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§ 280-1 Title.

A new Chapter 280 of the Tully Code shall be known as the "Zoning Code of the Town of Tully," dated as of November 8, 2006.

§ 280-2 Purpose; repealer.

A. Pursuant to the authority conferred by Article XVI of the Town Law of the State of New York, and for each and every purpose specified in such article, the Town Board of the Town of Tully

hereby repeals all of its existing zoning and related local laws, ordinance, resolutions, and amendments to them, and hereby enacts the following comprehensive Zoning Code regulating the location and use of buildings, structures and land for trade, commercial, residence, farming and other purposes, however not to include subdivision review and/or approval provisions unless and except as specifically provided herein.

B. This chapter is adopted generally for the following purposes:
   (1) To promote the health, safety and general welfare of the community.
   (2) To reduce congestion on streets and highways and prevent overcrowding of land.
   (3) To avoid undue concentration of population.
   (4) To facilitate the adequate provision of transportation, water, sewage disposal, schools, parks and other services.
   (5) To consider and conserve the value of property.
   (6) To establish zones wherein regulations concerning the use of land and structures, the density of development, the amount of open space that must be maintained, the minimum size of yards, the provision of parking, the control of lighting, signs and other provisions will be set forth to encourage the most appropriate development of the Town in accordance with the policies and objectives set forth in the Town's Comprehensive Plan.

§ 280-3 Compliance required.

Except as provided in this chapter, no building shall be erected, moved or altered, nor shall any building or land be used for any purpose except as is specifically permitted in the use district in which the building or land is located.

§ 280-4 Definitions.

A. Definitions in this section shall apply in the interpretation of this chapter. Except as indicated below, words used in this chapter shall have the meanings commonly attributed to them. Any doubts as to the precise meaning of words or terms shall be determined by the Board of Appeals.

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

ACCESS

As used in this local law,[1] the term access shall mean the rights to ingress and egress to and from a shoreline lot, regardless of whether access to the shoreline lot is gained by easement, ownership in fee, common or joint ownership, lease, license, or any other means.

[Added 11-5-2020 by L.L. No. 4-2020]

ACCESSORY STRUCTURE

A building located on the same lot as a principal building but clearly subordinate to the principal building and used for purposes that are related but incidental to those of the principal building.

ACCESSORY USE

A use of land or a building or a portion thereof that is customarily subordinate and incidental to the principal use of the land or building and located on the same lot as the principal use.

ADULT RESIDENTIAL CARE FACILITY

Residential facilities for adults where minimal medical care is provided on a twenty-four-hour basis for persons who are unable to live independently. Such land use includes an adult-care facility as defined in the New York State Social Services Law and which maintains a valid operating permit from NYS or the Onondaga County Department of Social Services. An adult residential care facility also includes retirement homes and communities which provide residences for the elderly with some supportive services. (See also "retirement community.")

ADULT USE

As defined in Chapter 85, Adult Uses.

AGRICULTURAL USE

A parcel of land that is used in the raising of agricultural products such as crops, livestock, poultry and dairy products and meeting the minimum standards for farming operations as established by the State Agriculture and Markets Law. A farm includes structures necessary to the production, storage, maintenance and care of agricultural products and equipment. A farm.

ALTERATION

As applied to buildings or structures, a change or rearrangement in the structural parts or in existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or moving from one location to another.

ANTENNA

A system of electrical conductors that transmits or receives radio frequency waves. Such waves shall include but not be limited to radio-navigation, radio, television, wireless and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

AREA LIGHT

Light that produces over 1,800 lumens including, but not limited to, streetlights, parking lot lights and yard lights.

AUTOMOTIVE REPAIR SHOP

A lot for the primary use of repair, servicing, or inspection of motor vehicles, and which lot includes a principal building supporting the use and wherein any individual vehicles awaiting service do not occupy any space on the lot for greater than 60 days, and wherein the occupant of the lot is registered for such repair activity with the New York State Department of Motor Vehicles.

BACKLOT

Any lot which does not abut the shoreline of an inland lake or body of water and is contiguous with the shoreline lot. Lake access is not allowed to backlots that are not contiguous with any shoreline lot.

[Added 11-5-2020 by L.L. No. 4-2020]

BASEMENT

That habitable space of a building that is partly below grade and has six feet or more of its height, on average, above the finished grade around the building. (See also "story.")

BED-AND-BREAKFAST

An owner-occupied, one-unit dwelling within which overnight accommodations are provided for transient guests in compliance with the NYS Uniform Building Code, and generally including the serving of breakfast to guests.

BOATHOUSE

A detached accessory structure designed for the storage of watercraft and related equipment, located on a lot with direct water frontage and subordinate to the principal residential use.

BODY OF WATER / WATERBODY

Any river, lake or pond located in the Town of Tully, including but not limited to Song Lake, Tully Lake, Tracy Lake, Green Lake and/or Crooked Lake and any other body of water which may be subject to shoreline development. The term shall also include those water features identified on any Town-adopted map or designated as environmentally sensitive by the Town Board.

[Added 11-5-2020 by L.L. No. 4-2020]

BUFFER STRIP

A strip of land generally adjacent to a property line, on which a screen of landscaping that will be dense enough and high enough to be a visual buffer is installed and maintained by the property owner.

BUSINESS, MANUFACTURING

A commercial activity characterized by the production of goods, by the fabrication of raw materials or the assembly of parts, generally through the use of machinery, for the main purpose of off-premises sale to other manufacturers or nonretail purchasers.

BUSINESS, RETAIL

A commercial activity characterized by the direct sale of goods and services to the final consumer, including financial institutions, business and professional offices and services, eating establishments and places of amusement and recreation.

BUSINESS, WHOLESALE

A commercial activity characterized by the bulk sale of merchandise to retail, manufacturing, institutional or other wholesaling establishments, including on-premises storage and distribution facilities.

CABIN or COTTAGE

A building designed for seasonal occupancy and not suitable for year-around living, whether or not such building is actually occupied seasonally or otherwise.

CEMETERY

Land for the burial or interment of the dead and dedicated for these purposes, including columbariums, crematories, mausoleums, places of worship and other accessory structures situated within the boundary of the cemetery.

CHURCH, PLACE OF WORSHIP

A building or space for public worship and used by an organization that is registered by the State of New York.

CLUSTER DEVELOPMENT

The subdivision of an area into lots that are smaller than would normally be permitted in the district where such lots are located, but where the density of development is no greater than would be permitted in the district by conventional development, and where the residual land produced by the smaller lot size is preserved as undeveloped land or common recreation space.

COMMERCIAL ANIMAL FACILITY

A facility providing for the housing, care, treatment, breeding and sale of dogs, cats and similar small animals. This definition does not include commercial pet shops that do not have outside animal runs or the keeping and occasional sale of pets, when incidental to a residential use.

COMMUNITY CENTER

A facility under the direct supervision of a charitable, religious, social service or similar organization designed primarily to provide a meeting place for purposes of education, training, counseling, recreation or similar pursuits, including social facilities incidental to them but excluding private clubs, golf courses, schools or retail businesses.

CONVALESCENT HOME

An extended or intermediate care facility licensed by the State of New York to provide full-time convalescent or chronic care to individuals who are not able to care for themselves. A skilled nursing facility; a nursing home.

CONVENIENCE (MINI) MART

A small commercial activity that may offer for sale convenience goods, beverages, sundries and motor fuel.

DAY-CARE FACILITY

An activity providing for a program of daily care and supervision of seven or more minors, such as nurseries, preschool programs and day-care centers, but excluding a group residence.

DOCK

A platform extending out from or near the shoreline into the water.

[Added 11-5-2020 by L.L. No. 4-2020]

DRIVE-THROUGH

A commercial establishment that permits customers to obtain goods or services while remaining in their vehicles.

DWELLING, FACTORY-MANUFACTURED

A single-family dwelling that meets all applicable New York State building codes and is constructed by a method of construction whereby the basic structure or its components are wholly, or in substantial part, manufactured in a remote facility. A factory-manufactured dwelling does not have a hitch or wheels and

is designed to be transported by truck to a lot for assembly and permanent installation on a foundation. For purposes of this chapter, a mobile dwelling as defined herein, whether single-wide or double-wide is not a factory-manufactured dwelling.

DWELLING, MOBILE

A single-family dwelling transportable on its own chassis and wheels, installed on its own wheels or on rigid supports and designed to be towed from one site to another. For purposes of this chapter, a HUD-approved double-wide manufactured home shall not be considered a mobile home.

DWELLING, MULTIPLE-FAMILY

A structure containing three or more dwelling units and no other principal uses. Multiple-family dwellings may be further classified as small-scale multiple-family dwellings or large-scale multiple-family dwellings.

DWELLING, MULTIPLE-FAMILY, SMALL-SCALE

A multiple-family dwelling containing three to six dwelling units.

DWELLING, MULTIPLE-FAMILY, LARGE-SCALE

A multiple-family dwelling containing seven or more dwelling units.

DWELLING, SINGLE-FAMILY

A structure containing one dwelling unit and no other principal uses.

DWELLING, TOWNHOUSE OR TOWNHOME

A building containing three or more attached single-family dwelling units, each of which extends from foundation to roof, has an individual exterior entrance, and shares one or two sidewalls with abutting dwelling units. Each townhouse or townhome may be located on an individual lot or may be part of a common ownership, condominium, homeowners' association, or rental development.

DWELLING, TWO-FAMILY

A structure containing two dwelling units and no other principal uses.

DWELLING UNIT

An area within a structure intended and designed as a self-contained unit for occupancy as a residence by not more than one family and which has direct access from its exterior or through a common hall or entrance, and which generally includes kitchen, bathroom, dining, sleeping and related facilities required for human habitation.

DWELLING UNIT, ACCESSORY (ADU)

A temporary or permanent habitable living unit added to, created within or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation, subject and pursuant to the provisions of § 280-9 Supplementary regulations. of the Code.

[Added 5-15-2008 by L.L. No. 4-2008]

FAMILY

One or more persons living together as a single housekeeping unit in the manner of persons related by blood, marriage or adoption.

FLOODPLAIN

An area of land so designated in any flood hazard regulations of the Town.

FLOOR AREA

The sum of the gross horizontal areas of all floors of a structure measured from the center line of walls separating two structures.

FUNERAL HOME

An establishment with facilities for preparation of the dead for burial or cremation, for the viewing of the body and for observances held for a dead person incidental to burial or cremation.

GARAGE, SERVICE OR REPAIR

A building, premises or portions thereof arranged, intended or designed to be used for the sale of any type of vehicular motor fuel and which may also include areas or structures for polishing, greasing, washing, repairing, or otherwise servicing motor vehicles. A junkyard or salvage yard is not to be construed as a service or repair garage.

GARAGE, PRIVATE

A carport or enclosed building generally provided for use by the inhabitants of a residential building.

GARBAGE

(1) Discarded materials generated from the activities of a household, business, institution, or public or quasi-public facility, consisting of:
    (a) Food wastes, including but not limited to kitchen and table scraps, decaying or spoiled vegetables, fruit and animal matter.
    (b) Any other used or discarded waste materials, such as paper, plastics, metal, rags, food wrappings and containers, rubber, leather, cloth, waste materials from normal maintenance and repair activities, pasteboard, crockery, dirt, ashes, wood, glass and similar material.
(2) Garbage does not include properly prepared and stored recyclable materials and collectible yard waste, properly stored and maintained composting materials, rubble, bulk items, industrial waste, hazardous materials, automobile or other motor vehicle tires, or any other material that a private hauler has determined would not be picked up as part of a regular garbage collection service (See also "junk.")

GASOLINE SERVICE STATION

A building, lot, structure, or facility having pumps and storage tanks where fuel, gasoline, oil or other similar products are dispensed, sold or offered for sale at retail only and may include accessory uses such as car washes, food marts or small grocery.

GLARE

Intense light that results in distraction, discomfort and/or a reduction of visual performance and visibility.

GREENHOUSE, PLANT NURSERY

Any building or structure in which light, humidity and temperature can be controlled for the growing and protection of flowers and other plants.

GROUP RESIDENCE

A structure designed or used exclusively as a place of residence or domicile by one or more persons, including required supervisory personnel, in which the residential quarters are an integral component of a recognized program of rehabilitation or custodial supervision or care.

HISTORICAL LANDMARK

A structure or site so designated in any historical preservation and protection regulations adopted by the Town of Tully.

HOME OCCUPATION OR BUSINESS

A nonresidential activity that is carried on entirely within a dwelling by one or more members of the family residing in the dwelling and is clearly secondary to the use of the dwelling as a residence, and which meets the performance standards set forth in this chapter.

INLAND LAKE

Song Lake, Tully Lake, Tracy Lake, Green Lake and/or Crooked Lake and any other body of water which may be subject to shoreline development.

[Added 11-5-2020 by L.L. No. 4-2020]

JUNK

Any wastepaper, rags, scrap metal and other scrap, tires, junked vehicles or parts therefrom, reclaimable materials or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal or other use or disposition.

KENNEL

Any premises, including structures, cages and runs, wherein are harbored more than four domestic animals that are at least four months old and are not owned by the property owner or lessee, for boarding, breeding, grooming, training, or selling.

KEYHOLE DEVELOPMENT

The development or use of one or more backlots which includes access to the shoreline of an inland lake or body of water through one or more shoreline lots.

[Added 11-5-2020 by L.L. No. 4-2020]

LIGHT POLLUTION

Any adverse effect of man-made light including, but not limited to, light trespass and uplighting.

LIGHT TRESPASS

Light falling where it is not wanted or needed, generally caused by a light on a property that shines or glares onto the property of others.

LOT

Land identified by legal description or tax account number which is filed or proposed to be filed in the County Clerk's office. A "lot" is considered to be a unit of transfer or a unit for development. This term also is used in reference to a parcel of land which is or may be occupied by a structure or use with accessories thereto, including the open spaces thereon but excluding any part thereof within the bounds of a highway.

LOT ALTERATION

Any change in the dimensions or orientation of lot lines not resulting in or constituting subdivision or resubdivision.

LOT AREA

A lot expressed in terms of square units of measure derived by viewing the lot as a level surface.

LOT COVERAGE

The percentage of a lot covered by the ground level area of a building, excluding terraces, decks and porches that are not enclosed or covered by a roof.

LOT, DEPTH OF

The mean distance from the front lot line to its opposite rear line measured along the approximate median between two side lines.

LOT LINE, FRONT

A lot line coincidental with the line of a street, sidewalk, or other public right-of-way. Where such line is described as being within the boundaries of a public right-of-way, the most interior boundary of such right-of-way shall be construed to be the front lot line. Where two public rights-of-way intersect, a lot line coinciding with the boundary of either right-of-way may be used as the front lot line for development purposes.

LOT, FLAG

A lot that, at minimum, meets the area requirements of this chapter and is connected to a public road right-of-way by a strip of land at least 25 feet wide and containing a private access drive.

LOT WIDTH

The horizontal distance between side lot lines measured at the required front yard setback line. On corner lots, lot width shall be measured from the narrower frontage.

LUMINAIRE

The complete lighting unit, including the lamp, the fixture and other parts.

MEDICAL CENTER

A facility for the treatment of illness, disease and injury, providing in-patient or out-patient accommodations, including what are commonly termed clinics, diagnostic centers, neighborhood health centers and hospitals (unless the treatment facilities are accessory only), but excluding a group residence.

MINING

A commercial activity, other than salt mining, characterized by the extraction of surface and subsurface material, including quarrying, strip mining or extraction or exploration of mineral resources.

MINING, SALT

Commercial extraction of sodium chloride carried out as a pre-existing, nonconforming use until December 31, 2035.

NONCONFORMING BUILDING

A building existing on the date of adoption of this chapter, as amended, that does not meet the size, dimension or location requirements of the zoning district in which it is located.

NONCONFORMING LOT

A lot of record existing on the date of adoption of this chapter, as amended, that does not meet the minimum area or dimension requirements of the zoning district in which it is located.

NONCONFORMING USE

Use of a building or land existing at the date of adoption of this chapter, as amended, that does not conform to the use regulations of the zoning district in which it is located.

NURSERY SCHOOL

An activity designed to provide daytime care or instruction for five or more children, generally from two to five years of age, which is open on a regular basis.

OCCUPANCY SEASONAL

Occupancy or use of a structure, building or area, for only part of a year, usually for a period that does not exceed six months, total or cumulative, in any calendar year.

OPEN SPACE, NET

Lot area minus lot coverage.

OFF-SITE PARKING FACILITY

A facility designed exclusively for the parking of automobiles which is accessory to one or more principal uses not situated on the same lot, which is not otherwise permitted by this chapter and which does not constitute a commercial parking lot or garage.

OPEN SPACES, PUBLIC

A land use officially designated as a place of public recreation or open space, including parks, playgrounds, squares, plazas, tot lots and similar uses.

PARCEL

An area of land defined by a tax map number or by metes and bounds.

PARKING COVENANT

An agreement whereby provision for the location of parking facilities is made available where the land use activity for which such facilities are to be accessory is not under the same ownership or control as the parking facilities. The agreement must provide that the Town of Tully is a beneficial party.

PARKING SPACE

An area for the temporary parking of motor vehicles and which has at least 10 feet of width, 20 feet of length and seven feet of clear height, together with adequate provision for maneuvering and access thereto.

PLANNED DEVELOPMENT

A parcel of at least five acres in area, in one ownership, designed as a single unit providing a street system and water and sewer facilities as necessary, and used primarily for residential purposes but may also be used for special commercial or industrial development or a combination of residential types and commercial or industrial development.

PRIVATE CLUB

A structure and related facilities of a recognized membership organization designed and used exclusively for the social and recreation activities of its members.

PUBLIC ASSEMBLY

A structure or space, including a park, used to accommodate the general public as part of regular services or special events, commercial or otherwise, such as a theater or social center, but excluding a use involving restricted membership.

PUBLIC RIGHT-OF-WAY

The established boundary lines of a street, sidewalk, alley or similar thoroughfare defining the corridors for vehicular and pedestrian traffic and used by the general public.

RELIGIOUS USE

A place of worship, such as a church, temple or synagogue, registered in the State of New York, together with other structures and uses that are customarily and clearly incidental to it in the service of a local parish.

RETAIL OR PERSONAL SERVICE USE

A commercial activity characterized by the direct on-premises sale of goods and services within the building to the ultimate consumer, generally involving stock-in-trade such as are normally associated with department stores, food markets, shops and similar establishments. This term shall also include personal service shops such as barbershops, beauty salons and dry-cleaning or laundry services of less than 4,000 square feet gross floor area.

RETIREMENT HOUSING

Self-contained housing development designed for, and marketed to, older people, and providing minimal services.

ROADSIDE STAND

An accessory structure designed and used exclusively for the sale of produce and products grown or fabricated on the premises.

SCHOOL

A place of instruction certified by the New York State Board of Regents which is devoted primarily to academic instruction and offering a curriculum of study which is in sufficient compliance with the education laws of the State of New York. This term includes day-care facilities, nursery schools, kindergarten and similar preschool or pregrade programs when accessory to the principal school use.

SCREENING DEVICE

A permanent barrier, any portion of which is situated above grade, composed of any material except natural vegetation, including walls, fences, screens and similar structures. (See "buffer strip.")

SHORELINE

The line where land and water meet.

[Amended 11-5-2020 by L.L. No. 4-2020]

SHORELINE FRONTAGE

The shoreline frontage of a lot shall be construed to be that portion of the lot that runs along the shoreline, as measured at the ordinary high water mark.

[Added 11-5-2020 by L.L. No. 4-2020]

SHORELINE LOT

Any lot located on the shoreline of an inland lake or body of water.

[Added 11-5-2020 by L.L. No. 4-2020]

SHORELINE STRUCTURES

Anything composed of parts, arranged together in some way, to be built or constructed on the shoreline.

[Added 11-5-2020 by L.L. No. 4-2020]

SIGN

Any structure, display, device or representation that is 64 square feet in area, or less, and designed or used to advertise or call public attention to any thing, product, person, business, activity, event, undertaking or place and visible from any road right-of-way. The flag or pennant of any nation, state or municipality shall not be considered a sign.

SIGN, ILLUMINATED

Any sign illuminated by electricity, gas or other artificial light, including but not limited to reflective or phosphorescent light originating from within the sign or from outside or behind the body of the sign.

SITE PLAN

A plan for the proposed development or use of a parcel of land that is prepared and presented for site plan review pursuant to applicable provisions of this chapter.

SPECIAL AUTHORIZATION

Review and approval from the Town Board or Planning Board for specific land use activities as set forth in Schedule I of this chapter.[3]

SPECIAL CONDITIONS

Conditions and standards applicable to certain uses listed in Schedule I of this chapter as "SC" which conditions and standards must be complied with before a permit can be issued by the Zoning Administrator.

STABLE, COMMERCIAL

A facility in which horses are boarded or trained for a fee or are kept and made available for hire, sale or other type of remunerative activity.

STORY

A portion of a building which is between one floor level and the next higher floor level or the roof. A basement shall be deemed to be a story when its ceiling is six feet or more above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

SWIMMING POOL

Any receptacle for water having a depth at any point of more than two feet, or a surface area exceeding 250 square feet, that is intended for recreational purposes, and including all appurtenant decks, walks and equipment constructed, installed or maintained in or above the ground outside the principal structure to which the pool is accessory, or as defined under New York State Law or regulations/codes promulgated thereunder.

STRUCTURE

Anything constructed, erected or installed, the use of which requires a temporary or permanent location on, above or below the surface of land or water.

STRUCTURE, HEIGHT OF

The average vertical distance from the ground outside the foundation wall to the level of a flat roof, or to the average height of a pitched, gabled, hip, or gambrel roof, excluding chimneys, bulkheads, penthouses, and other constructions enclosing equipment or stairs.

TELECOMMUNICATION TOWER

A structure on which transmitting and/or receiving antenna(s) are located.

UTILITY STRUCTURE

Structures used to provide utility services, and as power substations, transmission towers, pumping stations, underground and overhead installations and related facilities. Utility structures, however, shall not include renewable energy facilities, including without limitation, wind or solar energy facilities such as are or as shall be provided for under separate sections of Chapter 280 [including § 280-11.2 Small-scale wind energy systems for on-site use. (for wind energy systems)].

[Amended 7-13-2016 by L.L. No. 1-2016[4]]

VARIANCE

Written authority to deviate from any regulations of this chapter, said authority to be obtained from, or denied by, the Zoning Board of Appeals in accordance with state law and applicable provisions of this chapter.

VARIANCE, AREA

Authorization by the Zoning Board of Appeals to use land in a manner that would not otherwise be allowed because of dimensional or physical requirements and regulations set forth in Schedule II[5] or other applicable regulations of this chapter.

VARIANCE, USE

Authorization by the Zoning Board of Appeals for the use of land or a building that is otherwise not allowed or is prohibited by the provisions of Schedule I or other applicable regulations of this chapter, and meeting applicable criteria of state law.

WAREHOUSE

A building used for storage on either a wholesale or retail basis.

WATERBODY

See “Body of Water.”

WATER FRONTAGE, WIDTH

The shortest distance between side lot lines at high water mark.

YARD, FRONT

Lot area bounded by the road right-of-way, side lot lines and a line parallel to the road right-of-way a distance equal to the required front yard. Front yard depth shall be measured between the road right-of-way and the building line.

YARD, REAR

Lot area bounded by rear and side lot lines and a line parallel to the rear lot line a distance equal to the required rear line.

YARD, SIDE

Lot area situated between front and rear yard areas, a side lot line and a line parallel to the side line at a distance equal to the required side yard.

ZONING ADMINISTRATOR

The person appointed by the Town Board to administer this Zoning Chapter.

ZONING CODE

This chapter (as referred to herein). The Zoning Code is also referred to as the "Zoning Code of the Town of Tully" and "this chapter."

[1] Editor's Note: "This local law" refers to L.L. No. 4-2020, adopted 11-5-2020. See § 280-9H, Keyhole development.

[2] Editor's Note: The former definition of "dwelling, ECHO housing," which immediately followed this definition, was repealed 5-15-2008 by L.L. No. 4-2008.

[3] Editor's Note: Schedule I is included as an attachment to this chapter.

[4] Editor's Note: Subsequently amended pursuant to L.L. No. 1-2018, adopted 7-12-2017.

[5] Editor's Note: Schedule II is included as an attachment to this chapter.

§ 280-5 Zoning permits.

A. A zoning permit is required before any land use activity is undertaken, altered, repaired, modified, converted, or changed in any manner, except:
   (1) For routine maintenance, decorating or remodeling that does not involve structural alterations; or
   (2) For demolition or emergency repairs ordered by an authorized official in the interests of public safety.

B. A zoning permit is issued by the Zoning Administrator. It may be issued only for land use activities which are expressly permitted by this chapter or which have been specially authorized by the Town Board or the Board of Appeals. If the activity involves any construction or site preparation, use or occupancy shall not begin until the Zoning Administrator has certified on the permit that the construction or preparation has been fully completed in compliance with this chapter, other applicable Town regulations and any special authorization.

C. Term.
   (1) A zoning permit or special authorization shall lapse and become void unless:
      (a) Such zoning permit is substantially exercised within one-year after issuance; or
      (b) An application for a zoning permit is made within 60 days after any special authorization has been approved.
   (2) Upon application therefor, an extension of these time limits may be made by the Board of Appeals.

D. The terms and conditions of any special authorization shall be set forth in the zoning permit, and reference shall be made to the authorization by date, agency and filing data.

§ 280-6 Use districts.

A. Districts. The Town of Tully outside of the incorporated Village of Tully is hereby divided into the following use districts or zones:

Agriculture	A-1
Agriculture	A-2
Residence	R-1
Residence	R-2
Residence	R-3
Business	B-1
Industry	IND
Environmental Overlay	EOP

B. Location of districts. The location of each use district shall be as outlined on the Zoning Map of the Town of Tully (Zoning Map).[1] A true copy of the Zoning Map adopted as of this date is attached.[2]

[1] Editor's Note: In action taken 3-27-1995, the Town Planning Board recommended approval of a zone change from A-2 to C-1 for property located along Route 11 North near the entrance to Route 81 North (part of Military Lot Nos. 28 and 29). In a motion adopted 11-13-1995, the Town Board granted authorization to construct an office and enclosed storage facility on said property upon the meeting of certain conditions. On 5-27-1996, the Town Board noted that said conditions had been met.

[2] Editor's Note: The Zoning Map is included as an attachment to this chapter. In action taken 3-27-1995, the Town Planning Board recommended approval of a zone change from A-2 to C-1 for property located along Route 11 North near the entrance to Route 81 North (part of Military Lot Nos. 28 and 29); a portion of this property south of the natural gas line will be considered C-1 and IND. In a motion adopted 11-13-1995, the Town Board granted authorization to construct an office and enclosed storage facility on said property upon the meeting of certain conditions. On 5-27-1996, the Town Board noted that said conditions had been met.

C. Boundaries of districts. Boundary lines shown on the Zoning Map are intended to follow lot lines or the center lines of streets, highways, railroads, shorelines or watercourses, or a line parallel to such features at a distance therefrom specified on the Map. Questions or disagreements concerning the exact location of a district boundary shall be resolved by the Board of Appeals.

D. Description of districts; intent. Land use control districts in the Town of Tully have been established in furtherance of the Town's Comprehensive Plan and for the purpose and intent described below.

(1) Agriculture A-1 District. The intent of the A-1 District is to designate areas where agricultural productivity is high in most locations and where farming is the predominant and desired use of land. Other compatible land uses in this district could include a limited amount of low-density, single-family housing and other activities that are closely related to production-agriculture. Land use regulations are intended to encourage maximum retention of productive farmland while supporting a limited amount of low-density, single-family housing. Clustering (See definitions.) is encouraged where possible. Non-agricultural development in the A-1 District should be limited to uses that are compatible with active farming, rural character, and the preservation of productive agricultural soils.

(2) Agriculture A-2 District. The intent of the A-2 District is to designate areas where farming, extensive wooded areas and other natural resources are predominant and desired land use activities. Farm-related agricultural businesses located in this district are also suitable. Nonagricultural development, primarily scattered low-density, one-family housing, has occurred and is appropriate in the future. Land use regulations and development criteria are aimed at maintaining the effective operation of productive farms, supporting farm-related business and scattered or clustered (See definitions.), low-density, single-family housing and preventing serious environmental degradation and land use inconsistencies. The A-2 District is intended to provide greater flexibility for low-intensity rural residential, farm-related business, recreation, conservation, and limited non-agricultural uses where such uses are compatible with surrounding agricultural operations and natural resources.

(3) Residential R-1 District. The intent of the R-1 District is to designate areas where concentrations of low-density, primarily one-family housing, are located and are the expected and desired future developmental character. In most areas, larger parcels can be subdivided into residential lots. Regulations and restrictions in the R-1 District are intended to limit the extent of future development, to encourage clustering of lots as a method of preserving open space and environmentally sensitive areas, and to minimize the number of nonresidential land uses that can be established.

(4) Residential R-2 District. The intent of the R-2 District is to designate areas where proximity to Tully Village could affect future land use and development patterns. A variety of housing types is appropriate and density can be increased when adequate utilities can be provided. Regulations and restrictions in the R-2 District are intended to produce a more concentrated urban setting and to establish neighborhood development characteristics. While public utilities may not yet exist in such areas, R-2 Districts are suitable targets for such services.

(5) Residential R-3 District. The intent of the R-3 District is to designate areas where existing lakes and other natural features have produced sustained pressure for residential development that is likely to continue. Single-family housing, both permanent and seasonal, is an appropriate and desired use in these areas, but the absence of utility systems raises concerns about pollution and environmental damage. The transitional presence of agricultural in this district is suitable but can also be a potential source of environmental damage affecting nearby housing concentrations.

(6) Business B-1 District. The intent of the B-1 District is to effectively balance retail and commercial businesses that can benefit from proximity to the Town's primary transportation network with the need to protect nearby natural resources, ensure safe and efficient vehicular traffic circulation patterns, and support safe and efficient pedestrian and bicycle travel. Development restrictions and standards should reflect the unique location of properties within this district and development proposals should be evaluated in terms of design compatibility with surrounding land uses and intensity of development, impacts on the environment and surrounding natural resources, and vehicular traffic volumes and patterns. Review and approval of each development proposal is necessary to promote compatibility between adjacent land uses, to achieve the most efficient use of limited land resources and to minimize adverse environmental impacts.

(7) Industry IND District. The intent of the IND District is to designate areas with a relatively concentrated mixture of industrial land uses. Flat land, high visibility, good vehicular access to major traffic routes and the potential for railroad service are important considerations for development in the IND District. Various forms of light manufacturing, gas services stations, warehousing, fabrication, assembly, research and development and similar types of land use are appropriate and desired. Because the area of the IND District is limited, development restrictions and standards should focus on businesses and industries that require larger sites and have truck access and transportation needs that are not readily available or safe in other parts of the Town. Review and approval of each development proposal is necessary to promote compatibility between adjacent land uses, to achieve the most efficient use of limited land resources and to minimize adverse environmental impacts.

§ 280-6.1 Environmental Protection Overlay District (EPOD).

A. Purpose and Intent: The Environmental Protection Overlay District (EPOD) is established to safeguard the Town of Tully's most sensitive environmental resources, including waterbodies, wetlands, steep slopes, shorelines, flood-prone areas, and critical habitats. The intent of this overlay is to supplement the underlying zoning regulations by imposing additional development standards that protect water quality, maintain habitat integrity, and prevent erosion or degradation of these natural assets. The EPOD regulations are intended to:
   (1) Minimize adverse impacts on wetlands, waterbodies, and significant natural areas.
   (2) Protect water quality and recharge areas.
   (3) Maintain the natural character of waterbodies in the Town and other critical resources.
   (4) Manage stormwater runoff and soil erosion in sensitive landscapes.
   (5) Promote thoughtful, site-responsive development.

B. Applicability and Mapping
   (1) The EPOD shall apply to all areas designated on the Environmental Protection Overlay Map, which shall be adopted as part of the official zoning map and updated as necessary.
   (2) At a minimum, EPOD boundaries shall include:
      (a) Lands designated by the Town Board as environmentally sensitive. Such areas may include, but are not limited to, wetlands, waterbodies, steep slopes, shorelines, flood-prone areas, and other natural resources identified through Town studies or site-specific analysis. The boundaries of the EPOD shall be established and amended at the discretion of the Town Board.

C. Relationship to Underlying Zoning
   (1) The EPOD does not change the permitted uses, density, or dimensional standards of the underlying zoning district, except as modified by this section.
   (2) Where conflicts arise between EPOD standards and those of the underlying district, the more restrictive provision shall apply.

D. Use and Development Standards within EPOD
   (1) Permitted Uses: All uses permitted in the underlying zoning district are permitted in the EPOD, provided they comply with the additional standards herein.
   (2) Prohibited Activities:
      (a) The clear-cutting of trees exceeding 25% of a parcel's forested area within the EPOD, except for forestry operations following an approved management plan.
      (b) The placement of structures or impervious surfaces within 100 feet of NYSDEC-regulated wetlands or 250 feet of a Town-designated, environmentally sensitive area.
      (c) Grading or excavation on slopes greater than 25%, except as part of an approved site plan or erosion control plan.
   (3) Development Standards:
      (a) Erosion & Sediment Control: All development shall follow NYSDEC-approved erosion and sediment control practices (e.g., Blue Book standards).
      (b) Stormwater Management: Projects exceeding 5,000 square feet of disturbance shall submit a Stormwater Pollution Prevention Plan (SWPPP).
      (c) Vegetative Buffers: A minimum 50-foot vegetated buffer shall be maintained along all streams and drainage corridors within the EPOD.

(d) Lighting and Impervious Surfaces: Outdoor lighting shall be downshielded, and impervious surfaces should be minimized through clustering or pervious paving.

E. Special Use Permit: Where compliance with EPOD standards is demonstrated to be infeasible due to parcel size, shape, or existing development, the applicant may request a special authorization from the Planning Board. The Planning Board may grant such authorization only upon finding that: (1) No reasonable alternatives exist to avoid encroachment; (2) Mitigation measures (e.g., wetland restoration, vegetated buffers) will be implemented; (3) The proposed activity will not result in significant adverse environmental impacts.

F. Mapping and Maintenance

G. The Town shall maintain a paper EPOD map that shall be reviewed and updated periodically to reflect updated DEC, NWI, and Town-identified resource areas. The Town Board may expand or contract EPOD boundaries following a public hearing and adoption by local law.

H. Exemptions. The following shall be exempt from the structure placement restrictions of this section, provided they comply with all applicable requirements of the underlying zoning district, § 280-9.I, lot coverage limits, setbacks, shoreline regulations, erosion and sediment control requirements, and any applicable county, state, or federal permits:

(1) Boathouses permitted as accessory structures pursuant to § 280-9.I.

(2) Docks and other shoreline structures otherwise permitted by this chapter.

(3) Ordinary repair, maintenance, or replacement in-kind of existing lawful structures, provided such activity does not expand the structure, increase lot coverage, or increase the degree of nonconformity.

§ 280-7 District regulations and schedules.

A. Schedule of regulations. Regulations and controls affecting the use of land in the Town of Tully are set forth in Schedule I. Regulations and controls affecting lot size, yards, building height and similar area and dimensional considerations are set forth in Schedule II. Said Schedules I and II are hereby adopted and, with all explanatory matter and references thereon or related to, are hereby made part of this chapter.[1]
[1] Editor's Note: Schedules I and II are included at the end of this chapter.

B. Excluded uses or activities. Any land use or activity not set forth in Schedule I is not permitted in the Town of Tully until such use has been included in said schedule by an amendment to this chapter in accordance with § 280-17 Amendments. hereof.

C. Where Schedule I identifies a use as permitted by right, specially authorized, subject to special conditions, or subject to site plan review, the applicable review process and standards shall apply before a zoning permit or building permit is issued. Uses not listed as permitted, specially authorized, or conditionally permitted in a district shall be prohibited in that district unless added to Schedule I by amendment of this chapter.

D. Special conditions. When Schedule I specifies that special conditions (SC) are applicable to a specific use in one or more districts, the Zoning Officer shall issue a building permit only when applicable conditions specified in § 280-10 Special conditions. have been met.

§ 280-8 General requirements.

Except as hereinafter provided, the following general provisions shall apply to land use and development in the Town of Tully.

A. Minimum lot size. No building lot shall hereafter be reduced or altered so as to result in a lot that would not meet the minimum area or yard requirements prescribed in Schedule II of this chapter.
B. Lot in two districts. When a lot is divided by a district boundary line the regulations and requirements of either district may be extended for a distance of 100 feet into the other district, at the lot owner's discretion.
C. Health Department jurisdiction. Minimum lot sizes specified in Schedule II or elsewhere in this chapter shall be subject to applicable regulations of the Onondaga County Health Department for sewage disposal systems.
D. Fences, walls and hedges. The provisions of this chapter shall not apply to fences, walls and hedges six feet high, or less, above the natural grade, provided such features are located at least 15 inches from the lot line to allow for maintenance.
E. Corner visibility. For safety reasons, no structure, fence or vegetation over three feet high, and no branches less than 10 feet from the ground, shall be permitted within the vision triangle at road intersections. The vision triangle is an area formed by the right-of-way lines of intersecting roads and a diagonal line connecting a point located on each of the right-of-way lines and located a distance of 25 feet from their intersection. An illustrated example of the vision triangle is shown at Appendix A.[1]
   [1] Editor's Note: Appendix A is included at the end of this chapter.
F. Height limitations. The height limitations of this chapter shall not apply to agricultural uses, church spires, cupolas, elevator, heating, ventilation or air conditioning equipment and similar features, but excluding alternative energy or communications installations. Any questions, issues or similar interpretations regarding height limitations shall be determined by the Board of Zoning Appeals.
G. Drainageways. Natural drainageways shall be preserved and shall be kept free of debris and other obstructions to water flow. Where relocation of a natural drainageway cannot be avoided, it must be relocated in a way that will assure the unobstructed flow of stormwater and prevent flooding on neighboring and other nearby properties.
H. Garbage and junk. Lots shall be kept free from any inoperable or abandoned vehicle parked or stored outside on any premises for more than 30 days, and from discarded building material, appliances and machinery, and all forms of garbage and junk as defined in this chapter.
I. SEQRA requirements. No discretionary action required by this chapter shall be taken until there has been compliance with applicable provisions of 6 NYCRR 617 (SEQRA) and an environmental determination has been made by the lead agency.

§ 280-9 Supplementary regulations.

A. Intent. The intent of this section is to set forth regulations, requirements and procedures for certain areas, land uses and development activities in the Town of Tully that could have potentially large impacts on their surroundings, on the environment and on the value of adjacent land. Such development activities are subject to review and the application of specific standards to minimize adverse impacts.
B. Site plan review. The intent of site plan review provisions is to provide for Planning Board review and approval of site plans for certain uses in the Town of Tully. Site plan review provisions are intended to promote the health, safety and welfare of the Town and to ensure the optimum conservation, protection, preservation, development and use of the natural and man-made resources of the Town. Site plan review procedures will also be used to mitigate potentially negative impacts of new development on adjacent land and to conserve property values and visual quality as development occurs in the Town.[1]

(1) Applicability.
    (a) All land use activities authorized by Schedule I[2] of this chapter shall require site plan review except the following:
        [1] Construction of a one- or two-family dwelling along with accessory structures and related land use activities.
        [2] Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this section.
        [3] Ordinary repair or maintenance or interior alterations to existing structures or uses.
        [4] Exterior alterations or additions to existing structures that would not increase square footage of the existing structure by more than 10%, and with a value less than $20,000.
        [5] Agricultural or gardening uses.
        [6] Signs under 12 square feet.
        [7] The sale of agricultural products and temporary structures related to sale of agricultural products. See also § 280-10 Special conditions.B(2)
        [8] Garage, yard and porch sales not exceeding three days in duration, except that site plan approval will be required if such sales take place more that three times in any calendar year.
        [2] Editor's Note: Schedule I is included at the end of this chapter.
    (b) Any person uncertain of the applicability of this section of the chapter to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination. In addition to the foregoing authorization, the Planning Board may assume limited jurisdiction over and make recommendations on any matter otherwise subject to site plan review that is first required to be before the Zoning Board of Appeals on a variance request, or on any matter relative to a residential construction on lakefront property. The foregoing recommendation role shall be advisory in nature and is not mandatory and may be made before or after a public hearing is held by the Zoning Board of Appeals.
(2) Procedures; generally. Prior to undertaking any new land use activity except those specifically exempted in Subsection B(1), above, site plan review by the Planning Board is required. Applicants for site plan approval must follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this chapter and NYS Town Law § 274-a.
(3) Sketch plan conference.
    (a) A sketch plan conference between the Planning Board and the applicant shall be held prior to the preparation and submission of a formal application for site plan review. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concepts, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. To accomplish these objectives the applicant should provide the following prior to the sketch plan conference:
        [1] A written narrative statement and sketch showing the location and dimensions of principal and accessory structures with setbacks, parking areas, proposed signs, proposed site lighting, existing and proposed

vegetation and other planned features; anticipated changes in existing topography and other natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;

[2] An area map showing the parcel under consideration for site plan review, and all properties, structures, subdivisions, streets, rights-of-way, easements and other pertinent features within 500 feet of the parcel being reviewed;

[3] A topographic or contour map of adequate scale and detail to show site topography, including the location of all lakes, ponds, streams and wetlands; and

[4] An aerial photograph of the general area of the parcel under consideration.

(b) If requested by the applicant, the Planning Board may waive or modify any or all of the sketch plan review requirements.

(4) Application requirements.

(a) An application for site plan approval shall be made in writing to the Zoning Administrator or the Chairperson of the Planning Board and shall be accompanied by information contained on the following checklist as modified by the sketch plan conference.

[1] Title of drawing including name, address and telephone number of the applicant and the person responsible for preparation of such drawings, North arrow, scale and date;

[2] Boundaries of the property drawn to scale and showing existing building;

[3] Grading and drainage plan showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics and watercourses;

[4] Location, design and type of construction of all parking and truck-loading areas, showing access and egress;

[5] Provisions for pedestrian access, including handicapped accessibility;

[6] Location of outdoor storage, if any;

[7] Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;

[8] Description of the method of sewage disposal and location, design and construction materials of such facilities;

[9] Description of the method of securing potable water and location, design and construction materials of such facilities;

[10] Location of fire and other emergency zones, including the location of fire hydrants and holding ponds, if appropriate;

[11] Location, design and construction materials of all distribution facilities, including electrical, gas and solar energy;

[12] Location, size, design and type of construction of all proposed signs;

[13] Location and proposed alteration and development of all buffer areas, including existing vegetative cover;

[14] Location, design and operating characteristics of all outdoor lighting facilities including proposed lighting fixtures to be used;

[15] Identification of the location, specified use, and amount of building area proposed for retail sales or similar commercial activity;

[16] General landscaping plan and planting schedule;
[17] An estimated project construction schedule;
[18] Identification of, record of application for, and status of any permits from other governmental bodies required for the project's execution; and
[19] Any other elements integral to the proposed project, including appropriate SEQR assessments, as may be considered necessary by the Planning Board.

(b) The Planning Board may, if requested in writing from the applicant, or on its own volition, waive or modify any of the above site plan requirements.

(5) Review standards; general considerations. The Planning Board's review of the proposed project and the site plan shall include, as appropriate, but is not limited to, the following general considerations:
(a) Location, arrangement, size, design and general compatibility of buildings.
(b) Illumination sources and light distribution characteristics of proposed site and building lighting.
(c) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. Impermeable surface coverage shall be minimized.
(d) Location, arrangement, appearance and sufficiency of off-street parking and loading.
(e) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
(f) Location, arrangement, size, design and general neighborhood compatibility of any proposed signs.
(g) Adequacy of stormwater and drainage facilities. Impermeable surface coverage shall be minimized.
(h) Adequacy of water supply and sewage disposal facilities.
(i) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual, noise and glare buffer between the applicant's and adjoining land, including the maximum retention of existing vegetation.
(j) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants and holding ponds, if appropriate.
(k) Special attention to the adequacy and impact of structures, roadways and landscaping in areas susceptible to ponding, flooding and/or erosion.
(l) Overall neighborhood impact, including compatibility of design considerations and the impact of development on existing topography and on ambient noise and light levels.

(6) Specific standards and considerations. The following specific standards shall apply in conjunction with the subject uses or in the designated areas.
(a) Lakefront standards and conditions.
[1] All construction on any shoreline lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only vegetation that is necessary to the accomplishment of the project, to avoid

nuisance conditions related to glare and noise and to generally maintain the existing aesthetic and ecological character of the shoreline.

[2] No on-site sewage tile fields or seepage pits shall be located within 100 feet of any shoreline, and no septic or other holding tank shall be located within 50 feet of any shoreline, as measured from the normal high-water mark of the water body.

[3] Any paved or otherwise improved parking, loading or service areas within 100 feet of any shoreline shall be designed and constructed so as to direct surface runoff away from the waterway and to prohibit chemical pollutants from entering the waterway.

(7) Public hearing and Planning Board decision.

(a) Public hearing. The Planning Board may conduct a public hearing on the site plan if that is considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of a completed application for site plan review and shall be advertised in a newspaper of general circulation within the Town at least five days before the hearing.

(b) Planning Board decision. Within 62 days of receipt of a completed application for site plan approval or, if a public hearing is held, within 62 days of the public hearing, the Planning Board shall approve, approve with modification or disapprove the site plan as set forth below. The time period within which the Planning Board must make its decision may be extended by mutual consent of the applicant and the Planning Board.

[1] Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk and mail a copy to the applicant.

[2] Approval with modification. The Planning Board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant. After satisfactory demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall immediately file the approved site plan and a written statement of approval with the Town Clerk with a copy to the applicant.

[3] Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant, along with the Planning Board's reasons for disapproval.

(8) Integration of procedures. Whenever the circumstances of proposed development require compliance with these site plan review and with any other local law or other legal requirements of or governing the Town, including amendments to such laws, the Planning Board shall integrate, as appropriate, the site plan review procedures of this section with the procedures and submission requirements for such other compliance, including State Environmental Review Requirements (SEQRA).

[1] Editor's Note: For further information, see § 280-11.3I and J.

C. Wetlands. Notwithstanding other provision of this chapter, and particularly Schedule I, to the contrary, construction or any other development on any land in the Town of Tully that is

designated as a wetland pursuant to Article 24 of the State Environmental Conservation Law, shall be in accordance with the provisions of said Article 24.

D. Sign regulations.
   (1) In any district, a single sign that advertises a home occupation taking place on the premises, or the sale of agricultural products produced on the premises is permitted. The sign may be attached to a building or freestanding. It may not be more than six square feet in total area, on each of two sides in the case of a freestanding sign. It may not be illuminated except by white, nonflashing, nonmoving light, on two sides in the case of a freestanding sign, and may not be higher than five feet above finishing grade. If lighted, no such sign, by reason of design or location, shall shine directly on or into any rooms, porches or patios of residential property in existence when the sign was installed.
   (2) In business or industrial districts a sign that advertises the principal business taking place on the premises shall be permitted. The sign may be freestanding or attached and parallel to the street facade of the principal building. It may be illuminated (See definitions.) but not flashing or animated except as may otherwise be permitted in Subsection D(9), and shall not extend above the height of the wall to which it is attached. Such sign shall not be larger in total area than 10% of the area of the street facade of the principal building or 100 square feet, whichever is smaller.
   (3) In the case of multiple dwellings, or of multiple business uses on the same premises, or of business or industrial uses, or of a nonresidential use in a residential district, the Board of Appeals may authorize more than one sign or signs greater in area or height than is specified by this Subsection D.
   (4) No sign that is mounted on a vehicle or wheels or is otherwise mobile and capable of being moved shall be permitted unless expressly approved by the Board of Appeals.
   (5) Temporary signs are permitted to advertise that a premises is for sale or rent, or to set forth the names of a political candidate or of a contractor, architect, engineer, owner, or similar participant in a construction project. Such temporary sign must conform to the size restrictions of the district where it is located, may not be illuminated and must be removed within seven days after the election, construction, sale or rental of the premises is completed. The temporary sign may be freestanding. In no case shall a temporary sign remain in place for a period greater than one-year unless authorized by the Board of Appeals.
   (6) Identification and directional signs, but nonflashing and without advertising may be authorized by the Board of Appeals.
   (7) No sign, unless attached to a building, shall be located nearer to a street line than 25 feet, or nearer to a side line and 10 feet, unless authorized by the Board of Appeals.
   (8) No sign shall be higher than 25 feet above grade unless it is attached to the wall of a building and below the height of the wall, unless authorized by the Board of Appeals.
   (9) All signs, whether or not specially authorized by the Board of Appeals, shall conform to the following regulations:
      (a) No sign in excess of 10 square feet in area shall be erected, installed or altered until a written permit therefor is issued by the Zoning Administrator.
      (b) No sign may extend over a public sidewalk or public right-of-way.
      (c) The area of a sign shall be measured by the area of its background frame. If the sign consists only of independent letters or symbols without a frame, its area shall be measured by the rectangular area encompassing the letter or symbol groupings.

(d) Signs which, by their message, use, simulation of color, design or placement, tend to confuse or impair the effectiveness of traffic regulatory devices or to create a traffic hazard or traffic distraction are prohibited.
(e) No sign shall be flashing, revolving, animated or otherwise in motion. This provision shall not apply to illuminated signs that indicate the time, temperature, or similar public service information even though such device may be flashing.
(f) Any sign that contains a changing or otherwise animated message (name of business, hours of operation, rooms available, specials, current bargains etc.), where the illumination sources go on and off, or otherwise move or change in any way, shall not be permitted if such changing message is programmed to occur at less than fifteen-minute intervals. This provision shall not apply to time-temperature information displays.
(g) Hours of operation for any sign that is changing, moving or otherwise animated shall be limited to the hours of operation of the business located on the same lot as such sign. This provision shall not apply to time-temperature information displays.
(h) Other than signs permitted by these regulations, all accessory advertising devices of commercial enterprises, such as but not limited to, bunting, pennants, pinwheels, streamers or peripheral lighting, are prohibited.
(i) No sign shall obstruct any fire escape, window, door or opening used as a means of egress, for fire-fighting purposes or for ventilation. No sign shall be placed on any sidewalk, hydrant, lamppost, tree, utility pole, fence, or on other public property, except as may be permitted by this Subsection D.
(j) No sign shall project into a vehicular driveway on private property at an elevation less than 14 feet above grade. No sign shall project into an area on private property designed as a pedestrianway at an elevation less than 10 feet above grade.

(10) The Board of Zoning Appeals may, upon request and when appropriate, vary the provisions of this Subsection D after a public hearing has been held and a SEQR determination has been made.
(11) The Zoning Administrator shall order the removal of any sign that has been abandoned.

E. Outdoor lighting.
[Amended 12-12-2007 by L.L. No. 7-2007]

(1) Intent. These regulations are intended to reduce problems created by improperly designed and installed outdoor lighting, and to enhance the natural beauty of the night sky and preserve the rural nature of our community. The objective is to reduce or eliminate problems of glare, minimize light trespass on adjoining properties and reduce energy consumption by establishing regulations that limit the types of acceptable outdoor lighting fixtures and their illumination levels. By regulating outdoor lighting, community character and aesthetics will be enhanced, and excessive lighting that can become a distraction to the traveling public and an annoyance to occupants of neighboring properties caused by improper lighting can be avoided.
(2) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

CUTOFF FIXTURE

A light fixture that restricts the amount of light emission by shielding parts of the lamp. A cutoff or semicutoff design allows a restricted amount of light emitted above the horizontal plane running through the lowest point on the luminaire.

FIXTURE

The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector or refractor, the ballast, housing and the attached parts.

FOOTCANDLE

The basic measuring unit of illuminance. Footcandle measurement is taken with a light meter with CIE photopic (human eye response curve). One footcandle is approximately equal to the illuminance produced by a light source of one candela in intensity, measured on a surface at a one foot distance from the source. Horizontal and vertical footcandle measure the illumination striking a horizontal plane or vertical plane, respectively.

FULL-CUTOFF FIXTURE

A light fixture that cuts off all upward transmission of light above an angle of 90º from the horizontal plane at the lowest part of the luminaire.

FULLY SHIELDED FIXTURE

A luminaire constructed and installed such that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal. It is the same as a full-cutoff luminaire, but without any restrictions on light distribution below the horizontal plane.

GLARE

Discomfort experienced by an observer with a direct line-of-sight to a light source which often results in visual impairment due to an intensity great enough to reduce the viewer's ability to see.

LIGHT TRESPASS

Light projected onto a property from a fixture not on that property.

LUMEN

A measure of the brightness of the illumination exiting a bulb, provided by a manufacturer. One footcandle is one lumen per square foot.

LUMINAIRE

A complete lighting fixture, including the lamp, housing, ballasts, and photocells, less the support and mounting assembly.

TEMPORARY OUTDOOR LIGHTING

Specific illumination of an outdoor area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

(3) General regulations

(a) Industrial/commercial uses and zoning districts only:

[1] All installed outdoor lighting levels shall be in general compliance with the accepted illumination guidelines, standards and recommended practices established by the illuminating Engineering Society of North America (IESNA) and also in conformance with the requirements established by this subsection. All lighting applications shall be controlled by these provisions including, but not limited to signs, architectural, landscaping, decorative lighting, and sports facility lighting.

[2] A luminaire shall be of a design accepted by the IESNA, as fully enclosed, fully shielded, cutoff style fixture (see attached illustrations as examples of acceptable and unacceptable lighting fixtures).[3]
[3] Editor's Note: Said illustrations are on file in the Town offices.

[3] Fixture mounting heights for all pole-mounted parking and circulation lighting shall not exceed 30 feet above the paved grade adjacent to the pole and are required to have full-cutoff-type luminaires. Luminaires for recreational playing fields shall be exempt from the height restrictions.

[4] Wall-mounted fixtures shall prevent direct views of the lamp through the lens. The fixture housing shall cut off the light beam so it projects not more than 75º up from the vertical plane.

[5] Canopy lights, such as service station lighting, shall be fully recessed or fully shielded.

(b) Residential uses and zoning districts only:

[1] The luminous surface of a luminaire shall, in general, be horizontally mounted and aimed away from a property boundary.

[2] Residential floodlights are allowed with the restriction they are aimed 30º below a horizontal plane and comply with light trespass restrictions in this Subsection E. Motion sensor switches are encouraged.

(c) All uses and zoning districts:

[1] Pedestrian-scale lighting shall be on fixtures not exceeding 15 feet in height.

[2] The maximum mounting height for wall-mounted lighting shall not exceed 20 feet on all buildings except for industrial buildings which shall not exceed 25 feet.

[3] Except as otherwise provided by law, no lighting device shall be constructed or placed in any district which:

a. Consists of moving, rotating or otherwise animated parts, strings of lights or lights of varying intensity such as flashing, intermittent, moving, rotating or otherwise animated lights, including but not restricted to LED fixtures.

b. Is so placed as to aim or direct a light beam or reflection upon or toward any public highway, land, right-of-way or adjacent property.

c. Is so placed as to cause glare or reflection that constitutes a hazard or nuisance to on-site or off-site vehicular and pedestrian traffic circulation.

(4) Nonconforming lighting. All nonconforming lighting shall conform to the provisions hereof within a time period commencing from the effective date and expiring on the

date when the improvements comprising the fixtures (and not the real property affixed to same) have been fully depreciated for federal income tax purposes. The owner or other responsible person shall provide evidence in this regard via a sworn or certified statement attaching documentary proof of such owner or person or a sworn/certified statement of its certified public accountant attesting to the applicable depreciation schedule. Where such lighting has not been so depreciated, the applicable time period shall be 10 years from the effective date.

(5) Maximum illuminance at property lines for all zoning districts.

(a) Illumination from luminaires shall not exceed 0.1 footcandle at a residential property line or 0.5 footcandle on nonresidential property, as measured on a vertical plane.

(b) Control of glare.

[1] Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens, shall not emit any direct light above a horizontal plane.

[2] All luminaires of 1800 lumens shall be a full-cutoff fixture as installed. For luminaries under 1800 lumens, the lamp must be frosted glass or installed behind a translucent cover, except floodlights, which must be aimed no higher than 30º a below horizontal plane. This can be accomplished by the use of full-cutoff fixture design, shielding, visors, louvers, or other devices.

[3] Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens, shall be mounted at a height equal to or less than the value D/3 + 3, where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 30 feet. For example: pole height at a distance of 36 feet to a property line would equal 15 feet, or 36/3 + 3 =15.

[4] Any luminaire, regardless of its rated lumens, shall be directed or its light output controlled as necessary so it is not aimed, focused, or directed in such a way that causes light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or create glare perceptible to persons operating motor vehicles on public highways.

(c) Outdoor advertising signs.

[1] Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements.

[2] Signs constructed of translucent materials and wholly illuminated from within do not require shielding.

F. Parking. Parking spaces, as defined in § 280-4 Definitions. of this chapter, shall be provided as follows:

(1) Minimum spaces required. Unless modified by the Town Board or Planning Board as a requirement of special authorization or site plan approval, parking spaces shall be provided as follows:

(a) Residential use:

[1] Single-family and two-family dwellings: two spaces per dwelling unit.

[2] Townhouse dwellings: 1.5 spaces per dwelling unit.
[3] Multiple-family dwellings: one space per studio or one-bedroom unit and 1.5 spaces per unit containing two or more bedrooms.
[4] Retirement housing: one space per dwelling unit, plus one visitor space for every five dwelling units.
[5] Accessory dwelling units: no additional parking shall be required, provided that existing off-street parking is not reduced below the minimum required for the principal dwelling.

Note: The Planning Board may reduce the required number of parking spaces for multiple-family, townhouse, retirement housing, mixed-use, or adaptive reuse projects where the applicant demonstrates that the proposed parking supply is adequate based on unit size, expected occupancy, shared parking, proximity to services, pedestrian access, or other site-specific conditions.

(b) Church, auditorium, funeral home and other places of public assembly: one space for each four seats at maximum capacity.
(c) Motel, hotel, bed-and-breakfast and similar uses: one space for each guest room.
(d) Restaurant: one space for each 100 square feet of gross floor area.
(e) Office: one space for each 300 square feet of gross floor area.
(f) Commercial business, store: one space for each 100 square feet of gross floor area used for sales purposes.
(g) Hospital, nursing home and similar institution: one space for each three beds.
(h) Industrial or manufacturing business: one space for each 400 square feet of gross floor area.
(i) Warehouse: one space for each employee.
(j) Bowling alley: eight spaces for each alley.
(k) Health and fitness center: one space for each 200 square feet of gross floor area.

(2) General requirements.
(a) All required parking spaces shall be on the same lot as the land use activity they serve except that all or part of the spaces may be provided off-site upon special authorization of the Town Board or Planning Board, as appropriate, or otherwise by the Board of Appeals, when it is impractical to provide parking on the same lot and the proposed off-site parking is within 500 feet of the land use activity.
(b) Parking requirements of this section shall not apply to existing land use activities. Existing parking spaces shall not be reduced below the minimum required by this chapter. If an existing land use is changed or modified, the parking required by this chapter shall be provided as appropriate.
(c) Unless they are within a driveway, no parking space shall encroach into front or side yards in a residential district, with the exception of pre-existing undersized lots in the R-3 District, or be nearer than 10 feet from any street line or five feet from the side or rear lot lines in any other district.
(d) Required parking space for two or more land use activities may be jointly provided upon special authorization of the Town Board or Planning Board, or approval by the Board of Appeals, as appropriate, upon specific findings that there shall be no substantial conflict in the principal periods of peak demand

and that the number of spaces available for each land use during peak periods shall meet the requirements of this chapter.

G. Accessory dwelling unit (ADU). The installation of a temporary or permanent ADU shall be permitted in A-1, A-2, R-1, R-2 and R-3 Districts subject to the following:

[Added 5-15-2008 by L.L. No. 4-2008]

(1) Standards and criteria. All ADU's shall meet the following standards and criteria:

(a) The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health and any other applicable codes. When unnecessary hardship is created by compliance with the provisions of this local law, the Zoning Board of Appeals may grant modifications for individual cases.

(b) Any additions to an existing building shall not, absent the granting of an area variance, exceed the allowable lot coverage or encroach into the existing setbacks.

(c) The ADU may be attached to, within or detached from the principal unit.

(d) Only one ADU may be created per residence in single-family zones. Multiple detached ADU's may be created in other zones, but only to the extent that multiple dwelling units may otherwise be created there.

(e) The property owner, which shall include title holders and land contract vendees, must occupy either the principal unit or the ADU as his or her permanent or secondary residence, but not both, for at least five months out of the year and shall at no time receive rent for the owner-occupied unit.

(f) Occupancy of the accessory or principal unit is limited to family members related by blood, marriage or adoption, or persons having provided satisfactory documentation to the Town Board of the provision of nursing or domiciliary care or assistance to the owner, or a family member related by blood, in partial or full exchange for lodging.

(g) Occupancy limited.

[1] Occupancy shall be limited to the following:

[a] No more than two persons in a unit of 300 to 400 square feet.

[b] No more than three persons in a unit ranging from 401 to 1,000 square feet.

[2] Occupancy beyond these provisions shall be prohibited.

(h) An ADU may be developed in or on either an existing or a new residence.

(i) In no case shall an ADU:

[1] Be more than 50% of the principal dwelling's total floor area;

[2] Be more than 1,000 square feet;

[3] Be less than 300 square feet;

[4] Have more than two bedrooms.

(j) The ADU shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family residence.

(k) The primary entrance to the ADU shall be located in such a manner as to be unobtrusive from the same view of the building which encompasses the entrance to the principal unit.

(l) One off-street parking space, in addition to that which is required for the underlying zone, or as many spaces as deemed necessary to accommodate the actual number of vehicles used by occupants of both the primary dwelling and the ADU shall be provided. Such parking must be provided in the rear of the lot

where adequate access is available. "Adequate access" shall be defined as a dedicated street or alley with a minimum gravel surface.

(m) If the ADU is designed for temporary installation (i.e., self-contained, portable unit), it shall be removed within 60 days after the need for such unit has passed. In no event shall such unit be installed for in excess of two years in total. This period may be extended by the Planning Board for good cause, limited to the continued need for use by an elderly or disabled person otherwise qualified under § 280-9 Supplementary regulations.G(1)(f).

(n) Home occupations, to the extent of those permitted in such zoning districts, shall be allowed, subject to existing regulations, in either the ADU or the principal unit, but not both.

(o) In order to encourage the development of housing units for people with disabilities, reasonable deviation from the above-stated requirements shall be permitted to allow features that facilitate accessibility. Such facilities shall be in conformance with the Uniform Building Code[4] and any other federal or New York State requirements.

Editor's Note: See Ch. 136, Construction Codes, Uniform.

(2) Application procedure.

(a) Application for a building permit for an ADU shall be made to the Code Enforcement Officer in accordance with the Town of Tully building permit procedures.

(b) An attestation form from the owner indicating that he or she shall occupy one of the dwelling units on the premises, except for bona fide temporary absences, for five months out of each year, and the name and relationship of the ADU occupant(s). The attestation form shall have attached to it a copy of the owner's deed.

(c) The attestation form or other forms as required by the Town of Tully shall be filed as a deed restriction with the Onondaga County Clerk's office to indicate the presence of the ADU, the requirement of owner-occupancy and other standards for maintaining the unit as described above.

(d) Cancellation of an ADU's registration may be accomplished by the owner filing a certificate of cancellation with the Code Enforcement Officer for recording at the Onondaga County Clerk's office or may occur as a result of enforcement action.

(e) The owner shall pay the costs of recordation and filing of any documents required to be filed hereunder and any other costs of administration, as such costs may be reasonably established by the Town Board from time to time.

(3) Approval authority. The Town of Tully Board shall be charged with determination of eligibility under the foregoing standards and criteria and shall also have all other review and approval authority hereunder.
[Amended 5-13-2009 by L.L. No. 2-2009]

(4) Variation from requirements. The Town of Tully Zoning Board of Appeals shall have authority to vary from the requirements hereof pursuant to Town Law § 267-1(b) and Town of Tully Code § 280-14 Board of appeals..

H. Keyhole development.
[Added 11-5-2020 by L.L. No. 4-2020]

(1) Development or use of one or more backlots which include access to the shoreline of an inland lake or body of water through one or more contiguous shoreline lots is prohibited

unless in conformity with this subsection. No access is allowed to shoreline lots from noncontiguous backlots.

(2) Site plan review: submission requirements.
    (a) An application for site plan approval is required to be submitted in accordance with § 280-9 Supplementary regulations., which application shall include the following additional information:
        [1] Elevations of existing watercourses and water bodies, including county shorelines;
        [2] Proposed locations of docks and other shoreline structures;
        [3] Location and dimensions of existing and/or proposed parking areas (including indication of all spaces and method of surfacing);
        [4] Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used;
        [5] The location and type of any and all picnic, sports facilities, and/or playground equipment to be installed on the site.

(3) Standards. Any shoreline lot proposed to be used as part of a keyhole development shall conform to the following specifications:
    (a) The shoreline lot shall meet the minimum requirements for a lot in the zoning district in which it is located.
    (b) The shoreline lot shall have a minimum shoreline frontage of not less than 300 feet (measured at the ordinary high water mark) and shall have an area of no less than the minimum lot size required of the zoning district in which the lot is located. The minimum frontage required for the shoreline lot shall be increased by 100 feet, and the minimum area required shall be increased by at least 10,000 square feet, for every additional backlot proposed to be part of the keyhole development.
    (c) The site plan shall reflect provisions for parking in accordance with § 280-9 Supplementary regulations. F. Parking.
    (d) The site plan shall reflect provisions for all watercraft slips, moorings, boat hoists, and any other means of anchorage to be developed on the shoreline lot. No more than two such slips, moorings, boat hoists, and other means of anchorage per shoreline lot shall be allowed. The minimum shoreline frontage required for the shoreline lot shall be increased by 50 feet, and the minimum area required shall be increased by at least 7,000 square feet, for every additional slip, moorings or boat hoist, proposed to be constructed or installed as part of the keyhole development.
    (e) The site plan shall reflect the location of all docks to be developed on the parcel. No more than two docks per 150 feet of shoreline shall be allowed, which docks shall comply with all state and federal statutes and regulations pertaining thereto. Docks shall not extend beyond a water depth of four feet and shall not exceed 50 feet in length. Docks need not comply with setbacks applicable to other structures. The minimum shoreline frontage required for the shoreline lot shall be increased by 50 feet, and the minimum area required shall be increased by at least 10,000 square feet, for every additional dock proposed to be constructed or installed, as part of the keyhole development.
    (f) Boat launch facilities shall not be permitted.
    (g) No camping or other overnight accommodations shall be permitted on the shoreline lot.

(h) The storage or display of items for sale or rent such as, but not limited to, boats, boat hoists, personal watercraft, and trailers is prohibited, unless otherwise permitted in the zoning district in which the lot is located.
(i) No slippage or mooring rights shall be sold or leased unless otherwise permitted in the zoning district in which the shoreline lot is located.

I. Boathouses.
(1) Boathouses shall be permitted as accessory structures on properties with direct frontage on waterbodies. Boathouses shall not exceed 15 feet in height, 400 square feet in area, and shall be setback at least 10 feet from any side lot line.

J. Standards for Commercial and Industrial Uses Adjacent to Residential Districts
(1) Screening and Buffers
(a) When a commercial or industrial use abuts a residential district, a vegetative buffer not less than 5 feet wide shall be maintained along the shared property line. This buffer shall include evergreen plantings that provide year-round screening. Fencing or earth berms may be required by the Planning Board where visual mitigation is necessary.
(2) Hours of Operation
(a) Commercial or industrial uses that abut residential districts shall limit outdoor operations, deliveries, and loading activities between the hours of 11:00 PM and 6:00 AM, unless otherwise approved by the Planning Board through site plan review.
(3) Noise Standards
(a) No use in a business or industrial district adjoining a residential district shall produce sound levels that exceed 65 dBA at the property line between 7:00 AM and 10:00 PM, or 55 dBA at the property line between 10:00 PM and 7:00 AM. The Planning Board may require a noise study or mitigation measures (e.g., sound barriers, equipment enclosures) to ensure compliance.
(4) Lighting
(a) Outdoor lighting associated with commercial or industrial uses adjacent to residential districts shall be designed and located to prevent light trespass onto neighboring residential properties. Fixtures shall be fully shielded and directed downward.

K. Short-Term Rentals (STRs).
(1) The rental of residential dwellings for periods of less than 30 days shall be subject to the following requirements:
(a) STRs must be registered annually with the Town Clerk, subject to a $250 initial fee and $100 annual renewal fee. The annual registration is due by June 1 of each calendar year.
(b) STR operators must provide proof of property ownership or management authorization.
(c) Occupancy is limited to two persons per bedroom plus two additional persons.
(d) One off-street parking space shall be provided per bedroom.
(e) Occupants of short-term rentals shall comply with the provisions of Chapter 190, Noise, of the Town Code. Guests shall observe quiet hours between 9:00 PM and 7:00 AM, and no activity associated with the short-term rental shall create a noise disturbance in violation of Chapter 190.

(f) STRs shall not be permitted in accessory structures unless the accessory structure is permitted as an ADU. Such structures shall be subject to the requirements of § 280-9 Supplementary regulations. Section G.

(g) **Violations; corrective action; suspension or revocation**. Complaints regarding short-term rentals shall be reviewed by the Code Enforcement Officer or designated official. Complaints alone shall not constitute violations unless substantiated by the Code Enforcement Officer or designated official. Upon finding a violation, the Town may issue a written notice of violation requiring corrective action within a specified timeframe and may require the property owner or STR operator to meet with the Code Enforcement Officer or designated official and submit a written corrective action plan. Failure to correct a violation, failure to comply with an approved corrective action plan, or three or more substantiated violations within a twelve-month period may result in suspension or revocation of the STR registration following written notice and an opportunity to be heard.

(h) Enforcement shall be administered by the Code Enforcement Officer or designated official.

L. Pre-existing Properties Under 1 Acre in the R-3 Zoning District

(1) In the R-3 District, the following provisions shall apply:

(a) New construction, rebuilding, additions, expansions, and accessory structures on pre-existing undersized lots in the R-3 District shall comply with the bulk requirements set forth herein and shall not create a new nonconformity or increase the degree of any existing nonconformity related to setbacks, building height, or lot coverage, unless an area variance is granted by the Zoning Board of Appeals:

[1] Minimum Lot Area: None

[2] Minimum Lot Width: None

[3] Minimum Yard Set Back:

a. Front: 20 feet (or average of adjacent homes, whichever is less)

b. Side each: 6 ft minimum (each), or 12 ft total; may be reduced to 5 ft on one side for lots ≤50 ft wide

c. Rear: 20 feet

[4] Maximum Lot Coverage: 40% of lot area; may increase to 50% for lots <5,000 sq ft

[5] Maximum Building Height:

a. Principal Building: Lesser of 2.5 stories or 35 feet

b. Accessory Building: 2 stories

(b) Approval of new construction or rebuilding on any pre-existing undersized lot in the R-3 District shall be subject to approval of the proposed sewage disposal system.

§ 280-10 Special conditions.

A. Intent. The intent of this § 280-10 Special conditions. is to set forth conditions that shall apply to certain land use activities in the Town of Tully that are listed in Schedule I as having special conditions applicable thereto (SC). No building permit shall be issued for such land use activities until the Zoning Administrator has determined that the conditions and other requirements set

forth in this § 280-10 Special conditions. and all other applicable regulations, have been complied with or that a variance thereof has been duly granted by the Board of Appeals.

B. Mobile dwellings in all districts are permitted when it can be shown that the mobile home:
   (1) Will be used as a residence by the owner of a lot upon which a single-family dwelling is under continuous construction; or
   (2) Will be used by one actually employed in an agricultural use on the premises where the mobile dwelling is located and there is at least one occupied permanent dwelling on the premises; or
   (3) (Reserved)[1]
   [1] Editor's Note: Former Subsection B(3), regarding the use of mobile dwellings by a dependent adult related to the occupant, was repealed 5-15-2008 by L.L. No. 4-2008.
   (4) Meets the lot and yard requirements of the district in which it is located.
   (5) Unless modified by the Zoning Board of Appeals, authorization for use of a mobile home shall be granted for a period of no longer than two years. The mobile home shall be removed at the expiration of the authorization.

C. Roadside stands in A-1, A-2, R-1, R-2, R-3 and IND Districts are permitted when:
   (1) Products sold are grown or fabricated on the premises.
   (2) Such stand is located at least 20 feet from the nearest street right-of-way line.
   (3) Off-street parking is provided.
   (4) Unless otherwise authorized by the Zoning Board of Appeals, such stand is removed from the premises within three weeks from the date when sales are discontinued for the season.

D. Signs in all districts are permitted when such sign complies with the provisions of § 280-9 Supplementary regulations. Part D of this chapter or a variance has been granted by the Zoning Board of Appeals.

E. Home occupations in all districts are permitted when:
   (1) Not more than one nonmember of the family occupying the dwelling unit may be engaged in the activity except for a medical practitioner requiring a medical assistant, in which case nonmembers may not exceed two.
   (2) The on-premises retail sale of merchandise is prohibited unless otherwise approved by the Town Board.
   (3) All activity related to the business is conducted only inside the dwelling or a building accessory thereto.
   (4) The activity shall not be evident outside the structures except for identification signs permitted by this chapter.
   (5) The need for off-street parking can be satisfied by no more than three parking spaces in addition to those required by the residence.
   (6) No offensive traffic, odor, noise, dust, glare, or electrical disturbance is produced by the business.

F. Swimming pool in all districts are permitted when each such pool, as defined in this chapter, is enclosed by a screening device at least five feet high and designed to provide a barrier to small children and pets, or as required by New York State law or codes/regulations promulgated thereunder.

§ 280-11 Uses requiring special authorization. [1]

A. Applicability. This section contains criteria and standards to be used by the Town Board and/or Planning Board when considering approval of a use listed in Schedule I as requiring special authorization by the Planning Board (SPB) or the Town Board (STB). A special authorization shall

be governed by the provisions of this Code and such provisions of the New York State Town Law and case law promulgated thereunder governing special (use) permits. No building permit shall be issued for any land use activity requiring special authorization until the Zoning Officer has determined that the conditions and other requirements set forth in this § 280-11 Uses requiring special authorization. [1] have been complied with or that a variance thereof has been duly granted.

B. General requirements. All uses that are subject to special authorization provisions (SPB and STB) shall be subject to the notice provisions of § 280-18 Notice provisions. hereof, and require site plan approval from the Planning Board in accordance with § 280-9 Supplementary regulations.B of this chapter. In addition, no special authorization shall be granted for any proposed land use activity until there is compliance with applicable requirements specified in Subsection C (SPB) and Subsection D (STB), as these may be modified during review, and upon findings that the proposed activity, as approved, will:
    (1) Be consistent with, and not impede, an appropriate goal or objective of the Town Comprehensive Plan.
    (2) Be consistent with, and not impede, the lawful use and development of contiguous and neighboring properties and not unreasonably affect their enjoyment and value.
    (3) Not create an unreasonable traffic, health or other public hazard or unreasonably burden, or create an excessive demand for, public services.
    (4) Be within environmental constraints that are reasonable and predictable as determined by the appropriate SEQR investigation and findings.

C. Special authorization by the Planning Board (SPB). In addition to the general requirements for special authorization, as set forth in Subsection B, specific requirements for special authorization by the Planning Board for certain land use activities, as set forth below, shall also be applicable.
    (1) **Multiple-family dwellings, townhouse dwellings, and retirement housing**. Small-scale multiple-family dwellings, large-scale multiple-family dwellings, townhouse dwellings, and retirement housing may be permitted by special authorization of the Planning Board in the districts where such uses are listed as permitted by special authorization in Schedule I. In reviewing such uses, the Planning Board shall consider the general requirements of Subsection B, as well as the adequacy of water supply, sewage disposal, stormwater management, access, emergency services, pedestrian circulation, parking, buffering, and compatibility with surrounding land uses. All such uses shall comply with the applicable bulk requirements set forth in Schedule II and any other applicable requirements of this chapter.
    (2) Church and religious use in A-1 and A-2 Districts is permitted when such use is duly registered in the State of New York.
    (3) Retail business benefiting from good highway access in B-1 and IND Districts is permitted when:
        (a) Driveways and walkways provide safe access, egress and traffic circulation within the site.
        (b) The site has direct access to potable water and adequate sewerage with ample capacity for certain intense uses based on demand.
        (c) Entrance driveways from public roads are no wider than 50 feet and at least 100 feet apart and adequately marked and lighted for safe and efficient access by both vehicles and pedestrians.

(d) Opportunities for direct vehicular access to adjacent properties without needing to reenter the highway (service roads, for example) have been examined and evaluated.
(e) No structure is placed closer than 50 feet from any adjacent zone boundary or road right-of-way line. Such setback space shall be appropriately landscaped with a combination of trees, shrubs, and/or earthen berms to separate the commercial businesses from existing or future development in the adjacent zone.
(f) Access drives and parking areas are landscaped to define spaces and provide visual relief from wide expanses of pavement.
(g) The site is designed and operated so that it does not pose potentially adverse impacts on the health of nearby aquifers, streams, lakes or other waterbodies.
(h) The site is designed and operated so that it does not produce levels of noise, odors, and lighting that adversely affect adjoining residential properties.

(4) Mini-commercial warehouse for self storage in B-1 and IND Districts is permitted when such use is extensively landscaped along front and side boundary lines with a combination of trees, shrubs or earth berms.
(5) Commercial animal facility in A-1, A-2 and IND Districts is permitted when such facility is designed and operated so that it does not produce excessive noise and odors that adversely affect adjoining properties.
(6) Motel in B-1 and IND Districts is permitted when:
(a) No building is located less than 50 feet from an existing residential lot and no off-street parking is located less than 25 feet from a front right-of-way line.
(b) Access driveways intersect public roads at approximately 90° and are located no less than 150 feet from the intersection of two right-of-way lines of public roads.
(c) Landscaping is provided along road frontages and around parking areas.
(7) Bed-and-breakfast in A-1, A-2, R-1, R-2 and R-3 Districts is permitted when:
(a) Off-street parking is located and designed in a manner that is consistent with the visual character of the adjacent neighborhood.
(b) Access drives intersect public roads at approximately 90° and are located no less than 50 feet from the intersection of two right-of-way lines of public roads.
(c) Landscaping is provided around parking areas.
(8) Nursery school in A-1, A-2, R-1 and R-2 Districts is permitted when applicable regulations of New York State can be complied with.
(9) Drive-in or drive-through business in B-1 District is permitted when entrance and exit routes to service windows are clearly marked, service windows face a side or rear yard, safe and adequate stacking space is provided and landscaping along property lines is provided.
(10) Gas service station in the IND District is permitted when the entrance and exit routes to the Town's primary transportation network are safe and clearly marked and lighted, safe and adequate parking is provided on site such that it does not conflict with truck traffic and circulation, and landscaping along property lines is provided.
(11) Warehouse in the B-1 and IND Districts is permitted when such use is extensively landscaped along the front and side with a combination of trees, shrubs, or earth berms. A warehouse is not permitted in a B-1 or IND Districts when the site is adjacent to a residential neighborhood in the Town of Tully. No outside storage is allowed at a

warehouse facility unless properly screened, subject to review and approval by the Planning Board after Site Plan Review.

(12) Off-site parking facility in all districts is permitted when:

(a) Access and exit driveways are clearly defined and no less than 150 feet from the intersection of two right-of-way lines of public roads.

(b) Landscaping is provided along lot lines and as needed to define parking spaces and access and egress routes thereto.

(13) Automotive repair shop in the IND District.

D. Special authorization by the Town Board (STB). In addition to the general requirements for special authorization set forth in Subsection B, specific requirements for special authorization by the Town Board (STB) for certain land use activities, as specified in Schedule I,[2] shall also be applicable. The Town Board may also require any information or establish performance standards or additional performance standards that it believes are consistent with the Comprehensive Plan and in the best interest of the Town of Tully.

(1) Planning Board report. No decision shall be made on any application for special authorization by the Town Board until the Planning Board has reviewed the application and has, as it deems appropriate, filed an advisory report on the proposed land use, or 60 days have passed since the filing of the application, after which sixty-day time period a decision by the Town Board may be made.

(2) Accessory dwelling units in A-1, A-2, R-1, R-2 and R-3 Districts are permitted subject to and in accordance with the provisions of § 280-9 Supplementary regulations. [Amended 5-15-2008 by L.L. No. 4-2008]

(3) Truck or motor freight terminal in IND District is permitted when:

(a) Front yards as required by Schedule II[3] are landscaped and not used for parking or storage of trucks or other commercial vehicles.

[3] Editor's Note: Schedule II is included at the end of this chapter.

(b) Outside storage of containers, equipment and similar material is located so as to minimize visual impact from adjacent public roads.

(4) Scientific research laboratory in B-1 and IND Districts is permitted when:

(a) There is no employee parking in any front yard required by Schedule II.

(b) Landscaping in the form of trees, shrubs, earth mounds and similar natural features is provided.

(c) Any waste material related to such activity is disposed of in a manner approved by the Onondaga County Health Department.

(d) There will be no objectionable noise or smells noticeable on adjoining properties.

(5) Telecommunications tower. The intent of these regulations is to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations and to protect the natural features and aesthetic character of the Town. These regulations are not intended to have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

(a) Application.

[1] No telecommunication tower shall hereafter be used, erected or changed in any way until approved by special authorization from the Town Board as required by this chapter (See Schedule I.) No existing structure shall be modified for use as a telecommunications tower unless in conformity with these regulations.

[2] Antennas and accessory equipment related thereto, other than towers, are permitted in all use districts, provided they are placed on existing structures 30 feet or more in height, other than one- and two-family dwellings.

[3] Where these regulations conflict with other regulations of the Town of Tully, the more restrictive shall apply, except for tower height restriction which is to be governed by special standards in this Subsection D(5).

(b) Regulations.

[1] No telecommunications tower shall hereafter be used, erected, moved, reconstructed or altered except in conformity with terms and conditions of a special authorization by the Town Board. No existing structure shall be modified to serve as a tower unless in conformity with such terms and conditions.

[2] Antennas and accessory equipment related thereto, other than towers, are permitted in all districts except R-2 and R-3 Residential Districts.

(c) Special standards.

[1] Site plan. An applicant shall be required to submit a site plan in accordance with § 280-9 Supplementary regulations. B(3) and B(4) of this chapter and including documentation on the proposed intent and capacity or use as well as justification for the proposed height of any tower or antenna and for any land or vegetation clearing required.

[2] In addition to applicable environmental impact requirements of § 280-9 Supplementary regulations. B(4), the applicant shall provide a visual environmental assessment with particular attention to visibility issues from key viewpoints within and outside the Town as identified in the visual EAF. The Town Board may require a more detailed visual analysis based on the results of the visual EAF. All tower and accessory facilities shall be sited to have the least practical adverse impact on the environment.

[3] Shared use of existing towers or other existing structures is preferred to the construction of new towers and shall be considered. An applicant shall present a detailed inventory of existing towers within a reasonable distance of the proposed site and analyzing opportunities for shared use of an existing structure as an alternative to new construction. Written requests for shared use, and responses thereto, shall be provided. A document of intent-to-share from an existing tower owner shall be provided by the applicant.

[4] The Town Board may require additional setbacks adequate to contain ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property.

[5] Towers shall not be artificially lighted except to assure human safety and as required by the Federal Aviation Administration (FAA). Structures offering slender silhouettes and painted to blend into the natural surroundings are preferable in most cases. Towers should be designed and sited so as to avoid, whenever possible, FAA lighting and painting requirements.

[6] Existing on-site vegetation shall be preserved to the maximum extent possible. Tree plantings may be required to screen portions of the tower from nearby residential and public property, including roads.

[7] A suitable road and parking as necessary will be provided to assure emergency and service access.

(d) Conditions. The Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed telecommunications tower.

(e) Removal upon abandonment. The owner of any telecommunications tower or antenna shall remove such tower/antenna and related facilities if it becomes obsolete or ceases to be used for its intended purpose for a period of 12 months, and a demolition bond or other security suitable to the Town for removing such facilities may be required.

(6) Utility structure in all districts are permitted when:

(a) It is determined that the design and construction of said structure is largely compatible with the surrounding area.

(b) Trees, shrubs and other forms of landscaping are placed around the structure.

(7) Adult-oriented business in I District. Permitted when such businesses are established in accordance with Chapter 85, the Town of Tully Adult Use Entertainment Local Law.

[2] Editor's Note: Schedule I is included at the end of this chapter.

[1] Editor's Note: For further information, see § 280-11.3I and J.

§ 280-11.1 Reserved [17]

[17] Editor's Note: Former § 280-11.1, Opt-out of exemption for solar, wind and farm waste energy systems, added 7-12-2017 by L.L. No. 1-2018, was repealed 3-11-2020 by L.L. No. 2-2020.

§ 280-11.2 Small-scale wind energy systems for on-site use.

[Added 7-12-2017 by L.L. No. 2-2018]

A. Scope. These regulations relate to small on-site-use wind energy systems and do not address medium- or large-scale wind turbines or wind farms which are typically intended to, in whole or substantial part, sell energy directly to power companies or retail users. Any non-small wind energy system applications for facilities within the Town of Tully shall require the grant of a use variance.

B. Special authorization required; small wind energy system defined. No person, firm or corporation, or other entity being the owner or occupant of any land or premises within the Town of Tully shall use or permit the use of land or premises for the construction of a tower for a small on-site wind-energy collection system without obtaining a special authorization issued by the Tully Joint Planning Board, which procedure includes all required incidental site plans and any subdivision-related actions and, as well, any waivers sought by an applicant as provided at § 280-11.2 Small-scale wind energy systems for on-site use.M hereof. The small wind energy system permitted hereunder is also sometimes referred to as a "small wind energy collection system," "small wind system," "on-site wind energy system," or similar variation, all meaning the system described at § 280-11.2 Small-scale wind energy systems for on-site use.C and the subsections thereof, including without limitation § 280-11.2 Small-scale wind energy systems for on-site use.C(1)(e), following and consisting of a wind energy system serving predominately on-site uses with only incidental surplus energy produced and made available to the public utility grid.

C. Special authorization criteria.

(1) In addition to the general criteria for grant of a special authorization established pursuant to Town Code § 280-11.2 Small-scale wind energy systems for on-site use.D(2), the following criteria are hereby established for purposes of granting a special authorization for an on-site-use wind energy conversion system under this chapter:
    (a) Noninterference. Individual on-site-use wind energy conversion systems shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link's operation.
    (b) Proximity to radio, television and telephone systems. Individual on-site-use wind energy conversion systems shall not be installed in any location where their proximity interferes with existing fixed broadcast, retransmission, or reception antennas for radio, television or wireless phones.
    (c) Scenic viewsheds. All wind energy conversion system's infrastructure and improvements that are not considered within the definition of small wind energy systems for on-site residential use of less than 100 feet in height are hereby legislatively determined to be, in many cases, in view from nearby properties, neighborhoods, communities and from differing surrounding directions and elevations, visually, aesthetically and otherwise much less appealing than the preexisting viewshed, or wholly undesirable. In many cases, even after thoughtful review, adverse effects are not avoided, i.e., as-built buffering, screening and the like may be as robust aesthetically or as conceivably possible even where sometimes at inordinate cost, replacing the preexisting viewshed from surrounding areas and elevations, including of and from preexisting scenic vistas, traditional village, hamlet, and Town and country locations and scenes, and from and to nearby and distant private properties, from local and interstate vehicle and bicycling transportation routes, public parks and recreational areas and vast open spaces, hillsides and other natural greenscapes with, at best, a viewshed including relatively large mechanical structures with, at best, a green area consisting of landscape, vegetation and berming which, regardless, removes only part of the objectionable structure but most of the former viewshed from sight. It likewise of concern, and the Town Board's specific finding, that remaining agricultural and open lands within the Town be protected and recognized as an important component of the Town, village and surrounding community's potential for continued stability and desired growth. The foregoing notwithstanding, it is nevertheless acknowledged and a specific finding of the Town Board that certain proposed sites may be situate, relative to nearby relatively or more significantly important properties and areas, such as public parks, recreational and/or nature preserves, scenic trails, roads, drives, bicycling and pedestrian ways, hillside and elevated areas, residentially developed and community centered areas (hamlets) and numerous and various other culturally, historically, environmentally and similarly significant and sensitive locations that no measures taken in connection with development can adequately buffer and screen from the view of/from not only adjacent, contiguous and nearby parcels, but also from/to any lands or parcels within or outside the Town having or potentially having visibility to/from any wind energy system components, lands, and/or the like. Therefore, all wind energy systems' infrastructure shall be situate and located in such a manner as to minimize

adverse impacts to surrounding properties. Infrastructure for on-site-use wind energy conversion systems shall not be installed in any location that would substantially detract from or block the view of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of Tully or that extends beyond the border of the Town of Tully. For purposes of this subsection, consideration shall be given to any relevant portions of the current and/or future officially recognized Town planning document or resource. Wind energy systems shall be enclosed by a security fence at a minimum height of eight feet and not exceeding 10 feet in height and having a lockbox with a key or code in order to permit access by emergency responders.

(d) Noise limitations. The level of noise produced during wind turbine operation shall not exceed 50 dBa beyond the present ambient sound levels at preconstruction levels, as measured at the boundaries of the closest parcels that are owned by nonsite owners and that abut either the site parcels or any other parcels adjacent to the site held in common by the owner of the site parcel, as those boundaries exist at the time of the special authorization application. The applicant will be required to submit technical data to the satisfaction of the Joint Planning Board as to this requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms.

(e) Height. It is recognized that wind turbines require greater heights to reach elevations with wind currents reasonably adequate to generate energy. On-site-use wind energy conversion systems shall not exceed a total height of 100 feet for single-family residential applications (less than or equal to 25 kW) and shall not exceed a total height of 150 feet for nonresidential applications [i.e., farm, small business, etc. (less than or equal to 125 kW)] from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical point, provided that the application includes specific evidence that the proposed total height does not exceed the height recommended by the manufacturer or distributor of the on-site-use wind energy conversion system.

(f) FAA requirements. If the proposed site is near an airport, seaplane base, or established flight zone, such wind energy conversion system must meet all Federal Aviation Administration requirements.

(g) Ground clearance. The minimum distance between the ground and any part of the rotor blade must be 30 feet.

(h) Emergency shutdown/safety. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any wind turbine need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. The location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.

(i) Lightning protection. All energy towers shall have lightning protection.

(j) Ownership. Ownership of the wind energy conversion system must be the same as the owner of the fee interest in the real property upon which it is

situated. In the event of transfer of ownership of the premises, the ownership of the wind energy conversion system must also be transferred to same or the tower must be decommissioned.

(k) Utility service. All power lines from the wind turbines to on-site interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable national, state and local electrical codes.

(l) Lighting. No on-site-use wind energy conversion systems under this provision shall be artificially lighted, unless so required by the FAA. Use of nighttime and overcast daytime conditions stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration may be subject to on-site field testing before the Joint Planning Board as a prerequisite to the Board's approval, with specific respect to existing residential uses within 2,000 feet of each tower for which such strobe lighting is proposed.

(m) Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the wind energy conversion system (WECS), they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding Fire Department and emergency care provider as to the acceptability of the proposed ingress to and egress from the tower.

(n) Security/anticlimb device. The design of each device shall not allow for climbing by the public for a minimum height of 15 feet from the ground.

(o) Decommissioning. The applicant shall submit to the Town Board, with copy to the Joint Planning Board, a letter of intent committing the owner, and his or her successors in interest, to notify the Building Inspector within 30 days of the discontinuance of the use of the on-site-use wind energy conversion system. This letter of intent shall be filed with the Building Inspector prior to the issuance of a building permit. The owner shall remove the obsolete or unused wind turbines and accessory structures within one year of such notification. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this section, and the cost of removing the on-site-use wind-energy-deriving tower and accessory structures shall be placed as a lien on the property owner's tax bill. In addition, a reclamation bond shall be filed with the Town Clerk to cover the costs of reclamation of the tower. Should the wind energy conversion system be nonoperational for any continuous six-month period, the approvals granted shall be deemed void, and the wind energy conversion system shall be decommissioned, subject to a new approval under this section. Such bond shall be in place prior to the issuance of a building permit.

(p) Setbacks. Wind energy conversion systems shall comply with all setbacks within the affected zone. However, in addition, all on-site use wind energy conversion systems shall be set back a distance equal to the height of the tower plus the blade length plus an additional 25 feet from all property lines, public roads, power lines and preexisting and future structures. Additional setbacks may be required by the Joint Planning Board in order to provide for the public's safety, health and welfare, including the possibility of ice thrown from the blades.

(2) Public hearing. No action shall be taken by the Joint Planning Board to issue a special authorization or by the Zoning Board of Appeals to grant a variance in relation to an application for an on-site-use wind energy system until after public notice and a public hearing. Proper notice of a hearing before the Planning Board shall be given by legal notice published in the official newspaper of the Town of Tully at least five days before the date set for such public hearing(s) and by written notice mailed to the applicant or his agent at the address given in the application to be considered. The applicant shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address if that is the address listed thereon. At least five days prior to such hearing, the applicant shall file with the board his/her affidavit verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect. Proceedings before the Zoning Board of Appeals shall be as required for variance applications under the Town Law and, if applicable, any Town Code provisions. The notice to nearby property owners required for a variance shall be the responsibility of the applicant.

(3) Waiver. The Joint Planning Board may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein and certain substantive requirements pursuant to § 280-11.2 Small-scale wind energy systems for on-site use. hereof. Relief from other height, location, area or dimensional requirements must be made by grant of an area or use variance from the Zoning Board of Appeals.

D. Submission requirements.

(1) The following submission requirements must be observed regarding a special authorization application. The reviewing board may require any of the submission requirements under Chapter 280 governing site plan applications to be submitted as part of the application:

(a) A completed application form as supplied by the Town of Tully for special authorization approval for a small wind energy conversion system.

(b) Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application.

(c) A plot plan and development plan drawn in sufficient detail, as prepared by a licensed engineer or surveyor, clearly describing:

[1] Property lines and physical dimensions of the proposed site, including contours at five-foot intervals.

[2] Location, approximate dimensions and types of all existing structures and uses on the site.

[3] Location and elevation of the proposed on-site-use wind energy conversion system.

[4] Location of all existing aboveground utility lines and other on-site-use wind energy conversion systems within 1,200 linear feet of the site.

[5] Location and size of structures or trees above 35 feet within a five-hundred-foot radius of the proposed on-site-use wind energy conversion system.

[6] Where applicable, the location of all transmission facilities proposed for installation.

[7] Location of all roads and other service structures proposed as part of the installation.

[8] Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material.

[9] Soil type at construction site.

(d) Yard placement. All wind energy systems shall be located and placed in rear yards and upon yards in an appropriate manner to accomplish the goals and criteria as hereinafter provided.

(e) Color. Neutral paint colors (grays) may be required to achieve visual harmony with the surrounding area.

(f) Applications shall demonstrate that there will be no adverse impact on migratory bird patterns.

(g) In no event shall more than one on-site-use wind energy system be granted for a residential lot, unless a use variance is obtained from the Zoning Board of Appeals.

(h) All applications shall be accompanied by a full environmental assessment form, including a visual impact analysis. The following additional material may be required by the Planning Board:

[1] A digital-elevation-model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scaled use shall depict a three-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.

[2] No fewer than eight and as many as 16 color photos taken from locations within a three-mile radius from the proposed location, as selected by the Planning Board and computer-enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.

(2) Review criteria. In addition to the above, no special authorization shall be approved unless the Planning Board determines that the proposed on-site-use wind energy system complies with the following:

(a) The use is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:

[1] The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;

[2] There is reasonable compatibility in all respects with any structure or use in the neighborhood, actual or permitted, which may be directly substantially affected;

[3] There should not be any unreasonable detriment to any structure or use, actual or permitted, in the neighborhood; and

[4] There is a reasonable provision for open space, yards and recreation areas appropriate to the structure and use.

E. Compliance with Uniform Building Code.

(1) Building permit applications shall be accompanied by standard drawings of structural components of the on-site-use wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary calculations shall be

certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.

(2) Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State registered professional engineer for compliance with the seismic and structural design provisions of the New York State Fire Prevention and Building Code.

F. Compliance with state, local and national electric codes.

(1) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

(2) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electric Code and good engineering practices.

G. Guy wires. Anchor points for guy wires for the on-site-use wind energy conversion system tower shall be located within property lines and not on or across any aboveground electric transmission distribution lines.

H. Insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the on-site-use wind energy conversion system at all times. Said policy shall provide a minimum of $300,000 property and personal liability coverage and shall provide for written notice to the Town of Tully of not less than 20 days in advance of any expiration, cancellation or material modification of such coverages.

I. Inspections. The Building Inspector and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a wind energy conversion system is being or is constructed, to inspect all parts of said wind energy conversion system installation and require that repairs or alterations be made if, in his judgment, there exists a deficiency in the operation or the structural stability of the system. If necessary, the Building Inspector or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

J. Districts where allowed. Subject to the issuance of a special authorization as required hereunder, wind energy conversion systems permitted hereunder are allowed in all zoning districts in the Town.

K. Power to impose conditions. In granting any special authorization or variance for an on-site-use wind energy conversion system, the Joint Planning Board or Zoning Board of Appeals, as the case may be, may impose reasonable conditions to the extent such Board finds that certain conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties or the surrounding community.

L. Fees. Fees for applications and permits under this section are as established by resolution of the Town Board of the Town of Tully from time to time as part of its Fee Schedule. All applications shall be subject to the requirements of the Town of Tully Code, professional fees reimbursement

and similar provisions under the Town Zoning or Subdivision Code provisions requiring the payment and/or reimbursement of the Town's professional fees incurred in connection with the application or any violation or enforcement actions, including, specifically, the requirement of execution of a professional fees reimbursement agreement and deposits, as necessary, of escrows for same.

M. Waiver. The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein and, as well, in connection with review and issuance of a special authorization for wind energy systems, the Planning Board shall have the authority to waive the strict application of any of the area, height, location or dimensional requirements under Chapter 280 or this § 280-11.2 Small-scale wind energy systems for on-site use.. Such waiver(s) may be granted only after consideration of the following:
    (1) Whether the granting of such waiver(s) will result in an undesirable change in neighborhood or community, local area character or to adjacent, contiguous, nearby and/or other area properties the project site is or will be within the viewshed of.
    (2) Whether the granting of any such waiver(s) will result in any adverse physical or environmental effects.
    (3) Whether there are any feasible alternatives to the granting of the requested waiver(s) in order for the applicant to realize the same or substantially similar benefit(s).
    (4) Whether the requested waiver(s) is/are substantial in nature, i.e., if such request is the minimal necessary to achieve the desired benefit.
    (5) Whether there are any conditions that can or should be imposed in connection with the grant of a waiver(s) to minimize or nullify any adverse impacts or effects.
    (6) In connection with consideration of a waiver, and as part of any special authorization issued, the Planning Board may impose such conditions as it deems reasonable and/or necessary to address the foregoing.
    (7) Application of the foregoing criteria shall be limited to consideration of the waiver requested as compared to the requirements set forth under § 280-11.2 Small-scale wind energy systems for on-site use.C and D(2). The criteria may be considered singularly and/or collectively and subjectively, such that failure to satisfy or otherwise favorably address any specific criterion or number of criteria shall not necessarily warrant denial or approval of a requested waiver; and
    (8) The Planning Board shall make specific findings within the resolution authorizing or denying a waiver(s), addressing each of the foregoing criteria.
    (9) The denial or grant of a waiver shall not prohibit the appeal from such Planning Board grant or denial to the Town Zoning Board of Appeals; provided, however, any grant of relief from the Zoning Board of Appeals shall be subject to § 280-11.2 Small-scale wind energy systems for on-site use.N following. Alternatively, the applicant or Planning Board may request a stay of proceedings at any time in order to seek such appeal based upon an informal advisement from the Planning Board to the applicant on the issue of a proposed waiver or need for assistance in this regard. In such event, the applicant shall execute and deliver to the Planning Board a request for such referral, stay and waiver of any claim from delay in proceedings resulting therefrom.

N. Zoning Board of Appeals variance review. Any decision by the Zoning Board of Appeals to grant a variance shall not in any other way be deemed to affect the applicability of any provision of the Zoning Code, Planning Board authorization and approval issued hereunder, or any other Town Code provision applicable to the applicant's plan or project. If the application or provisions of any variance significantly changes the plan or application submitted to the Planning Board and upon which the special authorization and approval was granted, the same shall be deemed

inoperative until reviewed by the Planning Board to determine what, if any, changes to the previously approved authorization and/or site plan may be required as a result of the variance grant. This provision shall not be operative if the applicant has sought review by the Zoning Board of Appeals prior to any Planning Board approvals.

O. SEQRA determination. All applications for small wind energy systems in excess of 100 feet in height, as described at § 280-11.2 Small-scale wind energy systems for on-site use., shall be a Type 1 action pursuant to the State Environmental Quality Review Act. A long SEQRA EAF form with a visual impacts addendum shall be submitted with an application.

§ 280-11.3 Solar energy systems.

[Added 2-27-2020 by L.L. No. 1-2020[1]]

A. Authority. This solar energy section is adopted pursuant to §261 through 263 of the Town Law and §20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community and, in accordance with the Town Law of New York State, to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.

B. Statement of purpose. This solar energy section is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar-energy-generating systems and equipment, with the following objectives:
   (1) To take advantage of a safe, abundant, renewable and nonpolluting energy resource;
   (2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
   (3) To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of solar energy systems;
   (4) To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
   (5) To maintain the rural character of the Town of Tully and to integrate solar energy usage in the Town in such a way as to minimize the visual impact on the community.

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

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of solar panels and solar energy equipment integrated into any building envelope system, such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for on-site consumption.

FARMLAND OF STATEWIDE IMPORTANCE

Land, designated as "farmland of statewide importance" in the U.S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops as determined by the appropriate state agency or agencies. Farmland of statewide importance may include tracts of land that have been designated for agriculture by state law.

GLARE

The effect by reflections of light with intensity sufficient, as determined in a commercially reasonable manner, to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for on-site or off-site consumption.

NATIVE PERENNIAL VEGETATION

Native wildflowers and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

POLLINATOR

Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

PRIME FARMLAND

Land, designated as "prime farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oil seed crops and is also available for these land uses.

QUALIFIED SOLAR INSTALLER

A person who has the skills and knowledge related to the construction and operation of solar energy systems. Persons who are on the list of eligible photovoltaic installers maintained by NYSERDA, or who are certified by NABCEP, shall be deemed to be qualified. Persons who are not on either of these lists may be deemed qualified if the Town Code Officer determines that they have adequate training and experience to perform the installation safely.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system located on the roof of any legally permitted building or structure that produces electricity for on-site or off-site consumption.

SOLAR ACCESS

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

SOLAR ENERGY EQUIPMENT

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

SOLAR ENERGY SYSTEM

The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment. A solar energy system is classified as a Tier 1, Tier 2, or Tier 3 solar energy system as follows:

(1) Tier 1 solar energy systems include the following:

(a) Roof-mounted solar energy systems.
(b) Building-integrated solar energy systems.
(c) Permits for all Tier 1 solar energy systems are issued by the Town Code Officer.

(2) Tier 2 solar energy systems are ground-mounted solar energy systems that are affixed to the ground either directly or by mounting devices and are not attached or affixed to a building or structure. All applications for Tier 2 solar energy systems are reviewed and approved or denied by the Town Planning Board.

(3) Tier 3 solar energy systems are systems that are not included in the list for Tier 1 and Tier 2 solar energy systems. All applications for Tier 3 solar energy systems are approved or denied by the Town Board after review of the application, including the site plan application, by the Planning Board and after the Planning Board has filed an advisory report to the Town Board. This report must be filed with the Town Board within 45 days of the completed application being filed with the Town or such additional time as may be deemed appropriate by the Town Board.

SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY

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

D. Applicability.

(1) The requirements of this section shall apply to all solar energy systems permitted, installed, or modified in the Town after the effective date of this section, excluding general maintenance and repair.

(2) Solar energy systems constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.

(3) Modifications to an existing solar energy system that increase the solar energy system area by more than 5% of the original area of the solar energy system (exclusive of moving any fencing) shall be subject to this section.

(4) All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code ("Building Code"), the New York State Energy Conservation Code ("Energy Code"), and the Town Code.

E. General requirements.

(1) A building permit shall be required for installation of all solar energy systems and, installation must be performed by a qualified solar installer as approved by the Town Codes Officer.

(2) Solar energy systems, unless a part of a Tier 3 solar energy system, shall be permitted to provide for power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net metering arrangement in accordance with the New York Public Service Law or similar state or federal statute. However, solar energy systems applications in a residential setting and serving residential use on a single parcel or lot shall be limited to 25 kW and 110% of energy consumed on the site in the prior 12 months. Solar energy system applications serving a commercial or industrial use shall be limited to no more than 110% of the energy consumed on the site in the prior 12 months.

(3) Issuance of permits and approvals by the Town Board and Codes Officer shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").
(4) Prior to operation, electrical connections must be inspected by an appropriate licensed electrical inspection person or agency, as determined by the Town. An electrical inspector must supply written verification that all electrical connections pass inspection.
(5) Connection to the public utility grid must be inspected by the appropriate public utility, and proof of inspection shall be provided to the Town.
(6) Solar energy systems shall be permitted only if they are determined by the Town not to present any unreasonable safety risk, including but not limited to weight load, resistance and ingress and egress in the event of fire or other emergency.
(7) Also energy systems shall comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards.
(8) If storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure under the requirements of the New York State Uniform Fire Prevention and Building Code when in use, and when no longer in use shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
(9) All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobstructive conduit. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof and reduce statically objectionable impacts.
(10) If solar energy systems, except for Tier 3 systems which have separate regulations under this section, cease to perform their originally intended function for more than 12 consecutive months, the property owner shall completely remove the system, mounts and all associated equipment and components by no later than 90 days after written notice from the Town. The zoning enforcement officer shall have the right, at any reasonable time after notice, to enter in company of the owner or his agent to ensure that the solar energy system remains operational.
(11) Design, construction, operation and maintenance of the solar energy system shall prevent direction, misdirection and/or reflection of solar arrays and/or glare onto neighboring properties, public roads, public parks and public buildings.
(12) Prior to the time of the issuance of a solar building permit, the applicant/owner shall demonstrate to the code enforcement officer a reliable and safe master method for the deenergizing of the solar energy system in the event of an emergency.

F. Permitting requirements for Tier 1 solar energy systems. All Tier 1 solar energy systems shall be permitted in all zoning districts and shall be exempt from site plan review under this section, subject to the following conditions for this type of solar energy system:
(1) Roof-mounted solar energy systems.
(a) Roof-mounted solar energy systems shall incorporate the following design requirements:
[1] Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
[2] Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
[3] Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

[4] Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

[5] Solar energy systems, to the extent possible, shall have neutral paint colors to achieve harmony with the surrounding area.

(b) Glare: All solar panels shall have anti-reflective coating(s).

(2) Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.

G. Permitting requirements for Tier 2 solar energy systems.

(1) Districts where allowed. Tier 2 solar energy systems are permitted in all districts.

(a) A solar/building permit and special use permit from the Planning Board shall be required for the installation of all ground-mounted solar energy systems.

(b) Front yards.

[1] Ground-mounted solar energy systems are prohibited in front yards. In addition, ground-mounted solar energy systems shall comply with the most restrictive area, yard and total area/lot coverage restrictions based on the specific zoning regulation in each applicable zoning district in which the ground-mounted solar system is constructed. Further, additional setbacks and yard requirements in total area/lot coverage restrictions may be required by the Planning Board in order to protect the public safety, health and welfare.

[2] A front yard, for the purposes of this section, is defined as a line drawn parallel to the highway drawn on a point from the corner of the residence or principal structure on the structure closest to the highway.

(c) Ground-mounted solar energy systems shall only be permitted on lots which are 20,000 square feet or larger.

(d) The height of solar collector/panels in any amounts shall not exceed 10 feet in height in R-1, R-2 and R-3 Districts and 15 feet in A-1, A-2, B-1, Industrial and Commercial Districts when orientated at the maximum tilt measured from the ground, including any base.

(e) As a part of the special use permit review process, the Planning Board will determine that a ground-mounted solar energy system shall be screened to the extent possible from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screen which will harmonize with the character of the property and the surrounding area.

(f) The ground-mounted solar energy system shall be located in a manner to minimize view blockage reasonably for surrounding properties and shading of property while still providing adequate solar access for the solar energy system.

(g) Neither the ground-mounted solar energy system nor any component thereof shall be cited within any required buffer area, easement, right-of-way or setback.

(h) No special use permit shall be issued by the Planning Board unless they determine that the proposed activity will:

[1] Be consistent with and not impede an appropriate goal or objective of the Town Comprehensive Plan.

[2] Be consistent with and not impede the lawful use and development of contiguous and neighboring properties and not unreasonably affect their enjoyment and value.

H. Permitting requirements for Tier 3 solar energy systems. All Tier 3 solar energy systems are permitted through the issuance of a special use permit within all zoning districts; however, and in R-1, R-2, and R-3 Districts, the minimum lot size for any Tier 3 solar energy system shall be 100 acres, and all systems are subject to the site plan application requirements set forth in this section. In the granting of a special use permit, the Town Board will strive to permit the location of Tier 3 solar energy systems in such a manner so that no one area or neighborhood in the Town would be over-burdened by the placement of Tier 3 solar energy systems.

(1) Applications for the installation of Tier 3 solar energy system shall be:

(a) Reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within 15 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

(b) Subject to a public hearing to hear all comments for and against the application. The Town Board shall have a notice printed in a newspaper of general circulation in the Town at least 10 days in advance of such hearing. Applicants shall have delivered the notice by first-class mail to adjoining landowners or landowners within 400 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.

(c) Referred to the County Planning Department pursuant to General Municipal Law § 239-m and the Town Planning Board for site plan review and advisory report.

(d) Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The sixty-two-day period may be extended upon consent by both the Town Board and applicant.

(2) Underground requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles with new easements and right-of-way.

(3) Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

(4) Signage.

(a) No signage or graphic content shall be displayed on the solar energy systems except the manufacturer's name, equipment specification information, safety information, and twenty-four-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.

(b) As required by the National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(5) Glare. All solar panels shall have anti-reflective coating(s).

(6) Lighting. Lighting of the solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

(7) Tree-cutting. Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.

(8) Decommissioning.

(a) Solar energy systems that have been abandoned for one year and/or are not producing electricity for a period of one year at least 50% of its intended usage, shall be removed at the owner's and/or operator's expense which, at the owner's option, may come in part or whole from any security made with the Town.

(b) A decommissioning plan signed by the owner and/or operator of the solar energy system shall be submitted by the applicant, addressing the following:
    [1] The cost of removing the solar energy system.
    [2] The time required to decommission and remove the solar energy system from any ancillary structures.
    [3] The time required to repair any damage caused to the property by the installation and removal of the solar energy system.
    [4] The Town at its option may obtain its own decommissioning plan, the cost of which shall be paid for by the applicant.

(c) Security, assessment of expenses and insurance.
    [1] The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good-faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 solar energy system and restoration of the property with an escalator of 2% annually for the life of the solar energy system.
    [2] In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. The Town may also bring legal action against the applicant for any unrecovered losses.
    [3] In the event of default or abandonment of the solar energy system, the system shall be decommissioned as set forth in Subsection N(2) and (3) herein.
    [4] Any expenses or losses incurred by the Town and not reimbursed by any security in connection with the cost of removal of abandoned equipment or other related items and legal fees and expenses shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy on the real property on which the solar energy system is located. This assessment shall be assessed on the next assessment against said property, and the same shall be levied and collected in the same manner as the regular Town tax.
    [5] Insurance. The applicant and/or owner shall maintain a current insurance policy which will cover the installation and operation of the Tier 3 project at all times in the minimum amount of $5,000 property and personal liability coverage and provide proof of such policy to the Town on an annual basis.

I. Site plan application. For any solar energy system requiring a special use permit, site plan approval shall be required. Any site plan application shall include the following information:

(1) Property lines and physical features, including roads, and all improvements for the project site as shown on a current survey prepared and signed by a licensed surveyor.

(2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

(3) A one- or three-line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and over-current devices.

(4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.

(5) Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the solar energy system. Such information of the final system installer shall be submitted prior to the issuance of a building permit.

(6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the solar energy system.

(7) Zoning district designation for the parcel(s) of land comprising the project site.

(8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

(9) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

(10) Prior to the issuance of the building permit or final approval by the Town Board, engineering documents must be signed and sealed by a New York State (NYS) licensed professional engineer or NYS registered architect.

(11) The Planning Board shall complete site plan review within 45 days from the receipt of all relevant and required documents from the applicant and, for Tier 3 applications, forward its report with any recommendations to the Town Board unless the time is extended by the Town Board.

(12) Special and additional requirements for all Tier 3 applications:

(a) Plans and drawings of the proposed Tier 3 installation signed, marked and/or stamped by a professional engineer or architect registered in New York State showing the proposed layout of the entire solar farm along with a description of all components whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Town Board and shall not commence until the issuance of site plan approval. The plans and development plan shall be drawn in sufficient detail and shall further describe:

[1] Property lines and physical dimensions of the proposed site, including contours at five-foot intervals.

[2] Location, approximate dimensions and types of all existing structure(s) and uses on the site.

[3] Location and elevation of the proposed Tier 3 installation.

[4] Location of all existing aboveground utility lines showing the connection of the system to the utility line within 1,200 linear feet of the site.

[5] Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a Tier 3 project shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Town Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.

[6] Location of all service structures proposed as part of the installation and primary equipment sheds.

[7] Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access. Removal of existing trees larger than six inches in diameter shall be minimized to the greatest extent possible.

[8] A berm, landscape screen, or any other combination acceptable to the Town capable of screening the site, shall be provided along any property line as may be required by the Planning Board during review.

[9] Soil type(s) at the proposed site.

[10] Photographic simulations shall be included showing the proposed solar farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed solar energy systems, solar collectors, solar panels and all other components comprising the Tier 3 project.

[11] Prior to the issuance of a solar/building permit, certification from a professional engineer or architect registered in New York State indicating that the building or structure to which a solar panel or solar energy system is affixed is capable of handling the loading requirements of the solar panel or solar energy system and various components.

[12] Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.

[13] A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (SWPPP) for the site.

[14] Documentation of utility notification, including an electric service order number.

[a] The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.

[15] Solar energy systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather resistant. The marking shall be placed adjacent to the main

service-disconnect location clearly visible from the location where the lever is operated.

[16] The height of the solar panel array shall conform to the height restrictions for an accessory structure in the applicable zoning district, but in no case shall exceed 15 feet measured from the ground, and including any base or supporting materials. Neutral paint colors, materials and textures may be required for Tier 3 project components, buildings and structures to achieve visual harmony with the surrounding area.

[17] The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays and/or glare onto neighboring properties, public roads, public parks and public buildings.

[18] Artificial lighting of solar arms shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads.

[19] Noise. To the extent possible, all equipment that produces noise shall be placed in the center of the solar array. Further, and at the property line of any solar energy system, the noise level shall not exceed 60 dB.

J. Special use permit.

(1) Lot size.

(a) The property on which a Tier 3 solar energy system is placed shall meet the lot size requirements of the underlying zoning district except that in R-1, R-2 and R-3 Districts, a minimum of 100 acres is required.

(b) Tier 2 solar energy systems are only permitted on lots which are 20,000 square feet or larger.

(2) Setbacks.

(a) All Tier 3 solar energy systems shall be set back at least 100 feet from all property lines unless the solar energy system crosses multiple lots, then 100 feet from the exterior perimeter of the combined lots.

(b) Tier 2 setbacks are as permitted in the Code except as modified by Subsection G(1)(b)[1] of this section.

(3) Height.

(a) The height of all Tier 3 systems shall not exceed 15 feet.

(b) See Subsection G(1)(d) of this section, for Tier 2 solar energy projects.

(4) Lot coverage.

(a) The following components of a Tier 3 solar energy system shall be considered included in the calculations for lot coverage requirements:

[1] Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

[2] All mechanical equipment of the solar energy system, including any pad-mounted structure for batteries, switchboard, transformers, or storage cells.

[3] Paved access roads servicing the solar energy system.

[4] All area within the fenced-in perimeter.

(b) Lot coverage of Tier 3 solar energy system, as defined above, shall not exceed 75% of the lot.

(c) Lot coverage for Tier 2 solar energy systems shall not exceed the maximum lot coverage requirement of the underlying zoning district except as modified by Subsection G(1)(b)[1] of this section.

(5) Fencing requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a seven-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

(6) Screening and visibility.

(a) Solar energy systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

(b) Solar energy systems larger than 10 acres shall be required to:

[1] Conduct a visual assessment of the visual impacts of the solar energy system on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including, for example, a digital viewshed report, may be required to be submitted by the applicant.

[2] Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of solar panels and solar energy equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

[a] The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town.

K. Agricultural resources. For projects located on agricultural lands:

(1) The Town Board on any Tier 3 solar energy system located on the areas that consist of prime farmland or farmland of statewide importance shall give special consideration to the removal of such farmland in granting a special use permit under this section.

(2) To the maximum extent practicable, Tier 3 solar energy systems located on prime farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

(3) Tier 3 solar energy system owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

L. Ownership changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the solar energy system shall notify the Town of such change in ownership or operator within 10 days of the

ownership change by certified mail to both the Town Clerk and Town Supervisor and addressed to the Tully Town Hall.

M. Safety.
    (1) Solar energy systems and solar energy equipment shall be certified under the applicable electrical and/or building codes as required.
    (2) Solar energy systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 solar energy system is located in an ambulance district, the local ambulance corps.
    (3) If storage batteries are included as part of the solar energy system, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

N. Permit time frame and abandonment.
    (1) The special use permit and site plan approval for a solar energy system shall be valid for a period of 18 months after issue. In the event construction is not completed in accordance with the final site plan and special permit, as may have been amended and approved, as required by the Town Board within 18 months after approval, the Town may extend the time to complete construction for 90 days and will take into consideration any extensions required as a result of NYSERDA requirements.
    (2) Upon cessation of electricity generation of a solar energy system on a continuous basis for 12 months and/or the reduction of proposed usage in the amount of 50% for 12 months, the Town may notify and instruct the owner and/or operator of the solar energy system to implement the decommissioning plan. Decommissioning must be completed within 200 days of notification.
    (3) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the solar energy system and restoration of the site in accordance with the decommissioning plan.

O. Enforcement. Any violation of this solar energy law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

P. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Q. Waiver. The Town Board may, under appropriate conditions or circumstances, and in its absolute discretion, waive one or more of the submission requirements contained herein.

R. Fees. Fees for application are those as established by the Town of Tully, and it shall be the responsibility of the applicant to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application for a solar energy system under this section.

[1] Editor's Note: Local Law No. 1-2022, adopted 4-13-2022, provided for the ongoing intent of the Town to require contracts for payments in lieu of taxes for solar energy systems. See also Ch. 252, Taxation, Art. IX, Solar Energy System PILOT.

§ 280-11.4 Tier 3 Solar Energy Systems Overlay District.

[Added 3-8-2023 by L.L. No. 2-2023]

No special use permit for a Tier 3 solar energy system shall be issued unless a Solar Energy System Overlay Zoning District has been established by the Town Board for the subject premises pursuant to this section.

A. Applicability. The Tier 3 Solar Energy Systems Overlay Zone District law shall apply to a property in conjunction with and in addition to the uses and dimensional controls of the underlying zoning district. Zoning regulations applicable to Tier 3 Solar Energy Systems Overlay Zone Districts, as defined in this Code, shall supersede the requirements of the underlying zoning if they are in conflict.

B. Establishment of Tier 3 Solar Energy Systems Overlay District. The Town Board, on recommendation of the Town Planning Board, or at the request of a property owner or on the Board's own initiative, may expand or establish a Tier 3 Solar Energy Systems Overlay Zone District on any property in the Town as set forth in the Code.

C. Planning Board review; proposals.
   (1) In addition to the procedural requirements applicable to a zone change mandated by the Tully Town Code and/or New York State law, including public hearings and required notices, the Town Board shall provide at least 30 days for the Town Planning Board to review and comment on any new district or expanded boundary modification.
   (2) All proposals shall include the following:
      (a) Concept site plan. Prior to the submission of any application for rezoning in the creation of a solar systems overlay district by the town Board, the applicant shall submit a concept site plan, as described below, to the Town Planning Board for its review and recommendation on the zoning and/or creation of a Tier 3 Solar Energy Systems Overlay District.
         [1] The concept site plan. For the purposes of this section, a concept site plan is a map, drawn to scale, prepared by a licensed engineer or architect, which graphically depicts the proposed improvements to the property, including topographical features, system footprints, travel ways, access locations, drainage facilities, lighting, landscaping, buffering, fences, and\signs. Said concept plans will also depict existing improvements and contain all information required by the Town of Tully site plan regulations and shall be in accordance with the design and construction standards of the Town of Tully.
      (b) Map of surrounding land uses and structures within 1,000 feet of the site.
      (c) Narrative discussion of how the site relates to the scenic quality of the area and the impacts, if any, upon the landscape, proposed mitigating measures and the availability of alternate sites.
      (d) Proof of ownership of the land proposed for the overlay districts.
      (e) A completed long-form environmental assessment form (EAF).
      (f) Present land use and proposed future land use. Present land use of lots abutting the proposed overlay district site within 500 feet.

(g) The report of the Planning Board resulting from the aforesaid concept site plan review.
(h) Current zoning of site.

(3) The Town Board may designate an applicant or agency to provide the necessary information and may require that additional information be provided in order to render a decision at the expense of the applicant.

D. Permitted structures and uses.
(1) Tier 3 solar energy systems, as defined in the Code, and support facilities regularly and customarily used to operate solar energy systems shall be permitted only within the Solar Energy System Overly Zone upon the issuance of a special use permit pursuant to the Code.
(2) Structures shall be subject to the applicable controls restrictions of the underlying zoning.

E. Locational guidelines for Tier 3 Solar Energy System Overlay Zone Districts. In considering a zone change, the Town Board shall, to the extent practicable, and in its own discretion, seek to:
(1) Preserve prime farmland. The preservation of prime farm lands of imperative importance.
(2) Prevent saturation of solar energy systems in any one area of the Town.
(a) Avoid saturation. No Tier 3 Solar Energy System Overlay Zone District shall be approved if it is within one mile of an already approved Tier 3 solar energy system unless the Town Board makes specific findings that it will not have a significant effect on the community character and/or prime farm land of the area. There is a presumption that siting a Tier 3 solar energy system within one mile of an existing Tier 3 solar energy system will have a significant effect on community character and/or prime farm land, and the burden is on the applicant to prove otherwise.
(3) Avoid sites that substantially contribute to and are important to the scenic quality of the landscape.
(4) Assess the availability and feasible use of alternate sites.
(5) Avoid locating any Tier 3 solar energy systems in close proximity to the various lakes and other water bodies in the Town of Tully.

F. If an application for a Solar Energy System Overly District is approved, the applicant shall then proceed with an application under the Code or a Tier 3 solar energy system permit.

§ 280-12 Nonconforming uses and exceptions.

A. Existing special authorization.
(1) Any land use existing on the effective date of this chapter which has previously been duly authorized by a variance, special authorization or other similar permit, may be continued in compliance with the terms and conditions of the original authorization.
(2) If the terms of this chapter, as amended, are more restrictive, any subsequent modification, enlargement or change of the land use shall be subject to the provisions of this chapter as if it were a new use.

B. Nonconforming use or structure.

(1) Any structure or land use that is lawfully existing on the effective date of this chapter, as it may be amended, and that does not conform to the regulations of this chapter, is a nonconforming use and may be continued.
(2) The right to continue a nonconforming use shall cease if it has been inactive for a period of one-year after notification thereof by the Zoning Administrator.
(3) A nonconforming use may not be altered, repaired, modified, replaced, relocated or converted unless on the same lot in a way that does not change the use or increase the degree of nonconformity, except upon special authorization by the Board of Appeals.

C. Nonconforming lot. Any lot existing on the effective date of this chapter, as amended, that has an area or width less than that specified in Schedule II[1] hereof, may be used for any purpose permitted in the district but there shall be compliance with all other regulations (use, yards, height, etc.) prescribed for the district. (See § 280-9 Supplementary regulations. Subsection L for regulations about undersized lots in the R-3 District, and Section § 280-11 Uses requiring special authorization. [1] Subsection C for regulations about undersized lots in the R-2 District.) Notwithstanding the above, if the owner of such undersized lot also owns adjacent land that could be used to bring the undersized lot into compliance, this should be done when feasible.
[1] Editor's Note: Schedule II is included at the end of this chapter.

D. Existing violations. Any land use existing on the effective date of this chapter, as it may be subsequently amended, that was in violation of any prior regulations or of any special authorization, shall become lawful only to the extent that the activity complies with this chapter.

E. Development under existing permit. Development of any land use for which all necessary permits have been issued prior to the effective date of this chapter, as amended, may be completed despite the fact that the development would result in a nonconforming use. However, such permits shall expire one year from the date of issuance unless any construction involved has been substantially completed.

§ 280-13 Administration and enforcement.

A. Zoning Administrator. This chapter shall be enforced by the Zoning Administrator of the Town of Tully who shall be appointed by, and serve at the pleasure of the Town Board. One or more persons may perform part or all of the Zoning Administrator's duties. The Zoning Administrator shall have the following duties and responsibilities:
(1) To review all applications for zoning permits, approving those that comply with all provisions and requirements of this chapter and disapproving those that do not comply with a written statement of the reasons for disapproval.
(2) To inspect, upon completion, all construction or site preparation required for a land use activity; to endorse on zoning permits that the construction or site preparation complies with this chapter and if there has not been compliance, to deny endorsement with a statement in writing of the reason for denial.
(3) To investigate complaints and make inspections, to serve written notice of any apparent violations, fixing a reasonable time for the elimination of the violation, and to take any further action that may be required to terminate the violation.
(4) To maintain complete records of all zoning permits, issued or denied, and endorsements of them, of all apparent violations and the action taken with respect to them, to submit

monthly reports of these matters to the Town Board and the Chairpersons of the Planning Board and Board of Appeals.

(5) No zoning permit shall be issued unless a written application for such permit has been filed. The Zoning Administrator shall prepare the form of application which shall provide the information, including plans and surveys, needed to determine compliance of the proposed land use activity with this chapter.

(6) Upon completion of any building for which a building permit is required, and prior to occupancy thereof, the Zoning Administrator shall inspect the building for compliance with the chapter and other applicable laws and regulations. If, in the best judgment of the Administrator, the building meets all applicable regulations and specifications, a certificate of occupancy shall be issued and the building occupied. If it is determined that the building or land use is in violation of the chapter, the certificate of occupancy shall not be issued.

§ 280-14 Board of appeals.

A. Organization. The Board of Appeals shall consist of five members, all residents of the Town of Tully, to be appointed by the Town Board for staggered terms of five years. One member shall be designated by the Town Board to serve as Chairperson. If a vacancy shall occur, the Town Board shall appoint a successor who shall serve for the unexpired portion of the term of his predecessor.

B. Duties and powers. The Board of Appeals shall have the duties and powers conferred upon it by Town Law § 267, and this chapter, including the duties and powers:

(1) To hear and decide appeals from, and review any order, requirement, decision or determination made by the Zoning Administrator and to reverse, affirm or modify the order, requirement, decision or determination so that it will conform to the provisions of this chapter.

(2) To vary or modify the application of any of the regulations or provisions of this chapter if there is an express finding, pursuant to the § 267(1)(a) for a use variance, or § 267(1)(b) for an area variance, that there are unnecessary hardships in the way of carrying out the strict letter of this chapter or that the applicable criteria set forth in such sections have otherwise been satisfied.

C. Procedure. The Board of Appeals shall strictly comply with the requirements of Town Law and this chapter as to hearings, notice and procedure, and referrals to County Planning. In addition, the notice provisions of § 280-18 Notice provisions.hereof shall apply to all variance applications. Each appeal or application made to the Board shall be in writing and shall refer to the provision of this chapter that is involved. It shall exactly set forth the interpretation claimed, the use for which authorization is sought, or the variance that is applied for, and the grounds for the proposed action of the Board of Appeals.

D. Decision. Every decision of the Board of Appeals shall be by resolution which shall set forth the findings of the Board in the particular case. Within five days after the day it is rendered, each such resolution, together with all documents pertaining to it, shall be filed in the office of the Town Clerk as either an interpretation, or variance. The Board of Appeals shall notify the Zoning Administrator of each variance and of each interpretation made under the provisions of this chapter.

§ 280-15 Relation to other laws.

In its interpretation and application the provisions of this chapter shall be construed to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare. Whenever the requirements of this chapter differ from the requirements of any other effective law or regulation the requirements imposing the higher standard shall govern.

§ 280-16 Penalties for offenses.

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding $350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 280-17 Amendments.

A. Authority. The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this chapter in accordance with the notice, hearing and other requirements of law.

B. Referrals.

(1) Referral to Planning Board. Each proposed amendment, if initiated by a source other than the Planning Board, shall be referred to said Planning Board for review and recommendation thereon before any required public hearing.

(2) Referral to county planning. Before taking final action on certain proposed amendments to this chapter, the Town Board shall refer such amendments to the County Planning Board for a report thereon pursuant to §§ 239-l and 239-m of Article 12-B of General Municipal Law or any other applicable laws or amendments to the foregoing laws.

(3) Protest. In case of a protest against such proposed amendment signed by the owners of 20% or more of the area of land included in such proposed amendment, or by 20% or more of all land owners within 100 feet from the boundary of the area of land to be included in such amendment, such amendment shall become effective only by a favorable vote of four members of the Town Board.

§ 280-18 Notice provisions.

A special authorization or variance should not be granted unless prior written notice of at least five days has been mailed by or at the direction of the Town Board, Planning Board or Zoning Board of Appeals, as the case may be, Secretary or Attorney, to each owner of property abutting, or across from, the lands of the proposed land use activity or within 500 feet of the perimeter of the lands. Failure to give or receive such notice shall not invalidate any special authorization or variance granted. The applicant shall be required, as part of the application, to furnish the proper names and addresses of the owners to whom mailed notice is required. Absent such furnishing of names and addresses by the applicant, the Town assessment records may be relied upon.

§ 280-19 Reimbursable costs.

A. Legislative findings, intent and purpose; supersession of state law.

(1) The Town Board hereby finds and determines that in order to protect and safeguard the Town of Tully, its residents and their property with respect to certain land developments and projects within the Town, all buildings and related improvements, highways, drainage facilities, utilities and parks within developments and projects should be designed and constructed in a competent and workerlike manner and in conformity with all applicable governmental laws, codes, rules and regulations and should be dedicated and conveyed to the Town in a legally sufficient manner. To assure the foregoing, it is essential for the Town to have and to retain competent engineers and other professional consultants to review and approve plans and designs, make recommendations to the Town Board, Joint Planning Board, and Zoning Board of Appeals, inspect the construction of highways, drainage facilities, utilities and parks to be dedicated to the Town and to recommend their acceptance by the Town and for the Town to have and retain competent attorneys to assist in the application review process, to negotiate and draft appropriate agreements with developers, to obtain, review and approve necessary securities, insurance and other legal documents, to review proposed deeds and easements to assure that the Town is obtaining good and proper title, to render legal opinions and to generally represent the Town with respect to any legal disputes and issues which may arise regarding such developments and projects. The cost of retaining such competent engineers, attorneys and other professional consultants should ultimately be paid by those who seek to benefit from such developments and projects, including variances, site plan approvals, special use permits or uses rather than by general Town funds which are raised by assessments and/or general taxes paid by taxpayers of the Town.

(2) This chapter is enacted by local law under the authority of Municipal Home Rule Law § 10, Subdivision 1(ii)(a)(12) and (d)(3), and Municipal Home Rule Law § 22. To the extent that Town Law §§ 274-a, 274-b, 276 and 277 do not authorize the Town Board, Joint Planning Board and/or the Town Zoning Board of Appeals to require reimbursement to the Town of legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of applications for subdivision approval, for the approval, amendment or extension of a district and for the review and consideration of applications for variances, site plans and special use permits under the Code, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, to the extent that such statutes do not authorize the deferral or withholding of such consideration, review, acceptance or approvals in the event that such fees, expenses and costs are not paid to the Town, it is the expressed intent of the Town Board to change and supersede Town Law §§ 274-a, 274-b, 276 and 277 to empower the Town to require such payment as a condition to such consideration, review, acceptance or approvals.

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

APPLICANT

Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Town of Tully Joint Planning Board, Zoning Board of Appeals or Town Board to approve a subdivision and/or to grant an application for a variance, a site plan or a special use permit.

DEVELOPER

Any person, firm, partnership, association, corporation, company or organization of any kind who or which:

A. Constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development with the intent to convey or dedicate the same to the Town; or

B. Requests the Town to create a district; or

C. Requests the Town to approve an application for a subdivision, variance, site plan or special use permit.

DEVELOPMENT

Includes, but is not limited to, a subdivision or a district.

DEVELOPMENT ESCROW

Professional service fees for legal and engineering expenses related to Planning Board Site Plan and Subdivision applications are collected and placed in a separate escrow account at the time of application submission to the Board. See Table XX: Development Permit Fee Schedule in §XX.

DISTRICT

Any special district under the Town Law.

DRAINAGE FACILITY

All surface water drainage facilities, including but not limited to detention and retention basins, storm sewers and their appurtenances, drainage swales and ditches and any easements through or over which such facilities may be constructed or installed within or in conjunction with a development.

HIGHWAY

Includes, but is not limited to, a street, avenue, road, square, place, alley, lane, boulevard, concourse, parkway, driveway, overpass or underpass and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks within or in conjunction with a development.

PARK

An area of land located within a development which is open to the public and devoted to active or passive recreation.

PLANNING BOARD

The Joint Planning Board of the Town of Tully.

SUBDIVISION

A subdivision of land as defined in Chapter 24**5**, Subdivision of Land, of the Town Code.

SUPERVISOR

The Town Supervisor of the Town of Tully.

TOWN

The Town of Tully.

TOWN BOARD

The Town Board of the Town of Tully.

UTILITIES

All water, sanitary sewer, gas, electric, telephone and cable television facilities and any easements through or over which said facilities may be constructed or installed within or in conjunction with a development.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Town of Tully.

B. Reimbursement of fees and expenses.
    (1) Subdivisions.
        (a) An applicant for approval of a subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such subdivision.
        (b) A developer who constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of the same to the Town.
    (2) Districts.
        (a) An applicant for approval, amendment or extension or a district in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of said application.
        (b) A developer who constructs or proposes to construct one or more buildings, highways, drainage facilities, utilities or parks within or in conjunction with a district in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees and expenses incurred by the Town in connection with the granting of any building permit and in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of the same to the Town.

(3) Variances, site plans and special use permits. An applicant or developer making application for the approval of a site plan or a special use permit or seeking approval of an application for a variance shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such application.

C. Deposit of funds; payment of fees.

(1) Simultaneously with the filing of an application for approval of a development or the filing of an application for approval of a variance, a site plan or a special use permit, the applicant or developer, as the case may be, shall deposit with the Town Supervisor a sum of money, as determined in accordance with the schedule of deposits fixed by the Town Board pursuant to this chapter, which sum shall be used to pay the reasonable and necessary fees, expenses and costs incurred by the Town for legal, engineering and other professional consulting services as described this chapter.

(2) Upon receipt of such sums, the Supervisor shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Town and shall keep or cause to be kept a separate record of all such monies so deposited and the name of the applicant or developer and the application and development for which such sums were deposited.

(3) Upon receipt and approval by the Supervisor of itemized vouchers from an attorney, engineer and/or other professional consultant for services rendered on behalf of the Town pertaining to the development or the application for a variance, site plan or special use permit, the Supervisor shall cause such vouchers to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. The Supervisor shall furnish copies of such vouchers to the applicant or developer immediately after such vouchers are submitted to the Town.

(4) The Supervisor, on behalf of the Town and subject to audit and review by the Town Board, shall review and audit all such vouchers and shall approve payment of only such legal, engineering and/or other professional consulting fees, expenses and costs as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of developments, the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments, and the review, consideration and approval of applications for variances, site plans and special use permits. In this regard, the Town may take into consideration the size, type, value and number of buildings to be constructed, the amount of time to complete the development or project, the topography of the land on which such development is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities and parks to be constructed and any special conditions or considerations the Town may deem relevant. For purposes of the foregoing, a fee, expense or cost, or part thereof, is necessarily incurred if it was charged by the attorney, engineer or other professional consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water runoff and other factors, to assure the proper and timely construction of highways, drainage facilities, utilities and parks and otherwise to protect

the legal interests of the Town, including receipt by the Town of good and proper title to dedicated highways and other facilities and the avoidance of claims and liability and such other interests as the Town may deem relevant or to assure the proper and timely review and consideration of an application for a variance, site plan or a special use permit.

(5) If at any time during or after the processing of such application or the construction, inspection or acceptance of buildings, highways, drainage facilities, utilities or parks or during or after the processing of an application for a variance, site plan, or special use permit there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, the Supervisor shall cause the applicant or developer to deposit additional sums as the Supervisor deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.

(6) In the event that the applicant or developer fails to deposit such funds or such additional funds, the Supervisor shall notify the Town Board and, as applicable, the Chair of the Joint Planning Board, the Chair of the Zoning Board of Appeals and the Town's Codes Officer of such failure, and any review, approval, building permit or certificates of occupancy shall be withheld by the appropriate board, officer or employee of the Town until such monies are deposited.

(7) After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific development, or any requested variance, site plan or special use permit and after payment of all approved vouchers submitted regarding such development or application, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.

D. Deposit amounts. The amount of the initial deposit for the various developments and/or applications covered by this chapter shall be as set forth in a schedule of deposits established from time to time by resolution of the Town Board. The schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution of the Town Board.

E. Application fees; use of deposits. The deposits required by this chapter shall be in addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Town, the County of Onondaga, the State of New York or of any other body having jurisdiction with respect to a development, drainage facility, highway, utility or park or to an application for a variance, site plan or a special use permit and shall not be used to defray either the Town's general expenses for legal, engineering or other professional consulting fees, expenses or costs for the several boards of the Town or its general administration expenses.

§ 280-20 Construal of provisions, more stringent requirements to apply.

The provisions of this chapter shall be held to be the minimum requirements necessary to accomplish the purpose of this chapter and shall be interpreted and applied as such. When requirements of this chapter conflict with the requirements of other lawfully developed rules, regulations, laws or local laws, the most restrictive, or that imposing the higher standards, shall take precedence.