

NEW YORK STATE DEPARTMENT OF STATE  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

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County

City

of Volney

Town

Village

DEPARTMENT OF STATE

Local Law No. 1 of the year 2021

A local law regulating Zoning in the Town of Volney

Be it enacted by the Town Board  
of the

County

City

of Volney as follows:

Town

Village

# ZONING LAW



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## SECTION I. TITLE AND SCOPE

### A. Scope

A local law regulating and restricting the location, construction, alteration, occupancy, and use of buildings and structures and the use of land in the Town of Volney and for said purposes dividing the Town into zoning districts.

### B. Title

This Local Law shall be known and may be cited as “The Zoning Local Law of the Town of Volney, New York”.

### C. Enacting Clause and Purposes

This Local Law is enacted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, morals, comfort, convenience, economy, town aesthetics, and the general welfare, and for the following additional purposes:

1. To promote and effectuate the orderly physical development of the Town of Volney in accordance with the Comprehensive Development Plan;
2. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property;
3. To create a suitable system of open spaces, and recreation areas, and to protect and enhance existing wooded areas, scenic areas, and waterways;
4. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population, and in order to lessen congestion on streets and highways, and in order to provide efficient municipal utility services;
5. To improve transportation facilities and traffic circulation, and to provide adequate off-street parking and loading facilities;
6. To realize a Development Plan properly designed to conserve the use of land and the cost of municipal services;
7. To assure privacy for residences and freedom from nuisances and things harmful to the senses;
8. To protect the community against unsightly, obtrusive, and noisome land uses and operations; and
9. To enhance the aesthetic aspects throughout the entire community and maintain its

present character and natural beauty.

## SECTION II. ESTABLISHMENT OF DISTRICTS

### A. Names of Zoning Districts

In order to fulfill the purpose of this Local Law, the Town of Volney establishes and is hereby divided into the following five zoning districts.

- (A) -Agricultural
- (R-1) -Residence
- (R-2) -Residence
- (C) -Commercial
- (I)-Industrial

### B. Zoning Map

The location and boundaries of said zoning districts are shown on the map designated "Zoning Map", certified as adopted by the Town Clerk. Said map together with everything shown thereon and all amendments thereto is hereby adopted and is declared to be an appurtenant part of this Local Law.

### C. Interpretation of District Boundaries

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

1. Where district boundaries are indicated as approximately following the centerlines of right-of-way lines of streets, highways public utility easements, or watercourses, said boundaries shall be deemed to be automatically moved if a centerline or right-of-way line of such street, highway public utility or watercourse if moved a maximum of 50 feet.
2. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
3. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
4. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion.
5. In all other cases, where not dimensioned, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon, but in no instance will a district depth be less than the specified minimum lot depth shown for each district in

the Density Control Schedule.

### SECTION III. USE REGULATIONS

#### A. Permitted Uses

No building or premises shall be erected, altered or used except for one or more of the uses designated for any district as follows:

Symbols: (P) Designates a use permitted by right.  
(X) Designates a temporary and/or conditional use contingent on securing a Special Use Permit and site plan approval in each case from the Town.

Planning Board.

(..) Designates a use not permitted.  
(\*) Designates a use which requires site plan approval by the Planning Board in accordance with Section VII Paragraph B.

#### Residential Uses

	A	R1	R2	C1	I
Boarding House	X	..	..	..	..
Dwelling, One-Family	P	P	P	..	..
Dwelling, Two-Family	P	P	P	..	..
Dwelling, Multi-Family	X	..	P*	..	..
Dwelling, Manufactured Home Double	P	P	..	..	..
Dwelling, Mobile Home Single	P	..	..	..	..
Dwelling, Modular	P	P	P	..	..
Migratory Worker Camp	X	..	..	..	..
Townhouse	X	..	P	..	..
Residential Wind Energy System	X*	X*	..	..	..

#### General Uses

	A	R1	R2	C1	I
Agriculture (not including the keeping of fowl or farm animals)	P	P	P	P	P
Agriculture (including the keeping of fowl or farm animals)	P	..	..	..	..
Bed and Breakfast	P	..	..	..	..
Cemetery in compliance with Section VI	P*	P*	..	..	..
Church or other place of worship	P*	P*	P*	P*	..
Club	..	X	X	X	X
Cultural Facilities (library, art gallery, museum, etc.)	P*	X	..	P*	..
Daycare	P*	P*	P*	P*	..
Education/College	P*	P*	..	..	..
Golf Course or Country Club	P*	X	..	..	..
Hospital/Medical Center	X	..	..	X	X
Nursing Home	X	..	..	..	..
Private, Academic or Parochial School	P*	P*	P*	P*	..
Public Utility or Transportation use	X	X	X	P*	P*
Retail sale of agricultural produce grown on the same lot from a road stand	P	X	..	..	..
Vacation Resort, Camp, and Campground	X*	..	..	..	..

#### Accessory Uses

A	R1	R2	C1	I
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Accessory use customarily incident to any of the uses mentioned herein, and on the same lot	P	P	P	P	P
Accessory Use customarily incident to any of the uses mentioned herein, and not on the same lot	X	X	X	X	X
Home occupation, in compliance with Section V (A, 1)	P	P	P	..	..
Stabled for horses for non-commercial purposes	P	X	..	..	..
Stabled horses for commercial purposes	X	..	..	..	..

#### **Business Uses**

	<b>A</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>I</b>
Airport	X	..	..	..	..
Automobile repair	..	..	..	X	X
Bar or night club	P*	..	..	X	..
Bowling Alley	X	..	..	X	..
Car wash	X	..	..	X	..
Commercial parking lot in compliance with Section V (A, 7)	..	..	..	X	X
Drive-In movie	X	..	..	X	..
Equipment rental or sales yard	X	..	..	X	X
Gasoline filling station in compliance with Section V (D)	X	..	..	X	X
Hotel/Motel	X	..	..	X	..
Laundry or dry cleaning	..	..	..	X	X
Manufactured/Mobile home parks (Section V-H)	X	..	..	..	..
Recreational Business	X	..	..	X	..
Restaurant	X	..	..	X	..
Retail business or service, not otherwise specifically mentioned herein	X	..	..	X	..
Riding Academy	P	..	..	..	..
Self-service laundry	..	..	..	X	..
Storage	X	..	..	X	X
Veterinarian office, animal hospital or kennels	X	X	..	X	..

#### **Light Industrial Uses**

	<b>A</b>	<b>R1</b>	<b>R2</b>	<b>C1</b>	<b>I</b>
Extractive operations and soil mining in compliance with Section V (F)	X	..	..	..	X
Manufacture, fabrication, extraction, assembly, warehousing And other handling of material, in compliance with Section V (A-3 & C) and excluding prohibited uses listed below	..	..	..	..	X
Research Laboratory	X	..	..	..	X

#### **B. Prohibited Industrial Uses**

In any district where manufacturing or light industry is permitted, no manufacturing use, nor any trade, industry, use or purpose that is noxious or offensive by reason of emission of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, vibration, or excessive light, or any combination of the above, which is dangerous and prejudicial to the public health, safety, and general welfare shall be permitted, and this includes, more specifically, but is not limited to, the following such uses:

- Acetylene gas manufacture for commercial purposes



- Ammonia, chlorine, or bleaching powder manufacture
- Arsenal
- Asphalt manufacture or refining
- Blast furnace, not including cupola or converter furnaces used in foundries and in which no wood is used for fuel
- Boiler shops, which operate reciprocating hammers or chisels or other noise producing electric or pneumatic tools within 100 feet of any boundary line of the premises and outside of any masonry buildings
- Brewing or distilling of liquors, unless such use satisfies all applicable state and federal environmental standards for the control of air and water pollution evidenced by the issuance of water discharge permits by The Department of Environmental Conservation and The
- Environmental Protection Agency and an air discharge permit by The Department of
- Environmental Conservation
- Bronze and aluminum powder manufacture
- Carbon, lampblack, shoe blacking graphite, or stove polish manufacture
- Celluloid and other cellulose products
- Cement manufacture
- Coal tar products manufacture
- Creosote treatment or manufacture
- Disinfectant and insecticide manufacture
- Dump or Landfill, unless operated or controlled by the municipality or county
- Excelsior and fibre manufacture
- Explosives, fireworks, or match manufacture, assembling, and storage in bulk, except the manufacture, assembling and storage in bulk of safety matches in book form
- Fat rendering
- Fertilizer manufacture or potash refining
- Fish smoking or curing
- Glue, size, or gelatin manufacture or processing involving recovery from fish or animal offal
- Incinerator, unless operated by the municipality
- Junk yard
- Lime, gypsum, cement, plaster, or plaster of paris manufacture, except the mixing of plaster
- Linoleum or oil cloth manufacture
- Ore reduction or the smelting of iron, copper, tin, zinc or lead
- Paint, oil, varnish, turpentine, shellac, or enamel manufacture, except the mixing of wet paints
- Perfume and extract manufacture
- Petroleum refining
- Poisons manufacture: fumigates, carbon disulfide, hydrocyanic acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellebore and paris green, contact insecticides, lime, sulphur, nicotine, kerosene emulsions
- Printing ink manufacture
- Radioactive waste storage or disposal
- Radium extraction
- Rubber caoutchouc, or gutta percha manufacture from crude or scrap material, except in connection with a rubber products manufacture plant

- Salt works
- Sand paper and emery cloth manufacture
- Slaughtering of animals, except for immediate consumption on premises or immediate retail sale
- Soap, soda ash, or washing compound manufacture, except products not containing caustic soda
- Starch, glucose, or dextrine manufacture
- Stock yards
- Storage, coloring, curing, dressing, or tanning of raw or green salted hides or skins
- Sulphurous, sulfuric, nitric, picric, or hydrochloric acid or other corrosive or offensive acid manufacture, or their use or storage, except on a limited scale as accessory to a permitted industry
- Tallow, grease, lard, or candle manufacture or refining
- Tar distillation or the manufacture of aniline dyes
- Tar roofing or waterproofing manufacture, except where the tar or asphalt is treated at temperature under 100 degrees Fahrenheit
- Tobacco processing, exclusive of cigar or cigarette manufacture
- Vinegar, pickle, or sauerkraut manufacture in bulk
- Wool pulling or scouring, except in connection with a woolen mill
- Yeast manufacture

#### **SECTION IV. AREA AND BULK REQUIREMENTS-DENSITY CONTROL**

##### **A. Purpose**

In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Section.

##### **B. Density Control Schedule (Area and Bulk Schedule)**

The attached schedule for density control regulations is hereby adopted and declared to be a part of this Local Law and is hereby after referred to as the “Density Control Schedule”.

Residential Buildings:

District	Lot Area	Road Frontage	Area Required if Public Water Available	Yard Dimensions			Maximum Lot Including Access Building	Maximum Building Height	
A	2 acres*	150'		Front 83'	Sides 20'	Rear 50'	20%	Stories 2 ½	Feet 35'
R-1	1 acre*	150'		Front 83'	Sides 20'	Rear 50'	25%	Stories 2 ½	Feet 35'
R-2	½ acre	100'		Front 68'	Sides 10'	Rear 25'	30%	Stories 2 ½	Feet 35'

\* = See cluster development regulations

\*\* = For semi-detached residences only one 25 foot side yard is required

Townhouses are permitted in R-2 District.

Acre: defined as 43,560. Square feet.

A half-acre: defined as 21,780. Square feet.

Front: defined as from the center of the road

Setback: shall be measured from the center of the road.

Accessory Buildings and Accessory Use Equipment on the Same Lot: Accessory buildings and accessory use equipment in addition to the principal building on the same lot, the placement of any accessory structure or out-building or accessory use equipment are allowed to be placed up to ten (10) feet from a side or rear property line in an Agricultural zone R-1 zone or R-2 zone.

Non-Residential:

District	Lot Area	Road frontage	Yard Dimensions			Maximum Lot Including Access Building	Maximum Building Height		
Front 83'	Sides	Rear	150'				20%	Stories	Feet
	20'	50'						2 ½	35'
C-1	½ acres	100'	Front	Sides	Rear	50%	Stories	Feet	
			68'	20'	20'		3	40'	
I-1	1 acre	200'	Front	Sides	Rear	35%	Stories	Feet	
			83'	20'	50'		3	40'	

Acre: defined as 43,560. Square feet.

A half-acre: defined as 21,780. Square feet.

Front: defined as from the center of the road

Setback: shall be measured from the center of the road

Accessory Buildings and Accessory Use Equipment on the Same Lot: Accessory buildings and accessory use equipment in addition to the principal building on the same lot, the placement of any accessory structure or out-building or accessory use equipment are allowed to be placed twenty (20) feet from a side or rear property line in an Agricultural zone, a C-1 zone, and an I-1 zone.

C. Corner Lots

Wherever a side or rear yard is adjacent to a street, the standards for front yards shall apply.

D. Height Exceptions

District building height, regulations shall not apply to flagpoles, radio or television antennae, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, parapets or railings, water tanks or cooling towers, or any similar structures, provided that such structures in their aggregate coverage occupy no more than 10 percent of the roof area of the building. Barns and silos may exceed the height limitations of this Local Law provided that for each 1 foot each barn or silo exceeds the height of 50 feet the minimum front yard requirements shall be increased by 1 foot but in no case need exceed 100 feet.

E. Compliance

1. Where two or more principal residential structures are permitted by this Local Law to be located on the same lot, the minimum lot area per dwelling unit requirements must be complied with.
2. A residential lot that is either of the required size or larger, as set forth in this Local Law, may not be reduced in size when ownership is transferred if that subdivision will create two or more lots which are not in compliance with the minimum residential lot area requirements.

F. Side Yards for Semi-Detached or Town Houses

Side yards for semi-detached or town houses shall be required at the ends of the total structure only.

G. Distance Between Principal Buildings on Same Lot

No detached principal building shall be closer to any other principal building on the same lot than the average heights of said buildings.

**SECTION V. SUPPLEMENTARY REGULATIONS**

A. General Provisions

1. Customary Home Occupations: In any district, nothing in this Local Law shall prevent an individual from conducting their business, trade, or professional in their home or residence, provided that no more than two persons are employed in addition to the owner/tenant of the property. No other professional shall be permitted to share, let, or

sublet space for professional use. There is no external evidence of such use except for one sign not exceeding four (4) square feet in area, and there shall not be any exterior storage of materials or equipment.

2. Excavations: Any proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings or lands shall be prohibited. Excavations shall not create any noxious or injurious substance or condition or cause public hazard.

In the event that construction of a building or structure is stopped prior to competition and the building permit is allowed to expire, the premises shall immediately be cleared of any rubbish, building materials, and any excavation with a depth of greater than two feet below existing grade shall immediately be filled in and the topsoil replaced, or all such excavations shall be entirely surrounded by a substantial fence of at least six (6') feet that will effectively block access to the area in which the excavation is located. Such fence shall be properly maintained.

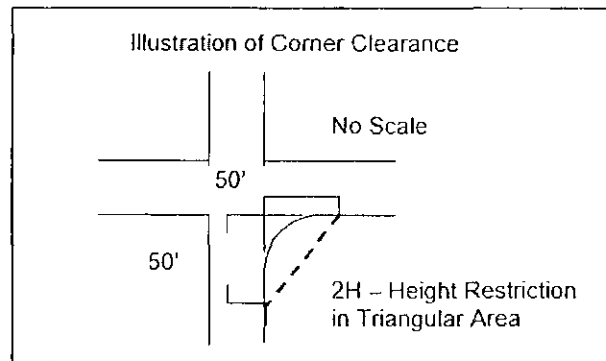
For excavations for soil mining, see Subsection F of this section.

3. Activity Standards: In any district, the following standards for activities shall apply:
  - a. No offensive or objectionable vibration, odor, or glare shall be noticeable at or beyond the property line.
  - b. No activity shall create a physical hazard by reason of fire, explosion, radiation, other such cause, to persons or property in the same adjacent district.
  - c. There shall be no discharge of any liquid or solid waste into any stream or body of water or any public or private disposal system or into any ground, of any materials of a nature that may contaminate any water supply, including ground water supply.
  - d. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin or endangers health in any way.
  - e. The emission of smoke, fly ash, or dust which can cause damage to the health of persons, animals, or plant life, or the other forms of property shall be prohibited.
4. Accessory Buildings and Uses: Accessory buildings or accessory use equipment not attached to the principal buildings shall be located no closer to the principal buildings than twelve (12') feet or a distance equal to the height of each accessory building – whichever is greater.

In a residential district, accessory uses or accessory use equipment not enclosed in a building, including swimming pools and tennis courts, may not be located in the front yard of such lots and shall be a distance not less than twenty (20') feet from any lot line and shall not adversely affect the character of any residential neighborhood by reason or noise or glare or safety. No boat, vehicle, trailer, travel trailer nor truck over one (1)

ton shall be stored on any residential lot except in the rear yard and not closer than the required side yard setback to any side lot line.

5. **Corner Clearance:** For the purpose of minimizing traffic hazards at street intersections, on any corner lot, no obstructions between a height of two and one half ( $2\frac{1}{2}$ ) feet and ten (10') feet above the adjacent top-of-curb elevation shall be permitted to be planted, placed, erected, or maintained within the triangular area formed by the intersecting pavement lines, or their projections – where corners are rounded – and a straight line joining the pavement lines at points fifty (50') feet distant from their point of intersection.



6. **Fences and Walls:** In any residential district, walls and fences up to four (4') feet in height shall be permitted anywhere on a lot except where corner sight clearances are required for traffic safety. In any business or industry district, there shall be no restriction on fences or walls, except on a residence district boundary line where such fences or walls shall be limited to eight (8') feet in height and except where corner clearances are required.
7. **Commercial Parking Lots:** Commercial parking lots shall comply with the provisions of Paragraph B, Subparagraph 4, 8, and 9 of this Section.

8. **Off-Street Parking and Loading Regulations**

In all districts, off-street automobile parking spaces and truck loading areas for the various permitted uses shall be required at the time any of the main buildings or structure of such uses are constructed or altered, as follows:

1. **Required Off-Street Automobile Parking Spaces:** The minimum cumulative number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owner of such buildings or structures as follows:
  - a. **Office, Business, and Commercial Uses:**

- For retail business or service, one space for each two hundred (200) square feet of customer floor area.
  - For office, including professional, personal service, public utility, or public, one space for each two hundred (200) square feet of gross office floor area.
  - For car wash, five waiting spaces for each bay.
  - For restaurant, bar, or nightclub, one space for each fifty (50) square feet of customer floor area, or one space for each five (5) seats, or a combination thereof.
  - For any commercial use, one space for each company vehicle in addition to other required spaces.
  - For drive-in restaurants or eating establishments, fifteen (15) spaces, plus those required for customer floor area or seats.
  - For hotel/motel, bed and breakfast and vacation resort, one space for each bedroom, plus one (1) space for each four (4) employees.
- b. For day care center, a minimum of one parking space for each employee shall be provided and visitor and drop-off parking in the amount of one space per five children. Industrial Uses:
- One (1) space for each four hundred (400) square feet of floor area devoted to manufacture, including printing, publishing, and laundry or dry-cleaning plants.
  - One (1) space for each two thousand (2,000) square feet of floor area devoted to storage or stationary operating equipment.
  - One (1) space for each three thousand (3,000) square feet of area devoted to outside storage, including used car lots and equipment rental or sales yards.
  - For any industrial use, one (1) space for each company vehicle in addition to other required spaces.
- c. Public and Semi-Public Uses:
- For places of public assembly (including churches), one (1) space for each six (6) seats of seating capacity.
  - For elementary school or day nursery, two (2) spaces for each classroom.



- For high school or college, five (5) spaces for each classroom.
- For museum, art gallery, institution, or philanthropic use, one (1) space for each eight hundred (800) square feet of gross floor area.
- For hospital, sanitarium, nursing or convalescent home, one (1) space for each two (2) beds.
- For club, one (1) space for each two hundred (200) square feet of gross floor area or one space for each six (6) seats whichever is greater.

d. Recreational Uses:

- For golf course or bowling alley, four (4) spaces for each tee or alley.

e. Residential Uses:

- For dwellings, one (1) space for each dwelling unit, to be provided on a building portion of the lot.
- For home occupation, one (1) space for each employee in addition to the spaces required for the dwelling unit.
- Boarding house, one (1) space for each bedroom.

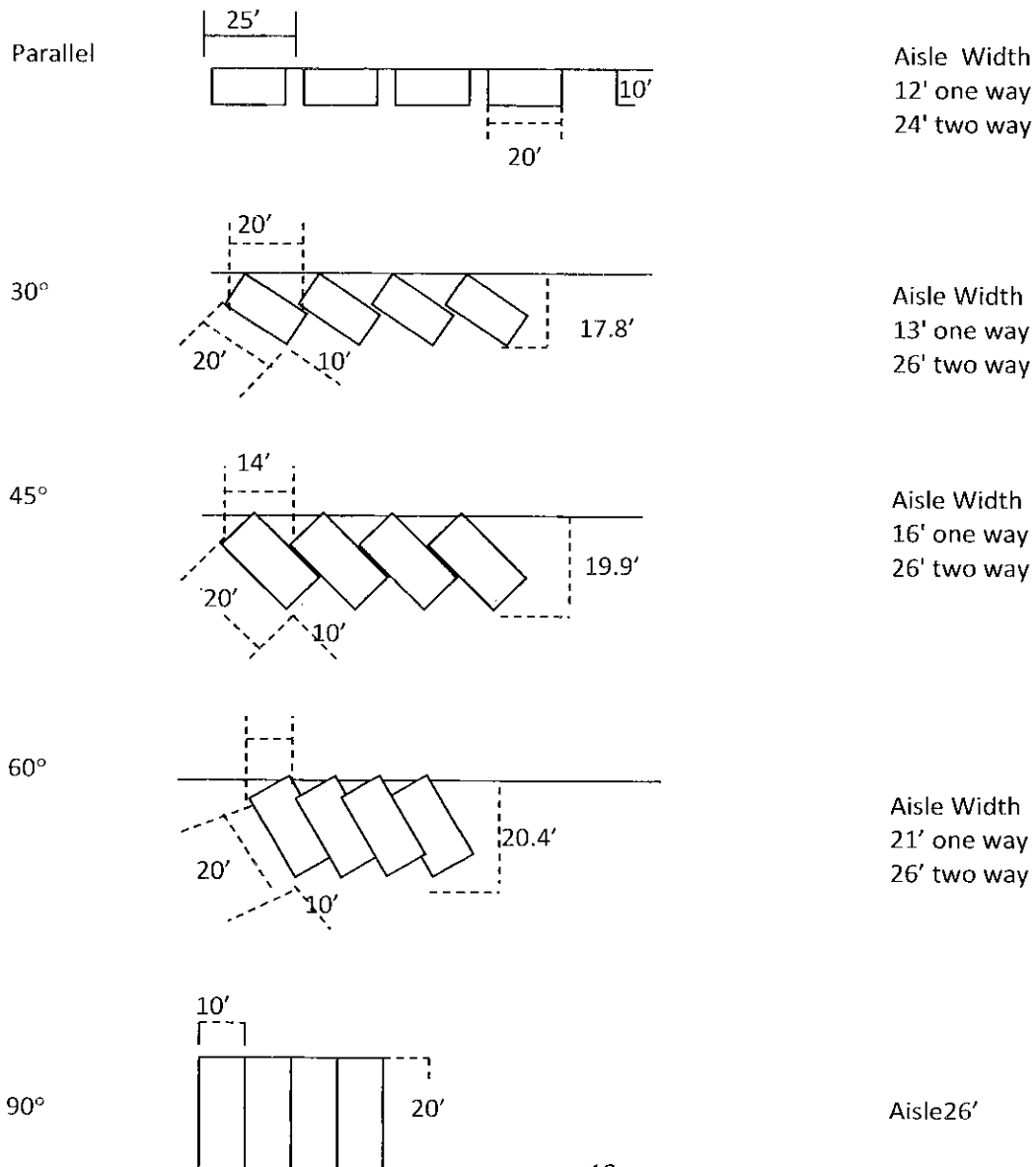
f. For uses not listed herein, as established by the Zoning Board of Appeals.

2. Calculation of Required Spaces: In the case of combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.
3. Handicapped Parking Spaces: Special parking spaces for the physically handicapped are required to be provided in accordance with the standards set forth by the 2010 Americans with Disabilities Act Standards for Accessible Design (28 CFR 35.151; 28 CFR part 36 subpart D, and 2004 Americans with Disabilities Act Standards for Accessible Design), ICC, NYS Building Code of 2020 and all such adopted amendments.
4. Dimensions for Off-Street Automobile Parking Spaces: Every such space provided shall be at least ten feet wide and twenty feet long, and every space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:
  - a. Parallel Curb Parking: Five (5) feet end to end with twelve (12') foot aisle width for one-directional flow and twenty-four (24') foot aisle for two-directional flow.

- b. Thirty (30') foot Parking: Thirteen (13') foot aisle width for one-directional flow and 26-foot aisle width for two-directional flow.
- c. Forty-five (45') foot Parking: Sixteen (16') foot aisle width for one-directional flow and twenty-six (26') foot aisle width for two-directional flow.
- d. Sixty (60') foot Parking: Twenty-one (21') foot aisle width for one-directional flow and twenty-six (26') foot aisle width for two-directional flow.
- e. Perpendicular Parking: Twenty-six (26') foot aisle width for one-directional and two-directional flow.

### Curb Parking Spaces at Various Angles

No Scale



5. Location of Required Spaces: In any residential district, required automobile parking spaces shall be provided on a buildable portion of the same lot and shall not encroach on any required yards or required open area.

In commercial districts or industrial districts, such spaces shall be provided on the same lot, or not more than four hundred (400') feet there-from.

In non-residential districts, no open or enclosed parking area shall encroach on any required front yard or required open areas. Open parking areas may encroach on a required side or rear yard to within three (3') feet of a property line.

No entrance and exit drives connecting the parking area and the street shall be permitted within twenty-five (25') feet of the intersection of two (2) public rights-of-way.

6. Required Off-Street Truck Loading Areas: For permitted general uses, one berth for ten thousand (10,000) square feet to twenty-five thousand (25,000) square feet of floor area, and one additional berth for each additional twenty-five thousand (25,000) square feet of floor area.

For motels and vacation resorts, one (1) berth for floor area in excess of ten thousand (10,000) square feet.

For office, business and commercial uses, one berth for ten thousand (10,000) square feet to twenty-five thousand (25,000) square feet of floor area and one (1) additional berth for each additional twenty-five thousand (25,000) square feet of floor area.

For manufacturing and permitted industrial uses, one (1) berth for the first ten thousand (10,000) square feet of floor area and one (1) additional berth for each additional forty thousand (40,000) square feet of floor area.

7. Dimensions for Off-Street Loading Berths: Each required loading berth (open or enclosed) shall have the following minimum dimensions: forty-five (45') feet long, twelve (12') feet wide, and fourteen (14') feet high.
8. Location of Required Berths: All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off-street loading areas shall not encroach on any required front or side yard, access way or off-street parking area, except that in Commercial districts off-street parking areas where they exist may be used for loading or unloading, provided that such spaces shall not be so used for more than three (3) hours during the daily period that the establishment is open for business
9. Construction of Parking Areas: Parking areas shall be paved with an all-weather surface and suitably drained. The individual spaces shall be visibly marked with paint or other durable material. Parking areas to be used at night shall be lighted. All lights shall be

shaded or so directed as not to cause glare on adjoining residential properties and shall be so directed as not to cause a traffic hazard due to glare or color.

10. Landscaping: At least eight (8%) percent of the area of the lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three (3) or more spaces that abut a residential lot line, and any parking lot for more than twenty (20) cars shall be screened by a six (6') foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property. All parking areas and landscaping shall be properly maintained thereafter in a slightly and well-kept condition.

C. Industrial District Regulations

The Town Board may, after Planning Board review, public notice and hearing, approve the development of a parcel of land for industrial use and establish a special Industrial district for such development to be imposed on any A or R-1 district subject to the following conditions:

1. Location and Minimum Required Acreage of Site:

A Districts	12 acres
R-1 Districts	8 acres

2. Use Regulations:

- a. Permitted Uses:

- I. Any use permitted by right in an I-1 district.
- II. Any use permitted by Special Permit in I-1 districts subject to the favorable approval thereof by the Planning Board.

- b. Prohibited Uses:

- I. Residential uses, except dwellings of caretakers and any and all residential uses made and permitted prior to the establishment of such I-1 district in accordance with this Sub-Section shall be allowed to continue as so permitted heretofore.
- II. All prohibited industrial uses as so listed in Section IIIB of this Local Law.
- III. Any use, although expressly allowed as a permitted use, shall be prohibited if the particular application or adaptation of such use is or shall become or cause a nuisance.

3. Performance Standards:

- a. General Standards: The following general standards are hereby adopted for the control of uses in any Industrial district and no use shall be permitted, established, maintained, or conducted therein which shall cause or be likely to cause:
- I. Excessive smoke, fumes, gas, dust, odor, or any other atmospheric pollutant beyond the boundaries of the lot whereon such use is located. Smoke is excessive when the shade or appearance of such smoke is darker than No. 2 on the Ringelman Smoke Chart, published by the U. S. Bureau of Mines.
  - II. Noise, perceptible beyond the boundaries of the lot occupied by such use causing the same.
  - III. Any pollution by discharge of any waste material whatsoever into any watercourse, open ditch or land surface.
  - IV. Discharge of any waste material whatsoever into any sanitary disposal system or sewerage system, except only in accordance with the rules of and under the control of public health authorities or the public body controlling such sewerage system. Any chemical or industrial waste, which places undue loads, as determined by the Town Engineer or State Health Department, shall not be discharged into any municipal system and must be treated by the industrial use.
  - V. Storage or stocking of any waste materials whatsoever.
  - VI. Glare or vibration perceptible beyond the lot lines whereon such use is conducted.
  - VII. Hazard to person or property by reason of fire, explosion, radiation, or other cause.
  - VIII. Any other nuisance harmful to persons or property.
- b. Specific Standards: The following specific standards are hereby adopted and must be complied with, for and by any use in any Industrial district and before the same be permitted, established, maintained or conducted:
- I. Storage Facilities: Materials, supplies or semi-finished products shall be stored on the rear one-half of the property and shall be screened from any existing or proposed street.
  - II. Loading Docks: No loading docks shall be on any street frontage. Provisions for handling of all freight shall be on those sides of any building which do not face on any street or proposed streets.
  - III. Landscaping: It is hereby declared that all areas of the plot not occupied by buildings, parking, driveways or walkways, or storage shall be

landscaped attractively with lawn, trees, shrubs or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.

IV. Fences and Walls: Property that is adjacent to a Residential or Commercial district shall be provided along such property lines, with a wall, fence, compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen not less than six feet high at the time of planting. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six-foot solid masonry wall, chain link fence covered with an evergreen vine, or compact ever-green hedge. Where a front yard adjoins a street, the wall, fence, or hedge shall be located no closer to the street than the depth of the required yard.

V. Off-Street Parking and Loading: Refer to Sub-Section B of this Section.

VI. Signs: Refer to Sub-Section E of this Section.

VII. Buffer Strip: In addition to the fences and walls, the entire district must be separated along its outside boundary from any adjoining residential zones by a buffer strip, suitably landscaped, at least 100 feet wide.

- c. Proper and adequate water supply, sewerage and waste disposal, other utility services, and accessibility to and from public streets must be provided.
  - d. Special consideration must be given to the traffic generated by each proposed use in an Industrial district and no undue traffic volumes shall be permitted residential streets. Such data is to be submitted with each petition for amendment. No access drive for any I-I district shall be within 300 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground, or fire station unless a street 50 feet or more wide lies between such access drive and such building or use.
- 4. Area and Bulk Regulations: Area and Bulk requirements shall be in compliance with those for I-1 districts as set forth in the Density Control Schedule of this Local Law.
  - 5. The Planning Board upon review of the proposed development may prescribe such additional conditions as are in its opinion necessary to secure the objectives of this Local Law.
  - 6. Procedure: Application for rezoning classification of a site shall be filed by the owner or several owners jointly, or the holder of a written option of purchase of the site with the secretary to the Town Board in writing in a form required by the Town Board, and shall be accompanied by a certified check in the amount of a fee which shall be established from time to time by resolution of the Town Board and listed in the schedule of fees, to

help defray the cost of advertising the hearing on said petition and incidental disbursements. The applicant shall also submit the following:

- a. A plan of the site and surrounding areas drawn to scale and accurately dimensioned, showing the location of existing and proposed land use areas, lots, buildings, structures, parking and loading areas and access roads and streets, community facilities, and topography.
- b. The use and height of each proposed building or structure, yard lines, lot coverage, and the number of parking spaces in each proposed parking area, and the expected flow of traffic in and out of the area.
- c. Any additional data as may be requested by the Planning Board in order to determine the suitability of the tract for the proposed development.

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

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

- a. By publishing a notice of the application and the time and place of the public hearing in a newspaper of general circulation in the Town of Volney as designated by the Town Board not less than five days prior to the date of the public hearing.
- b. By giving notice of hearing to any required Municipal, County, State or Federal Agency in the manner prescribed by Law. Upon approval of the proposed development the new district established shall be excepted from the provisions and controls of this Local Law only to the extent specified in the approval, and such new district shall become a part of the regulations established herein, shall be enforced in the same manner, and be similarly subject to amendment, except that, if construction of the proposed development is not commenced within one year after approval of the Town Board, such approval shall be revoked and such area shall be subject to the requirements of the prior district regulations.

D. Gasoline Filling Stations

In any district where permitted, a gasoline filling station shall be subject to the following

regulations:

1. Filling stations shall be permitted only on lots of twenty-two thousand five hundred (22,500) square feet or more, with one hundred fifty (150') feet minimum frontage.
2. The location of service bays shall be at the discretion of the Planning Board.
3. The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area.
4. No fuel pump shall be located closer than thirty-five (35') feet from any side lot line nor closer than thirty-five (35') feet from the centerline of the road, measured from the outside edge of the fuel island. If located on a state highway, an additional seventeen (17') setback is required.
5. No access drive shall be within two hundred (200') feet of and on the same side of the street as a school, public library, theater, church, or other public gathering place, park, playground or fire station unless a street fifty (50') feet or more wide lies between such service station and such building or use.

E. Sign Regulations

No sign or other device for advertising purpose of any kind may be erected or established in the municipality without prior review and approval from the Code Enforcement Officer except and provided as follows:

1. Signs for Registered Home Occupants: One (1) sign may be erected in the ground provided that such shall not exceed eight (8) square feet in total face area (not to exceed two (2) sides back-to-back), and shall not exceed five (5) feet in height, and shall be perpendicular (parallel signs would be permitted with written approval from the Code Enforcement Officer stating the reasons for approval) to lot frontage, and shall be no nearer than ten (10) feet to any property line and five (5) feet from any highway right-of-way.
2. Residential Districts: No sign or other device for advertising purposes of any kind may be erected or established in any Residential District except and provided as follows:
  - a. No single sign shall exceed fifteen (15) square feet in total face area. One sign may be attached to the building not to exceed fifteen (15) square feet. One sign may be erected in the ground provided that such sign shall not exceed fifteen (15) square feet in total face area per side (not to exceed two (2) sides back-to-back), shall not exceed seven (7) feet in height, shall be perpendicular (parallel signs would be permitted with written approval from the Code Enforcement Officer stating the reasons for approval) to the lot frontage, and shall be no nearer than ten (10) feet to any property line and five (5) from any highway right-of-way; or



- b. Dwellings for five or more families may display non-illuminated signs identifying the premises, having an aggregate total face of not more than 12 square feet, and not projecting beyond the principal building on the lot more than 24 inches.; or
  - c. Any dwelling unit in a detached, attached or town house structure may display one nameplate or professional sign not exceeding two (2) square feet in area; or
  - d. Any boarding house may display one sign not exceeding five (5) square feet in area; and not projecting more than 24 inches from the principal building on the lot.
- 3. Signs in Agricultural: No sign or other device for advertising purposes of any kind may be erected or established in any agricultural district except and provided as follows:
  - a. No single sign shall exceed thirty-two (32) square feet in total face area. One sign may be attached to the building not to exceed fifteen (15) square feet. One sign may be erected in the ground provided that such sign shall not exceed thirty-two (32) square feet in total face area per side (not to exceed two (2) sides back-to-back), shall not exceed seven (7) feet in height, shall be perpendicular (parallel signs would be permitted with written approval of the Code Enforcement Officer stating reasons for approval) to the lot frontage, and shall be no nearer than ten (10) feet to any property line and five (5) feet from any highway right-of-way.
- 4. Signs in Commercial districts and Industrial Districts: Two signs having an aggregate total face area of not more than 100 square feet may be displayed for each establishment provided that such signs shall be located no nearer than 10 feet to any property line and provided further that such signs shall not extend more than 20 feet above ground level or more than 5 feet above the height of the roof of a building at the point of location of the sign, whichever is less restrictive.
- 5. Representational Signs: No representational sign shall be permitted in any district except such sign as shall be approved by the Planning Board. Further, such sign shall not project more than 5 feet beyond the principal structure to which it is attached, and shall not have a face area of more than 15 square feet. Only one such sign per establishment shall be permitted.
- 6. All billboards require site plan approval and special use permit.

Location and Placement:

- A) Billboards and off-premise signs shall only be located in Industrial zoned districts, along the State Route 481 corridor, provided that such signs shall not be erected within 500 ft. of any residentially zoned district. Nor shall a sign be erected within 700 feet of a residence, public or private school, park or place of worship, measured in a straight line from the proposed billboard to such building.

- B) Billboards and off-premise signs cannot be erected on the wall or rooftop of a building.
- C) Billboards and off-premise signs must be a minimum of 1,000 foot apart.

Traffic hazards, safety and obstruction: Every sign shall be designed and located in such a manner as to:

- A) Not impair public safety.
- B) Not restrict clear vision between a sidewalk and street.
- C) Not to be confused with any traffic signal or sign.
- D) Not prevent free access to any door, window or fire escape.
- E) Withstand a wind pressure load of thirty pounds per square foot.
- F) All billboards and off-premise sign will have a maximum of one vertical support constructed of non-corrosive material.
- G) Vendor must take protective steps to prevent unauthorized climbing of sign.

Illuminate or flashing signs:

- A) Signs may be illuminated by a steady light provided that such lighting does not illuminate an adjacent property.
- B) Flashing, oscillating and revolving signs are not permitted unless necessary for public safety and welfare.

Size and Height:

- A) A billboard and off-premise signs shall have a maximum gross service area of Three hundred fifty (350) square feet per sign face (example 15ft x 22ft).
- B) All billboard and off-premise signs structures shall have no more than two (2) independent sign faces, facing in opposite directions. Or in a V configuration.
- C) All billboard and off-premise sign structures shall be a minimum of ten (10) feet above ground level and shall not exceed forty (40) feet in height above ground level.

Landscaping:

- A) All sites shall be landscaped at the base of the structure as specified in the approval issued by the Planning Board in its approving resolution.

Inspection:

- A) By applying for and receiving a permit, the applicant grants permission for the code enforcement officer to enter upon the premises whereon the sign is erected for the purpose of inspecting the sign for compliance with the New York State building codes and the provisions of this section of law as well as any permit conditions imposed by the Planning Board. Inspection could take place at any time without prior notice or approval.
- B) Billboards not in use for a period of 12 months or longer will be considered an abandoned use and would be subject to removal.

Liability Insurance:

- A) All approvals granted by the Planning Board shall be conditioned upon the applicants consent to provide continuing proof of valid liability insurance.
- B) Planning Board, at its discretion, may require issuance of bond as part of approval process.

Special Permit: Special permit issuance is contingent on:

- A) Billboard is in the public interest and is not detrimental to public safety, welfare, or surrounding properties.
- B) Is of a character and size and location that will be in harmony with orderly development in the district and is in conformance with the Town master plan.

- 7. Projecting Signs: No sign may project into any public right-of-way.
- 8. Subdivision Signs: Any person offering lots for sale in a subdivision may erect non-illuminated, directional signs within the limits of the subdivision, or adjoining property in the same ownership, having an aggregate total face area of not more than 50 square feet. The permit for such signs shall be issued for a period of one year upon the payment of a fee established from time to time by the Town Board and may be renewed for successive periods of one year each following a determination by the Building Inspector that the signs have been repainted or are in good condition in each case.
- 9. Exemption from above regulations:
  - a. Real estate signs which advertise the sale, rental, or lease of the premises upon which said signs are located, having an aggregate total face area of not more than 6 square feet within any Residential district and Commercial district, or not more than 20 square feet within any Industrial district.
  - b. One sign denoting the architect, engineer, and/or contractor when placed upon work under construction, and not exceeding 24 square feet in area.
  - c. Memorial signs or tablets, names of buildings, and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material.
  - d. Traffic or other municipal signs, legal notice, and such temporary, emergency, or non-advertising signs as may be authorized by the Town Board.
- 10. Illuminated Signs: Illumination of signs shall not be of intermittent or varying intensity or produce direct glare beyond the limits of the side property line. Colored lights of such shape and hue that they may be confused with official traffic lights and signals shall be prohibited. All bare incandescent light sources and immediately adjacent reflecting surface shall be shielded from view.

11. Banners and Posters: Banners, posters, pennants, and similar devices are prohibited, except non-permanent ones displayed for the occasion of special events, political events, sporting events, shows and elections which shall be displayed no longer than for a 4-week prior to the event and must be removed within 2 weeks after the event.
12. Removal of Certain Signs: Any signs now or hereafter existing which no longer advertises a bonafide business conducted, or a product available for purchase by the public on the premises, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found within 10 days after written notification from the Building Inspector, and, upon failure to comply with such notice within the time specified in such order, the Code Enforcement Officer is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.

F. Excavations for Soil Mining

Excavation for the purpose of soil mining for commercial purposes, such as gravel pits, quarrying, or any subsoil removal shall be allowed only by special permit in A and I1 Districts, subject to SubSection A (2) of this section and the following provisions:

1. Before a special permit is issued, the applicant shall submit to the Planning Board seven copies of a map at a scale of one inch equals no more than 100 feet showing all land within 200 feet thereof, with the exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of land owners. Such map shall also show the present topography at two-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.
2. The applicant shall also submit to the Planning Board, seven copies of the proposed plan of excavation at the same scale as above showing the proposed finished elevations at one foot contour intervals and the proposed drainage plan.
3. During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area, with suitable gates provided with locks. Top and/or toe of a slope shall not be closer than 40 feet to a property line.
4. No rock crusher, cement plant, or other crushing, grinding, polishing, or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted.
5. The proposed finished grading plan shall show the land to be smooth graded and topsoil respread to a minimum depth of 4 inches; slope shall not exceed the normal angle of repose of the material removed.

6. The applicant shall be required to furnish a performance bond, in the amount determined by the Building Inspector, to be sufficient to guarantee completion of the finished grading and drainage plan. Such bond shall be released only upon certification by the Building Inspector that all requirements including the finished grading and drainage have been complied with.
7. No Special Permit for excavation or soil mining shall be granted for a period of more than 3 years, but such permit may be extended for an additional 2 years upon approval of the Planning Board of Appeals.
8. Upon approval, one copy of the approved excavation plan shall be returned to the applicant by the Town Clerk together with the Special Permit upon the payment of a fee established from time to time by the Town Board to cover all engineering and other costs directly attributed to the approval and office and field checking of the proposed soil mining operations.

G. Manufactured/Mobile Homes – Single

Single mobile homes are allowed by building permit in agricultural districts subject to the following regulations:

1. The applicant shall submit to the Code Enforcement Officer an application for a mobile home, a site plan drawing to scale showing the location of the proposed mobile home on the lot; structures on adjoining lots and proposed water and sanitary facilities, foundations, landscaping, and storage facilities.
2. The mobile home must have continuous, vented level skirting constructed of actual or simulated brick, block, stone, or masonry, or of vinyl material specifically manufactured for use as mobile home skirting that is designed for long-term ground contact.
3. The mobile home must have a minimum of 320 square feet. The manufactured home must have no holes, cracks, excessive rusting, peeling of paint, broken windows or doors.
4. The mobile home must have a finished floor no less than 24 inches, nor more than 40 inches above finished grade at the principal point of entry.
5. Individual Onsite Water and Onsite Wastewater (septic) system design and installation must comply with the New York State Sanitary Code, 10 NYCRR 75, including Appendices 75-A, B and C, as well as applicable sections of the New York State Uniform Fire Prevention and Building Code (Uniform Code), including I-Codes incorporated by reference.
6. The mobile home must conform with Section IV (B) of this Local Law, except that, on an operating farm the density requirements shall not be applied to one mobile home, in addition to the primary residence, if occupancy of said mobile home is to be by a family member. Except in the instance of mobile home parks, there shall be only one mobile/manufactured home place on an individually owned parcel of land.

7. The mobile home must have a HUD number and data specification plate. The mobile home must also be installed in compliance with the New York State Uniform Fire Prevention, Building Code and I-Codes.
8. Adequate protection shall be provided against any undesirable off-site views or any adverse influence from adjoining streets and areas.
9. The roof of the manufactured home must be of original construction, have a minimum pitch of 3/12, and made of a type of material commonly used in residential construction.
10. The exterior siding of the manufactured home must be constructed of a type of material commonly used in residential construction.
11. The joining of individual mobile homes or modular homes in a manner for which they were not originally intended is prohibited for health, safety, and fire protection reasons under Town zoning regulations.
12. Owners of existing, abandoned mobile homes can be required by Town order of the Town Code Enforcement Officer to remove such mobile home if deemed to be a health, safety, or fire hazard. If owner fails to remove such mobile home, the Town can take steps to have said mobile home removed at owner's expense.

H. Manufactured/Mobile Homes – Double

Double wide manufactured/mobile homes are allowed by building permit in agricultural districts and R-1 districts subject to the following regulations:

1. The applicant shall submit to the Code Enforcement Officer an application for a manufactured home, a site plan drawing to scale showing the location of the proposed manufactured home on the lot, structures on adjoining lots and proposed water and sanitary facilities, foundations, landscaping, and storage facilities.
2. The manufactured home must have a minimum standard concrete pad or cellar. The manufactured home must have continuous, vented level skirting constructed of actual or simulated brick, block, stone, or masonry.
3. The manufactured home must have a minimum of 1,200 square feet. The manufactured home must have no holes, cracks, excessive rusting, and peeling of paint, broken windows or doors.
4. The manufactured home must have a finished floor no less than 24 inches, nor more than 40 inches above finished grade at the principal point of entry.
5. Individual Onsite Water and Onsite Wastewater (septic) system design and installation must comply with the New York State Sanitary Code, 10 NYCRR 75, including Appendices 75-A, B and C, as well as applicable sections of the New York State Uniform Fire

Prevention and Building Code (Uniform Code), including I-Codes incorporated by reference.

6. The manufactured home must conform with Section IV (B) of this Local Law, except that, on an operating farm the density requirements shall not be applied to one manufactured home, in addition to primary residence, if occupancy of said double wide manufactured home is to be by a family member. Except in the instance of manufactured home parks, there shall be only one manufactured home placed on an individually owned parcel of land.
7. The manufactured home must have a HUD number and data specification plate. The manufactured home must also be installed in compliance with the New York State Uniform Fire Prevention, Building Code and I-Codes.
8. Adequate protection shall be provided against any undesirable off-site views or any adverse influence from adjoining streets and areas.
9. The roof of the manufactured home must be of original construction, have a minimum pitch of 3/12, and made of a type of material commonly used in residential construction.
10. The exterior siding of the manufactured home must be constructed of a type of material commonly used in residential construction.
11. The joining of individual manufactured homes or modular homes in a manner for which they were not originally intended is prohibited for health, safety, and fire protection reasons under town zoning regulations.
12. Owners of existing, abandoned manufactured/manufactured homes can be required by town order of the Town Code Enforcement Officer to remove such manufactured/manufactured home if deemed to be a health, safety, or a fire hazard. If the owner fails to remove such manufactured/manufactured home, the town can take steps to have said manufactured/manufactured home removed at the owner's expense.

I. Mobile Home Parks or Camps

Mobile Home Parks or Camps are allowed by Special Use Permits in agricultural districts subject to the following regulations:

1. Park Size and Capacity. Each mobile home park shall have a minimum area of 350,000 square feet and shall contain no more than one mobile home for each 7,000 square feet of gross area, including land used for access roads, recreation and service facilities, and screen planting.
2. Size of lots. No mobile home lot shall be less than 5,000 square feet in area and have less than 50 feet of frontage on an access road.
  - a. Clearances. The mobile home shall be located on the lot with the following

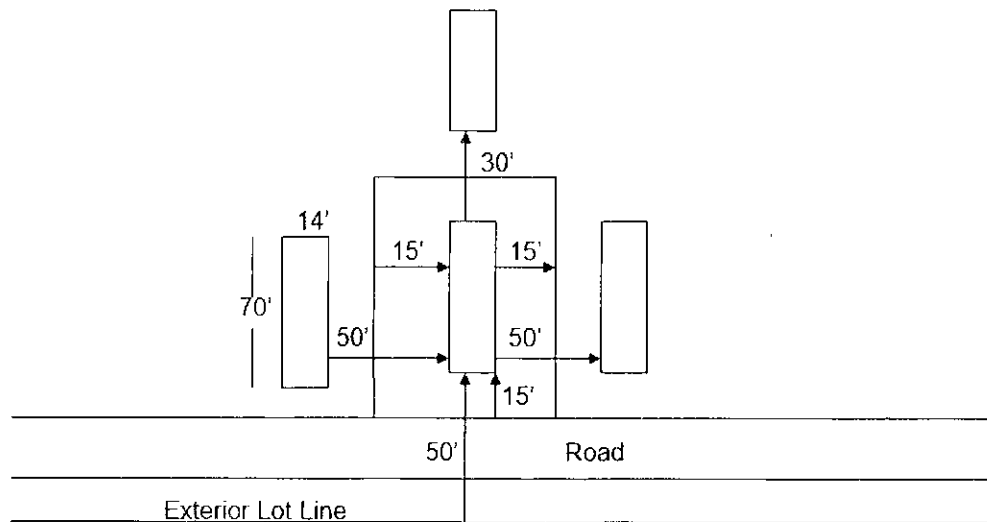
Sides - 15 feet on each side to individual lot lines or a total of 50 feet on both sides to adjacent mobile homes, whichever is greater.

- 50 feet from exterior lot lines.

Ends - 30 feet from adjacent mobile homes.

- 15 feet from access roads and individual lot lines.

- 50 feet from exterior lot lines.



3. **Automobile Parking.** There shall be at least one off-road parking space for each mobile home within the mobile home lot or within 50 feet of the mobile home. In addition, there shall be one off-road parking space for each five mobile homes within the park located throughout the park at places of public congregation.
4. **Parking Bay.** Each off-road parking space shall be at least nine feet wide and at least 20 feet long and shall have convenient and ready access to the roadway.
5. **Recreation Area.** A useable area set aside exclusively for recreation shall be provided within the mobile home park and shall equal in area to 800 square feet for each mobile home lot.
6. **Screening.** Each mobile home park shall have no less than two entrance roads and shall have a landscaped area at least 30 feet wide along exterior lot lines and street frontages, suitably planted and maintained to provide visual screening from adjacent properties.
7. **Objective.** Site planning and improvements shall provide for:
  - a. Facilities and amenities appropriate to the needs of the occupants.



- b. Safe, comfortable, and sanitary use by occupants under all weather conditions.
  - c. Practical and efficient operation and maintenance of all facilities at reasonable costs.
8. Arrangement of structures and facilities. The mobile home park or campground shall be efficiently organized in relation to topography, the shape of the plot, and the shape, size, and position of structures and common facilities and with full regard to use, appearance, and livability. Special attention should be given to new mobile home designs and the common appurtenances that are available.
  9. Adaption of site assets. The mobile home unit shall be fitted to the terrain with a minimum disturbance of the land. Existing trees, rock formations, and other natural site features shall be preserved to the extent practical.
  10. Favorable views or outlooks should be emphasized by the plan.
  11. In computing clearances, decks, porches, auxiliary rooms, or any other facilities connected to the mobile home shall be considered as part of the mobile home. In addition, there must be a minimum clearance of 10' from any auxiliary structure to an individual lot line.

J. Cemeteries and Crematories

No burial or memorial plots or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or a landscaped strip at least 6 feet in height providing complete visual screening from all adjacent residential property is provided, burial or memorial plots of less than 6 feet in height may be located no closer than 20 feet from any residential lot line. Crematories shall be located only in cemeteries.

K. Sanitary Disposal

No person shall undertake or construct any new building or structure in the Town without first meeting the requirements for a system, or facilities for, the separate disposal of waterborne sewage domestic or trade wastes in accordance with applicable regulations of the Town, the New York State Department of Health and other government authorities.

L. Residential Cluster Development

In order to promote the health and general welfare of the community and to preserve and make available open space, the Town Planning Board may grant a developer the right to vary the residential density within a tract to be developed (but not maintained) under single ownership, leaving a substantial area free of building lots.

Any residential development proposed under the provisions of this subsection shall follow all applicable procedure, standards and requirements of the Local Law governing the subdivision of the land in the Town.

The right to vary the density shall be subject to the following conditions:

The proposed residential development must create an attractive residential environment; produce a total average density as specified in Section IV (B); provide aggregate open space to be no less than that required in the district in which it is located; have population density which will offer no adverse influence; guarantee permanent retention of "open areas" and insure care and maintenance of open space.

No person shall begin construction of a residential cluster development in the Town without first obtaining a special permit from the Planning Board. To obtain a special use permit the applicant must comply with the following:

1. Before a special use permit is issued, the applicant shall submit to the Planning Board, seven copies of a map at a scale of one inch equals no more than 100 feet showing all land within 200 feet thereof, with the exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of land owners. Such map shall also show the present topography at two-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.
2. The applicant shall also submit to the Planning Board seven copies of the proposed plan of development at the same scale as above showing the proposed finished elevations at one foot contour intervals and the proposed drainage plan.
3. The applicant shall be required to furnish a performance bond, in the amount determined by the Building Inspector, to be sufficient to guarantee completion of the finished grading and drainage plan. Such bond shall be released only upon certification by the Building Inspector that all requirements including the finished grading and drainage have been complied with.
4. Upon approval, one copy of the approved development plan shall be returned to the applicant by the Town Clerk together with the Special Use Permit upon the payment of a fee established from time to time by the Town Board to cover all engineering and other costs directly attributed to the approval and office and field checking of the proposed soil mining operations.

Development must start within 1 year of the date of approval and be completed within a reasonable time; it must be consistent to the spirit and intent of the Local law and plans must be prepared with competent professional advice.

1. Town House Development: In R2 Districts where town house units are planned, there shall be no more than 8 "Town House" units in any contiguous group; the gross population density and building intensity to any area is to remain unchanged and conform to the minimum average density and maximum coverage requirements of the

zoning district in which they are situated, however, lot dimensions may be reduced as follows:

The minimum lot size shall be no less than 2,000 square feet and a minimum width of 20 feet; minimum rear yard, front yard and side yards at the ends of each unit shall be at least 25 feet each.

2. Single Family Detached Houses: Single family detached houses may be grouped in clusters on minimum lot sizes as follows:

<u>Districts</u>	<u>Min. Lot Size</u>	<u>Min. Lot Widths</u>
A	40,000 sq. ft.	125
R-1	15,000 sq. ft.	90
R-2	10,000 sq. ft.	80

and shall have a minimum front yard of 25 feet; minimum side yards of 12.5 feet each and minimum rear yards of 25 feet, provided that the sanitary systems are approved by the Code Enforcement Officer.

3. Special Designs: In cases where a developer has designed special groups of dwellings and garages, the Planning Board after inspecting plans and elevations may approve smaller minimum lot sizes than those in paragraph (2), provided that the sanitary systems are approved by the Code Enforcement Officer, that the average density does not exceed that permitted within the zoning district in which the land occurs and that the layout is not detrimental to the health and general welfare of the community.

For each square foot of land gained within a residential subdivision through the reduction of lot size below the required by minimum average density requirements as set forth in this Local Law, equal amounts of land shall be preserved and maintained as open land and the development rights thereto shall be conveyed to the Town for as long as these structures shall exist.

The balance of land not contained in the lots or the road rightofway, if provided, shall be contiguous and of such size and shape as to be useable for recreation or agriculture.

Such land shall be held in corporate ownership by the owners of lots within the development and the developer shall incorporate into the deed of all property within the development a clause giving to the owners an interest in such open land which shall be used for recreational or agricultural purposes only. No structure save those incidental to the recreational or agricultural use shall be permitted thereon.

Open land shall be a minimum of 3 acres and shall be subject to taxation, unless it is deeded to the Town. In the case of such tracts of 5 or more acres, the developer may petition to the Town to take over the land to be used in perpetuity as open spaces.

#### M. Travel Trailers

Single travel trailers shall not be used for living purposes for more than 15 days in any

Agricultural or Residential District unless a permit for such temporary occupancy shall be issued by the Town Board. No single travel trailer shall be occupied in a Business or Industrial District.

N. Migratory Workers Camp

A migratory camp to house transient farm workers may be situated in an Agricultural District but all structures shall be setback a minimum of 200 feet from any road or highway property line and shall be screened from said road. Such camp and structures shall comply with all State Health Department requirements and any other Town or County Ordinances.

O. Recreational Business

1. The definition of a recreational business shall be one that is a commercial activity and that is primarily recreational in nature and provides recreational benefit to the community. Retail sales, incidental to the recreational use, shall be permitted, e.g., golf balls for a golf course, tennis balls for a tennis court and arrows for an archery range.
2. Unless subsequently modified, a recreational business shall be permitted in A and C1 zones of the Town of Volney with Planning Board (Site Plan) approval.
3. Excessive light and noise shall not extend beyond the property boundary.
4. Buffering standards, consistent with the recreational use and the neighborhood will be mandated.
5. The scale of buildings shall be limited to a size comparable to and compatible with the size of the existing buildings in the area of the proposed use.
6. Signage shall be consistent with the characteristics of signs for commercial development permitted in that specific zone.
7. Specifically excluded from this category of Recreation Business would be "Campgrounds".

P. Towers

PERMITS REQUIRED: LIMITATION ON THE NUMBER OF TOWERS PER LOT

1. No person or other entity, shall use or per the use of land or premises for the construction of a tower without obtaining a special use permit and site plan approval from the Planning Board. Special exceptions from this section are:
  - a. Pre-existing towers, which are physically constructed as of the effective date of this Local Law.
  - b. Attached towers the height of which is within the maximum building height prescribed by the building ordinance.

2. There shall be a limit of two (2) towers per parcel.

#### Permit Application

1. The application for each tower permit, whether for a class 1 or class 2 tower, under this article shall be in writing and signed by the applicant. It shall state the name and address of the applicant, the name and address of each partner if the applicant is a partnership, the name and address of each officer if the applicant is a corporation and a complete description of the premises upon which the proposed tower is to be located, including the proposed tower location(s) and height.
2. Each application for a class 1 or class 2 tower shall be accompanied by a complete plan, drawn to scale, showing the location of the tower on site; the location of all structure, power lines or other utility lines within a radius equal to the proposed tower height; dimensions and sizes of the various structural components of the tower's construction; design data which shall indicate the basis of design; and certification that the tower was designed to withstand wind and ice load requirements for structures as set forth in the New York State Fire Prevention Building Codes and I-Codes.
3. Where the applicant is not the owner or a contract vendee of the premises, the application shall also be accompanied by the original, or a true and complete copy, of the lease of the premises consenting to the construction of the tower on the premises. All limitations that refer to the property lines within the case of leased property become the lines of the area leased, not the total area of the owner's premises.
4. When an application requesting placement of equipment on an existing tower is made, the application must be approved by Town Code Enforcement Officer and payment of the fee listed in the subsequent fee schedule shall be made.

#### Maintenance and Safety

Permits and applications issued hereunder may prescribe reasonable rules and regulations for the maintenance and safety of such towers.

#### Location

Guy wires and anchors for towers shall not be located closer to any property line(s) or street right of ways than ten (10) feet.

#### Height Limitations

The following height limitations shall apply to the construction of any tower.

1. Attached towers in the residential areas which are attached to the roof of the structure shall not exceed thirtyfive (35) feet above the grade or fifteen (15) feet in height above the ridge of said roof, whichever is greater. These restrictions do not pertain to the ground based attached towers.

2. Class 1 towers residential wind towers shall not exceed sixty (60') feet in height. All other Class 1 towers in all areas shall not exceed total height of one hundred fifty (150) feet from the ground to the top of the tower.
3. Class 2 towers in all areas shall not exceed a total height, from the ground to the top of the tower, of twice the minimum distance from the centerline of the tower's structure to the nearest property line or a maximum of one hundred (100) feet.
4. The height of the tower for the purposes herein shall include the height of any device affixed to the tower.

#### Fees

The applicant for a tower permit shall, at the time of issuance of any such permit, pay to the town clerk a fee, which shall be determined by the Town Board and listed in the schedule of fees.

#### Right of Entry and Inspection

The Code Enforcement Officer of the Town of Volney, or his designee, or a registered professional engineer retained by the Town, shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a tower has been constructed to inspect all parts of said tower installation and require that repairs or alterations be made if, in his or her judgement, there exists a deficiency in the structural stability of said tower. However, it shall not be required that the owner or his agent be present in the event of an emergency situation involving danger to life, limb or property.

#### Definitions

The following terms shall have the definitions indicated:

Attached Tower	-	Includes a tower which is rigidly attached to a building.
Class 1 Tower	-	Includes a tower the base of which is set back from the nearest property line, a distance equal to or greater than its overall height.
Class 2 Tower	-	Includes a tower, the base of which is closer to the nearest property line than a distance equal to its height.
Tower	-	Includes any tower, edifice, pole, vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground, or other structure, whether attached to a building or freestanding and whether guyed or selfsupporting, designed to be used as or for the support of devices to be used as or for the transmission and/or reception of radio or

		telephone frequency signals, such as, but not limited to, broadcast, short-wave, citizen band, FM, or television signals or wind-driven devices such as energy converters and wind speed and/or direction indicator, excluding residential satellite dishes.
Residential Wind Energy System	-	Consists of a wind turbine, tower, and associated control or conversion electronics, which has a rated capacity of not more than 5kW and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

Q. Stables for Horses for Non-Commercial Purposes

The proposed allowances of horses in an A and R-1 zones are contingent on the following:

1. A Special Use Permit is required in a R-1 zone.
2. The minimum lot size of five (5) acres per animal in the R-1 zone and a minimum of one (1) acre per animal in the A zone.
3. The location of the boarding facilities including stables, corrals, and other structures must be behind the rear wall of the primary residence.
4. Owner must have a structure to allow animal to be boarded in clean and dry conditions, shielded from outside elements. Running water and electricity may be required in structure housing horse, prior to issuance of permit.
5. A buffer zone of not less than twenty (20) feet between property line of a residential property, or other residentially zoned parcel, and start of any facilities including stables, corrals, and other structures. Buffer zone shall be planned in such a manner as to result in visual screening.
6. Owners must have the means for waste removal and maintain clean conditions free of excessive odors, insects, and/or vermin.

**SECTION VI. NON-CONFORMING BUILDINGS, USES, AND LOTS**

A. Continuation of Non-Conforming Buildings and Uses

Any lawful building, structure or use of premises existing at the time of enactment of this Local Law, or any subsequent amendment thereof applying to such building, structure or use of premises may be continued although such building, structure or use of premises does not conform to the provisions thereof, except that any undeveloped lot in a subdivision which was not properly approved by the Planning Board and/or filed in the office of the County Clerk and whose area and/or depth are less than the specified minimum lot requirements and average density requirements of this Local Law shall be considered a violation of this Local Law.

B. Discontinuance

Any building or land used for or occupied by a non-conforming use which is changed to or replaced by a conforming use shall not thereafter be used for or occupied by a non-conforming use.

C. Extension, Alteration, Restoration

A non-conforming use shall not be extended, enlarged or structurally altered, but the extension of a lawful use to any portion of a non-conforming building which existed prior to the date of adoption of this Local Law shall not be deemed the extension of such non-conforming use. A non-conforming use may be rebuilt in the event of partial or total destruction thereof to occupy the same space on the lot or rebuilt providing greater yard space and less lot coverage and not exceeding the height of the totally or partially destroyed building. Such restoration will be started within one year of destruction or damage.

D. Abandonment

When a non-conforming building or use has been abandoned for a period exceeding 12 (twelve) months, it shall not thereafter be re-established.

E. Necessary Maintenance and Repairs

A building or structure of non-conforming use may be repaired or restored to a safe condition.

F. Change to Other Non-Conforming Use

A non-conforming use of a building, structure or land may be changed to another non-conforming use more nearly conforming to the requirements of the district in which it is situated, however, no building in which a non-conforming use has been changed to a use more nearly conforming to the Local Law for the district shall again be devoted to a less conforming use.

G. Construction Started Prior to this Local Law

Any building or structure for which construction was begun prior to the effective date of this Local Law, or any subsequent amendment thereof applying, may be completed and used in accordance with the plans and specifications for building or structure.

H. Existing Undersized Lots



1. Any lot held in single and separate ownership prior to the adoption of this Local Law and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Local Law for the district, may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:
  - a. Such lot does not adjoin any other lot, or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district;
  - b. Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line if it is to be used for residential purposes;  
Side yards – 8 feet; front and rear yards – 25 feet; and
  - c. All other bulk requirements for that district are complied with.
2. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.
3. A lot of non-conforming size may be sub-divided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owners' property or properties.

I. Reduction in Lot Area

No lot shall be reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this Local Law.

J. Exemptions of Lots Shown on Approved Subdivision Plats

In accordance with Town Law, Section 265-a, any lot proposed for residential use in a subdivision whose plat delineates one or more new streets, roads or highways, and which said subdivision plat has been properly approved by the Planning Board, and filed in the office of the County Clerk, prior to the passage of this Local Law, and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Local Law for that district shall be considered as complying with such minimum lot requirements for one year after the filing of the subdivision plat.

K. Signs on Non-Conforming Buildings and Uses

All signs on non-conforming buildings and uses not in compliance with the requirements of the district in which located shall be removed by their owner within three years after adoption of this Zoning Law. If removal by the Town is necessary because of non-compliance with this section of the Local Law, the cost of such removal shall be assessed against the property as part of the taxes.

## SECTION VII. ADMINISTRATION

### A. Enforcement

This Local Law shall be enforced by the Building Inspector who shall be appointed by the Town Board, in the same manner and with the same powers as now or hereafter practiced or provided under the Building Code.

No building permit or certificate of occupancy shall be issued by the Building Inspector, and no permit or license for any purpose shall be issued by any official of the Town, if the same would be in conflict with the provisions of this Local Law.

### B. Building Permit

No building or structure other than corn cribs on operating farms, and utility buildings with a replacement value of more than \$1,000.00 shall be erected, added to, or structurally altered until a permit therefore has been issued by the Building Inspector in accordance with the provisions of the Building Code.

All applications for building permits shall be accompanied by two copies of a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot, and such other information as may be required by the Building Inspector to determine compliance with this Local Law. One copy of such plans, when approved by the Building Inspector shall be returned to the owner upon the payment of a fee the amount of which shall be established from time to time by resolution of the Town Board.

In each case where a proposed building or use requires site plan approval by the Planning Board for review before issuing a building permit, the Planning Board shall give public notice and hold a public hearing on each request for site plan approval. Such notice shall be published in a newspaper of general circulation in the Town at least five days before the date of the public hearing. The Planning Board shall consider the public health, safety and general welfare, the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular and shall consider all applicable requirements of this Local Law. The Planning Board shall also consider:

1. Traffic Access: that all proposed access ways to and from a street are adequate but not excessive in number, adequate in width, grade, alignment and visibility, not located too near street intersections;
2. Circulation and Parking: that the interior circulation system is adequate to provide safe accessibility to all required offstreet parking;
3. Landscaping and Screening: that parking and service areas are reasonably screened from view of adjacent residential districts and that buffer area requirements of this Local Law are complied with.

The Planning Board shall either recommend approval, approval with modification or disapproval of said site plan stating the reasons therefore in writing in its records, and

shall send a written notice of its recommendations to the Building Inspector, who then shall act accordingly, either issuing a permit, postponing issuing such permit pending compliance with the decision of the Planning Board or denying such permit. If the Building Inspector does not receive any written communication on the case from the Planning Board within 45 days after he refers such case to the Planning Board, he shall assume that the site plan meets with their approval.

C. Special Use Permit

1. The Town Planning Board shall have the power, after public notice and hearing, to grant Special Use Permits in the classes of cases specified in this Local Law.
2. All applications for Special Use Permits shall be filed with the Secretary to the Town Planning Board in writing, shall be made in a form required by the Board, and shall be accompanied by payment of a filing fee, the amount which shall be established, from time to time, by resolution of the Town Board and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
3. The Town Planning Board shall conduct a public hearing within sixty-two (62) days from the day an application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. The Town Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Town Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board on the application after the holding of the public hearing shall be filed in the Office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.
4. Whenever the Town Planning Board grants a Special Use Permit, appropriate conditions and safeguards and/or time limitations must be attached thereto so as to guarantee that the use of premises shall not be incompatible with other permitted uses in the vicinity and district in which subject property is situated.
5. Any Special Use Permit which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Town Planning Board.

D. Certificate of Occupancy

No land shall be used or occupied and no building or structure hereafter erected, altered or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Building Inspector in accordance with the provisions of the Building Code:·

All Certificates of Occupancy for new or altered buildings or structures shall be applied for coincident with the application for a Building Permit therefore. Such Certificate of Occupancy shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this Local Law.

## SECTION VIII. ZONING BOARD OF APPEALS

### A. Establishment of Duties

Pursuant to Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its chairman and also provide for compensation to be paid to said members and provide for such other expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

1. Term of Appointment: Of the members of the Zoning Board of Appeals first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for the term of five years from and after his appointment.

Their successor shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term.

2. Staff: The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.
3. Rules of Procedure, By-Laws, Forms: The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Local Law. Such rules, by-laws, and forms shall not be in conflict with, nor have the effect of waiving, any provision of this Local Law or any other ordinance of the Town of Volney. Such rules, by-laws, and forms and any subsequent amendments or supplements thereto, shall be submitted to the Town Board by the Zoning Board of Appeals for approval and filing for public view. The Town Board shall move to approve, reject, or modify such rules, by-laws, and forms within 30 days after submission. Failure of the Town Board to so move shall be construed to constitute approval thereof.
4. All meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as such Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of an applicant in any matter upon which they are required to pass under any ordinance to affect any variation in the Zoning Law.
5. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of

each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.

6. Referrals to the Planning Board: At least 54 days before the date of hearing held in connection with any appeal or application submitted to the Zoning Board of Appeals said Board shall transmit to the Planning Board a copy of said appeal or application and shall request that the Planning Board submit to the Zoning Board of Appeals its advisory opinion on said appeal or application.

The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearings. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the appeal or application.

B. Public Notice and Hearing

Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with Town Law as follows:

1. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Town of Volney not less than five days prior to the date of such hearing.
2. By giving written notice of hearing to any appellant or applicant.
3. By written notice mailed via certified mail by application to property owners in an affected area as may be required by the Zoning Board of Appeals, and to the Planning Board not less than five days prior to such hearing.
4. By giving written notice of hearing to any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by law.

C. Appeals

1. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by The Building Inspector under this Local Law in accordance with the procedure set forth herewith:
  - a. Notice of Appeal shall be filed with the Building inspector and the Secretary to the Zoning Board of Appeals in writing, in a form required by such Board, within 30 days of the date of the action appealed from, specifying the grounds thereof.
  - b. Upon filing of a Notice of Appeal and a payment by the applicant or the appellant of a filing fee, the amount which shall be established, from time to time, by resolution of the Town Board, the Building Inspector shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- c. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he or she shall appear in person or by agent or by attorney.
- d. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Zoning Board of Appeals, after Notice of Appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.
- e. Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the power of the Building Inspector. If the action by the Zoning Board of Appeals is to reverse the action of the Building Inspector in whole, the filing fee shall be refunded to the appellant.

#### D. Variances

- 1. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Local Law, the Zoning Board of Appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of the Local Law relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Ordinance shall be observed, public safety and welfare secured and substantial justice done.
- 2. All applications for variances shall be filed with the Secretary to the Zoning Board of Appeals in writing, shall be made in a form required by the Zoning Board of Appeals, and shall be accompanied by a payment of a filing fee, the amount which shall be established, from time to time by resolution of the Town Board, and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
- 3. Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.
- 4. Criteria for granting variances:

#### USE VARIANCES

- a. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms

of the ordinance or local law.

- b. No such use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that (1) under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- c. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### AREA VARIANCES

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such ordinance or local law, to grant area variances from the area or dimensional requirements of such ordinance or local law.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variances is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- c. The Zoning Board of Appeals, in the granting of the area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In no case shall a variance be granted solely for reason of additional financial

gain on the part of the owner of the land or building involved.

E. Relief from Decisions

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for relief by a proceeding under article seventy-eight of the Civil Practice Act of the State of New York. Such proceedings shall be governed by the provisions of article seventy-eight of the Civil Practice Act, except that (a) it must be instituted as therein provided within thirty days after the filing of a decision in the Office of the Town Clerk, (b) the court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter, and (c) the court at special term shall itself dispose of the cause on the merits, determining all questions which may be presented for determination under the provisions of section twelve hundred ninety-six of said article. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

**SECTION X. INTERPRETATION AND APPLICATION**

A. Legislative Intent

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

B. Non-Interference and Precedence

This Local Law shall not interfere with, abrogate, annul, or repeal any ordinance or any rule, regulation, or permit previously or hereafter enacted, adopted, or issued pursuant to law, provided that, unless specifically excepted, where this Local Law imposes greater restrictions its provisions shall control.

C. Violation

Any person who violates any provision of this Local Law shall be guilty of an offense and shall upon conviction be subject to a fine of not less than one hundred (\$100.00) dollars or more than five hundred (\$500.00) dollars for the first offense. The penalty for second or subsequent offenses shall not be less than five hundred (\$500.00) dollars or more than one thousand (\$1,000.00) dollars or imprisonment for a period of fifteen (15) days or both such fine and imprisonment. Each day such violation is permitted to continue after notification of violation shall constitute a separate offense and shall be punishable as such.

D. Separate Validity

If any section, subsection, paragraph, clause, or other provision of this Local Law shall be held invalid, the invalidity of such section, subsection, paragraph, clause, or other provision shall not affect any of the other provisions of this Local Law.



E. Effective Date

In accordance with the procedure set forth in Section 264 of the Town Law this Local Law shall take effect upon adoption.

**SECTION XI. DEFINITIONS**

Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel". The word "person" includes an individual person, a firm, a corporation, a co-partnership, and any other agency of voluntary action.

The phrase "used for" included "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

**ABANDONMENT:**

- 1.) The intent of the owner to discontinue the use or apparent, such as disconnection of utilities or removal of building fixtures needed for use. OR
- 2.) The active operation of the use has ceased, excluding short term interruptions during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal period of vacation or seasonal closure.
- 3.) The non-conforming use has been replaced by a conforming use. OR
- 4.) The non-conforming use has been changed to another use under permit from the Town Planning Board. OR
- 5.) The building is not occupied for a period of (1) one year. OR
- 6.) The building is not occupied, an attempt is being made to sell the facility as a non-conforming use, with signage on the site. Such attempt has exceeded one year, and the building is not being actively maintained and is falling into a state of physical disrepair.

**ACCESSORY BUILDING:**

A building detached from and subordinate to a main building on the same lot and used for purposes customarily incidental to those of the main building.

**ACCESSORY USE:**

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ACCESSORY USE EQUIPMENT:**

A piece of equipment or item customarily incidental and subordinate to the principle use or building located on the same lot with such principle use or building, such as a storage tent, propane tank, out-house, generators, and water storage tanks.

**ACETYLENE GAS MANUFACTURE FOR COMMERCIAL PURPOSE:**

Manufacturing of such hazardous and flammable material. See "manufacture".

**AGRICULTURE USE:**

Land consisting of four continuous acres or more used for raising or harboring livestock which includes but is not limited to poultry, horses, cows, sheep, and goats; and/or land used for growing agricultural products. Agricultural use includes farm structures and storage of agricultural equipment; riding and boarding stable; and as accessory use, sale of agricultural products raised on the property. Growing of fruit or garden for personal onsite consumptions is not considered an agricultural use.

**AIRPORT:**

Location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities.

**ALTERATION:**

As applied to a building or structure, a change or rearrangement in the structural parts or existing facilities of such building or structure, or any enlargement therefor, whether by extension on any side or by any increase in height, or moving of such building or structure from one location to another.

**ALUMINUM POWDER:** Aluminum in fine flake form used as a pigment to give appearance of a metallic surface.

**AMMONIA, CHLORINE, OR BLEACHING POWDER MANUFACTURE:** Manufacturing of such hazardous and flammable materials. See "manufacture".

**AREA BUILDING:**

The total areas taken on a horizontal plane at the main grade level of the principle building and all accessory buildings exclusive of terraces and uncovered steps.

**ARSENAL:**

Commercial collection of weapons and military equipment by a person or group.

**ASSEMBLY:**

Establishment that is not involved in the manufacturing, from raw materials, of any product or component product, which combines components into a completed assembly or sub-assembly.

**ASPHALT MANUFACTURE OR REFINING:**

Manufacture of such material. See "manufacture" and "refining".

**ATTIC:**

That unfinished space of the building which is immediately below and wholly or partly within the roof framing.

**AUTOMOBILE STORAGE/REPAIR:**

Facility at which the principal activity is the servicing or repairing of motor vehicles. Such facilities include but are not limited to mechanic shops, speedy-type oil and lubrication facilities and muffler and brake repair facilities. All activities shall be carried on within a completely enclosed building and screened adequately from public view.

**BAR:**

An establishment at which alcoholic drinks and sometimes food is served. (also see Restaurant)

**BAR/NIGHT CLUB:** Establishment primarily engaged in the sale and service of alcoholic beverages for on premises consumption during any period of the day as permitted by law. Such an establishment is subject to the regulatory authority of the New York State Liquor Authority. The incidental sale or provision of food or snacks shall not entitle such a use to be considered a restaurant under other provisions of this Law.

**BASEMENT:**

Any space in a building the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building. A basement shall not be counted in determining the permissible number of stories.

**BED AND BREAKFAST:** See "Tourist Home".

**BILLBOARDS:**

A sign or structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold, or offered elsewhere than upon the lot on which such sign is situated.

**BLAST FURNACE:**

Smelting furnace in the form of a tower into which hot compressed air can be introduced.

**BLEACHING POWDER:**

A powder used chiefly to remove color from materials.

**BOARDING HOUSE:**

A building or structure, other than a hotel, motel or multiple family dwelling, in which the proprietor, or their agents or assigns, provides sleeping accommodations for three (3) persons or more, with or without board in exchange for compensation, and such services which are incidental thereto. The proprietor and members of the proprietor's immediate family are excluded.

**BOILER SHOP:** A shop for the manufacture or repair of boilers.

**BOWLING ALLEY:**

A commercial establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment and playing area.

**BREWING OR LIQUOR DISTILLERY:**

An industrial operation involving the brewing and/or bottling of beverages for local, regional, or national distribution and packaged sales.

**BRONZE POWDER:**

Bronze in fine flake form used as a pigment to give appearance of a metallic surface.

**BUILDING:**

Any structure which has one or more floors and a roof, and is intended for the shelter, housing, or enclosure of person, animals, or chattel.

**BUILDING, ACCESSORY:**

See "Accessory Building"

**BUILDING, DETACHED:**

A building on one lot which does not share a wall with any other structure.

**BUILDING, PRINCIPAL:**

A building in which is conducted the main or principle use of the lot on which said building is situated.

**BUILDING LINE:**

The line, established by statute, local law or ordinance, beyond which a building shall not extend, as specifically provided by law.

**BULK:**

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

**CAMP:**

Any parcel of land on which are located two or more cabins, tents, shelters, or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, including summer colony, resort and day camp, but not including a mobile home park, boarding house, hotel, motel, or bungalow colony.

**CAMPGROUND:**

Any parcel of land on which are located two or more cabins, tents, shelters, or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, including resort and day camp, but not including mobile home park, boarding house, hotel, or motel.

**CAMPSITE:**

See "campground".

**CARBON:**

The chemical element of atomic number 6,

**CAR WASH:**

A structure or building designed for the washing, waxing, or similar treatment of automotive vehicles as its principal function. A GAS STATION having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the GAS STATION.

**CHURCH:**

See "place of worship".

**CELLULOSE:**

An insoluble substance that is the main constituent of plant cell walls and of vegetable fibers such as cotton.

**CEMETERY:**

A tract of land for the disposal or burial of deceased human beings or animals in a grave, mausoleum, vault, columbarium or other receptacle. The provisions of this Local Law shall apply to all cemeteries and burial grounds including those owned by a religious corporation, Municipal Corporation, or a cemetery corporation owning a cemetery operated, supervised or controlled by or in connection with a religious corporation.

**CEMENT:**

A powdery substance made with lime and clay. It is mixed with water to form mortar or mixed with sand, gravel, and water to make concrete.

**CLUB:**

An organization catering exclusively to members and their guests, or premises and building for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

**COAL TAR:**

A thick black liquid produced by the destructive distillation of bituminous coal.

**COMMERCIAL PARKING LOT:**

An area where non-commercial motor vehicles are parked for a fee.

**COMMERCIAL VEHICLE:**

A vehicle of more than one ton capacity used for the transportation of persons or goods primarily for gain or a vehicle of any capacity carrying a sign exceeding one square foot in an area or lettering of a commercial nature.

**COMMUNITY SIGN POST:**

A sign owned and maintained by the Town Board or by a group of businesses as approved by the Town Board and which contains several directional signs for the purpose of directing persons to businesses and community establishments within the community.

**CONTRACTOR'S YARD:**

Any space outside a building used for the storage or keeping of equipment, machinery, or vehicle, or parts thereof.

**COVERAGE:**

The lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

**CREOSOTE:**

A dark brown oil distilled from coal tar and used as a wood preservative. It contains a number of phenols, cresols, and other organic compounds.

**CULTURAL FACILITY:**

Any building, room or area designed or utilized primarily for the presentation to the general public of live theater, dance performances, musical concerts, cinema, lectures, exhibits of various art forms or exhibits of cultural, historic, academic or scientific material.

**CUSTOMARY HOME OCCUPATION:**

See "home occupation".

**DAY CARE CENTER:**

A "child day care center," "group family day care home," or "family day care home," as defined by the Social Services Law of the State of New York Section 390 and which is duly licensed or registered by the state. Such facilities provide for the care of three (3), or more unrelated children for three (3) or more hours per day but less than twenty-four (24) hours per day.

**DEVELOPMENT:**

The utilization of a lot or tract of land for one or more uses.

**DISINFECTANT:**

A chemical liquid that destroys bacteria.

**DRIVE-IN-MOVIE:**

An open lot or part thereof, with appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

**DRY CLEANING:**

A business engaged in the on-site dry cleaning of garments or other textiles.

**DUMP/LANDFILL:**

A lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purposes, of garbage offal, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind, excluding toxic waste.

**DUPLEX:**

See "Dwelling, Two-Family".

**DWELLING:**

A building designed or used principally as the living quarters for one or more families. The term "dwelling", "one-family dwelling", "two-family dwelling", "multi-family dwelling", "multiple dwelling", or "dwelling group" shall not be deemed to include morel, hotel, rooming house or other accommodations used for more or less transient occupancy. (See "Residence").

**DWELLING, DETACHED:**

A freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the lot.

**DWELLING, GROUP:**

A group of two or more dwellings occupying a lot in one ownership.

**DWELLING, MANUFACTURED/MOBILE HOME:**

A structure transportable in one or more sections that, in the traveling mode, is 8 feet (2438 mm) or more in width or 40 feet (12192 mm) or more in length or, when erected on site, is 320 square feet (29.7 m<sup>2</sup>) minimum, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the federal department of housing and urban development and complies with the standards established under Title 42 of the U.S. Code. The term "manufactured home" shall not include any self-propelled recreational vehicle.

**DWELLING, MULTI-FAMILY:**

A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently from each other.

**DWELLING, ONE-FAMILY:**

A building containing one dwelling unit only.

**DWELLING, MODULAR HOME:**

A factory fabricated building or structure delivered to and erected on the owner's lot in halves or other major sections, to be permanently located and used as a dwelling unit. The building or structure will be erected and constructed in compliance with all local laws and the New York State Uniform Fire Prevention, Building Code and I-Codes. A mobile or manufactured home is not considered as a modular home.

**DWELLING, SEMI-DETACHED:**

A building that abuts or shares a wall, on a side lot line, with another building on an adjoining lot and where all the remaining sides of the building are surrounded by open areas or street lines.

**DWELLING, TWO-FAMILY:**

A building containing two dwelling units.

**DWELLING UNIT:**

A building or portion thereof providing complete housekeeping facilities for one family. As used in this Local Law.

**EQUIPMENT RENTAL/SALES YARD:**

A facility used for the sale, rental and/or storage of all types of residential necessities including camping supplies, sanders, scrapers, drills, tools, linens, chairs and other items normally associated with such installations and contractor-industrial equipment including air compressors, space heaters, pumps, compactors, scaffolding, moving equipment and hauling trailers, and all other items normally associated with such installations. Said facility shall be situated on a site not less than one-half acre (21,780 square feet); include a building of not less than 2,000 square feet for office and indoor merchandise display; and all exterior storage area must have a minimum cover of crushed stone or equivalent and screened so as not to be visible from the street frontage.

**EXCAVATION:**

The removal of sand, gravel, rock or stone, topsoil, soil or earth, turf and other similar substances from their natural location in or on the ground for any purposes other than for the construction of a wall, driveway, sidewalk, building, structure or part thereof for which a building permit has been issued; farm pond, wildlife marsh or other farm conservation practice; or for the construction of any public utilities. All grading of land pursuant to plans approved by the Town Planning Board or Zoning Board or Appeals for site preparation, public and private site development and site improvement shall also be excluded from this definition.

**EXCELSIOR:**

Fine curled wood shavings.

**EXPLOSIVES:**

A substance that can be made to explode.

**EXTRACTION:**

Action of taking out something, especially using effort or force.

**EXTRACTION OPERATION AND SOIL MINING:**

A lot or land or portion thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial or commercial operation where one thousand (1000) tons or seven hundred fifty (750) cubic yards of material, whichever is less, is extracted within any successive twelve month period; but does not include the process of grading a lot preparatory to the construction of a building which has an approved building permit.

**FABRICATION:**

Action or process of manufacturing or inventing something.



**FAMILY:**

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

**FAT RENDERING INDUSTRIAL:**

Industrial clarifying of hard animal fat.

**FERTILIZER:**

A chemical or natural substance added to soil or land to increase its fertility.

**FINISHED GRADE:**

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

**FIREWORKS:**

A device containing gunpowder and other combustible chemicals that causes a spectacular explosion when ignited.

**FISH SMOKING/CURING:**

Preserve fish by various methods such as salting or drying.

**GARAGE, PUBLIC:**

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

**GASOLINE FILLING STATION:**

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

**GLUE/GELATIN:**

An adhesive substance used for sticking objects or materials together.

**GOLF COURSE/COUNTRY CLUB:**

Any lot, parcel, or tract of land, of a minimum size of ten acres, upon which is operated or maintained for the amusement, patronage, or recreation, public or private, whether or not for profit, a facility for the playing of the game or sport of golf.

**HEIGHT OF BUILDING:**

The vertical distance measured from the average finished grade along the wall of the building (or adjacent to the side of the structure) to the highest point of such building or structure.

**HIGH TENSION:**

Any electric line operating at voltage in excess of 34.5 Kv.

**HIGHWAY:**

A thoroughfare, however designed, permanently established for passage of persons or vehicles.

**HOME OCCUPATION:**

Accessory use of a service character conducted within a dwelling use for living purposes and does not change the character or have any exterior evidence of such use, and which conforms to the additional conditions set forth in Section V (A, 1) of this Local law.

**HORSE STABLE NONCOMMERCIAL:**

Premises on which is maintained not more than one horse not the property of the proprietor.

**HORSE STABLE COMMERCIAL:**

Premises on which is maintained more than one horse not the property of the proprietor, maintained for revenue. See also, Riding Stable.

**HOSPITAL/MEDICAL CENTER:**

A facility providing for the treatment of illness, injury, and disease, providing in-patient and/or out-patient accommodations, including what are commonly termed campus, clinics, diagnostic centers, neighborhood health centers, hospitals, teaching hospitals, general hospitals, out-patient lodge, health-related service, laboratory including clinical laboratories and blood banks, but expressly excluding a group od residence, nursing and convalescent home, business office, professional office, and limited business office except where the aforementioned excluded uses are situated within an accessory and integral to a medical center.

**HOTEL:**

A multiple dwelling used primarily for the purpose of furnishing lodging, with or without meals, with more than six sleeping rooms offered for compensation.

**INCINERATOR:**

An apparatus for burning waste material, especially industrial waste, at high temperatures until it is reduced to ash.

**INSECTICIDE:**

Substance used for killing insects.

**JUNK:**

The outdoor storage or deposit of any of the following, whether in connection with another business or not

- (a) Two or more junked vehicles.

(b) Junk mobile home: Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be either permanent or temporary living, business and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which is no longer suitable for human habitation or business use.

(c) Junk: Ordinary household or store trash such as paper barrels, cartons, boxes, crates, furniture, rugs, clothing, rags mattresses, blankets, tires, lumber, brick, stone, scrap metal or discarded materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use, including junk vehicles, appliances and mobile home.

(d) Junk appliance; any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, or wholly or partially dismantled.

(e) Toxic chemicals and radioactive materials at levels that could be injurious to human, animal, and biological life, exempting New York State licensed applicators.

**JUNK VEHICLE:**

A "junk vehicle" is any motor vehicle whether automobile, bus, watercraft, trailer, truck, tractor, mobile home, motorcycle, motor bicycle, mini-bicycle or snowmobile, or any other contraption originally intended for travel on the public highways which : (a) is unlicensed unregistered, old, wrecked, stored, discarded, abandoned or dismantled or partly dismantled, which is not intended or in any condition for legal use upon the public highway, (b) is being held or used for the purpose of resale, reclamation, storage or disposal of parts, or (c) is in such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repair.

**JUNKYARD:**

A licensed location for the placement and storage of junk and junk vehicles.

**KENNEL:**

Any place at which there are kept any number of dogs or cats for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

**LAMPBLACK:**

A black pigment made from soot.

**LAUNDROMAT:**

Business premises which can be equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessor use in an apartment house or an apartment hotel. See also "self-service laundry".

**LIVABLE FLOOR AREA:**

The enclosed floor area of a dwelling used or intended to be used for living, sleeping, cooking, or eating purposes, excluding unfinished basements, rooms for heating equipment, garages, porches, closets, bathroom water closet compartments, laundry, and other unheated areas and including only such floor area under a sloping ceiling for which the headroom is not less than five (5) feet, six (6) inches and if any such floor that is situated above another story has access to the floor below by a permanent built-in stairway.

**LOT:**

A lot situated within lot lines shown on a subdivision map or similar document or as described in a deed, and which is properly recorded in the records of Oswego County. Areas shown on maps or described in deeds which are contiguous shall be considered separate lots unless otherwise indicated or intended as one lot in said instrument.

**LOT, AREA:**

Total area within property lines, excluding any part thereof lying within the boundaries of a street or proposed street.

**LOT, CORNER:**

A lot situated at the junction and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

**LOT, DEPTH OF:**

The mean distance from the front property line of a lot to its rear line.

**LOT, THROUGH:**

A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

**LOT COVERAGE:**

See "Coverage".

**LOT FRONTAGE:**

A lot line which is coincident with a street line.

**LOT LINES:**

The lines bounding a lot as defined herein.

**LOT WIDTH:**

The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines; or the width of a lot measured along the real line of the required front yard.

**MANUFACTURE:**

To make on a large scale using machinery.

**MANUFACTURED/MOBILE HOME LOT:**

Any area designated site within a manufactured or mobile home park for the exclusive use of the occupant of a single manufactured or mobile home.

**MANUFACTURED/MOBILE HOME PARK:**

A lot which is used or intended to be used for the parking of three or more manufactured or mobile homes.

**MEDICAL CENTER/HOSPITAL:**

See "Hospital/Medical Center".

**MIGRATORY WORKER CAMP:**

A dwelling for migrant labor on a farm not to be used for permanent residence.

**MINE:**

Means any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use.

**MINERAL:**

Means any naturally formed, usually inorganic, solid material located on or below the surface of the earth.

**MINING:**

Means the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use, exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial, or municipal use; and the disposition of overburden, tailings and wastes at mine location. "Mining" shall not include the excavation, removal, and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

**MOBILE HOME:**

See "Dwelling, Mobile Home".

**MODULAR HOME:**

"See Dwelling, Modular Home".

**MOTEL:**

A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with an entrance and parking space, and is offered for rental and used principally by

motor vehicle travelers. The term “motel” includes but is not limited to every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, and roadside hotel.

**NON-CONFORMING BULK:**

The part of a building, other structure or tract of land which does not conform to one or more of the applicable bulk regulations of this Local Law, either following its effective date or as a result subsequent amendments thereto.

**NON-CONFORMING USE:**

Any use of a building, other structure, or tract of land, which does not conform to the use regulations for the district in which such use is located, either at the effective date of this Local Law or as a result of subsequent amendments thereto.

**NURSING HOME:**

A facility operated by a private individual(s), municipality(ies), corporation(s) or religious organization(s), for the purpose of providing lodging, board and continuous nursing care under medical supervision to the sick, invalid, infirm or convalescent persons, but not constituting a medical center.

**NURSERY SCHOOL:**

See “Daycare”.

**PARTY WALL:**

A wall on an interior lot line used or adapted for joint service between two buildings or structures.

**PLACE OF WORSHIP:**

Any church, synagogue, temple, mosque or similar structure used for worship or religious instruction including social and administrative room’s accessory thereto.

**PLAT:**

The final map, drawing, or chart on which the subdivider’s plan of subdivision is presented to the planning board for approval, and which, if approved, will be submitted to the County Clerk’s for recording.

**PLOT:**

A small area of ground marked off for some special use.

**POOL, SWIMMING:**

An artificial created pool or tank over 2 feet in depth with a mechanical water circulating device.

**POSTER:**

A temporary, non-permanent device, which announces, directs or advertises and political, educational, charitable, philanthropic, civic, professional, religious, or similar organization, campaign, show, drive, movement, or event.

**POTASH:**

Potassium carbonate compound.

**PREMISES:**

A lot together with all the buildings and uses thereon.

**PUBLIC UTILITY/TRANSPORTATION USE:**

An organization which provides a basic service to the public, such as water, waste disposal, energy, transportation, or telecommunication.

**RADIOACTIVE WASTE MATERIAL:**

Any waste material, including municipal or industrial sludge, contaminated with or containing radioactivity, classified or unclassified, including any such waste material determined to be below regulatory concern (BRC).

**RECREATION FOR PROFIT:**

See "Section V, Supplementary Regulations, N. Recreational Business, #1".

**RECREATIONAL BUSINESS:**

A development planned, maintained, operated and integrated with a major recreation facility such as a golf course, ski resort, cross country ski trails, little league baseball facility.

**REFINING:**

Remove impurities or unwanted elements from (a substance), typically as part of an industrial process.

**RESEARCH LABORATORY:**

An establishment or other facility for carrying on investigation in the natural, physical or social sciences, which may include engineering and product development.

**RESIDENCES, RESIDENTIAL:**

A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. "Residences", therefore, includes all one-family, multi-family, boarding, fraternity, and sorority houses. However, "residences" shall not include the following:

- a: transient accommodations, such as hotels, motels, and hospitals; or
- b: that part of a building containing both residences and other uses which is used for any non-residential uses, except accessory uses for residences.

**RESIDENTIAL CLUSTER DEVELOPMENT:**

A residential development consisting of four (4) or more lots whereby individual lots may be reduced in size, and/or where buildings may be placed closer together than otherwise permitted, so that open

spaces on the development parcel may be retained. A parcel of land containing a single multi-family dwelling structure shall not be considered to be a cluster development.

**RESTAURANT:**

A place where meals can be bought and eaten, see also "Bar".

**RETAIL BUSINESS:**

A commercial activity designed for and primarily characterized by the on premises sale of goods directly to the ultimate individual and household consumer, but also including servicing, preparation, storage and wholesale business transactions related to such goods and customarily associated therewith but clearly incidental thereto. This term shall not include commercial activity which may also be similarly characterized, but which is separately identified as a use permitted within a zoning district.

**RIDING ACADEMY:**

A commercial use where horses are stabled and boarded and made available for rent for riding on trails on the property or along roads or rights-of-way on or adjacent to the premises.

**ROAD STAND:**

A light structure, either attached to the ground or movable, intended for the sale of local produce for the general public.

**SCHOOL:**

Parochial, private and public school, college, university, and accessory uses; and shall exclude commercially operated schools of beauty, cultural, business, dancing, driving, music, and similar establishments.

**SELF SERVICE LAUNDRY:**

A business that cleans clothing or which is equipped with individual clothes washing and drying and/or cleaning machines for the principal use of retail customers.

**SETBACK:**

The distance in feet from the street line to the buildings on a lot. Setback must be 50 feet from the outer edge of the highway right-of-way. Also see "Street Width".

**SHOE BLACKING GRAPHITE:**

Blacking pigment for shoes.

**SIGN:**

Any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used, or which is in the nature of an announcement, direction or advertisement. A "sign" includes a billboard, neon tube fluorescent tube, or other artificial light or string of lights, outlining or hung upon any part of a building or lot for the purposes mentioned above, but does not include the flag or insignia of any nation or of any governmental agency or of any



political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.

**SIGN, ADVERTISING:**

Means a "sign" which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises if at all.

**SIGN, AREA:**

The area of a sign is measured by the following criteria:

- (a) When such sign is on a plaque or frames or outlines, all of the area of such plaque with the area enclosed by such frames or outlined shall be included
- (b) When such sign consists only of letters, designs, or fixtures engraved, painted, projected or any manner affixed on a wall structure, the total area of such sign shall be deemed the area of the smallest triangle, rectangle, polygon or circle within which all of the matter of which sign consists may be inscribed
- (c) For double-faced signs, where the message is the same on both sides, the area of only one side shall be used to determine sides

**SIGN, BUSINESS:**

Means a "sign" which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign relating to the property on which it is displayed shall be deemed a "business sign".

**SIGN, DIRECTLY ILLUMINATED:**

A sign which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity or radio activated or gaseous material or substance.

**SIGN, ILLUMINATED:**

Means a "sign" designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

**SIGN, REPRESENTATIONAL:**

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

**SIGN AREA:**

The area within the shortest lines that can be drawn around the outside perimeter of a sign including all decorations and lights, but excluding the supports if they are not used for advertising purposes. All faces of the sign shall be counted in computing the area. Any neon tube, string of lights, or similar device shall be deemed to have a minimum dimension of one foot.

**SINGLE OWNERSHIPS:**

Possession of land under single or unified control whether by sole, joint, common or other ownership, or by a lease having a term of not less than 30 years, regardless of any division of such land into parcels for the purpose of financing.

**SLAUGHTERHOUSE:** A fixed or permanent facility in which animals are slaughtered for food consumption.

**SPECIAL USE PERMIT:**

Shall mean an authorization of a particular land use which is permitted in a Local Law, subject to conditions imposed by such Local Law and will not adversely affect the neighborhood if such conditions are met. This may require a public hearing and site plan approval.

**STOCK YARDS:**

A large yard containing pens and sheds, typically adjacent to a slaughterhouse, in which livestock is kept and sorted.

**STORAGE:**

An enclosed place or space for the storage of goods.

**STORY:**

That part of a building comprised between a floor and the floor or roof next above it. See "attic" and "Basement".

**STORY, HALF:**

That portion of a building situated above a full story and having a least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half the floor-top-ceiling height of the story below.

**STOVE POLISH:**

A blacking pigment such as graphite.

**STREET:**

An existing public way or private way which affords principal means of access to abutting properties and is suitably improved; or proposed way shown on a plat approved by the Town Planning Board and/or recorded in the office of the County Clerk.

**STREET WIDTH:**

The width of the right-of-way or the distance between property lines on opposite sides of a street.

**STRUCTURE:**

A static construction of building materials, including building, stadiums, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings, (whether mobile or stationary at the time), and the like.

**THEATER:**

A place where play, operas, motion pictures, etc., are presented; especially a structure designed for such presentations.

**TOWERS:**

**ATTACHED TOWER:** Includes a tower which is rigidly attached to a building.

**CLASS 1 TOWER:** Includes a tower the base of which is set back from the nearest property line a distance equal to or greater than its overall height.

**CLASS 2 TOWER:** Includes a tower the base of which is closer to the nearest property line than a distance equal its height.

**FREESTANDING TOWER:** Includes a tower which is not attached to a building by a rigid member.

**TOWER:**

Includes any tower, edifice, pole or other structure, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio or telephone frequency signals, such as but not limited to broadcast, shortwave, citizens band, FM, or television signals or wind-driven devices such as energy converters and wind speed and/or direction indicators, exclude Residential satellite dishes.

**TOWNHOUSE:**

An independent single family dwelling unit which is one (1) of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

**TOURIST HOME:**

An owner occupied single family dwelling in which overnight accommodations are provided, with or without meals, for transient guests for profit, but no more than six rooms are for hire.

**TRACTOR TRAILER:**

See "Commercial Vehicle".

**TRAILER, TRAVEL:**

A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation use. this term shall also include "pick-up coaches", "motorhomes", and camping trailers".

**USE:**

This term is employed in referring to:

a: The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained, or occupied;

b: Any occupation, business activity, or operation conducted (or intended to be conducted) in a building or other structure, or on land.

**VETERINARIAN/ANIMAL HOSPITAL/KENNEL:**

The premises or buildings used for the diagnosis, treatment or other care of the ailments of domesticated, household or farm animals, which may include related facilities, such as laboratories, offices and temporary quarters for such animals. A commercial establishment in which more than 4 dogs, cats or other domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation

**VACATION RESORT:**

A facility for transient guests where the primary attraction is generally recreational facilities or activities.

**WATERCRAFT:**

Any floating vessel, to include, but not limited to, motorboats, sailboats, rowboats, canoes, kayakaks, and personal watercrafts such as jet skis.

**WAREHOUSE:**

A structure or premises for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation, whether it is in public or private ownership and use, including warehousing of goods.

**WAY:**

A thoroughfare, however designed, permanently established for passage of persons or vehicles.

**YARD, REQUIRED:**

That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

**YARD, FRONT:**

A yard extending across the full width of the lot and lying between the front lot line of the lot and nearest point of the building.

**YARD, REAR:**

A yard extending across the full width of the lot and lying between the rear lot line of the lot and nearest point of the building.

**YARD, SIDE:**

A yard situated between the building and the side line of a lot and extending from the front yard rear line (or from the front lot line, if there is no required front yard) to the rear yard front line or (rear lot line).

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designation as local law No. 1 of 2021 of the ~~(County)(City)~~ (Town) ~~(Village)~~ of Volney was duly passed by the Town Board on February 18, 2020 in accordance with the applicable provisions of law.

**2. ~~(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)~~**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)(City)(Town)(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was ~~(approved)(not approved)~~ *(Name of Legislative Body)* ~~(repassed after disapproval)~~ by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**3. ~~(Final adoption by referendum.)~~**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)(City)(Town)(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was ~~(approved)(not approved)~~ *(Name of Legislative Body)* ~~(repassed after disapproval)~~ by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such *(Elective Chief Executive Officer\*)* local law was submitted to the people by reason of a ~~(mandatory)(permissive)~~ referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the ~~(general)(special)(annual)~~ election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)(City)(Town)(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was ~~(approved)(not approved)~~ *(Name of Legislative Body)* ~~(repassed after disapproval)~~ by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such *(Elective Chief Executive Officer\*)* local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provision of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

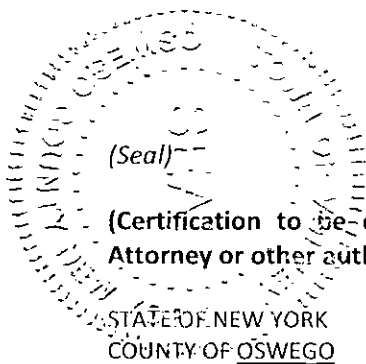
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors of the General Election of November \_\_ 20\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Sandra L Austin  
Sandra Austin, Town Clerk

Date: February 18, 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.

Sandra L Austin  
Signature Sandra L Austin  
Town Clerk  
Title

County  
City  
Town of Volney  
Village

Date: February 18, 2021