>§525-75</del>	1	Not applicable
Poster	12	On a lot with the authorization of such owner and in accordance with <a href="#">§525-92</a> <del>§525-75</del>	1 for each individual event or show, political candidate or issue and/or election that specifically pertains to the Town of Southport	As prescribed in <a href="#">§525-92.C(4)</a> <del>§525-75.C(4)</del>
Real estate subdivision	32	On a lot in the approved subdivision	1	Sign shall be removed within 10 days of the sale of the final lot
Monument	20	On a lot in an approved subdivision, park or development	2, but each one 1 of 2 in a subdivision being on a different lot therein	Not applicable

B. Sign requirements for general use and an accessory use associated with the general use, listed in [§525-20](#)~~Article IV. §525-20~~ and located in any zoning district, are as follows, except that in no instance the maximum aggregate sign area for any use, excluding the sign area of any monument sign, be greater than 60 square feet in the R1, R2, and R3 Zoning Districts and 160 square feet in the AR, CN and CR Zoning Districts:

[Amended 5-10-2011 by ordinance (Res. No. 87-2011)]

Permitted Sign From <a href="#">§525-91</a> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Real estate	32	On a lot offered for sale or lease	1	Sign shall be removed 10 days after the date of closing for the sale of the property
Poster	20	On a lot with the authorization of such owner and in accordance	1 for each individual event or show, political candidate or issue	As prescribed in <a href="#">§525-92.C(4)</a> <del>§525-75.C(4)</del>

Permitted Sign From <del>§525-91</del> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
		with <del>§525-92</del> <del>§525-75</del>	and/or election	
Facade	The lesser of 10% of the area of the side of the building the sign is installed on or 80 square feet of the side	On a building containing the principal use	1	Not applicable
Projecting	12	On a building containing the principal use	1	Not applicable
Freestanding	40	On a lot	1	Not applicable
Directional	6	Near a drive entrance and located in accordance with <del>§525-92</del> <del>§525-75</del>	1 for each drive, per traffic flow direction	Not applicable
Portable	40	On a lot of the principal use and located in accordance with <del>§525-92</del> <del>§525-75</del>	1	As prescribed in <del>§525-92.C(1)</del> <del>§525-75.C(1)</del>
Community promotion	40	On a lot with the authorization of such owner and in accordance with <del>§525-92</del> <del>§525-75</del>	1 per location	Not applicable

- C. Sign requirements for a business use, except in a mall, and an accessory use associated with the business use, listed in ~~§525-20~~~~§525-24~~ and located in an AR, or CN Zoning District are as follows, except that the maximum aggregate sign area for any use shall not exceed 250 square feet:

Permitted Sign From <del>§525-91</del> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Real estate	40	On a lot offered for sale	1	Sign shall be removed 10 days after the date of closing for the sale of the property
Poster	20	On a lot with the authorization of such owner and in accordance with <del>§525-92</del> <del>§525-75</del>	1 for each individual event or show, political candidate or issue and/or election.	As prescribed in <del>§525-92.C(4)</del> <del>§525-75.C(4)</del>
Facade, including	The lesser of	On the side of the	3 for each facade	Not applicable

<b>Permitted Sign From</b> <u><a href="#">§525-91</a></u> <del><a href="#">§525-74</a></del>	<b>Maximum Sign Area per Face</b> <b>(square feet)</b>	<b>Location Permitted</b>	<b>Number of Signs Permitted</b>	<b>Temporary Sign Time Restriction</b>
Window signs	25% of the area of the side of the building the sign is installed on or 150 of the side	principal building that faces a road	and principal use	
Projecting	12	On the side of the principal building that faces a road	1 for each principal use	Not applicable
Freestanding	40	On a lot of the principal use	1 for each principal use	Not applicable
Directional	6	Near a drive entrance and in accordance with <u><a href="#">§525-92</a></u> <del><a href="#">§525-75</a></del>	1 for each drive per direction	Not applicable
Portable	40	On a lot of the principal use and located in accordance with <u><a href="#">§525-92</a></u> <del><a href="#">§525-75</a></del>	1	As prescribed in <u><a href="#">§525-92.C(1)</a></u> <del><a href="#">§525-75.C(1)</a></del>
Community promotion	40	A lot with the authorization of such owner and in accordance with <u><a href="#">§525-92</a></u> <del><a href="#">§525-75</a></del>	1	Not applicable
Awning	The lesser of 20% of the area of the side of the building the sign is installed on or 100 square feet of the side	On the side of the principal building that faces a road	1 for each principal use	Not applicable
Window	A minimum of 30% of the egress door/window areas shall be free of signs	On a window in a principal building	Not applicable	Not applicable

D. Sign requirements for a business use, except in a mall, and an accessory use associated with the business use, listed in [§525-20](#)~~[§525-24](#)~~ and located in a CR and I Zoning District are as follows, except that the maximum aggregate sign area for any use shall not exceed 750 square feet for any use:

<b>Permitted Sign From</b> <u><a href="#">§525-91</a></u> <del><a href="#">§525-74</a></del>	<b>Maximum Sign Area per Face</b> <b>(square feet)</b>	<b>Location Permitted</b>	<b>Number of Signs Permitted</b>	<b>Temporary Sign Time Restriction</b>
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Permitted Sign From <del>§525-91</del> §525-74	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Real estate	40	On a lot offered for sale or lease	1	Sign shall be removed 10 days after the date of closing
Poster	20	On a lot with the authorization of such owner and in accordance with <del>§525-92</del> §525-75	1 for each individual event or show, political candidate or issue and/or election	As prescribed in <del>§525-92.C(4)</del> §525-75.C(4)
Facade	The lesser of 25% of the area of the side of the building the sign is installed on or 350 square feet of the side	On the side of the principal building that faces a road	1 for each principal use and 1 for each accessory use	Not applicable
Projecting	24	On the side of the principal building that faces a road	1 for each principal use and 1 for each accessory use	Not applicable
Freestanding	100	On a lot of the principal use	1 for each principal use and 1 for each accessory use	Not applicable
Directional	6	Near a drive entrance and located in accordance with <del>§525-92</del> §525-75.	1 for each approved drive	Not applicable
Portable	40	On the lot of the principal use and located in accordance with <del>§525-92</del> §525-75	1	As prescribed in <del>§525-92.C(1)</del> §525-75.C(1)
Community promotion	40	On a lot with the authorization of such owner and in accordance with <del>§525-92</del> §525-75	1	Not applicable
Awning	The lesser of 20% of the area of the side of the building the sign is installed on or 200 square feet of the side	On the side of the principal building that faces a road	1 for each principal use and 1 for each accessory use	Not applicable
Window	A minimum of 30% of any egress door/window shall	On any window of a principal building	Not applicable	Not applicable

Permitted Sign From <del>§525-91</del> §525-74	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
	be free from all signs			

E. Sign requirements for a mall located in a CN, CR or I Zoning District are as follows, except that the maximum aggregate sign area for any use shall not exceed 500 square feet:

Permitted Sign From <del>§525-91</del> §525-74	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Real estate	40	On a lot or building of a mall offered for sale or lease	1 for each block of lot area or floor area. <sup>1</sup>	Sign shall be removed 10 days after the date of closing
Poster	20	On a mall lot with the authorization of such owner and in accordance with <del>§525-92</del> §525-75	1 for each individual event or show, political candidate or issue and/or election	As prescribed in <del>§525-92.C(4)</del> §525-75.C(4)
Mall – freestanding	100	On a lot or building of a mall	1 for each block of floor area <sup>1</sup>	Not applicable
Directional	10	Near a mall drive entrance and located in accordance with <del>§525-92</del> §525-75	1 for each drive	Not applicable
Community promotion	40	On a mall lot with the authorization of such owner and in accordance with <del>§525-92</del> §525-75	1	Not applicable
Directory	300	On a mall lot	1 for each block of floor area <sup>1</sup>	Not applicable

**NOTES:**

<sup>1</sup> A "block" is an area either over zero and up to 100,000 square feet.

F. Sign requirements for each tenant principal use and an accessory use associated the tenant principal use, listed in ~~§ 525-21~~§525-20, within a mall and located in the CN, CR or I Zoning District, are as follows, except that the maximum aggregate sign area for any use shall not exceed 500 square feet:

Permitted Sign From <del>§525-91</del> §525-74	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Real estate	40	On a mall building offered for sale or	1 for each block of floor area <sup>1</sup>	Sign shall be removed 10 days after the date of closing

Permitted Sign From <a href="#">§525-91</a> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
		lease		
Poster	20	On a mall lot with the authorization of such owner and in accordance with <a href="#">§ 525-92</a> <del>§525-77.2</del>	1 for each individual event or show, political candidate or issue and/or election	As prescribed in <a href="#">§525-92.C(4)</a> <del>§ 525-77.2C(4)</del>
Facade	The lesser of 20% of the area of the side of the building the sign is installed on or 200 square feet of the side	On the side of a mall building that faces a road or parking area and which the business has an exterior facade	1 for each principal use and 1 for each accessory use	Not applicable
Projecting	24	On the side of a mall building that faces a road or parking area and which the business has an exterior facade	1 for each principal use	Not applicable
Awning	The lesser of 20% of the area of the side of the mall building the sign is installed on or 200 square feet of the side	On a facade of a mall building that faces a road or parking area and which the business has a exterior facade	1 for each principal use and 1 for each accessory use <sup>2</sup>	Not applicable
Window	The lesser of 30% of each window area or 100 square feet of aggregate area of all windows of the use	On any window of a mall building	Not applicable	Not applicable
Sandwich board	12	On a mall lot	1 per business use	Only during hours the use is open to the public

**NOTES:**

<sup>1</sup> A block is an area either over zero and up to 100,000 square feet.

<sup>2</sup> The aggregate sign area shall be the lesser of 15% of the area of the side of the building the sign is installed on or 350 square feet of the side for all signs on the side of the building.

- G. Sign requirements for a business or industrial use, except in a mall, and accessory use associated with the business or industrial use, as listed in [§525-20](#)~~§ 525-21~~ and located in the AR and I Zoning Districts, are as follows, except that the maximum aggregate sign area for any use shall not exceed 160 square feet in the AR district and 1,000 square feet: in the I district.

Permitted Sign from <a href="#">§525-91</a> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
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Permitted Sign from <del>§525-91</del> <del>§525-74</del>	Maximum Sign Area per Face (square feet)	Location Permitted	Number of Signs Permitted	Temporary Sign Time Restriction
Facade	The lesser of 20% of the area of the side of the building the sign is installed on or 350 square feet of the side	On the side of the principal building that faces a road	1 for each principal use and 1 for each accessory use <sup>2</sup>	Not applicable
Freestanding	60 square feet	On the lot of the principal use	1 for each any principal use	Not applicable
Awning	The lesser of 20% of the area of the side of the building the sign is installed on or 200 square feet of the side	On the side of the principal building that faces a road	1 sign for each principal use and 1 for each accessory use <sup>2</sup>	Not applicable
Real estate	40	On a lot offered for sale or lease	1 for each block of lot area or building floor area <sup>1</sup>	Sign shall be removed 10 days after the date of closing for the sale of the property

**NOTES:**

- <sup>1</sup> A block is an area either over zero and up to 500,000 square feet or over 500,000 and up to 1,000,000 square feet or over 1,000,000 square feet.
- <sup>2</sup> The aggregate sign area shall be the lesser of 15% of the area of the side of the building the sign is installed on or 200 square feet of the side for all signs on the side of the building.

**§525-95. Aggregate sign area.**

The aggregate sign area is the sum of all sign areas on a lot except those of signs listed in ~~§525-93~~~~§525-96~~~~§525-76~~. At no time are signs to be displayed that will cause an aggregate sign area to exceed the limits set forth in ~~§525-94~~~~§525-97~~~~§525-77~~ for the type of use and zoning district.

**§525-96. Removal of certain signs.**

- A. Any sign now or hereafter existing which relates to a use no longer conducted on a lot shall be removed by the owner, agent, or person having the beneficial use of the lot upon which such sign may be found and within 60 days of cessation of the use, except as provided to the contrary elsewhere in this subsection.<sup>[1]</sup>

[1]: *Editor's Note: So in original.*

- B. Nonconforming signs shall be maintained. Should such signs not be maintained and/or be modified to the extent that exceeds 50% of the value of the structure, they shall conform to all of the requirements of this chapter.

**§525-97. Drives, internal drives and driveways.**

- A. Intent. It is the intent of this section to assure that all development provides for safe and adequate access to a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new internal drive and/or driveway be designed to comply with the requirements of a highway work permit for all work conducted in a right-of-way.
- B. General requirement.

- (1) A development plan shall show and detail design features for an internal drive and/or driveway sufficient to document compliance with the intent of this section and The Standard for Internal Drive and Driveway Construction in the Town of Southport.
- (2) A plan for an internal drive and/or driveway prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any traffic impacts associated with a development.

#### §525-98. Fences.

- A. General requirement. Grading of a site for the purpose of raising the elevation of a fence contrary to this section is prohibited, except as shown in an approved site plan.
- B. A fence on a lot shall comply with the following requirements:
  - (1) Height restrictions.
    - (a) AR, R1, R2, R3 and CN Zoning Districts:
      - [i] A maximum height of four feet above finished grade shall be permitted for a fence located in a front yard. A fence located in a front yard, near a right-of-way, shall be established and maintained in accordance with the provisions of clear vision standards.<sup>[1]</sup>

[1]: *Editor's Note: See § 525-80, Clear vision zone requirements.*

- [ii] A maximum height of seven feet above finished grade shall be permitted for a fence located in a side or rear yard.
    - (b) CR and I Districts:
      - [i] The height and location of a fence shall be approved in a site plan.
      - [ii] A site plan is not required for a fence located on a lot containing an existing residential use listed in Article IV. §525-20, provided that the existing residential use is continued and the fence construction complies with the requirements of this section.
  - (2) Location. A fence shall be constructed entirely within the boundaries of a lot.
  - (3) Special provisions for fences in R1, R2, R3 and CN Zoning Districts:
    - (a) The finished side of all fences shall face away from the lot on which it is placed.
    - (b) All fences shall be constructed and installed with materials that are safe and secure to all person and animals.
  - (4) Maintenance. All fences shall be maintained in a safe and proper manner.

#### §525-99. Clear vision zones.

- A. Intent It is the intent of this section to assure that all development provides for safe and adequate access to and from a lot on which development is proposed or which already contains development. This intent is furthered by requiring that all development that proposes to contain a new road, drive, internal drive or driveway be designed to provide a clear vision zone.
- B. General requirement.
  - (1) Clear vision. Where the driveway meets the road and/or where one road intersects with another road, a hedge, fence, wall or other plantings shall not block the view or clear vision of a vehicle entering the road. It is the Town's intent to protect and preserve a clear vision area to maintain safe traffic flow and reduce potential conflicts with pedestrians and bicycle traffic.

- (2) Clear vision shall be maintained wherever a driveway meets the road right-of-way for a radius of five feet.
- (3) In any nonresidential use, the minimum clear vision distance shall be 35 feet from the center line of the right-of-way at a road intersection.
- (4) A development plan shall show and detail design features for a drive, internal drive and driveway sufficient to document compliance the intent of this section and any standards for clear vision zone in the Town of Southport that may be established.
- (5) A plan for a road, drive, internal drive or driveway prepared by a design engineer may be required to fully support design considerations for clear vision and adequate sight distance and/or to validate the mitigation of any traffic impacts associated with a development.

§525-100. Valley wall development.

- A. Steep slope requirements. The topography of the Town of Southport includes many steep slopes that benefit the community by providing scenic views, aquifer recharge areas and wooded areas and substantial protection against flooding and erosion. If these areas are not carefully protected, the benefits of these areas will be irreparably lost, and extensive erosion and flooding is likely to occur. Road construction, building site development, and other construction activity proposed for these areas requires special design consideration to prevent erosion, minimize stormwater runoff, and preserve large trees, natural terrain and scenic views.
- B. General requirements.
  - (1) Each development proposal shall, in a plan, show all site work, cut and fill, erosion and drainage control measures and any proposed road, drive, internal drive and/or driveway cross sections. The detail of the plan shall be sufficient to determine if steep slopes exist on the proposed development site and the extent which such steep slopes affect the proposed site work. The preparation of these plans by a design engineer may be required.
  - (2) Constructing or grading development sites to be level, otherwise known as "padding," shall be permitted only when it can be clearly demonstrated, by exhibits presented in a site plan, that the final treatment of the site meets the requirements of this subsection.
- C. Design requirements. Design principles and criteria used in the review of a site plan application shall include, but are not limited to, the following:
  - (1) Landscaping of areas around a structure making such areas compatible with the natural terrain.
  - (2) Shaping, grouping and placement of man-made structures to complement the natural landscape.
  - (3) Minimizing removal of natural vegetation.
  - (4) Arrangement of structures so they complement one another to promote visual interest.
  - (5) Shaping of essential grades to conform to the existing contours and prohibit the appearance of successive padding, terracing or other similar form of grading for a building site in steep slope areas.
  - (6) Encouragement of split-level development sites.
  - (7) Use of one-way roads when consistent with traffic safety, circulation needs, and natural topography. This guideline may allow for smaller road right-of-way, less cut and fill within a given area and a road network consistent with the natural terrain. A road shall be parallel with the hillside wherever possible and may require variable width of right-of-way. This shall not only provide the most economical routing but also minimize the amount of grading required.

- D. Slopes greater than 15%. No structures shall be erected on a slope greater than 15% (1.5 feet of vertical rise in a ten-foot horizontal distance).

**§525-101. Stormwater management and erosion control.**

A. Intent.

It is the intent of this section to assure that all development provides for adequate protection against the impacts associated with stormwater and that development does not create added stormwater runoff from a development site. This intent is furthered by requiring that all development plans include provisions for stormwater management and that such plans comply with Chapter **452** of the Code of the Town of Southport, Stormwater Management; Erosion and Sedimentation Control.

B. General requirement.

- (1) A development plan shall show and detail design features for a stormwater management system sufficient to document compliance with the intent of this section and Chapter **452**.
- (2) A plan for a stormwater management system prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any stormwater impacts associated with a development.
- (3) Green infrastructure practices such as bioswales, rain gardens, porous pavement, etc. are considered wherever practicable.

C. Special site plan requirement.

- (1) When an application for building permit, highway work permit, variance and/or special permit includes a lot where water naturally collects, there are irregular and/or steep slopes, and/or through prior knowledge the Code Enforcement Officer determines that a significant impact associated with stormwater management and/or erosion is likely to occur as a result of a development, the application shall be referred to the Planning Board as a site plan application under Article VIII.
- (2) In any such instance, the COE and/or Planning Board has the right to refer such application to a professional engineer for review with regard to the requirements of Chapter **452** of this Code.

**§525-102. Recreation parks, playgrounds and open space.**

- A. Consistent with the Town Comprehensive Plan, a park, playground and/or open space is required for an alternative dwelling park or multiunit dwelling development. The required park, playground and/or open space shall meet the following minimum requirements:

- (1) Such land shall be held in private or corporate ownership, maintained in perpetuity by an established organization or deeded to the Town.
- (2) The location of such land on a lot shall be determined with the following considerations:
  - (a) Maximizing the safety of children walking between such facilities and their homes.
  - (b) Providing for safe traffic circulation and parking at the park, playground and/or open space site.
  - (c) Minimizing the interaction between traffic to and from the principal use of the lot and the traffic to and from the park, playground and/or open space site on the lot.
  - (d) The suitability of the park, playground and/or open space site and its location for the intended recreational purpose.

- B. A preliminary site plan shall include the following minimum details regarding a park, playground and/or open space:

- (1) A dimensional drawing showing boundaries of the park, playground and/or open space, its size in square feet, the location and description of any equipment to be installed or buildings to be constructed in the park, playground and/or open space.
- (2) A maintenance plan for the area.
- (3) A detailed description of future ownership of the land for the park, playground and/or open space or a deed offering dedication of such land to the Town.
- (4) The details of the plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the development.

C. Park and/or playground area requirements.

- (1) In an alternative dwelling park and multiunit dwelling development: 900 square feet per dwelling unit.

D. Alternative dwelling park: playground and open space requirement.

- (1) When it is determined by the Planning Board in an alternative dwelling park or multiunit dwelling development a park and/or playground is not practical due to the size, shape and/or the character of the development, and the site plan shall be:
  - (a) Referred to the Town Board for review and report to the Planning Board regarding any public park and/or playground resource likely to be impacted and the effect the development may have on such public resource.
  - (b) (b) Referred to the Town Assessor, who shall make a report to the Planning Board with a cost estimate of the per-square-foot value of the land being considered for an alternative dwelling park or multiunit dwelling development based on current assessment data.
- (2) The information provided in the report received in accordance with ~~§525-102§525-85D(1)(4)~~ shall be utilized by the Planning Board to validate any impact associated with an alternative dwelling park or multiunit dwelling development on an existing public park and/or playground resource and to calculate a payment in lieu of park and/or playground land.
- (3) To calculate a required payment in lieu of park and/or playground land, multiply the required area in square feet of park and/or playground required in ~~§525-102§525-85C~~ times the per-square-foot value of the land as determined by the Assessor [~~§525-102§525-85D(1)(4)~~].
- (4) When the provisions of ~~§525-102§525-85DD(1)(4)~~ are invoked, the payment in lieu of park and/or playground land shall be made to the Town prior to an approval of a preliminary site plan.

E. Open space in all development.

- (1) Areas, on a lot proposed for a development that requires a site plan in accordance with ~~Article IV. §525-20~~ Article IV. §525-20, that are determined to be of importance to the community based on their environmental setting, scenic view, historical or archaeological significance may be set aside and not be developed as a condition of site plan approval. Such a determination shall depend upon the magnitude and character of the development and the potential that the environmental setting, scenic view, historical or archaeological site would be irreparably lost if not preserved.
- (2) The Planning Board may consider these areas, when reserved for recreation purposes, in lieu of any portion of a park and/or playground required in ~~§525-102§525-85DDD(1)(4)~~.

- (3) Lands proposed for open space purposes shall be either held in private or corporate ownership and maintained in perpetuity by an established organization or may be deeded to the Town. The ownership of such land shall be determined in consideration of the following:
  - (a) The severity of the constraints and the impact these constraints have on the potential for further development of a lot.
  - (b) The importance of the land area to the Town and the persons using the development.
  - (c) The land's scenic quality and potential for wildlife habitat and the potential for protecting adjacent properties from any potential adverse impact that may result from development of the area of an open space.
  - (d) The likelihood that residents in the development and/or the Town would utilize and/or benefit from the set-aside of such land.
- (4) When it is determined by the Planning Board that open space is required, a detailed plan shall be provided with a preliminary site plan for the open space and at minimum include:
  - (a) A dimensional drawing showing boundaries of the open space.
  - (b) A maintenance plan for the open space area.
  - (c) Either a detailed description of future ownership of the land or a deed offering dedication of such land to the Town.
  - (d) A description of any improvements planned for the land.

#### §525-103.Utilities.

- A. Electric, telephone and cable. With the exception of individual service to one-unit and two-unit residential development, the telephone and television cable, electric and gas lines or similar utility services shall be installed underground unless full documentation supporting other methods as the most feasible approach is provided to and accepted by the Planning Board in an approved site plan.
- B. Water supply and sewage disposal. The installation of and specifications for public water and sewer lines shall comply with the rules, regulations and requirements of the Elmira Water Board, Chemung County Sewer District, Chemung County Health Department, New York State Department of Environmental Conservation and/or New York State Department of Health.

#### §525-104.Industrial use.

- A. General requirements. No industrial use shall be permitted, established, maintained or conducted which is likely to cause or have:
  - (1) Fumes, gases, dusts, particulate, odors, or any other atmospheric pollutant beyond the boundaries of the lot whereon an industrial use is located.
  - (2) Excessive smoke or similar atmospheric pollutant beyond the boundaries of a lot on which the industrial use is located. Excessive smoke shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines. When the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart, it is then excessive.
  - (3) Noise levels greater than 55 decibels (db) measured at a boundary of a lot occupied by an industrial use.
  - (4) A discharge of any industrial effluent into any watercourse, open ditch, or on a land surface unless specifically permitted under the authority of the New York State Department of Environmental Conservation.

- (5) A discharge of any industrial effluent into a public sanitary sewer system except in accordance with the rules of and under the control of public health authorities or the public body controlling such sewer system.
- (6) Open storage or stocking of any waste materials, unless specifically addressed in an approved site plan.
- (7) Glare or light levels in excess of the requirements set in ~~§525-117~~§525-100.
- (8) Vibration perceptible beyond the lot lines whereon such industrial use is conducted.
- (9) Any other nuisance, activity or action that may be harmful to a person or property.

B. Buffer, barrier and landscape requirements.

- (1) Buffer and barrier shall be provided in accordance with ~~§525-111~~§525-94.
- (2) All portions of the lot proposed for industrial development and not occupied by structure, parking area, drive, internal drive, pedestrianways, or storage shall be landscaped with lawn, trees, shrubs, or other plant material in accordance with ~~§525-111~~§525-94.

C. Other industrial use activity.

- (1) Outdoor storage. Materials, supplies, or products shall not be stored in a front yard, and such storage located in the side or rear yard shall be screened in conformance with ~~§525-111~~§525-94.
- (2) Off-road loading and unloading berths. Off-road loading and unloading berths shall be provided in accordance with ~~§525-71~~§525-54 and the following minimum requirements:
  - (a) An off-road loading and unloading berth located on or along a drive shall be located a minimum of 100 feet from a road.
  - (b) The handling of all freight shall occur either on those sides of a building which do not face a road or be suitably landscaped and screened in accordance with ~~§525-111~~§525-94.

D. Accessory uses. Accessory uses shall conform to the minimum requirements set forth in ~~§525-87~~§525-67<sup>(1)</sup> and as prescribed in an approved site plan.

[1]: Editor's Note: See ~~§525-87.A~~§525-68 through ~~525-75.0??~~.

E. Design requirement. A site plan for an industrial use shall include design elements that provide sufficient documentation to determine compliance with the requirements of ~~§525-101~~§525-84 and all other applicable sections of this chapter.

F. Access. Access to a lot containing an industrial use shall:

- (1) Be designed by a design engineer;
- (2) Be designed not to route traffic directly through an R1 or R2 Zoning District on other than a primary road;
- (3) Be designed to access a road other than a Town road located within an R1 or R2 Zoning District; and
- (4) Have a design based on a traffic study that includes provisions for access for all vehicles expected or intended to use the site, unless specifically waived by the Planning Board in the site plan process.

§525-105. Solar energy systems and solar access.

A site plan for new residential development that includes either 100 or more acres of site development area and/or more than 200 dwelling units shall consider designs to promote the maximum number of buildings receiving direct sunlight sufficient for using a solar energy system. Such site plan shall include a solar access plan that considers the following:

- A. Solar access shall be protected between the solar azimuths of  $-45^{\circ}$  east of due south and  $+45^{\circ}$  west of due south.
- B. In considering dimensional modifications permitted in Article VI, ~~and VIII~~, the Planning Board shall consider solar access design.
- C. For solar access, roads, lots and building setbacks should be designed so that the buildings are oriented with their long axes running from east to west for single-unit development and north to south for multiunit development.
- D. In order to maximize solar access, the higher-density dwelling units should be placed on a south-facing slope and lower-density dwelling units sited on a north-facing slope.
- E. Structures should be sited as close to the north lot line as possible to increase yard space to the south for reduced shading of the south face of a structure.
- F. A tall structure should be sited to the north of a short structure.
- G. A description of any legal mechanisms, such as deed restrictions, covenants, etc., that are to be applied to protect or provide for solar access shall be provided as documentation in a site plan.

#### §525-106. Wind energy conversion systems (windmills).

The intent of this section is to regulate the placement of and access to wind for an energy conversion system and/or wind farm and to protect the health and safety of individuals on adjacent lots.

- A. Approvals. A site plan approval and building permit are required for the construction of a wind energy conversion system and/or a wind farm.
- B. Dimensional requirements.
  - (1) The total height for a vertical axis rotor installation of a wind energy conversion system is the tower height plus  $1/2$  the rotor diameter, and for a horizontal rotor installation of a wind energy conversion system, is the distance from the base at finished grade to the top of the unit.
  - (2) A wind energy conversion system setback shall be a distance that is the greater of either the total height of the wind energy conversion system or the required setback.
  - (3) A maximum allowable total height for a wind energy conversion system shall be 100 feet unless otherwise restricted or prohibited by federal, state or local laws, rules, or regulations.
  - (4) Minimum allowable height above finished grade at the lowest point of the arc of a rotor blade shall be 15 feet.
- C. Safety requirements. All wind energy conversion systems shall be designed, installed and maintained in accordance with the following:
  - (1) The foundation and supports for a wind energy conversion system shall be as designed by a design engineer.
  - (2) At least one sign shall be posted at the base of the wind energy conversion system warning of high voltage.
  - (3) Tower climbing ladders, stairs or similar devices shall be no lower than 12 feet from the ground.

- (4) All wind energy conversion systems shall be installed with braking systems approved by the manufacturer.
- D. Sound control requirements. The maximum level of sound created by the wind energy conversion system as measured at the lot line shall be no greater than 55 decibels (db).
- E. Design requirements.
  - (1) All electric transmission lines serving the installation shall be installed underground.
  - (2) No wind energy conversion system with guy wire support shall be permitted.

**§525-107. Home occupations.**

- A. Specific use restrictions. The following uses shall not be permitted as a home occupation:
  - (1) A business which has a primary function of wholesale or retail sale of goods or articles on a lot;
  - (2) Any form of motor vehicle repair including vehicle body work;
  - (3) Motor vehicle sales;
  - (4) Any small engine or appliance repair;
  - (5) A veterinary hospital;
  - (6) A kennel;
  - (7) A bar and/or restaurant;
  - (8) Cottage industry;
  - (9) Body piercing and/or tattooing; and
  - (10) Any use that, under the provisions of the New York State Uniform Fire Prevention and Building Code, is not permitted based on the type of construction or a use prohibited based on any other federal, state or local law, rule or regulation.
- B. General requirements. All home occupation uses shall comply with the following minimum requirements:
  - (1) In a dwelling unit, the lesser of either 25% of the total habitable floor area or 500 square feet may be used for or dedicated to the use.
  - (2) In an accessory structure, no more than 500 square feet may be dedicated to the use per available minimum lot size area in the AR Zoning District and overall in the R1, R2 and R3 Zoning Districts.
  - (3) The use shall be conducted within the enclosed walls of a dwelling unit or accessory structure.
  - (4) There shall be no external evidence of such use except for a sign installed in accordance with § **525-77**. No stock, merchandise, packaging, equipment or displays related to the use shall be visible from outside the dwelling unit or accessory structure.
  - (5) The dwelling unit in which the use is located shall not be altered or extended in a manner not customary or typical to a residential building to accommodate the use.
  - (6) The use shall not result in or cause vehicular traffic volumes of greater than four cars per hour or otherwise create a nuisance to abutting lots.
  - (7) The use shall not change the residential character of the adjoining lots.
  - (8) Evidence of any certification and/or license that is required by the law for the specific occupation.

**§525-108. Cottage industries.**

- A. Restrictions. The following uses shall not be permitted as a cottage industry use:
- (1) A business which has a primary function of wholesale or retail sale of goods or articles on a lot except as provided in ~~§525-108~~~~§525-94~~ B
  - (2) Any form of motor vehicle repair including vehicle body work.
  - (3) Motor vehicle sales.
  - (4) A veterinary hospital, except such use may be permitted in the AR Zoning District.
  - (5) A bar and/or restaurant.
  - (6) Any use that, under the provisions of the New York State Uniform Fire Prevention and Building Code, is not permitted based on the type of construction or a use prohibited based on any other federal, state or local law, rule or regulation.
- B. General requirements. A cottage industry use may be permitted when an approved site plan documents compliance with the following minimum requirements:
- (1) In a dwelling unit, the lesser of 30% of the total floor area or 750 square feet is to be used for or dedicated to the use.
  - (2) No more than 1,500 square feet of an accessory structure is used for or dedicated to the use.
  - (3) The use is to be conducted within the enclosed walls of the dwelling unit and/or accessory structure.
  - (4) There is no external evidence of such use except for a sign installed in accordance with ~~§525-90~~~~§525-73~~. No stock, merchandise, packaging, equipment or displays related to the use are visible from outside the dwelling unit and/or accessory structure.
  - (5) A dwelling unit in which the use is located is not altered or extended in a manner not customary to or typical of a residential building in order to accommodate the use. Construction and/or modification of an accessory structure to accommodate the use is permitted.
  - (6) The use shall not result in or cause vehicular traffic volumes of greater than six cars per hour or otherwise create a nuisance to abutting properties.
  - (7) A maximum of 10% of any area devoted to or used for the use may be for display and/or wholesale and retail sales.
  - (8) In accordance with the site plan review process, more than one cottage industry and/or a combination of cottages industries and home occupations may be permitted if there is sufficient lot area to support each use.
  - (9) The use shall remain compliant with all conditions of site plan approval.

#### §525-109. Antennas.

- A. Intent. The Town of Southport is characterized by valleys with significant ridgeline views that are for the most part unobstructed. It is the Town's intent to minimize potential visual impacts through a limitation on placement of antennas on such ridgelines or other locations where antenna location may adversely impact on important visual resources. To the maximum extent possible, an antenna shall be designed and located to reduce visual impacts from surrounding lots and roads.
- B. General requirements.
- (1) No antenna of any kind may be erected in the Town except in conformance with the requirements in this section and ~~Article IV. §525-20~~~~Article IV. §525-20~~, Use Regulation Table.<sup>11</sup>

[1]:*Editor's Note: The Use Regulation Table is included at the end of this chapter.*

- (2) In order to reduce the potential of visual impacts, all antenna shall either be co-located on an existing antenna or structure or located in close proximity to structures of similar height, unless scientific evidence is provided that the antennas cannot function adequately in all such locations.
  - (3) Not more than one antenna shall be permitted to be installed on any residential lot that is less than 15,000 square feet in size.
  - (4) Each antenna and installation thereof shall conform to applicable provisions of the New York State Uniform Fire Prevention and Building Code, National Electric Code and any other applicable federal, state or local law, rule or regulation.
  - (5) Antennas shall be installed to comply with the manufacturer's specifications and shall be secure to prevent falling or collapse.
  - (6) Antennas must be grounded for protection against a strike by lightning, in accordance with the manufacturer's recommendations.
  - (7) Satellite antennas that are three feet or less in diameter may be installed without restriction by this chapter and shall comply with the manufacturer's recommendations and any other applicable federal, state or local law, rule or regulation.
- C. Nonresidential use. A satellite antenna greater than three feet in diameter installed for any nonresidential use listed in Article IV. §525-20 or located in AR, CN, CR and I Districts shall comply with the following minimum requirements:
- (1) Size and height.
    - (a) A satellite antennas shall not exceed 30 feet in diameter.
    - (b) The total height of a ground-mounted antenna shall not exceed 35 feet above the finished grade.
    - (c) Roof-mount installations of an antenna shall require a building permit, and the total height of the antenna from finished grade shall not exceed the height restrictions as set forth in [Article V. §525-24](#) ~~Article V. §525-24~~ for the zoning district within which the antenna is installed.
  - (2) All antenna shall either be co-located on an existing antenna or structure or located in close proximity to structures of similar height, unless scientific evidence is provided that the antennas cannot function adequately in all such locations.
  - (3) A satellite antenna shall be located as permitted in an approved site plan.
- D. Antennas as principal structure or use on a lot.
- (1) Setback.
    - (a) Freestanding antennas shall be erected no nearer to a lot line than the greater of:
      - [i] The required setback as specified in the bulk density requirement, Article V. §525-23;<sup>[2]</sup> or
      - [2]: *Editor's Note: The Bulk and Density Control Schedule is included at the end of this chapter.*
      - [ii] The tower height plus 1/2 the diameter of a satellite antenna or distance that any other type of antenna is installed above the tower.
    - (b) For an antenna with guy supports, the guy supports shall be installed within all minimum setbacks for the district within which the lot is located.

- (2) Maximum allowable height is 120 feet unless otherwise prohibited by applicable federal, state or local law, rule or regulation.
- E. Safety. Antenna installations shall conform to the following minimum safety requirements:
  - (1) The foundation and supports for the antenna shall either be designed by a design engineer or carry a manufacturer's seal and certification stating that the materials provided for the installation are approved for the size and type of antenna specified.
  - (2) At least one sign shall be posted at the base of the tower warning of high voltage and/or radiation dangers.
  - (3) The area around an antenna, including any supports, shall be fenced in accordance with the recommendation of a design engineer.
  - (4) A tower or antenna climbing apparatus shall be no lower than 12 feet from finished grade.
  - (5) Any guy supports shall be sleeved, visibly marked or entirely fenced in to a height of eight feet above the finished grade to protect against accidental impact by persons and/or animals.
- F. Usable signal exceptions. When it can be substantially verified that locating an antenna in conformance with this section the antenna would be unable to receive a usable signal, when compared to a signal received on a conventional receiver, of a quality equal to that received from a local broadcast facility and/or cable installation, the antenna may be located in a side or front yard of the lot subject to site plan approval.

§525-110. Vehicle filling stations, vehicle repair, vehicle sales and heavy equipment vehicle sales and/or repair and/or contractor's equipment yard.

A. Dimensional requirements.

- (1) Minimum lot size, lot width and setback requirements:
  - (a) Minimum lot size for a vehicle filling station, vehicle repair, vehicle sales and heavy equipment vehicle sales uses shall be the greater of either one acre or the minimum lot area requirement prescribed in Article V. §525-24.<sup>[1]</sup>
  - (b) Minimum lot size for a contractor's equipment yard and heavy equipment repair uses in the AR Zoning District shall be 5 acres.  
  
*[1]: Editor's Note: See the Bulk and Density Control Schedule, which is included at the end of this chapter.*
  - (c) In those instances where a vehicle filling station, vehicle repair, vehicle sales and heavy equipment vehicle sales and/or repair and/or contractor's equipment yard uses are proposed as part of a mall or plaza, there shall be dedicated for such use a minimum lot area of one acre.
  - (d) In addition to any required lot area and/or setback, a developer may be required to provide any additional space necessary, as determined by an approved site plan, to mitigate any potential impact on surrounding lots or uses.
  - (e) The minimum lot width shall be the greater of 200 feet or the minimum lot width prescribed in [Article V. §525-24](#) ~~Article V. §525-24~~.
  - (f) Fuel-dispensing devices shall be located at least 25 feet from any front lot line and 50 feet from any side or rear lot line. This distance shall be measured from the outermost edge of the fuel island structure.

B. General requirements.

- (1) Automobile parts, including tires, frames, hubcaps, and motors, and dismantled or unregistered motor vehicles are to be stored within a structure or otherwise screened from view from any adjoining lot or road. Accessory products that are offered for sale may be placed outside during normal business hours, provided that such items are stored or displayed in a rack.
- (2) All repair work shall be performed within a building. Vehicles waiting to be serviced or stored on the lot shall not be parked or stored in any required yard. Wrecked vehicles being held for insurance adjustment or other legal purpose shall be stored behind the rear wall of the building and screened from view from an adjoining lot or road.
  - (a) Over the road equipment associated with contractor's equipment yards shall not exceed a GVWR (Gross Vehicle Weight Rating) of 33,000 pounds in the AR Zoning District.
    - [i] This limit shall not apply if the driveway for the lot connects directly to a road that is maintained by Chemung County or the State of New York.
  - (b) In the AR District no more than 3 commercial vehicles shall be allowed on one lot except for agricultural operations.
- (3) Parking.
  - (a) No vehicle shall be parked, stored or left standing within 15 feet of a road right-of-way.
  - (b) Parking area requirements shall be as set forth in § **525-73**. Such parking areas shall not conflict with the traffic pattern to and from any fuel pump. In addition to any required parking, a developer may be required to provide any additional parking areas necessary, by an approved site plan, to mitigate any potential impact on a surrounding lot or use.
  - (c) Where parking areas abut a residential use as set forth in [Article IV. §525-20](#) ~~Article IV. §525-20~~ or a residential zoning district boundary, they shall be screened from such use or district and include a barrier that shall include all or any combination of the following:
    - [i] Be composed of densely planted plant material no less than 10 feet in depth, eight feet in height from finished grade.
    - [ii] Include a fence.
    - [iii] Be of materials consistent with the character of adjacent residential lots.
    - [iv] Be maintained in perpetuity or to a time when the adjoining residential use no longer exists.
    - [v] No vehicles offered for rent or sale shall be placed, stored or parked within 25 feet of a road right-of-way.
    - [vi] All storage and display areas shall be provided with a hard, dust-free surface and shall be adequately drained.
    - [vii] All outdoor lighting shall conform with [§525-125](#) ~~§525-108~~.
    - [viii] No twenty-four-hour operation use shall be permitted within 250 feet of an existing residential use and/or residential district boundary.
    - [ix] Fuel, oil and other materials which are environmentally hazardous shall be stored, controlled and disposed of in accordance with the rules and regulations of the New York State Department of Environmental Conservation.

**§525-111. Buffers and landscaping.**

- A. Intent. The objective of this section is to provide the necessary consideration to those physical and visual elements of the land uses in the Town of Southport that require, or may be improved by, treatment of the natural landforms/topography or man-made features arranged so as to enhance the appearance of, screen or effectively separate different types of land use, to eliminate or minimize impacts on adjoining uses such as dirt, litter, noise, glare and incompatible buildings or uses (such as outdoor storage, loading and parking areas), and to protect natural resources throughout the town. The Planning Board may require that a professional licensed landscape architect prepare plans under this section.
- B. Buffer and landscaping techniques. The particular type of buffer and landscaping treatment shall be as determined by the Planning Board to meet the intent of this section. The following major types of treatment and combinations may be considered:
- (1) Visual separation/screening, including earth mounding, berm, and screen-planting techniques designed to separate, obscure or soften an incompatible view or use.
  - (2) Visual setting, including ground cover and plant materials designed to stabilize the landform and provide an appropriate foreground or setting.
  - (3) Physical separation, including a combination of plant and man-made materials or features designed to separate distinct land use types or activities.
- C. Requirements.
- (1) Plant specifications. The planting specifications and guidelines for each buffer and landscape technique shall be determined by the Planning Board on a case-by-case basis. The Planning Board shall consider the number and types of plants required in a buffer yard based on the type of treatment it determines to be appropriate in accordance with Subsection **B.** above. The number and type of plant materials shall be based on the proposed width of the yard: the wider the buffer yard, the less the plant materials required.
  - (2) Minimum plant size. Unless otherwise specifically stated elsewhere in this chapter, all plant materials shall meet the following minimum size standards:

Plant Material Type	Buffer Yards Abutting Vacant Land	All Other Plant Materials
Canopy tree: single stem; multistem clump	1 1/2 inch caliper; 6 feet (height)	2 1/2 inch caliper; 9 feet (height)
Understory tree	1 1/2 inch caliper; 4 feet (height)	
Evergreen tree	3 feet (height)	5 feet (height)
Shrub		
Deciduous	15 inches (height)	24 inches (height)
Evergreen	12 inches (height)	18 inches (height)

- (3) Plant material substitutions. The following plant materials substitutions shall satisfy the requirements of this section:
  - (a) In all buffer yards, evergreen canopy or evergreen understory trees may be substituted for deciduous canopy trees without limitations.
  - (b) In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
- (4) All disturbed soil areas of the site shall be replanted or reseeded in an approved fashion.
- (5) No landscaping feature shall be erected, placed or maintained in such a manner as to interfere with clear vision and/or the safe movement of vehicular traffic.

§525-112. Drive-through uses.

Where permitted, fast food restaurants meeting the definition of this chapter shall conform to the following standards, which shall be regarded as minimum requirements:

- A. Minimum lot size shall be 20,000 square feet.
- B. At least one lot frontage shall be a minimum of 100 feet.
- C. Access.
  - (1) A maximum of two driveways and curb cuts shall be permitted on each road frontage.
  - (2) All drives shall be no less than 30 feet and no wider than 50 feet in width.
  - (3) Drives shall be located a minimum of 40 feet from any road intersection and shall maintain a minimum of 50 feet between such driveways or curb cuts.
  - (4) Driveways shall create minimal conflict with pedestrian access to the building from the parking lots and sidewalk abutting the property.
- D. Parking.
  - (1) The number of parking spaces shall be as specified in ~~§525-72~~§525-52.
  - (2) Parking lots shall be designed to provide pedestrian safety.
- E. Landscape requirements. A landscape area equal to that portion of land contiguous to the public right-of-way and extending a depth of five feet shall be provided. Landscaping shall also be used to screen or buffer parking, dumpsters, freezers and other accessory uses as per ~~§525-111~~§525-94.
- F. Signs. All signs shall conform to the sign regulations in ~~§525-90~~§525-73.
- G. Drive-through lanes.
  - (1) All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes.
  - (2) Drive-through lanes shall not cross any principal pedestrian access to the building or site.
  - (3) Stacking or queuing up requirements.
    - (a) Fast-food restaurants: a minimum of 140 feet between start of lane to service window.
      - [i] Minimum 80 feet from start of lane to order station.
      - [ii] Minimum 60 feet from order station to service window.
    - (b) Banks and other businesses not using an order station: shall maintain a minimum of 60 feet from start of lane to service window or ATM.
    - (c) Multiple drive-through lanes. The Planning Board may allow reductions for businesses with multiple drive-through lanes based on review of proposed traffic circulation and usage.
    - (d) All uses shall maintain a minimum distance of 20 feet from the service window to the public right-of-way, interior parking aisles, or pedestrian building access.
    - (e) All drive-through queues shall be designed to accommodate an escape lane for vehicles choosing not to go through the line.

§525-113. Adult uses.

- A. Intent.

This section recognizes that adult uses, by their very nature, have serious objectionable operational characteristics and deleterious effects on adjacent neighborhoods and businesses. The objectionable characteristics of these uses are heightened by their concentration and by being located inappropriately in proximity to residential neighborhoods, schools, parks, and other areas frequently used by the Town's youth. The special purpose of this section is to regulate the creation, opening, commencement and/or operation of any adult use, as herein defined, in order to achieve the following:

- (1) To preserve the character and the quality of life in the neighborhoods and business areas of the Town.
- (2) To control such documented harmful and adverse secondary effects of the adult uses on the surrounding areas which include decreased property values, attraction of transients, parking and traffic problems, increased crime, loss of business for surrounding businesses, and deterioration of neighborhoods.
- (3) To keep such uses out of areas where youth routinely assemble.
- (4) To maintain the general welfare and safety for the Town's residents.

B. Adult uses. An adult use includes, but is not limited to, the following:

- (1) Business or establishment.
  - (a) A business or establishment, or any part thereof, which excludes persons under 18 years of age and which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental and/or display of the following:
    - [i] Books, magazines, periodicals or other printed materials, photographs, films, motion pictures, videocassettes or video reproductions, digital reproductions, slides, compact discs, computer software, or other visual representations which depict or display human sexual activity or human sexual anatomical areas; or
    - [ii] Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sexual gratification.
  - (b) A business or establishment has a significant or substantial portion of its use in adult uses when 20% or more of its stock-in-trade is devoted to adult uses or it derives 20% or more of its revenues from adult uses or it devotes 20% or more of its interior display or advertising to the sale, rental and/or display of adult uses.
- (2) A nightclub, bar, nonalcoholic or "juice" bar, restaurant or similar establishment which excludes persons under 18 years of age and which features:
  - (a) Persons who appear nude or in a state of seminudity; or
  - (b) Live performances which are characterized by the display or exposure of human genitalia, buttocks or breasts; or
  - (c) Films, motion pictures, videocassettes or video reproductions, digital reproductions, slides, compact discs, computer software, or other visual representations which depict or display human sexual activity or human sexual anatomical areas.
- (3) A hotel, motel or similar establishment which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic or digital reproductions which are characterized by the depiction or description of sexual activities or contact with sexual anatomical areas of human beings and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions or

offers sleeping rooms for rent on a regular basis for a period of time which is less than 10 hours.

C. Criteria for approval of site plan. An adult use shall only be permitted subject to the following requirements:

- (1) Located in an I Zoning District.
- (2) Spaced at least 1,000 feet from another adult use.
- (3) Spaced not less than 500 feet from the boundary of any R1, R2, R3, or CN Zoning District.

[Amended 5-10-2011 by ordinance (Res. No. 87-2011)]

- (4) Spaced not less than 500 feet from any of the following:
  - (a) School;
  - (b) Place of worship;
  - (c) Park or playground;
  - (d) School bus stop; or
  - (e) Existing residential dwelling unit.
- (5) Not conducted in any manner that permits the observation of the adult use or a picture or representation of the adult use from any road, drive, internal drive, driveway and/or pedestrianway or from any adjoining lot.
- (6) Complies with all other applicable provisions of this and other applicable laws.

§525-114. Outside storage of certain vehicles, equipment or materials.

A. Storage in front or side yards.

- (1) No required front yard or side yard in any district shall be used for the storage of any vehicles or for the storage of any parts or equipment for making repairs to any kind of vehicles.
- (2) No required front yard setback or side yard setback in any district shall be used for the storage of any travel trailers, recreational vehicles, boats or boat trailers or snowmobiles, ATVs and associated trailers.
- (3) All vehicle storage shall be within existing driveways and be in compliance with clear vision requirements at all times.<sup>11</sup>

[1]: *Editor's Note: See [§525-99](#)~~§525-82~~, Clear vision zones.*

B. Storage of unregistered and unlicensed motor vehicles and/or parts. In any district, there shall be no outside storage of any unregistered, unlicensed or uninspected motor vehicles for a time period longer than 15 days in any calendar year.

C. Outside storage of materials in the CN, CR and I Districts. Items and material for sale or used in fabrication/processing on any site in the CN, CR and I Districts shall be stored within a secure fence that effectively screens such material from the adjoining public roads and any residential uses.

D. Storage of recreational vehicles. In any district, there shall be no outside storage of recreational vehicles, travel trailers, or campers for a time period longer than 15 days in any calendar year except:

[Added 8-10-2010 by ordinance (Res. No. 137-2010)]

- (1) The storage of recreational vehicles, travel trailers, or camping vehicles that are currently registered and inspected for highway use in New York State; or
  - (2) Slide-in truck campers that are maintained in a roadworthy condition and are stored in a safe manner in a level and upright position; or
  - (3) Recreational vehicles, travel trailers, or camping vehicles that are seasonally used recreational vehicles as defined by Article II.§525-5; and
  - (4) The recreational vehicle is owned by the occupant of the property.
- E. Storage of boats and other watercraft. In any district, there shall be no outside storage of boats, vessels, or personal watercraft for a period longer than 15 days in any calendar year except as an accessory use where:

[Added 8-10-2010 by ordinance (Res. No. 137-2010)]

- (1) A trailerable boat, vessel, or personal watercraft is on a suitable trailer that is currently registered and inspected for highway use in New York State; or
- (2) A trailerable boat, vessel, or personal watercraft is on a suitable trailer, and the trailer is in a roadworthy condition, and the boat, vessel, or personal watercraft is in a seaworthy condition; and
- (3) The trailerable boat, vessel, or personal watercraft is owned by the occupant of the property.

#### §525-115. Private stables.

Private stables, as defined in this chapter, shall meet the following minimum standards:

- A. There shall be a minimum of three acres of land for each horse or pony kept at the site in an R1 Zoning District; all other districts in which private stables are allowed shall have a minimum of one acre.
- B. All buildings used to house or shelter such animals shall be located a minimum of 100 feet from any lot line.
- C. No animal waste shall be stored within 100 feet of any lot line.
- D. Adequate fencing shall be provided to secure and contain animals on the site.

#### §525-116. Roadside stands.

Roadside stands are permitted in in accordance with the following minimum standards:

- A. All stands shall either be temporary structures to be removed in the off-season or be constructed in such a way that they can be secured when not in use.
- B. Stands shall be located a minimum of 10 feet from the right-of-way.
- C. Products sold or displayed shall be limited primarily to agricultural products grown on the proprietor's property.
- D. Each stand shall be allowed a maximum of 32 square feet of signage in a maximum of two signs. All signs shall be removed when the stand is not in operation.

#### §525-117.Outdoor lighting for nonresidential uses.

- A. Intent. It is the intent of this section to require that outdoor lighting conserve energy, provide security and utility, and not adversely impact the nighttime environment. Proposed outdoor lighting plans

shall, to the maximum degree possible, show that they do not adversely impact the character of the community or cause excessive glare to traffic, pedestrians, or adjoining properties.

B. General requirements.

- (1) A development plan shall show and detail design features for outdoor lighting sufficient to document compliance the intent of this section and any Town-adopted engineering standards.
- (2) A plan for outdoor lighting prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any lighting impacts associated with a development.

C. Special site plan requirement. When an application for building permit or variance includes a lot where, in the determination of the Code Enforcement Officer, a significant impact associated with outdoor lighting is likely to occur as a result of a development, the application shall be referred to the Planning Board as a site plan application under Article VIII.

D. Restrictions. Except for in an approved site plan, the following types of lighting are prohibited as outdoor lighting:

- (1) Mercury vapor lights.
- (2) Any light source created by a laser or any similar high-intensity light is prohibited for outdoor lighting.
- (3) Searchlights.

§525-118. Outdoor commercial recreational use.

A. The intent of this section is to control and regulate the impacts associated with an outdoor recreational use to assure minimum adverse impact on surrounding uses. Outdoor recreational use includes a golf course; a football, polo, soccer, baseball or softball field; a tennis court; a racetrack; any outdoor show area; and any similar use.

B. B. General requirements.

- (1) Outdoor lighting shall comply with ~~§525-117~~[§525-100](#).
- (2) An outdoor recreational use located within 500 feet of a lot line for any existing residential use shall schedule all events to end prior to 11:00 p.m.
- (3) The use of an outdoor public address system shall comply with ~~§525-119~~[§525-102](#).
- (4) Where an outdoor recreational use abuts an existing residential use and is designed or intended to be operated or open for business anytime after 9:00 p.m., a buffer, in accordance with ~~§525-111~~[§525-94](#), equal to the requirements for an industrial use shall be provided on the lot of the outdoor recreational use.

C. Sanitary requirements.

- (1) An outdoor recreational use shall provide for adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the Chemung County Health Department, the New York State Department of Health and the New York State Uniform Fire Prevention and Building Code.
- (2) When temporary and/or portable rest rooms are to be used to comply with this subsection, no less than four shall be provided.

§525-119. Sound control.

A. Intent. This section is intended to establish sound level requirements sufficient to permit the enjoyment and use of adjoining lots without the adverse impacts associated with unnecessary or

unusually high levels of sound. The sound level requirements established in this section are considered to be minimum requirements, and more-restrictive requirements may be imposed to mitigate any measurable adverse sound impact associated with a development.

B. General requirements.

- (1) Unless specifically authorized in an approved site plan, a use on a lot shall not produce a sound level that exceeds an average of 70 decibels (db) over any twenty-minute period from 8:00 a.m. to 10:00 p.m. and of 55 decibels (db) at all other times and measured at a lot line of the lot.
- (2) A sound level deemed by a public health authority to be a danger to the public at large in the vicinity of a use creating such sound shall be prohibited.
- (3) All construction equipment in use on a construction site shall be equipped with mufflers and used in such a manner as to control the creation of excessive noise.
- (4) An outdoor sound system located in either an R1, R2, or R3 Zoning District or in another zoning district within 1,000 feet of an R1, R2, or R3 Zoning District boundary shall not be operated at anytime after 11:00 p.m. or earlier than 8:00 a.m. local time.

C. Exceptions.

- (1) Sound levels of construction activities for a development pursuant to an approved site plan or building permit may exceed the limits established in ~~§525-119~~~~§525-402~~, provided that such sound does not occur in any of the following circumstances:
  - (a) After 10:00 p.m.;
  - (b) After construction activity has been completed;
  - (c) After a certificate of compliance or occupancy for the development has been issued, or
  - (d) In violation of ~~§525-119~~~~§525-402~~.
- (2) Specific sound levels in excess of the requirements of ~~§525-119~~~~§525-402~~ B may be approved in a site plan.
- (3) A governmental use is not restricted by the requirements of this section.

§525-120. Alternative dwelling parks.

Any existing trailer or mobile home park, previously approved under the provisions of an applicable local law or ordinance that is repealed in Article 17,<sup>(1)</sup> is, for the purposes of this chapter, defined as an alternative dwelling park.

- A. Intent. The intent of this section is to ensure that those residents of the Town who may reside in an alternative dwelling park are provided with a safe and secure environment in which to live. The creation of reasonable bulk and density, traffic control, fire-protection and utility requirements will provide a degree of protection of health, safety and welfare for these residents equal to that of any other style of residential living. These requirements are also provided to protect existing uses that may adjoin a proposed alternative dwelling park from significant adverse impacts associated with the development of an alternative dwelling park.
- B. License requirement. All alternate dwelling parks shall apply for and receive a license from the Town of Southport annually. Such license shall be provided by the Town only if all safety and sanitary requirements of this section are met. No alternate dwelling park shall operate in the Town of Southport without a Town license.
- C. Special site plan requirement. Any extension or significant modification of or change to the layout, bulk, density, utilities, drives, internal drives or roads for an existing alternative dwelling park shall

require a site plan amendment in accordance with ~~Article VIII~~ and the provisions of this section.

D. Requirements for a lot containing an alternative dwelling park.

(1) Density requirements.

- (a) Minimum lot area for an alternative dwelling park is 25 acres.
- (b) Lot coverage shall be calculated using the total usable acreage for the entire lot proposed to contain an alternative dwelling park.
- (c) The total lot coverage shall not exceed 40%.

(2) Dwelling unit density requirement.

- (a) The Planning Board shall determine in a site plan if the dwelling unit density and placement on a lot is appropriate in consideration of natural land features, potential for environmental impact, traffic and pedestrian movements and consistency with the Town Comprehensive Plan.
- (b) The gross dwelling unit density shall be calculated using the total usable acreage and shall in no instance exceed five dwelling units for any acre or a maximum of 150 dwelling units.

(3) Access requirements. A site plan for an alternative dwelling park shall include provisions for compliance with the following minimum access requirements:

- (a) A minimum of two vehicular drives shall be provided to an alternative dwelling park.
- (b) The drives may originate from any road except a private road.
- (c) The intersection of one drive with a road shall be separated a minimum distance of 500 feet from any other drive servicing the lot.
- (d) Each drive shall either directly align with an opposing drive or shall be offset at a minimum distance as established by a traffic study.
- (e) Each drive shall be located a minimum distance of 500 feet from any intersection of roads.

(4) Vehicular and pedestrian circulation requirements.

- (a) A site plan application for an alternative dwelling park shall document that there are adequate and safe provisions for internal vehicular and pedestrian traffic movements. A traffic study may be required as the basis of design for the site access and internal road and pedestrian access/circulation. The documentation in the site plan application shall, as a minimum, provide for:

- [i] Proper pavement width for emergency vehicles;
- [ii] Safe pedestrian passage along and across drives, internal drives and driveways; and
- [iii] Adequate storage space for snow removal;
- [iv] The parking of vehicles on other than roads, drives and internal drives.

- (b) The documentation associated with internal vehicular movements, parking and pedestrian circulation in an alternative dwelling park shall include, as a minimum, the following details:

- [i] Drive, internal drive, driveway and/or road construction drawings in compliance with ~~§525-70~~ and ~~§525-82~~, including details such as alignment,

width, profile, construction cross section, wear surface specification, drainage and traffic control devices or signs and pavement marking.

- [ii] Parking area construction drawing, including surface design and markings.
- [iii] Plans for emergency vehicle, public transportation and school bus access.
- [iv] Pedestrian access design, including sidewalks, walkways, crosswalks, signs, and pavement marking, with details for access to any public or common area, including school bus or public transportation stop, parks and/or recreational structure.
- [v] A design for the access of U.S. Postal Service delivery of mail and the access for tenants to receive or pick up their individual mail.
- [vi] A drive and/or internal drive maintenance plan having provisions for maintaining the drive surface, snow removal and storage, continuous access for all emergency vehicles and parking control.

E. Dead-end road, drive and/or internal drive requirements.

- (1) A road or drive located on a lot containing an alternative dwelling park and providing access to an individual dwelling unit lot within the alternative dwelling park shall be continuous and without end.
- (2) An internal drive located on a lot containing an alternative dwelling park and that exceeds 500 feet in length or provides access to more than five dwelling units shall be continuous and have two separate and distinct connections with a drive.
- (3) An internal drive located on a lot containing an alternative dwelling park and that is over 150 feet in length or provides access to more than three dwelling units shall be provided with a turnaround suitable for the expected vehicular traffic, including emergency vehicles.

F. Buffer, landscape and barrier requirement.

- (1) A lot containing an alternative dwelling park shall have and maintain buffers, landscaping and barriers along the perimeter of the lot that comply with the same requirements as those for a business use set in [§525-111](#)~~§525-94~~.
- (2) A lot containing an individual dwelling unit within an alternative dwelling park shall have and maintain buffers, landscaping and barriers along the perimeter of the lot that comply with the same requirements as those for a residential use set in [§525-111](#)~~§525-94~~.
- (3) The Planning Board may, in an approved site plan, require greater buffer, landscape and barrier requirements to mitigate those impacts associated with an alternative dwelling park development on an adjoining lot.

G. Fire-protection equipment and design.

- (1) An alternative dwelling park development site plan shall include design provisions for firefighting. These provisions may include:
  - (a) Fire-fighting vehicle access;
  - (b) Building spacing and setbacks;
  - (c) Fire hydrant location and fire hose dimension;
  - (d) Emergency shutoff of utilities;
  - (e) The local Fire Department's equipment and manpower limitations;
  - (f) Fire lane location; and

- (g) Response time.
  - (2) A site plan application shall include a detailed plan for all fire-protection equipment to be provided in the alternative dwelling park development. This plan shall be prepared by a design engineer, and the equipment shall be designed, constructed, installed and maintained in accordance with all applicable standards of the New York State Uniform Fire Prevention and Building Code.
  - (3) Prior to approval of any preliminary plan, the Planning Board shall receive from the applicant a written response to a review for the plan prescribed in [Article VIII. §525-57](#) ~~Article VIII. §525-38~~ by the Fire Department having jurisdiction for the lot proposed for an alternative dwelling park development.
- H. Solid waste storage and removal requirement. An approved site plan for an alternative dwelling park shall include adequate provisions for the storage and removal of solid waste in accordance with the New York State Fire Prevention and Building Code, the New York State Environmental Conservation Law and the Laws of the County of Chemung. Each site plan application shall include the following:
- (1) A provision for either curbside pickup or central dumpster location within the alternative dwelling park.
  - (2) The applicant shall include in a maintenance plan a procedure and responsibility for the policing of the area used for solid waste collection, which shall include provisions for cleaning up any solid waste improperly disposed of or otherwise scattered on the property.
- I. Recreation parks, playgrounds and open space in an alternative dwelling park.
- (1) An alternative dwelling park site plan shall include provisions for recreation parks, playgrounds and open space in accordance with [§525-102](#) ~~§525-85~~.
  - (2) The Planning Board may consider certain ancillary recreational facilities in lieu of the recreation parks, playgrounds and open space. Such facilities shall be specifically approved by the Planning Board and shall be deemed to be and shall function as accessory structures and/or uses and as such comply with [§525-87](#) ~~§525-67~~.<sup>121</sup> These recreational facilities shall be compatible with the residential character of the development, may include a:
    - (a) Community room or lounge;
    - (b) Game or recreation room;
    - (c) Exercise or multipurpose room;
    - (d) Sauna/spa, whirlpool;
    - (e) Swimming pool;
    - (f) Indoor playground; and/or
    - (g) Day-care center.
- [2]: Editor's Note: For accessory structures, see [§525-68](#) through [525-75.9??](#); for accessory uses, see [§525-71](#).*
- J. Facility maintenance requirements.
- (1) An alternative dwelling park approved in a site plan shall be subject to an annual inspection by the Code Enforcement Officer to document compliance with this chapter, the conditions of site plan approval and the applicable provisions of the New York State Uniform Fire Prevention and Building Code prior to the issuance of a license.
  - (2) An alternative dwelling park approved in a site plan shall be maintained in perpetuity, by the developer or any successors thereto, in such condition as intended by the approved site plan and in accordance with the provisions of such approval and any condition thereof.

(3) It shall be a violation of this chapter to maintain an alternative dwelling park in noncompliance with this subsection.

K. Sales or model dwelling unit requirements.

(1) On a lot containing an alternative dwelling park:

- (a) The commercial sales of dwelling units shall not be permitted as another principal use or as an accessory use, however;
- (b) As shown and permitted in an approved site plan, up to three model dwelling units may be set up and displayed on individual dwelling unit sites.

(2) When permitted, such model dwelling units shall be included in any bulk and density calculation.

L. Accessory building and use requirements. Except for an accessory building and/or use associated with an individual dwelling unit as specified in Subsection **N**, an accessory building and/or use shall comply with the requirements specified in Article V. §525-24 for a residential use in an AR Zoning District.<sup>[3]</sup>

[3]: *Editor's Note: The Bulk and Density Control Schedule is included at the end of this chapter.*

M. Utility requirements.

(1) An approved site plan shall include the design and construction specifications for all utilities, including electric, telephone, gas or other fuel source, water, sewer, and television, required to service the alternative dwelling park and each individual dwelling site. Such plans shall comply with the provisions of ~~§525-103~~§525-86.

(2) Television service to the alternative dwelling park shall be provided as a consolidated system for the entire site. No individual antennas shall be permitted on dwelling unit sites.

N. Individual dwelling unit site requirements.

(1) Density requirements.

- (a) Minimum lot size: 8,000 square feet.
- (b) Minimum lot width: 50 feet.
- (c) Maximum lot coverage: 40%.
- (d) Minimum setback requirements.
  - [i] Front yard from an internal drive: 25 feet.
  - [ii] Side yard: 10 feet.
  - [iii] Rear yard: 25 feet.

(2) Accessory building and use requirements.

~~(a)~~ Except as otherwise specified in this subsection, an accessory building and use shall comply with the requirements of ~~§525-87~~§525-67.<sup>[4]</sup>

~~(b)~~(a) ~~[4]: Editor's Note: For accessory structure requirements, see §525-68 through 525-75.9; for accessory use requirements, see §525-71.~~

~~(e)~~(b) An accessory building or use located on an individual dwelling unit lot in an alternative dwelling park:

- [i] Shall not require a site plan amendment; and

- [ii] An accessory building may be set back from a side lot line and rear lot line of an individual dwelling unit site a minimum distance of five feet.
- (3) Individual dwelling unit site access. An individual dwelling unit site shall be provided with driveway access from drive or internal drive, and such driveway shall comply with the applicable provisions of the Town of Southport Driveway Standards.
- (4) Dwelling unit installation requirements.
- (a) Each individual dwelling unit site, pad or foundation shall comply with the applicable provisions of and the generally accepted standards prescribed in the New York State Uniform Fire Prevention and Building Code for the construction of sites and the installation of dwelling units.
  - (b) When the dwelling unit is a mobile home, the reference standard for construction shall be as prescribed in the New York State Uniform Fire Prevention and Building Code, specifically Subchapter D and Reference Requirement 68.
  - (c) When the dwelling unit is not a mobile home, the reference standard for construction shall be as prescribed in the New York State Uniform Fire Prevention and Building Code, specifically Subchapter B.
  - (d) A site plan for an alternative dwelling park must include certification by the design engineer that the project is compliant with the New York State Uniform Fire Prevention and Building Code, specifically Subchapter B and/or D.
  - (e) In addition to the all other requirements of this subsection, each individual dwelling unit and/or site shall meet the following minimum requirements:
    - [i] The site shall be properly drained and compacted to support the weight imposed on the ground by the installed dwelling unit.
    - [ii] Each dwelling unit shall be stabilized either in accordance with the manufacturer's specification, the standards referenced in this subsection, or an engineering design completed by a design engineer specific to the dwelling unit and/or site.
    - [iii] Anchors and/or rollover protection, as provided for in the manufacturer's specification, the standards referenced in this subsection or an engineering design completed by a design engineer specific to the dwelling unit, shall be provided for each dwelling unit installed.

[1]:*Editor's Note: So in original.*

### §525-121. Flea markets.

- A. Density requirements.
  - (1) Minimum lot size: five acres.
  - (2) Minimum lot width: 250 feet.
- B. Buffer, landscaping and barrier requirements.
  - (1) Landscaping requirements.
    - (a) The entire lot, except for area covered by a structure or surfaced as parking area and/or other ancillary use, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved site plan.
    - (b) All landscaping shall be maintained by the developer in perpetuity.

(2) Buffer requirements.

- (a) A buffer, landscaping and barrier in accordance with ~~§525-111~~~~§525-94~~ and any conditions of an approved site plan shall be maintained by the developer in perpetuity.
- (b) A minimum buffer of 100 feet in width shall be maintained between a flea market use and the lot line of an adjoining lot containing residential use.
- (c) No structure, vendor or parking area shall be permitted within a buffer.
- (d) Barrier requirements. Any material incidental to the flea market use, including trash, boxes, goods and wares and other materials, stored outside a building shall be:
  - [i] Screened from view from any adjoining lot or road by a barrier in accordance with ~~§525-111~~~~§525-94~~ and at least eight feet in height as measured from finished grade; and
  - [ii] Located in accordance with a design approved in a site plan.

(3) Parking requirements.

- (a) No on-road parking is permitted.
- (b) Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation.
- (c) The parking area shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of ~~§525-71~~~~§525-51~~.

(4) Outdoor sound or public address system requirements. Unless specifically approved in a site plan, an outdoor sound or public address system is not permitted for a flea market.

(5) Sanitary facility requirement.

- (a) A flea market shall provide for adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the New York State Department of Health and the New York State Uniform Fire Prevention and Building Code.
- (b) When temporary and/or portable rest rooms are to be used to comply with this subsection, no less than four shall be provided.

(6) Other requirements.

- (a) With the exception of a permitted sign and/or required rest room facilities, there shall be no permanent or temporary accessory structure unless approved per the site plan.
- (b) All tables, stands and/or other display equipment and all vehicles shall be removed from the lot at any time that the flea market is not open to the public for any period of time greater than 72 hours.
- (c) No overnight camping or permanent occupancy shall be permitted unless specifically authorized in an approved site plan.

§525-122. Airports and heliports.

A. Density and runway location requirements.

- (1) A minimum lot size of 25 acres is required for an airport and heliport.
- (2) To the greatest extent possible, a runway shall be aligned and located so that the flight path as measured for a distance of 1,000 feet from the end of the runway does not align directly over any existing residence or other occupied building other than those used in support of the airport or heliport use.

- B. Buffer, landscaping and barrier requirements.
- (1) Landscaping requirements.
    - (a) The entire lot, except for area covered by a structure or surfaced as parking area and/or other ancillary use, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved site plan.
    - (b) All landscaping shall be maintained by the developer in perpetuity.
  - (2) Buffer requirements.
    - (a) A buffer, landscaping and barrier in accordance with ~~§525-111~~§525-94 and any conditions of an approved site plan shall be maintained by the developer in perpetuity.
    - (b) A minimum buffer of 100 feet in width shall be maintained on the lot of the airport or heliport use and the lot line of an adjoining lot containing residential use.
    - (c) No structure or parking area shall be permitted within a buffer.
  - (3) Barrier requirements. Any material incidental to the airport or heliport use, including trash, boxes, aircraft parts and other materials, stored outside a building shall be:
    - (a) Screened from view from any adjoining lot or road by a barrier in accordance with ~~§525-111~~§525-94 and at least eight feet in height as measured from finished grade; and
    - (b) Located in accordance with a design approved in a site plan.
- C. Maintenance facility requirements. All aircraft repair and/or maintenance, with the exception of fueling, shall be conducted inside of a principal or accessory structure unless otherwise prohibited by local, state or federal law, rule or regulation.
- D. Fuel or tank farm requirements. Fuel or tank farm shall be located a minimum of 200 feet from any lot line and shall meet any applicable local, state or federal law, rule or regulation.
- E. Operating hour requirement. Standard operations of aircraft shall be limited to between the hours of 5:00 a.m. and 10:00 p.m.

§525-123. Rod and gun clubs.

- A. Density requirements.
- (1) Minimum lot size: 25 acres.
  - (2) Minimum lot width: 1,000 feet.
- B. Buffer, landscaping and barrier requirements.
- (1) Landscaping requirements.
    - (a) The entire lot, except for area covered by a structure or surfaced as parking area and/or other ancillary use, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved site plan.
    - (b) All landscaping shall be maintained by the developer in perpetuity.
  - (2) Buffer requirements.

- (a) A buffer, landscaping and barrier in accordance with ~~§525-111~~~~§525-94~~ and any conditions of an approved site plan shall be maintained by the developer in perpetuity.
- (b) A minimum buffer of 100 feet in width shall be maintained on the lot of the rod and gun club use and the lot line of an adjoining lot containing residential use.
- (c) No structure or parking area shall be permitted within a buffer.
- (3) Barrier requirements. Any material incidental to the rod and gun club use, including trash, boxes, and other materials, stored outside a building shall be:
  - (a) Screened from view from any adjoining lot or road by a barrier in accordance with ~~§525-111~~~~§525-94~~ and at least eight feet in height as measured from finished grade; and
  - (b) Located in accordance with a design approved in a site plan.
- C. Parking requirements.
  - (1) No on-road parking is permitted.
  - (2) Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation.
  - (3) A parking area shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of ~~§525-71~~~~§525-54~~.
- D. Noise control requirement. Noise levels generated by a use shall be no greater than 55 decibels as measured at the boundaries of the lot occupied by the use creating noise during events.
- E. Sanitary facility requirement.
  - (1) A rod and gun club shall provide adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the New York State Department of Health and the New York State Uniform Fire Prevention and Building Code.
  - (2) When temporary and/or portable rest rooms are to be used to comply with this subsection, no less than four shall be provided.
- F. Other requirements.
  - (1) No overnight camping or occupancy shall be permitted.
  - (2) An arresting berm or backstop shall be incorporated in any site plan application if target practice is proposed.

#### §525-124. Filling and grading.

Filling of any lot in the Town of Southport shall be done in accordance with the following minimum standards:

- A. All fill material shall be clean fill meeting NYSDEC's definition and shall include no blacktop, asphalt, concrete, rocks or other substances larger than three feet in any linear dimension.
- B. All areas being filled shall be leveled and seeded within 45 days of the placement of the fill and in all instances prior to October 15 of any year.
- C. A minimum of four inches of earth or topsoil shall be placed over the clean fill in order to support vegetation.

- D. No lot shall be filled to an elevation that exceeds surrounding grade level without prior Planning Board approval.
- E. No fill shall be placed in any drainage swales or ways in any manner that will reduce or modify the capacity of such swales and/or the direction of stormwater flows.

**§525-125. Outdoor wood-burning furnaces.**

- A. Intent. Although outdoor wood-burning furnaces may provide an economical alternative to a conventional heating system; the Town has identified concerns regarding the safety, environmental impacts and potential nuisance factors of these devices. Of particular concern are the production of offensive odors and potential health effects of the uncontrolled emissions. The Town, therefore herein, establishes certain limitations and standards for the installation of such devices within the Town.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**FIREWOOD** Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than two inches in diameter.

**OUTDOOR WOOD-BURNING FURNACE** Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated external to, outside of the principal structure on a lot, for the primary purpose of combustion of any fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water supply.

**UNTREATED LUMBER** Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other similar substances.

- C. Permit required. No person shall cause, allow or maintain the use of an outdoor wood-burning furnace within the Town without first having obtained a permit from the Code Enforcement Officer.
- D. Where permitted. Outdoor wood-burning furnaces shall only be permitted in the AR, R1, and I Zoning Districts where the minimum standards contained herein can be met.
- E. Specific requirements:
  - (1) Permitted fuel. Only firewood and untreated lumber as defined herein are permitted to be burned in any outdoor furnace. The burning of any other materials in an outdoor wood-burning furnace is prohibited.
  - (2) Minimum lot size. Outdoor wood-burning furnaces shall only be permitted on lots of four acres or more within the zoning districts as specified in ~~§525-125~~§525-108 D above.
  - (3) Minimum setbacks. Outdoor wood-burning furnaces shall be set back not less than 200 feet from a lot line.
- F. Suspension of permit. A permit issued pursuant to this section may be suspended as determined necessary by the Code Enforcement Officer for cause as follows:
  - (1) Emissions from the outdoor wood-burning furnace that contain malodorous air contaminants that are detectable outside of the property boundaries on which the outdoor wood-burning furnace is located;
  - (2) Emissions from the outdoor wood-burning furnace that interfere with the reasonable enjoyment of life and property;
  - (3) Emissions from the outdoor wood-burning furnace that cause damage to vegetation or property; or

(4) Emissions from the outdoor wood-burning furnace that are or may be harmful to human or animal health.

- G. Existing outdoor wood-burning furnaces. Any outdoor wood-burning furnace in existence on the effective date of this provision of the Zoning Law shall be permitted to remain, provided that the owner applies for and receives a permit under this section within one year of the effective date; however, provided that the outdoor wood-burning furnace does not exceed any of the parameters set forth in ~~§525-125~~§525-108 F(1) to F(4).

### §525-126. Stream protections.

- A. Applicability. The standards provided in this section shall apply to all perennial and intermittent streams delineated in USGS maps. Perennial streams are depicted on a USGS map with a solid blue line. Intermittent streams are depicted on a USGS map with a dotted blue line.
- B. Protection Requirements for Perennial Streams. A vegetative buffer shall be required for all development activities that occur in proximity to perennial streams with additional considerations for wetlands and steep slopes. Protection shall be divided into a Riparian Buffer and a Setback Area that protects overall water quality by limiting development in accordance with the adjacent land's ability to filter sediment, nutrients and other pollutants. This protection will provide stability to the stream and stream bank. The minimum total setback width for all perennial streams combined is 100 feet. There is no established maximum setback width.

Applicable Riparian Buffer and Setback Areas shall be delineated on all site plans, special use permit, and variance applications, This delineation shall be subject to review and approval by the appropriate board or officer. Prior to any soil-disturbing activity, the Riparian Buffer and Setback Area shall be clearly delineated on site and shall be undisturbed until the project is complete.

- C. Riparian Buffer. The function of the Riparian Buffer is to protect the physical and ecological integrity of the portion of the riparian corridor in closest proximity to the stream through protection and enhancement of the native vegetation. Native vegetation provides shade, leaf litter, woody debris, erosion protection, and filtering of sediment, nutrient and pollutant loads to the stream.

(1) The Riparian Buffer will begin at the top of the stream bank and extend a minimum of 50 feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. This area will utilize the restrictions accorded to the Riparian Buffer.

(2) Development and use are restricted to the following, the entirety of which may not modify or interrupt more than 10% of the entire Riparian Buffer unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor.

- (a) Benches or seating
- (b) Flood control, stormwater management structures, and stream bank stabilization measures approved by the Chemung County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or NYS Department of Environmental Conservation;
- (c) Stream crossings necessary to access the property by driveway, transportation route, or utility line which are designed to minimize negative impacts to the stream and Riparian Buffer;
- (d) Public water supply intake or public wastewater outfall structures;
- (e) Public access and public recreational facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
- (f) Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream;
- (g) Temporary use of erosion control measures such as silt fencing;

- D. Setback Area. The function of the Setback Area is to filter sediment, nutrients and pollutants in runoff and slow the rate at which runoff enters the Riparian Buffer.
- (1) The Setback Area will begin at the outward edge of the Riparian Buffer and provide a minimum width of 50 feet. This area will utilize the restrictions accorded to the Setback Area.
  - (2) Within the Setback Area development uses are restricted to the following:
    - (a) All development and uses permitted in the Riparian Buffer;
    - (b) Minor recreational structures and surfaces to allow passive recreation in the Setback Area such as decks, picnic tables, playground equipment, and small concrete slabs, the total area of which is not to exceed 200 square feet each and in aggregate occupy no more than 10% of the Setback Area;
    - (c) Fences, provided such structures do not impede floodwaters;
    - (d) Landscaping, mowing, decorative planting or improvements that do not encroach upon or impact the integrity of the Riparian Buffer;
    - (e) Agricultural operations, provided that structures are not erected in the Setback Area.
- E. Prohibited Activities. The following activities are explicitly prohibited in both the Riparian Buffer and Setback Area.
- (1) Storage or placement of any hazardous materials. All sewage systems, both drain fields and raised systems and replacement of existing wells, must adhere to a 100-foot buffer from perennial streams.
  - (2) Waste storage and disposal including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials.
  - (3) No combination of allowed or exempt activities may compromise or alter more than 10% of the total riparian buffer and setback area that lies within a tax parcel.
  - (4) Public water supply wells must be set back more than 200 feet from top of stream bank; private wells are not allowed in the Riparian Buffer.
  - (5) Mining or removal of soil, sand and gravel, and quarrying of raw materials.
  - (6) Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams except where the New York State Department of Environmental Conservation has issued a permit expressly allowing such activities on the parcel.
  - (7) Parking of motorized vehicles.
- F. Protection Requirements for Intermittent Streams. For those streams classified as intermittent, only the Riparian Buffer shall apply. For an intermittent stream the buffer will begin at the top of the stream bank and extend a minimum of 50 feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. All provisions applicable to the Riparian Buffers for perennial streams should apply to intermittent streams.
- G. Exemption. Any agricultural use existing as of the effective date of this ordinance shall be exempt from the provisions of this Section.

### §525-127. Temporary Storage Uses

- A. Temporary storage unit. A temporary storage unit shall comply with the following conditions:
- (1) There shall be only one temporary storage unit per residential lot and no more than three temporary storage units per non-residential lot.

- (2) A temporary storage unit shall not exceed 8 feet in width, 16 feet in length, and 8.5 feet in height in R1, R2, R3 and CN districts and shall not exceed 8 feet in width, 40 feet in length and 8.5 feet in height in AR, CR, I and C districts.
  - (3) All Temporary storage units must comply with the setbacks for the district in which they are located.
  - (4) The storage of toxic or hazardous material is prohibited.
  - (5) A temporary storage unit shall be located on an impervious surface, if available.
  - (6) A temporary storage unit shall not be located on a street, right of way, or sidewalk, nor in a location that blocks or interferes with vehicular and/or pedestrian circulation, and complies with all regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.
  - (7) If a temporary storage unit is located on the lot for a period exceeding 30 days, the owner or developer shall obtain a building permit unless otherwise permitted. The building permit may be issued for a period not exceed 3 months and may be extended one time for not more than one month.
  - (8) All such temporary storage units shall be removed or discontinued within 10 days after the expiration of the permit.
- B. Temporary bulk waste container. A temporary bulk waste container shall comply with the following conditions:
- (1) There shall be no more than one temporary bulk waste container on a residential lot and no more than three temporary bulk waste containers on a non-residential lot.
  - (2) A temporary bulk waste container shall not be used to dispose of toxic or hazardous material.
  - (3) A temporary bulk waste container shall be located only on the lot on which active construction is taking place.
  - (4) A temporary bulk waste container shall not located on a street, right of way, or sidewalk, or in a location that blocks or interferes with vehicular and/or pedestrian circulation, and complies with all regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.
  - (5) A temporary bulk waste container shall have a minimum setback of 5 feet from any property line.
  - (6) A temporary bulk waste container shall be limited to use for construction of the project at the site of such construction and shall be removed from the site within seven days of the end of active construction.
  - (7) If a temporary bulk waste container is located on the lot for a period exceeding 60 days, the owner or developer shall obtain a building permit unless otherwise permitted.

### §525-128. Filling, Storage and Encroachments in the Conservation District

Filling, storage and other encroachments on natural drainage and flood flows are prohibited in the Conservation District. Larger structures are generally prohibited. However, restrooms and other facilities may be necessary to support desirable low-impact recreation and agricultural uses. Whenever possible, such structures should be located outside of the Conservation District. When this is not feasible, small structures are permitted on parcels larger than 10 acres, provided that the building is customarily incidental to the recreational, agricultural or open space use. Recreational vehicles, trailers and portable toilets shall be adequately anchored to resist flotation. Open pavilions are not considered structures and are thus permitted. These considerations should be taken up by the Planning Board during the site plan review of the proposed use.

## Article X. Nonconforming Structure, Use and Lots

### §525-129. Non-Conforming Uses

Any nonconforming use, which existed lawfully at the time of adoption of this Code, may be continued, subject to the following provisions.

#### A. Expansion, modification, or replacement

- (1) Expansion. A nonconforming use, which existed at the time of adoption of this Code, may be expanded within any portion of the existing structure in which it is located. A nonconforming use shall not be expanded beyond the area of the existing structure in which the use is located, unless site-plan approval is first obtained from the Planning Board.
- (2) Modification. A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified in a way that increases its nonconformity.
- (3) Replacement. If a nonconforming use is replaced by another use, such use shall conform to the regulations of the district in which it is located.

#### B. Discontinuance

- (1) If a nonconforming use is discontinued for a period of one year (12 consecutive months), such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.

#### C. Destruction and restoration

- (1) If any structure in which a nonconforming use is conducted is hereafter damaged, removed, or destroyed by fire, wind, explosion, or other natural cause, to the extent of 75.50% or more of its fair market value at the time of such damage, application for any reconstruction or restoration of such structure for a building permit, to resume the non-conforming use shall be made within one year and the structure for the nonconforming use shall be constructed within one additional year unless the permit is renewed.

### §525-130. Non-Conforming Structures

#### A. Continuation

- (1) Any nonconforming structure, which existed lawfully or if a valid building permit has been issued at the time of adoption of this Code may be maintained.

#### B. Modification and Replacement

- (1) A nonconforming structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.
  - (a) Modification.
    - [i] A nonconforming structure shall not be added to or enlarged or altered in any manner, in a way, which increases its nonconformity. All such modifications which increase the nonconformity shall require an area variance from the Zoning Board of Appeals.
    - [ii] Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  - (b) Replacement. A nonconforming structure may be replaced on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner or in a way which increases its nonconformity. After 24

months, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

#### §525-131. Non-Conforming Lots

- A. A new structure may be created on nonconforming lot legally existing prior to the adoption of this code so long as such new buildings or structures complies with all of the regulations of the district in which it is located.
- B. Lawfully existing structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the regulations of the district in which it is located.

#### §525-132. Uses Not Affected By Transfer

No nonconforming use of land or buildings shall be lost or in any manner affected solely by reason of a sale or transfer of title of the subject premises.

#### §525-133. Construction started prior to this Zoning Law.

A structure for which a building permit was issued prior to the effective date of this chapter, or prior to the effective date of any subsequent amendment of this chapter, may be completed and used in accordance with approved plans and specifications for the structure.

#### §525-134. RESERVED

#### §525-135. RESERVED

### Article XI. Zoning Board of Appeals

#### §525-136. Establishment and duties.

- A. Pursuant to New York State Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its chairperson, and also provide for such expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.
- B. Alternate member. The Town Board may also appoint an alternate member to the Zoning Board of Appeals with all of the powers and duties as prescribed in Town Law.

#### §525-137. Staff.

The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of appropriations made by the Town Board and then available for that purpose.

#### §525-138. Powers and duties.

The Zoning Board of Appeals shall have the following powers and duties:

- A. Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in

the matter by the Code Enforcement Officer, and that end shall have all of the powers of the Code Enforcement Officer.

- B. Variances. The Zoning Board of Appeals, on an appeal from a decision or determination of the Code Enforcement Officer, shall have the power to grant area and use variances as defined herein.
- C. Fees. The Town Board shall from time to time by resolution set appropriate fees for any applications to the Zoning Board of Appeals for an appeal or variance.

#### §525-139. Use variance.

- A. Definition: the authorization by the Zoning Board of Appeals for the use of a lot for a purpose which is not otherwise allowed or is prohibited by this chapter.
- B. Criteria for review. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the requirements of this chapter have caused unnecessary hardship; in order to prove such unnecessary hardship, the applicant shall demonstrate the following facts to the Zoning Board of Appeals for each and every permitted use under this chapter for the particular district in which the lot is located:
  - (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial and demonstrated by competent financial evidence;
  - (2) The alleged hardship relating to the lot in question is unique and does not apply to a substantial portion of the district or neighborhood in which the lot is located;
  - (3) The requested use variance, if granted, will not alter the essential character of the district neighborhood in which a lot is located; and
  - (4) The alleged hardship is not self-created.

#### §525-140. Area variance.

- A. Definition: the authorization by the Zoning Board of Appeals for the use of a lot in a manner which is not allowed by dimensional or physical requirements of this chapter.
- B. Criteria for review. In making the determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant, if the area variance is granted, as weighed against the detriment to the health, safety, and general welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider the following:
  - (1) Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance;
  - (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (3) Whether the requested area variance is substantial;
  - (4) Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; or
  - (5) Whether an alleged difficulty of compliance with this chapter was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance.

#### §525-141. Grant of variance.

- A. The Zoning Board of Appeals, in granting an area variance or use variance, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship or balance proven by the applicant and at the same time preserve and protect the character of the neighborhood and health, safety and general welfare of the community.

- B. The Zoning Board of Appeals shall, in granting an area variance or use variance, have the authority to impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of property.

§525-142. Rules of procedure, bylaws, and forms.

The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, bylaws, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter.

Article XII. Administrative Provisions

§525-143. Administration.

- A. Permit required. No structure shall be erected, constructed, enlarged, altered or moved and no land or structures shall be used until a zoning permit has been issued by the Code Enforcement Officer. No zoning permit shall be authorized or issued for a use subject to special permit or site plan until approval has been obtained. [NOTE: While we had some discussion about the use of "zoning permit", the Town currently uses the term, see paragraph 525.122 Zoning Permits. We suggest maintaining the term.]
- B. Fees
  - (1) Fees shall apply for required or authorized zoning procedures.
  - (2) The applicant shall be responsible for the review incurred by the Town for professional engineers, planners, architects or attorneys during the subdivision, site plan or the permit application review process
- C. Exceptions. Anything in this chapter to the contrary notwithstanding, no zoning permit shall be required for a repair that does not require a building permit and does not exceed 25% of the fair market value.
- D. Notice required. Before undertaking any repair authorized by the foregoing subsections, the property owner or occupant shall file with the Code Enforcement Officer of the Town a notice setting forth in general the nature and extent of such proposed repair and the estimated cost thereof.
- E. Permit procedure.
  - (1) Application for zoning permit. Any such application for a zoning permit shall be made in duplicate, shall state the use and occupancy proposed and shall be accompanied by ten copies of all plans drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of all structures to be built on the lot and of any structures that are to remain, the nature of any proposed alteration, extension, removal, demolition or structural change, the proposed excavation or grading in connection with such building, the existing and intended use of each structure or part thereof and of any separate use of the land, the number of families the building is designed to accommodate, the estimated cost of any structure or improvement, and such other information with regard to the application that may be necessary to determine compliance and provide for enforcement of this chapter. If approval is required from the County Health Department or other agency for any such proposed work, such approval shall be obtained in writing and submitted along with the application for a zoning permit.
  - (2) Prior building permits. Any building, extension or alteration for which a building permit has been duly granted, the construction of which has been started before the effective date of this chapter or of an amendment thereto may be completed in accordance with plans on file with

the Code Enforcement Officer, provided that such construction is diligently prosecuted and the building is completed within two years of the date of the issuance of the permit therefore. If any of the requirements shall not have been fulfilled within the prescribed period or if the building operations are discontinued for a period of six months, any other construction shall be in conformity with the provisions of this chapter.

(3) Amendments to permits

- (a) Any amendments to the building permit or to the plans and specifications accompanying the same must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Code Enforcement Officer. If the change involves a change in the site plan, the applicant shall gain approval from the Planning Board.
- (b) No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board and shall be in conformity with the plans approved by said Board.

(4) Approval

- (a) The Code Enforcement Officer, after determining that such proposed work, use and occupancy are in compliance with all provisions of this chapter and other applicable ordinances and codes, may approve any such application and issue a zoning permit in connection therewith. An order from the Board of Appeals varying the application of any provisions of this chapter shall be acceptable in lieu of compliance with said provisions. The Code Enforcement Officer shall return to the applicant one copy of such application and plans, endorsed as approved.
- (b) Such zoning permit shall, among other things, briefly describe the premises, the nature of the improvement, the estimated cost and the intended use or purpose to be made of the improvement and premises. It shall bear date of issuance and be signed by the Code Enforcement Officer. No building, land or premises shall be used for any purpose other than that stated in the permit.
- (c) The Code Enforcement Officer, if he determines that such proposed work, use and occupancy are not in compliance with all provisions of this chapter and other applicable ordinances and codes, shall disapprove such application and shall return to the applicant one copy of such application and plans endorsed as disapproved with the reasons stated in writing thereon.

(5) Expiration, extension, rescission

- (a) Every zoning permit issued shall become void after the expiration of one calendar year immediately following the date of issuance, and any further work on any premises after the expiration date or extension period of such zoning permit has passed shall constitute a violation of this chapter. Prior to such expiration date, the applicant may either apply to the Code Enforcement Officer for a new zoning permit or for an extension of the expiration date of the original permit.
- (b) The Code Enforcement Officer may for just cause extend the expiration date of any zoning permit for a reasonable time period and may attach reasonable conditions to such extension relating to the work involved or situations that exist as a result of the work.
- (c) Rescission of permits. The Code Enforcement Officer may for just cause rescind a zoning permit which he has issued. Where, in the opinion of the Town Board, any zoning permit hereafter issued by the Code Enforcement Officer was improperly or unlawfully issued or was procured through fraud or deception, the Town Board shall direct the Code Enforcement Officer to rescind the same.

(6) Inspection; right of entry

- (a) The Code Enforcement Officer or a duly authorized deputy shall have the right to enter upon any land at any reasonable hour in the course of his duties.
  - (b) Location of buildings to be staked before construction. The building location on the lot shall be staked out on the ground before construction is started so that the Code Enforcement Officer may determine by measurement on the lot that the yard requirements for the district in which the use is located are met.
  - (c) The Code Enforcement Officer shall inspect or cause to be inspected any building, structure or portion thereof after completion of any work for which a zoning permit was issued and be assured that all plans as approved are complied with before issuing a certificate of occupancy.
- (7) Appeals. Any person allegedly aggrieved as a result of an action by the Code Enforcement Officer in regard to a zoning permit may appeal to the Board of Appeals.
- (8) Permit approval affected by proposed zoning amendments. Whenever the Town Board, by resolution, authorizes a public hearing on a proposed amendment to this chapter, and for a period of 60 days following the date of such resolution, no building or structure shall be erected, enlarged or altered and no permit shall be issued for the erection, enlargement or alteration of any building of structure or for the occupancy of any land or building in any manner that would be contrary to the provisions of the proposed amendment if adopted by the Town Board.
- F. Zoning permits to be conditional. Every zoning permit issued shall be conditioned upon continued compliance with all of the requirements upon which the same was issued or which were imposed in connection with any site plan approval, variance, special permit or otherwise, and in the event of noncompliance, the Code Enforcement Officer shall rescind the zoning permit.
- G. For any application for a zoning permit that meets the definition of land development activities, as such are defined in § 452-4, the applicant is required to submit a stormwater pollution prevention plan (SWPPP) and otherwise comply with the provisions of Chapter 452, Stormwater Management, Erosion and Sediment Control.
- H. Uniform Code. In addition to the provisions of this section, all permits shall also be governed by the provisions of Chapter 245, Uniform Construction Codes. Where there is a conflict between the provisions of this chapter and Chapter 245, the more restrictive provision shall apply.

#### §525-144. Certificate of Occupancy.

- A. Certificate of occupancy required. It shall be unlawful for any person to use or permit the use of any building or premises or part thereof hereafter erected, relocated, altered, repaired, converted or extended, to change the use of an existing building or part thereof or to occupy or use land or to change the use of land for other than tilling the soil until a certificate of occupancy shall have been issued by the Code Enforcement Officer.
- B. Application and approval of certificate of occupancy. It shall be the duty of the Code Enforcement Officer to issue a certificate of occupancy, provided that he has determined by inspection that the building and the proposed use of the building or land conform with all the requirements herein set forth. Such certificate shall state that such building or premises or part thereof and the proposed use thereof specifically described in the certificate are in complete conformity with the provisions of this chapter or any approvals under the Town Code. In case the Code Enforcement Officer shall refuse to issue a certificate of occupancy, his reasons shall be stated, in writing, on the application, and one copy thereof shall be returned to the applicant.
- C. Temporary certificate of occupancy. Pending the issuance of a certificate of occupancy, a temporary certificate of occupancy may be issued by the Building Inspector/Code Enforcement Officer for a period not exceeding 90 days, renewable for two consecutive periods not exceeding 30 days each, during the completion of construction or alteration of any building. Such temporary certificate shall

not be construed as in any way altering the respective rights, duties or obligations of the owner or of the Town respective to the use or occupancy of the land or building or any other matter covered by this chapter, and such temporary certificate shall not be issued except under such restrictions and provisions as outlined by the Building Inspector as will adequately assure the safety of the occupants of the building and of adjacent buildings and land.

- D. Copies of certificates; existing uses. The Code Enforcement Officer shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon written request from the owner and by payment by him to the Town of the specified fee specified. The Code Enforcement Officer shall issue a certificate of occupancy for any building or premises existing at the time of the enactment of this chapter, certifying, after inspection, that the extent and kind of use and disposition conforms with the provisions of this chapter.
- E. Fees. Each application for a certificate of occupancy shall be accompanied by a fee according to the schedule in as adopted by resolution of the Town Board.
- F. Appeals. Any person allegedly aggrieved by an action of the Code Enforcement Officer with regard to a certificate of occupancy may appeal to the Board of Appeals.
- G. Uniform Code. In addition to the provisions of this section, all certificates of occupancy shall also be governed by the provisions of Chapter 245, Uniform Construction Codes. Where there is a conflict between the provisions of this chapter and Chapter 245, the more restrictive provision shall apply.

### Article XIII. Enforcement

#### §525-145. Enforcement.

- A. Code Enforcement Officer. Unless otherwise provided, this chapter, as adopted, shall be enforced by the Code Enforcement Officer, in accordance with the provisions herein.
- B. Rules, regulations and forms. The Code Enforcement Officer shall have the authority to make, adopt and promulgate such written rules, regulations and forms as he may deem necessary for the proper enforcement and administration of this chapter and to secure the intent thereof. Such rules, regulations and forms shall not be in conflict with the provisions of this chapter of the Code of the Town of Southport, nor shall they have the effect of waiving any provisions of this chapter or any other ordinance. Such rules, regulations and forms shall have the same force and effect as the provisions of this chapter and be subject to the same penalties for violation thereof. Such rules, regulations and forms shall be submitted to the Town Board by the Code Enforcement Officer, which shall move to approve, reject or modify such rules, regulations or forms within 30 days after submission. Failure to so move shall be construed to constitute approval thereof. Said rules, regulations and forms as approved by the Town Board shall be on file and available to public view.
- C. Inspections and reports. The Code Enforcement Officer shall make a written report of each inspection made in connection with his duty in enforcing the provisions of this chapter and shall keep a file of such reports in accordance with the provisions of § 245-5.
- D. The Code Enforcement Officer shall administer and enforce the provisions of this chapter covering disposition of unoccupied or unsafe buildings or structures.
- E. Conformity to certificate of occupancy. A certificate of occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect as long as such building and the use thereof or of such land is in full conformity with the provisions of this chapter and any requirements made pursuant thereto. On the serving of notice by the Code Enforcement Officer of any violation of any of said provisions or requirements in respect to any building or the use thereof or of land, the certificate of occupancy for

such use shall thereupon be rescinded and a new certificate of occupancy shall be required for any further use of such building or land.

§525-146. Penalties for Offenses.

- A. Any building erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of this chapter and any use of any land or any building which is conducted, operated or maintained contrary to any of the provisions of this chapter shall be and the same is hereby declared to be unlawful. Any owner, lessee, tenant, occupant, architect or builder or the agent of any of them who violates or is accessory to the violation of any provisions of this chapter, as adopted or amended, or who fails to comply with any of the requirements thereof or who erects, constructs, alters, enlarges, converts, moves or uses any building or uses any land in violation of any detailed statement or plan submitted by him and approved under the provisions of this chapter, as adopted, shall be guilty of a violation which is an offense punishable by a fine as provided herein.
- B. Notice of violation.
  - (1) Whenever, in the opinion of the Code Enforcement Officer after proper examination and inspection, there appears to exist a violation of any provision of this chapter or of any rule, regulation or condition adopted or imposed pursuant thereto, he shall serve a written notice of violation on the person or corporation committing or permitting the same.
    - (a) Such notice may be served personally or by certified mail addressed to the premises where such violation exists or by posting a copy of the same upon said premises. The notice of violation shall set forth:
      - [i] The nature and details of such violation.
      - [ii] Recommended remedial action which if taken will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.
      - [iii] The date of compliance by which the violation must be remedied or removed.
    - (b) If such violation does not cease within such time as the Code Enforcement Officer may specify, he shall institute such of the actions hereinafter set forth as may be necessary to terminate the violation.
  - (2) The Code Enforcement Officer may extend the date of compliance called for in a notice of violation after written application if, in his opinion, there is reasonable evidence of intent to comply and that reasonable conditions exist which prevent compliance by the specified date.
- C. Certificate of zoning compliance. On re-inspection following the expiration of the date of compliance as specified in the notice of violation, if the violation has been remedied or removed in accordance with the specified remedial action and there is no longer a violation of any provision of this chapter, then a certificate of zoning compliance shall be issued by the Code Enforcement Officer.
- D. Legal action by the Town. On re-inspection following the expiration of the date of compliance as specified in the notice of violation or as extended in accordance herein, if the remedial action specified has not been carried out and there is still in existence, in the opinion of the Code Enforcement Officer, a violation of a provision of this chapter, then the Code Enforcement Officer shall immediately refer the matter to the Town Attorney, who shall thereupon institute appropriate legal action to restrain, prevent, enjoin, abate, remedy or remove such violation and to take whatever other legal action is necessary to compel compliance with this chapter.
- E. Failure to apply for zoning permit or certificate of occupancy. Any person who fails to apply for a zoning permit or certificate of occupancy as required by and in accordance with this chapter and who proceeds to construct, erect, relocate, alter, extend or structurally change a building or part thereof or who subsequently proceeds to occupy or use such building or part thereof or who proceeds to

occupy or use or change the use of land shall be required to file the applications and plans and pay the fees as provided. The Code Enforcement Officer shall inspect or cause to be inspected such building or land and shall issue either a notice of violation or a certificate of occupancy.

- F. Violations, penalties and injunctions. Any person violating any provision of this chapter may be punished as provided in § 135 of the Town Law.

## Article XIV. Amendments

### §525-147. Procedure.

The Town Board may, from time to time, on its own motion, on petition, or on recommendation from the Planning Board, amend the requirements and districts established under this article after public notice and hearing in each case. All proposed amendments of the requirements or districts herein established shall be filed in writing in a form required by the Town Board.

### §525-148. Advisory report by Planning Board.

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report, in writing, its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board recommends disapproval of the proposed amendment or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

### §525-149. Petition by owners of 50% of frontage.

Wherever the owners of lots having 50% of the total cumulative road frontage in a district or a part thereof shall present a petition duly signed and acknowledged to the Town Board and requesting an amendment, supplement, change or repeal of the requirements prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within 90 days after the filing of the same by the petitioners with the Town Clerk.

### §525-150. Public notice and hearing.

The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than 10 days prior to the date of the public hearing.
- B. By giving written notice of the hearing to any required municipal, county, regional, metropolitan, state or federal agency in a manner prescribed by law.
- C. By referring such application to the Chemung County Planning Board in accordance with General Municipal Law as required.

### §525-151. Protest by owners.

A zoning amendment shall be passed by the favorable vote of at least a 3/4 majority vote of the Town Board if a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of land:

- A. Included in such proposed amendment; or
- B. Immediately adjacent and extending a distance of 100 feet therefrom; or
- C. Directly opposite thereto and extending a distance of 100 feet from the street frontage of the land proposed for zoning amendment.

#### §525-152. Decision by Town Board.

The Town Board shall set the public hearing as required and shall render its decision within 60 days of the receipt of the Planning Board's report. If the Town Board deems it advisable, it may require, as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

#### §525-153. Notification of decision.

The Town Board shall provide notice of decision pursuant to Town Law.

### Article XV. Special Use Permits

#### §525-154. Intent

- A. The intent of this Article is to set forth additional requirements which shall apply to certain land uses and activities which due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.
- B. The primary purpose of Special Use Permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Town.
- C. All uses designated a special use permit are permitted uses in their respective districts subject to the satisfaction of the requirements and standards set forth in this section and such conditions as the Planning Board may determine.

#### §525-155. Application Content

All special use permit review and approval shall occur as a part of Site Plan review. Applicants shall refer to the Site Plan Review for application content.

#### §525-156. Criteria

The Planning Board shall consider the following general criteria, in addition to criteria set forth in the Site Plan Review, when making a determination for a special use permit:

- A. Compatibility of the proposed use with the principles of the district, the purposes set forth in this chapter, and the goals of the Comprehensive Plan.
- B. Compatibility of the proposed use with adjoining properties and with the natural and man-made environment.
- C. Compatibility of the height of buildings, walls, fences and the nature and extent of landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

- D. Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, including accessibility to fire, police, and emergency vehicles and sufficient water supply and appurtenances for fire-fighting purposes.
- E. The overall impact on the site and its surroundings considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances
- F. Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Town.
- G. Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the viability of the Town.
- H. Compatibility with the historic character and use of the structure or structures and the historic character of the site and in the surrounding area, if applicable.

#### §525-157. Special Use Permit Review

- A. If a use is designated as needing a special permit in the Use Table, such use shall be granted approval, approval with conditions, or denied in conjunction with site plan approval process.
- B. As part of approval process the Planning Board shall consider the criteria listed herein.
- C. A public hearing is required for all special permit uses.
- D. The Planning Board shall schedule and notice a public hearing in accordance with the timeframes and process under Site Plan Review.
- E. The special use permit process shall be concluded in conjunction with Site Plan Review.

#### §525-158. Planning Board Action

The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined above and include the facts and reasons upon which such denial was based.

#### §525-159. Special Use Permit expiration, revocation and enforcement

- A. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.
- B. All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.
- C. Expiration of special permits. A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if said use or uses shall cease for any reason for a twelve-month period. Unless the project is complete to the point of vesting, a special use permit shall expire after 18 months. A one (1) year extension may be granted upon application to the Planning Board.



ZONING

525 Attachment 1

Town of Southport

Use Regulation Table

[Amended 3-10-2009 by ordinance (Res. No. 65-2009); 5-10-2011 by ordinance (Res. No. 87-2011)]

<p><b>ZONING DISTRICTS:</b>                  AR Agricultural Residential                  R1 Residential Low Density                  R2 Residential Moderate Density                  R3 Residential High Density                  CN Commercial Neighborhood                  CR Commercial Regional                  I Industrial                  C Conservation</p>	<p><b>KEY:</b>  <b>Use designations:</b>                  P – Permitted as of right                  S – Permitted under site plan approval by Planning Board                  SUP – Permitted under special use permit by Planning Board                  Blank – Not permitted in that district</p>
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USE

DISTRICT

Residential	AR	R1	R2	R3	CN	CR	I	C
One-unit dwelling	P	P	P	P	P			
Two-unit dwelling	P		P	P	P	S		
Multiunit dwelling				S	SUP	S		
Alternative dwelling park	SUP							
Bed-and-breakfast (up to 4 rooms)	P		S		S	S		
Inn (up to 12 rooms)	S				S			
Boardinghouse (up to 6 rooms)					S			
Live-work unit	P				P	P		

Accessory Uses	AR	R1	R2	R3	CN	CR	I	C
Accessory dwelling unit	S	SUP	S	S	S	S		

Day care – family home	P	P	P	P	P	P	P	P
Day care – group family home	P	P	P	P	P	P	P	P
Home occupation	S	S	S	S	S			
Cottage industry	SUP			SUP	SUP	SUP		
Seasonal business	P				P		S	

<b>General Uses</b>	<b>AR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>CN</b>	<b>CR</b>	<b>I</b>	<b>C</b>
Airport/heliport	S						S	
Agriculture	P						P	S
Agriculture, Personal	P	P			P	P	P	S
Agriculture, Industrial	S						S	
Antenna	S						S	
Churches	S		SUP	SUP	SUP			
Club – rod and gun	P							
Club, membership	S				S	S		
Day care center	S				SUP	S	S	
Extraction, private	P						P	S
Golf course, driving range	S							S
Kennel	SUP				SUP			
Nursing home, convalescent home	S			S	S	S		
Private school			S		S	S		
Public/government use	P	P	P	P	P	P	P	S
Public utility	S		S	S	S	S	S	S
Roadside stand	P		P	P	P	P		S
Stable, commercial	S							
Stable, private	P							

<b>Business Uses</b>	<b>AR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>CN</b>	<b>CR</b>	<b>I</b>	<b>C</b>
Adult uses							SUP	
Amusement game center					S	S		
Antique or craft shop	S				S	S		
Bank, financial institutions					S	S		
Bar and nightclub					SUP	SUP		
Barbershops and beauty shops	S				S	S		
Campground	S							S
Car wash					S	S	S	
Convenience food mart					SUP	S		
Cultural uses, museums					S	S		
Crematory					SUP	SUP		
Drive-through uses					SUP	SUP		
Fitness center/health club					S	S	S	
Flea market	SUP				SUP	SUP	S	
Funeral home					S	S		
General business office					S	S	S	
Hotel/motel					SUP	S		
Medical clinic					S	S		
Mini storage	S				S	S	S	
Motor vehicle filling station					SUP	S		
Press publishing use							S	
Nursery, plants	S				S			
Personal service					SUP	S		
Photographic studio					S	S		
Professional office					S	S	S	

<b>Business Uses</b>	<b>AR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>CN</b>	<b>CR</b>	<b>I</b>	<b>C</b>
Recreational use, commercial	S							S
Restaurant, fast food					SUP	SUP		
Restaurant, standard					SUP	SUP		
Retail, specialty low-profile					S	S		
Retail use other than listed					S	S		
Self-service laundry					SUP	S		
Specialized repair	S				S	S	S	
Storage facility	S <sup>1</sup>					S	S	
Theater – single and multiplex						S		
Vehicle repair					S	S	S	
Vehicle sales					S	S	S	
Vehicle sales and repair – heavy equipment					SUP	S	S	
Veterinary office or hospital	S				SUP	S		

<b>Industrial uses</b>	<b>AR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>CN</b>	<b>CR</b>	<b>I</b>	<b>C</b>
Contractor's equipment storage/maintenance	SUP					S	S	
Extraction, commercial	S						S	S
Fuel bulk storage terminal							S	
Manufacture, fabrication, assembly and other materials handling, including offices and showrooms							S	
Research facilities	S						S	
Salvage yard							S	

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<sup>1</sup> Restricted to existing structures; no new construction shall be permitted for this use in the AR District

Trucking terminals							S	
Warehousing, wholesale and retail distribution centers, including offices							S	
Wind farm	SUP						S	

ZONING

525 Attachment 2

Town of Southport

**Bulk and Density Control Schedule**

[Amended 11-12-2008 by ordinance (Res. No. 174-2008); 5-10-2011 by ordinance (Res. No. 87-2011); XX-XX-2015 by ordinance (XX)]

District	Minimum Lot Area Per Principal Use	Minimum Lot Width (feet)	Minimum Yard Requirements (Setbacks)			Maximum Lot Coverage (%)	Maximum Building Height		Minimum overall exterior dimensions Feet
			Front (feet)	Side (feet)	Rear (feet)		Feet	Feet	
AR	3 acres	150	40	20	40	15	35	20	
R1	15,000 sf	100	40	15	25	50	35	20	
R2	7,500 sf	75	20	10/5	20	60	35	20	
R3	5,000 sf	50	15	10/5	20	70	35	20	
CN	<b>See form-based regulations</b>								
CR	<b>See form-based regulations</b>								
I						70			20
C	Per site plan review								

**Notes:**

1. "Overall exterior dimension" shall mean overall exterior linear length and width of a structure which shall in no instance be less than 20 feet each.
2. The Chemung County Health Department may require new development using on-lot sewage disposal systems to have larger than the minimum lot sizes stated herein.
  1. See also 525.34 and Article X for additional bulk and density and/or development requirements.