

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Corning

Local Law No. 4 of the year 2015

A local law Amending Town of Corning Zoning Ordinance  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Corning as follows:

Please see attached the Town of Corning Zoning Ordinance as Amended and Letter from NYS AG& Markets

(If additional space is needed, attach pages the same size as this sheet, and number each.)

# TOWN OF CORNING ZONING ORDINANCE

Originally adopted: September 13, 1983

Revised on: June 14, 2005 (*general*)

Revised on: August 22, 2006 (*flood damage*)

Revised on: December 13, 2006 (*mining*)

Revised on: August 10<sup>th</sup>, 2010 (*signs*)

Revised on: June 14<sup>th</sup>, 2011 (*use table & density table update*)

Revised on: March 12<sup>th</sup>, 2013 (*single family homes in a B2*)

Revised on: June 11<sup>th</sup>, 2013 (*conditional use permits operation*)

Revised: July 9<sup>th</sup>, 2013 (*road use standards*)

Revised: April, 2015 (*definitions and use table*)

Revised: December, 2015 (*Agricultural Considerations*)

TOWN OF CORNING  
ZONING ORDINANCE  
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**ARTICLE 1. TITLE, PURPOSE, AND AUTHORITY**

The following is an Ordinance duly adopted by the Town Board of the Town of Corning, Steuben County, New York on September 13, 1983 and amended on June 14, 2005, August 22, 2006, December 13, 2006 and May 21, 2010, to wit:

AN ORDINANCE to promote the health, safety, and general welfare of the Town of Corning (outside of the limits of the Villages of Riverside and South Corning); regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, manufactured and modular homes, structures and land for trade, industry, residence or other purposes; creating districts for said purposes, and establishing the boundaries, thereof; establishing a Board of Zoning Appeals to determine and vary the application of such regulations and restrictions in harmony with their general purposes and intent, and in accordance with general and specific rules herein contained; and providing for the enforcement of such Ordinance. This Ordinance shall be known and may be cited as the Zoning Ordinance of the Town of Corning.”

IN PURSUANCE of authority conferred by Article 16 of the Town Law of the State of New York, and in accordance with a comprehensive plan designed to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of property, and encouraging the most appropriate use of the land throughout the Town; and also in pursuance of Article 9 of the Town Law, to the extent applicable, the Town Board of the Town of Corning, in the County of Steuben, State of New York., hereby ordains, enacts and publishes as follows:

**ARTICLE 2. INTERPRETATION**

Section 2.0 Interpretation, Separability and Conflict.

- A. The following rules of construction of language shall apply to the text of this Ordinance.
  - 1. Words used in the present tense include the future tense.
  - 2. Words used in the singular include the plural, and words used in the plural include the singular.
  - 3. Words used in the masculine form shall also include the feminine.
  - 4. The word “lot” includes the word “plot” or “parcel.”
  - 5. The word “person” includes an individual, firm or corporation.
  - 6. The word “shall” is always mandatory; the word “may” is always permissive.
  - 7. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
  - 8. A “building” or “structure” includes any part thereof.
  - 9. The phrases, “to erect,” “to construct,” and “to build” a building, each has the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.
- B. If any section, paragraph, subdivision, or provision of this ordinance shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision judged invalid, and the rest of this Ordinance shall remain valid and effective.
- C. This Ordinance shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect.
- D. Whenever the requirements of this Ordinance are at variance with the requirements of other lawfully adopted rules, regulations or ordinances, the ordinance with the most restrictive provisions or those imposing the higher standards shall govern.

Section 2.1 Definitions.

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

ABOVEGROUND LIVING SPACE (ALS) - The aggregate sum of the gross horizontal area of the several floors of a dwelling unit, measured from the exterior walls above the finished grade. In particular, the “ALS” of a dwelling unit shall NOT include:

1. Basement space.
2. Elevator shafts and stairwells at each floor.
3. Floor space for mechanical equipment.
4. Penthouses.
5. Attic space (whether or not a floor has actually been laid) providing structural headroom of six (6) feet or less.
6. Interior balconies and mezzanines.
7. Enclosed porches.
8. Accessory uses, including space for accessory off-street parking.
9. Cellar space
10. Uncovered steps; exterior fire escapes.
11. Terraces, breezeways, open porches, and outside balconies and open spaces.

**ACCESSORY STRUCTURE, COTTAGE OR CABIN-** A single cabin or cottage structure subordinate to and clearly incidental to a principal residential building on the same lot, designed and suitable for seasonal or temporary living purposes.

**ACCESSORY STRUCTURE, NON DWELLING-UNIT**

A structure subordinate to and clearly incidental to the principal building on the same lot, and used for the purposes customarily incidental to those of the principal building. An accessory structure, non dwelling unit shall not contain habitable space. (e.g., a storage shed, garage, gazebo, greenhouse, portable, demountable, or permanent enclosures, shade structures, carports, pre-fab structures, etc.).

**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.

**ADULT USE AND ENTERTAINMENT ESTABLISHMENTS -** A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or serving; topless hair care or massages; service or entertainment where the servers or entertainers wear only pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age.

**ADULT ARCADE -** Any place which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

**ADULT BOOKSTORE OR ADULT VIDEO STORE -** A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

Books, magazines, periodicals or other printed matter, or photographs, films motion picture, videocassettes or video reproductions digital video disks (DVD's), compact disks (CD's), slides, or

other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or

Instruments, devices, or paraphernalia, which are primarily intended, labeled, designed, advertised or promoted for use in connection with “specified sexual activities.”

A commercial establishment may have principal business purposes that do not involve the offering for sale or rental of material depicting or describing: “specified sexual activities” or “specified anatomical areas” and still be categorized as “ADULT” BOOKSTORE or “ADULT” VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas”. For purposes of this definition, “principal business purpose” shall mean twenty-five percent (25%) or more of any of the following:

- The number of different titles or kinds of such merchandise;
- The number of copies or pieces of such merchandise;
- The amount of floor space devoted to the sale and/or display of such merchandise; or
- The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

**ADULT CABARET** – A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (a.) Persons who appear in a state of nudity; or
- (b.) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- (c.) Films, motion pictures, video cassettes, video cable, satellite internet connections, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

**ADULT MOTEL** - A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, CD Rom’s, DVD’s, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of visual reproductions.

**ADULT VISUAL THEATER** - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, CD’s, regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**ADULT THEATER** - A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

**AGRICULTURE** – means the use of land, buildings, structures, equipment, manure processing and handling facilities, and farming practices which contribute to the production, preparation and marketing

of crops, livestock and livestock products as a commercial enterprise or a hobby, and including commercial horse boarding operations as defined in the Agriculture and Markets Law Article (AML) 25-AA, Section 301. This includes, but is not limited to the following: orchards and vineyards, vegetable crops, hops, greenhouse/nursery production of horticultural and floriculture crops, greenhouse vegetable production, harvested agronomic crops (corn, soybeans, small grains), hay and pasture, livestock and poultry raised for food and fiber, and animals raised for recreation or sale (e.g. horses, alpaca/llama), beekeeping, aquaculture (fish production), silviculture (timber, firewood), agroforestry (forest farming) including maple, energy production including energy from manure or biomass crops. Agriculture and farming, and agricultural operations and farms, are considered to be interchangeable terms.

AGRICULTURAL DISTRICT – Land that has been certified by New York State, reviewed by Steuben County and given the certification as an “Agricultural District” pursuant to Article 25-AA (AML) with the intent to protect and promote the availability of lands for farming purposes.

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 thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location to another.

AQUIFER - An underground water-bearing volume of permeable rock, sand, or gravel.

AQUIFER PROTECTION OVERLAY DISTRICT - Those areas as defined below which contribute to the Town of Corning’s Corning Manor Water District water supply.

APOD #1 - WELLHEAD PROTECTION AREA - The land area immediately around a well which contributes water to the public well as shown on the Aquifer Protection Overlay Map. For the Corning Manor public well #2, this area is defined as the circular Zone 1 area with an approximate four hundred (400) foot radius. For the Corning Manor #2 public well, water at the outermost boundary of the Wellhead Protection Area will reach the well within a minimum of sixty (60) days.

APOD #2 - AQUIFER RECHARGE AREA - The aquifer area outside APOD #1 Wellhead Protection Area which contributes water to the Corning Manor #2 public well as shown on the Aquifer Protection Overlay District Map, this area is defined as the circular Zone 2 area. Water at the outermost boundary of Zone 2 will reach the well within a 365 day travel time.

APOD #3 - WATERSHED TRIBUTARY AREA - The upland watershed which contributes water to APOD#2 Aquifer Recharge Area, as shown on the Aquifer Protection Overlay District Map, delineated as Zone 3.

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

AREA, LOT - The total area within the property lines excluding external streets.

ATTIC - That space of building which is immediately below and wholly or partly within the roof

framing.

AZIMUTH - The angular distance between true south and the point on the horizon directly below the sun. Values to the east of south (in the morning) shall be negative. Values to the west of south (in the afternoon) shall be positive.

BANNER - A sign intended to be displayed either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, fabric of any kind, or other flexible material.

BASEMENT - A story partly below finished grade, but having at least one-half of its height measured from floor to ceiling, but no less than four feet, above average finished grade.

BILLBOARDS - SEE "SIGN, OFF-SITE."

BOARDING HOUSE - A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boarding house.

BUILDABLE LAND - all that acreage which is not steep slopes (25% or greater), floodway, wetlands (either state or federal), lands covered by water bodies, or stream corridors (50' setback from each streambank).

BUILDING - Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY - See "ACCESSORY STRUCTURE, NON DWELLING UNIT & ACCESSORY STRUCTURE, COTTAGE OR CABIN."

BUILDING, DETACHED - See "ACCESSORY STRUCTURE, NON DWELLING UNIT & ACCESSORY STRUCTURE, COTTAGE OR CABIN." A building surrounded by open space on the same lot.

BUILDING, HEIGHT - The vertical distance measured from the average elevation of the proposed or existing finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs or to the mean height between eaves and steeple.

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

BUILDING, SEMI-DETACHED - A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

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

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

**BULLETIN BOARD** - A type of changeable copy sign that displays copy in a casement made of glass, plastic or other material.

**CELLAR** - An enclosed space in a dwelling having more than one-half of its height below the curb level or grade. However, where a dwelling is set back from the curb level or grade in such a manner that the enclosed space in the dwelling is above the curb level or grade but at least one-half of its height is below the land immediately adjacent to the dwelling, such space shall be deemed a cellar. A cellar shall not be counted as a story.

**CLEAR VISION AREA** - The distance within twenty-five (25) feet of the pavement of a public or private road at a road intersection and between three (3) feet and eight (8) feet in height above the pavement grade.

**CLUB, MEMBERSHIP** - An organization catering exclusively to members and their guests, or premises and buildings 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.

**COMMERCIAL VEHICLE** - A vehicle of more than one ton capacity used for the transportation of persons or goods primarily for gain.

**COMMUNITY POLE** - A sign owned and maintained by the Town Board, or by a group of businessmen as approved by the Town Board, and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

**COMPOUND** – Two or more residences on a single parcel of adequate size per the Town of Corning Density Control Schedule.

**CONDITIONAL USE** - Uses not specifically permitted in the Zoning Ordinance as specified in Article 4 Section 4.9 and subject to site plan approval.

**CONTIGUOUS PARCEL** - A tract of land under the control of the applicant or his agent that is not divided by any natural or man-made barriers such as existing roads and highways, rivers, areas with slopes greater than 35%, and not bisected by waterbodies.

**CONTRACTOR'S YARD** - Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, materials, machinery, or vehicles, or parts thereof, which are in active use by a construction contractor. Materials to include but not be limited to: wood, gravel, soil, leaves, mulch. Seasonal use as well as full time use to both be treated as a full contractor's yard.

**CORNER LOT** – A lot of which at least two adjacent sides abut upon streets or public places, for their

full length. Front yard setbacks must be met, according to the bulk and density table, for both sides abutting streets or public places.

**COTTAGE, CAMP, OR CABIN DEVELOPMENT** - Any parcel of land on which are located two or more cottages, cabins, camps, or other accommodations of a design or character suitable for seasonal or temporary living purposes (less than six months per calendar year). This may include a summer colony, boarding house, multiple cabins/cottages, camp sites, or RV sites, but does not include a manufactured/mobile home, hotel, or motel. Includes cabins built on same parcel as principal structure. See "SEASONAL USE".

**COVERAGE** - That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures. Gravel is considered pervious

**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.

**DUMP** - A lot or land used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste materials of any kind.

**DWELLING** - A building designed or used principally as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "two-family dwelling," multi "multiple dwelling," or "dwelling group" shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

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

**DWELLING, ONE-FAMILY DETACHED** - A house accommodating but a single family and having two side yards.

**DWELLING, ONE-FAMILY SEMI-DETACHED** - A one-family house having one party wall and one side yard.

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

**DWELLING, MULTI-FAMILY** - A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other.

**DWELLING GROUP** - A group of three or more, but not over ten attached single or two family dwellings with party walls between.

**DWELLING UNIT** - One room or rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, sanitary and sleeping facilities. This shall include modular, standard designed manufactured home, and residential designed manufactured home units provided they meet the standards of this ordinance and the New York State Building codes. It shall not include motel, hotel lodging establishments, substandard

mobile homes or trailers.

ESCORT - A person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person; for consideration, agrees or offers to privately perform a striptease for another person; or, for consideration, but without a license granted by the State of New York, agrees or offers to provide a massage for another person.

ESCORT AGENCY - A person or business association who furnishes, or offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

FAMILY - A “family” consists of (a.) one person, or two or more persons related by blood, marriage or adoption, or (b.) not more than five persons not necessarily related by blood, marriage or adoption, and in addition any domestic servants or gratuitous guests, who live together in a single dwelling unit and maintain a common household.

FARM OPERATIONS (IN AN AGRICULTURAL DISTRICT) – Land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a “commercial horse boarding operation”, “Timber operation”, “Compost, mulch or other biomass crops” and “commercial equine operation” as defined by NYS Agriculture and Markets Article 25-AA. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

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

FLOOR AREA - The aggregate sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of walls separating the buildings. In particular, the “floor area” of a building or buildings shall include:

1. Basement space.
2. Elevator shafts and stairwells at each floor.
3. Floor space for mechanical equipment, with structural head room of six (6) feet or more.
4. Penthouses.
5. Attic space (whether or not a floor has actually been laid) providing structural headroom of six (6) feet or more.
6. Interior balconies and mezzanines.
7. Enclosed porches.
8. Accessory uses, not including space for accessory off-street parking.

However, the “floor area” of a building shall not include:

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

**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 lubricating, washing, (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

**HOME OCCUPATION** - An accessory use which, is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof, and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by one or more occupants of such dwelling unit and in which not more than one person not residing in such dwelling is employed. Exceptions of use occurring within the walls of the dwelling unit, day care and the yard as an area for children to play.

**HOSPITAL** - A building containing beds for four or more patients, and used for the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis treatment, or other care of human ailments.

**HOTEL** - A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms.

**JUNK YARD** - An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery of parts thereof. A lot on which two or more wrecked or broken down vehicles or major parts thereof are stored for 3 months or more shall be considered to meet this definition of a junk yard.

**KENNEL** - Any building or lot where four (4) or more dogs are raised and/or boarded for the purpose of sale, breeding, training or exhibition, or are boarded for a fee or are sheltered for humanitarian reasons.

**LIVESTOCK** – Cattle, horses, donkeys, mules, goats, sheep, swine and other hoofed animals; poultry, ducks, geese, pigeons, peacocks and other live fowl; and fur or hide-bearing animals; whether owned or kept for pleasure, utility or sale. The term livestock shall not include small species of pigs, cage birds, or rabbits kept within a dwelling as a household pet.

LOT - A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same and which abuts and is accessible from a private or public road.

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

LOT, DEPTH OF - The mean distance from the front street line of a lot to its rear line.

LOT, "FLAG" -A parcel of land whose configuration is so designed to make legally conforming lot that is otherwise "landlocked" by road-fronting parcels. Access to a road from the interior lot is provided for by a strip of land (called the "pole") that is contiguous with the interior lot (called the "flag"). The buildable, interior, portion of the lot (the "flag") must meet the minimum lot area requirements in the district,

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 the road right-of-way.

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 rear line of the required front yard.

MANUFACTURED HOME, FACTORY – AKA: Modular, Designed primarily for residential occupancy, wholly or substantially manufactured in manufacturing facility, intended for permanent installation, constructed to NYSRC.

MANUFACTURED HOME, RESIDENTIAL DESIGNED - A single family dwelling built according to the Federal Manufactured Housing Construction and Safety standards ( 24 CFR 3280) HUD Code, which meets or exceeds the following criteria:

- (a.) The manufactured home has a minimum width over twenty (20) feet (multi-section)
- (b.) The manufactured home has a minimum of 900 square feet of enclosed living area
- (c.) The pitch of the roof has a minimum nominal of 3/12 pitch: and has a type of shingle commonly used in standard residential construction.
- (d.) The exterior siding consists of vinyl or aluminum lap siding: wood, Masonite or other materials similar to the exterior siding commonly used in standard residential construction.
- (e.) All towing devices, wheels, axles and hitches must be removed.

MANUFACTURED HOME, STANDARD DESIGNED - A single family dwelling built according to the Federal Manufactured Housing construction and Safety standards (24 CFD 3280) HUD Code, which does not meet the criteria of a residential Designed Manufactured home.

MANUFACTURED/ MOBILE HOME SPACE (LOT) The site in a mobile home park that is rented to an individual for the exclusive right of occupancy which can accommodate one manufactured/ mobile home, off street parking, private outdoor space and patios, storage building and other accessory structures.

MANUFACTURED/MOBILE HOME PARK - A contiguous parcel of land on which five or more mobile homes are, or will be, placed for nontransient use.

MINERAL means any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this definition, overburden, peat, topsoil, subsoil, sand, gravel and other stone materials shall be considered minerals.

MINING, LARGE SCALE - The extraction of minerals from the earth for offsite use; the preparation and processing of any minerals, including the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals for offsite use; or the onsite disposition of overburden, tailings and waste above the threshold for a NYDEC mining permit. A site proposed for mining shall not exceed ten (10) acres. Additional acreage to be mined shall be considered a separate mine and require a separate mining permit. "Mining" shall not include the excavation, removal and disposition of minerals from building construction projects, excavation of minerals for onsite use, or excavations in aid of agricultural activities.

MINING, NYDEC PERMIT - A permit as required by the New York Mined Land Reclamation Law (Environmental Conservation Law Article 23, Title 27), which applies to mines over 1000 tons, or 750 cubic yards, whichever is less, within twelve (12) successive months in a calendar year, or to mines over 100 cubic yards from or adjacent to any body of water not subject to the jurisdiction of article fifteen of the Environmental Conservation Law or to the public lands law.

MINING, SMALL SCALE - Mining below the threshold for a NYDEC permit. A site proposed for mining shall not exceed ten (10) acres. Additional acreage to be mined shall be considered a separate mine and require a separate mining permit. "Mining" shall not include the excavation, removal and disposition of minerals from building construction projects, excavation of minerals for onsite use, or excavations in aid of agricultural activities.

MIXED USE DEVELOPMENT: A single development containing two or more significant land uses (retail, office, residential, hotel/motel, or recreation) which are functionally, visually, and physically integrated into a single site, are developed under a coherent vision, and are compatible with the Comprehensive Plan. With the intent to allow for residential areas to be in a closer proximity to goods and services.

MOBILE HOME - A single family dwelling that is wholly or in part, fabricated in an off-site manufacturing facility for installation or assembly at the building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing construction and Safety Standards Act of June 15, 1976.

MOTEL - A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use 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, roadside hotel.

NON-CONFORMING BULK - That 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 Zoning Ordinance, either following its effective date or as a result of subsequent amendment 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 Zoning Ordinance or as a result of subsequent amendment thereto.

NUDE MODEL STUDIO - Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York or by an individual(s) to create works with serious literary, artistic, political or scientific value.

NUDITY or a STATE OF NUDITY - The visual display of "specified anatomical areas."

NURSING OR CONVALESCENT HOME - A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

NURSERY SCHOOL - Any place, however designated, operated for the purpose of providing daytime care or instruction for two or more children from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries, and day care centers.

OPERATING PERMIT - A renewable license to operate a mobile home park in the town, in compliance with Section 11.14 of this Ordinance.

PARKING SPACE - An off-street space available for the parking of one motor vehicle and having an area of not less than 18' X 9' (162 square feet) exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

PERSON - An individual, proprietorship, partnership, corporation, association, or other legal entity.

PLANNED NEIGHBORHOOD BUSINESS DISTRICT - One or more convenience commercial uses proposed as a unit and sized to serve a specific residential neighborhood, in conformance with Article 8.

PLANNED DISTRICT - One or more commercial, residential or industrial uses proposed as a unit, in conformance with Article 8.

PREMISES - A lot together with all the buildings and uses thereon.

PRINCIPAL USE (or BUILDING) – Relate to the main purpose of the parcel, exist independently of any other use of the property and are a permitted use within the district or has received a Conditional Use Permit for the use within the parcel. For example a dwelling unit is the principal use on a parcel within a residential district, while the garage is an accessory use.

PRIVATE ROAD: A non-dedicated road serving no more than four residential lots, plots, or sites which meets town specifications for private roads.

PRIVATE ROAD, FUTURE: A non-dedicated road serving no more than two residential lots, plots or sites which meets town right-of-way requirements for private roads.

PUBLIC ROAD: A right-of-way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, place, alley, or however otherwise designated, that is dedicated to the Town, county or state for maintenance, but not including a private driveway serving no more than one property or a private road.

Abandoned Road: A former Town road which has been formally returned to the ownership of the adjacent landowners(s).

Collector Roads: Roads which are used or designed primarily for through or heavy traffic (county and state roads) and roads which carry traffic from minor roads including the principal entrance roads of a residential development and roads for circulation within such a development. Collector Roads are designated on the Town of Corning Road Map # \_\_\_\_.

Dead-end Road or Cul-de-Sac: A minor road with only one vehicular outlet.

Marginal Access Roads: Minor roads which are parallel to and adjacent to major roads, and which provide access to abutting properties and protection from through traffic.

Minor Roads: Town roads which are used year-round primarily for access to the abutting properties.

Seasonal Roads: Town roads which are only open to traffic and maintained by the Town less than year-round between specific dates.

RECREATIONAL VEHICLE - Built on a single chassis, 400sqft or less, self-propelled or towable by light duty truck, designed not for use as a permanent dwelling but temporary living quarters for recreational, camping, travel or seasonal use.

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

RESIDENCES - See “DWELLING UNIT.”

RESIDENTIAL CLUSTER DEVELOPMENT - A flexible zoning technique whereby a subdivision may be laid out on smaller lot sizes than required in the Zoning Ordinance, provided that the overall density requirements are met for the total parcel.

RIDING ACADEMY - Any establishment where horses are kept for riding, driving or stabling for compensation.

RIGHT-OF-WAY - The property under ownership or easement normally (STREET-WIDTH) used for movement of vehicles, including, but not restricted to, the pavement area.

ROADSIDE STAND - A light structure with a roof (either attached to the ground or movable), not for year-round use, and at which only produce grown on the same parcel is offered for sale to the general public.

RURAL ENTERPRISES - Those uses which are located on a farm which maintain or enhance a parcel's current or future agricultural viability and are consistent with the farm use. These include, but are not limited to, professional offices, cottage industries, antique sales, bed and breakfasts, crafts production, computer repair, portable sawmills and firewood distribution. Enterprises which market petroleum or chemical products are prohibited.

SEASONAL USE – Use of residential or commercial that occurs fewer than 6 months of the year.

SETBACK - The required distance in feet from any survey boundary forming a lot or contiguous parcel to any building located on such lot. Setback at road frontage to begin at edge of pavement or survey boundary, whichever is least restrictive.

SEXUAL ENCOUNTER CENTER - A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

SIGN - Any structure or part thereof, or any device painted or represented on a structure or device, viewable from a public place, which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of, an announcement, direction or advertisement, or a community pole. Such a device shall have the intent to display a message. A "sign" 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. A sign shall not include decorations or collectable signs which are not displayed for conveying a message. A vehicle with a state authorized license plate and inspection and bearing a message shall not be considered a sign.

SIGN, ABANDONED - A sign that otherwise meets the zoning code that is no longer in use and/or displays a commercial message of a business that no longer exists at such location.

SIGN, ACCESSORY - Any sign other than the primary identification signs.

SIGN, ADVERTISING - See SIGN, COMMERCIAL.

SIGN, AWNING - Any visual message incorporated into an awning attached to a building.

SIGN, BUSINESS - See SIGN, PRIMARY IDENTIFICATION.

SIGN, COMMERCIAL - Means a “sign” which directs attention to a commercial enterprise and/or advertises a product or service.

SIGN, CONSTRUCTION - A temporary on-site sign which denotes the architect, engineer, contractor, and the like working upon the premises where the construction is proposed or underway.

SIGN, COPY-CHANGE - A sign that is designed so that its characters, letters illustrations or other content can be changed, altered or rearranged without physically altering the surface of the sign. This includes manual, electrical, electronic, or other variable message signs.

SIGN, DIRECTIONAL - An on-site sign which serves solely to designate the location of or direction to any premise or area located on the premises. These signs include arrows, enter/exit signs and the like.

SIGN, FACE - The area of a sign on which copy is intended to be displayed from.

SIGN, FREESTANDING - Any sign not attached to or part of any building but is separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, high-rise signs, and monument signs.

SIGN, HIGH-RISE - An on-site freestanding sign directing travelers to essential services such as gas, food, and lodging.

SIGN, ILLUMINATED - A sign illuminated in any manner by an artificial light source, whether internally or externally lit, including but not limited to neon signs and any sign which has characters, letters, figures, designs or outlines illuminated by artificial lighting.

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

FLASHING - An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use. This includes neon-flashing signs and copy-change signs with images that flash to draw attention to the sign. Referencing New York State Highway Law Article 4 Section 88 (Control of Outdoor Advertising), a “flashing” sign shall consist of a sign in which the sign face changes more frequently than once every six (6) seconds and the actual change process is accomplished in three (3) seconds or less.

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

SIGN, MONUMENT - A freestanding sign with a base affixed to the ground, where the length of the

base is at least two-thirds the horizontal length of the sign area.

SIGN, NAME PLATE - A wall sign which indicates the name, occupation, or profession of each occupant on the premises.

SIGN, NON-COMMERCIAL - A sign which displays a message that is representative of a personal expression, view, faith, or the like. Such sign is not connected with or engaged in the pursuit of a commercial enterprise.

SIGN, NON-TRADITIONAL - A sign which is made of non-traditional media for communication such as streamers, balloons and inflatables. The sign shall be measured by the maximum extent that is visible at any one given time. Such signs include representational signs.

SIGN, OFF-SITE - 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.

SIGN, PORTABLE - Any sign capable of being easily transported or moved, whether on its own trailer, wheels or otherwise designed to be movable and not structurally attached to the ground, a building, a structure or another sign. Such signs can include those that are leased or rented by the property owner. Such signs are considered "Accessory Signs."

SIGN, PRIMARY IDENTIFICATION - Means a "sign" which directs attention to the premises. Such signs may be a freestanding sign, wall sign, projecting sign, window sign, or non-traditional sign.

SIGN, PROJECTING - A sign which is attached to the building wall, structure, or device and which extends horizontally more than nine inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

SIGN, REAL ESTATE - A temporary sign used for the sale or rental of a piece of property. Such sign shall be allowed to remain until the sale/lease of said property.

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

SIGN, TEMPORARY - A sign displayed for a fixed length of time. Temporary signs are intended to be removed after the temporary purpose has been served. Included are for sale, lease, or rent signs, political signs, service signs, special-event signs, construction signs, signs to special or temporary events and the like.

SIGN, WALL - A sign which is painted on or attached to the outside of a building, structure, or device with the face of the sign in the plane parallel to such wall and not extending more than nine inches from the face of such wall.

SIGN, WINDOW - A sign viewable from a sidewalk, street or other public place, painted or affixed on glass or other window material or located inside within four feet of the window, but not including

graphics in connection with customary window display or products.

**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. Each separate face of a sign shall be counted as part of the sign area, except that any neon tube, string of lights, or similar device shall be deemed to have minimum dimensions of one foot.

**SINGLE OWNERSHIP** - 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 thirty years, regardless of any division of such land into parcels for the purpose of financing.

**SITE PLAN** - Maps and supporting information required under Article 10 for conditional uses as specified in Section 4.9 Use Regulation Table.

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

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

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

**SPECIFIED ANATOMICAL AREAS** - (a.) unless completely and opaquely covered, human genitals, pubic region, buttocks, or breasts below a point immediately above the top of the areola; and (b.) even if completely and opaquely covered, male genitals in a discernibly turgid state.

**SPECIFIED SEXUAL ACTIVITIES** - Includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy, bestiality, sado-masochistic acts and the like;
3. Masturbation, actual or simulated; or
4. Excretory functions.

**STORY** - The part of a building comprised between a floor and the floor or roof next above it. A basement shall be considered a story. A cellar shall not be considered a story.

**STORY, HALF** - That portion of a building situated above a full story and having at 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-to-ceiling height of the story below. An attic with a finished floor shall be considered a

half story.

**STREET** - An existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plan 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 buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, fences, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time), and the like.

**TOWN HOUSE** - A building consisting of a series of one-family attached dwelling units having common property walls between each dwelling unit. (See also **BUILDING**, **SEMI-DETACHED**).

**TRAVEL TRAILER** - A structure that is intended to be transported over the highway (either as a motor vehicle or attached to or hauled by a motor vehicle) and is used or designed to be used for seasonal and/or temporary living or sleeping purposes.

**TRUCKING TERMINAL** - A structure or part of a structure or premises used for the short-term storage and/or transfer of goods, materials, wares and merchandise for the owner or others by truck transport.

**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 in any building or other structure, or on land.

**VACATION RESORT** - Any area of land on which are located a hotel or group of buildings, containing living and sleeping accommodations hired out for compensation, which has a public lobby serving the guests, and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

**VETERINARY OFFICE/HOSPITAL** - An establishment for the routine examination, medical or surgical treatment and care of domestic animals, generally with overnight boarding facilities for animals in care but without kenneling of animals.

**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.

**WAY** - A thoroughfare, however designated, permanently established for passage of persons or

vehicles.

WIND ENERGY CONVERSION SYSTEM (WINDMILL) - Any mechanical device designed for the purpose of converting wind energy into electrical or mechanical power.

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 along the full length of the front lot line between the side lot lines. Also includes, any area forward of the front of the primary or accessory use.

YARD, REAR - A yard extending along the full length of the rear lot line, between the side lot lines.

Yard Sale – Any display of used goods for sale on a property customarily used as a residence. The person(s) conducting the sale shall be residents of the immediate neighborhood. Sale must be temporary, occurring no more than 5 times a year. Sale must occur between a Thursday and a Sunday. Also known as garage sale, estate sale and tag sale. Any sale not meeting the definition above is to be considered retail and must meet the use chart of the Town of Coning Zoning Law.

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).

ZOO – An establishment providing care and maintenance for exotic animal species for display and petting to the public. This includes avian and small animal rehabilitation, rescue and education centers.

**ARTICLE 3. ESTABLISHMENT OF DISTRICTS**

Section 3.0 Application of Regulations. Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved, or altered, unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards, than is specified herein for the district in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Ordinance shall be included, as part of a yard or other open space similarly required for another building.
- D. No lot shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than required by this Ordinance.
- E. No building or occupancy permit shall be issued unless the Building Inspector is satisfied that the land or parcel in question has no natural characteristics which would endanger the health, safety, or welfare of the resident, or others. Such natural characteristics may include inadequate percolation, flooding, excessive slope, or other characteristics affecting on-site sewage disposal and the general use of the property.
- F. The Building Inspector shall, prior to issuing a building permit, be satisfied that the issuance of such permit is not in violation of the Land Subdivision Rules and Regulations of the Planning Board or any other ordinance, laws or regulations of record. Cases which appear in violation of the Subdivision Regulations shall be referred to the Chairman of the Board of Zoning Appeals and the Chairman of the Town Planning Board for review and recommendation.

Section 3.1 Names of Zoning Districts.

In order to fulfill the purpose of this Zoning Ordinance, the Town of Corning establishes and is hereby divided into the following zoning districts:

- R-1 - Residence - rural, low density
- R-1C - Residence - rural conservation, low density
- R-2 - Residence - suburban, low density
- R-3 - Residence - suburban, medium density
- B-2 - Highway Business
- I - Industrial

Planned Development

- PRD - Planned Residential District
- PBD - Planned Neighborhood Business District
- PD - Planned District

Aquifer Protection Overlay Districts

- APOD #1 - Wellhead Protection Area
- APOD #2 - Aquifer Recharge Area
- APOD #3 - Watershed Tributary Area

Section 3.2 Zoning Map.

The location and boundaries of said zoning districts are shown on the map designated “Official Zoning Map of the Town of Corning”, adopted on September 13, 1983, that includes the Aquifer Protection Overlay District Map, as amended, and certified 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 Zoning Ordinance.

Section 3.3 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:

- A. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way line of such street, highway, public utility or watercourse is moved not more than fifty (50) feet.
- B. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel there to and at such distances there from as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- D. 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 apply to no more than 10% of the more restricted portion of the lot.
- E. In cases where the location of boundaries are 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 shall a district depth be less than the specified minimum lot depth shown for each district in the “Density Control Schedule” of this Ordinance.

- F. District boundaries shall be determined by use of the scale of the Zoning Map. In the event that such a determination produces a questionable boundary, the questionable boundary shall be referred to the Board of Zoning Appeals, and they shall, to the best of their ability, establish the exact boundary by application of the scale of the Zoning Map, and shall be further governed by the following:
1. The district boundary shall be fixed on the nearest lot line indicated by the scale of the Zoning Map; provided, that the difference between the scaled distance and the nearest lot line is less than five hundred (500) feet. When the boundary is thus fixed on a lot line, said lot line shall be indicated on a copy of the Zoning Map, and the owners of lots adjacent to said lot line and the date of the determination marked thereon.
  2. In the event that the distance between the location of the boundary as shown by the scale of the Zoning Map and the nearest lot line exceeds five hundred (500) feet, the Board of Zoning Appeals shall fix the zone boundary in accordance with the distance shown by the scale of the Zoning Map. When the boundary is fixed in accordance with the above procedure, said boundary line shall be marked on the aforesaid copy of the Zoning Map with the Boundary referenced to a lot line, road, or other physical object by the scaled distance together with the date of the determination.
- G. The copy of the Zoning Map showing such determinations shall be on file at the office of the Town Clerk.
- H. Precise Zone Boundary determinations made by the Board of Appeals in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the Zoning Map by the Town Board.

**ARTICLE 4. USE DISTRICTS**

Section 4.0 Rural Low Density Residential District (R-1)

- A. Intent. The Rural Low Density Residential District is intended to promote and encourage a suitable environment for family living and to conserve those areas in the Town suitable for farm and agricultural uses. The topographic and soil conditions in the town limit development in many areas. Development guidelines as specified in Article 11 shall be applied where appropriate to ensure the health, safety and general welfare of the community and to maintain rural nature of the countryside.
- B. Uses. Permitted and conditional uses allowed in the R-1 districts shall be as specified in Section 4.9 of this article, Use Regulation Table.
- C. Dimensional Requirements. The dimensional requirements set forth in Article 5, Town of Corning Density Control Schedule (Area and Bulk Schedule) shall be observed for all uses in the Rural Low Density Residential District.

Section 4.0A. Rural Conservation Low Density Residential District (R-1C)

- A. Intent. The Rural Conservation Low Density Residential District is intended to promote and encourage a suitable environment for family living in expanding residential areas with steeper slopes and soil conditions which limit development in many areas. The R-1C District is also intended to promote a development pattern which makes public sewer and water facilities affordable in the future by grouping homes on smaller road frontages. Using “cluster development,” in accordance with Article 7, will maintain the overall low density, maximize access to public utilities, and incorporate open space into the layouts. Development guidelines as specified in Article 11 shall be applied where appropriate to ensure the health, safety and general welfare of the community and to maintain rural nature of the countryside.
- B. Uses. Permitted and conditional uses allowed in the R-1C districts shall be as specified in Section 4.9 of this article, Use Regulation Table.
- C. Dimensional Requirements. All developments proposed for R-1C, requiring Subdivision approval, must be designed as “cluster development” as defined in Article 7, unless specifically waived by the Planning Board. The dimensional requirements set forth in Article 5, Town of Corning Density Control Schedule (Area and Bulk Schedule) shall be observed for all uses in the Rural Conservation Low Density Residential District

Minimum aboveground living space (ALS) for new homes is required in accordance with the following chart. New homes must be a minimum of 75% of the existing average aboveground living space (ALS):

<u>Neighborhood</u>	<u>Avg. Existing ALS</u>	<u>Min. Required ALS</u>
Birch	1630 SF	1223 SF
Country Walk	3617 SF	2713 SF
Ellison	1985 SF	1489 SF
Morrcrest	1681 SF	1261 SF
Steele-Downing-County-Churchill (Oakfield)	1975 SF	1481 SF
Upper-Lower Forest Theresa (Hickling Heights)	1909 SF	1432 SF

<u>Neighborhood</u>	<u>Avg. Existing ALS</u>	<u>Min. Required ALS</u>
Whispering Winds-Pine Shadow	3801 SF	2851 SF
White Birch	2617 SF	1963 SF
White Oaks	2513 SF	1885 SF

Section 4.1 Suburban Low Density Residential District (R-2).

- A. Intent. The Suburban Low Density Residential District is intended to promote and encourage a suitable environment for family living and protect and stabilize the residential characteristics of the district.
- B. Uses. Permitted and conditional uses allowed in the Suburban Low Density Residential District shall be as specified in Section 4.9 of this article, Use Regulation Table.
- C. Dimensional Requirements. The dimensional requirements set forth in Article 5, Town of Corning Density Control Schedule (Area and Bulk Schedule) shall be observed for all uses in the Suburban Low Density Residential District.

Section 4.2 Suburban Medium Density Residential District (R-3).

- A. Intent. The Suburban Medium Density Residential District is intended to promote and encourage a suitable environment for family living and to protect and stabilize the residential character of the older, more densely developed areas in the town.
- B. Uses. Permitted and conditional uses allowed in the Suburban Medium Density Residential District shall be as specified in Section 4.9 of this article, Use Regulation Table.
- C. Dimensional Requirements. The dimensional requirements set forth in Article 5, Town of Corning Density Control Schedule (Area and Bulk Schedule) shall be observed for all uses in the Suburban Medium Density Residential District.

Section 4.3 Planned Residential District (PRD).

- A. Intent. It is the intent of the Planned Residential District (PRD) to provide flexible land use and  
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design regulations through the use of performance criteria so that small to-large neighborhoods or portions thereof may be developed within the district that incorporate a variety of residential densities and types. This district will contain both individual building sites as well as common property, which will be planned and developed as a unit.

B. Permitted Uses.

1. Single family detached dwelling units are permitted outright in conformance with the density control schedule set forth in Article 5.
2. All other residential uses shall be considered conditional uses subject to the site plan review provision as specified in Section 4.9 Use Regulation Table.

C. Standards Governing Increased Density Development. Any development outside the permitted single-family house, considered in the Planned Residential District shall conform to the following standards, which are regarded as minimum requirements, in addition to applicable standards in other sections of this Ordinance:

1. The minimum area required for a proposal to qualify for density increase and dimensional modification shall be a contiguous parcel of land a minimum of ten (10) acres in size. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this section, the Town Board may consider projects with less acreage.
2. All parcels shall be serviced by public water and sanitary sewer systems.
3. Single family detached house developments shall meet the following standards:
  - (a.) Minimum lot size of fifteen thousand (15,000) square feet per dwelling unit.
  - (b.) Yard requirements:
    - (1.) Front Yard - minimum 25 feet
    - (2.) Rear Yard - minimum 25 feet
    - (3.) Side Yard - minimum 12.5 feet
4. Townhouse developments:
  - (a.) The gross density of the parcel or portion thereof proposed to be in multi-family use shall not exceed eight (8) dwelling units per acre.
  - (b.) There shall be no more than eight (8) townhouse units in any contiguous group.
  - (c.) Yard requirements:
    - (1.) Front Yard - minimum 25 feet
    - (2.) Rear Yard - minimum 30 feet

- (3.) Side Yard (at ends of buildings) - minimum 10 feet
  - (d.) Maximum building height shall be two (2) stories or thirty-five (35) feet whichever is the lesser.
  - (e.) Maximum site coverage by all buildings and structures shall be not more than 30% of the total gross acreage included in the project site plan.
5. Multi-family developments (Dwelling, Multi-Family):
- (a.) The gross density of the parcel or portion thereof proposed to be in multi-family use shall not exceed eight (8) dwelling units per acre.
  - (b.) Yard requirements:
    - (1.) No building shall be nearer than fifty (50) feet to the road line of any dedicated road peripheral to the site.
    - (2.) Thirty (30) feet from the road line of any interior project road. In the case of non-dedicated streets and roads, this setback shall be measured from the limits of the paved area.
    - (3.) No living unit building shall be nearer than 20 feet from any interior lot line.
    - (4.) No accessory building, including unattached garages, shall be nearer than ten (10) feet of any lot line in the required rear or side yard and shall not be located in any required front yard.
    - (5.) The maximum building height shall be two (2) stories or thirty-five (35) feet whichever is the lesser.
    - (6.) Maximum site coverage by all buildings and structures shall be not more than 30% of the total gross acreage included in the project site plan.
    - (7.) No building shall contain more than twelve (12) dwelling units.
    - (8.) Minimum Unit size of apartments:
 

1.	Efficiency apartment:	550 sq. ft.
2.	1 bedroom apartment:	700 sq. ft.
3.	2-bedroom apartment:	850 sq. ft.
4.	3-bedroom apartment:	1000 sq. ft.

An additional one-hundred twenty (120) square feet for each bedroom shall be added for larger apartment sizes.

D. Special Provisions Applying to the Planned Residential District

1. In order to carry out the purpose of this district, a development shall achieve the following objectives:
  - (a.) A maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes, and community facilities available to existing and potential town residents at all economic levels.
  - (b.) More useable open space and recreation areas.
  - (c.) The preservation of trees and outstanding natural features.
  - (d.) A creative use of land and related physical development.
  - (e.) An efficient use of land resulting in smaller networks of utilities and streets and thereby lowers housing costs.
  - (f.) A development pattern in harmony with the objectives of the Comprehensive Plan for the Town.
2. The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
3. Construction shall start within one year of the date of approval and shall be completed within a mutually acceptable time period.
4. If the project is proposed to be constructed in sections or phases, all public improvements shall be complete in each phase prior to occupancy of any dwelling unit.
5. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.
6. In the event that the organization established to own and maintain common property, or any successor organization shall fail to maintain the common property, in reasonable order and condition in accordance with the plan, the Town of Corning may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition, and said notice shall include a demand that such deficiencies

of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice.

At such a hearing, the Town may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within 30 days or any extension thereof, the Town, in order to preserve the taxable values of the properties within the development and to prevent the common property from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the municipality shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice to such organization, or to the residents and owners of the development to be held by the Town, at which hearing such organization or the residents and owners of the development shall show cause why such maintenance by the Town shall not, at the election of the Town, continue for a succeeding year.

If the Town shall determine that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said property at the end of said year. If the Town shall determine such organization is not ready and able to maintain said common property in a reasonable condition, the Town may in its discretion, continue to maintain said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

The cost of such maintenance by the Town shall be assessed equally, against the properties within the development that have a right of enjoyment of the common property and shall become a tax lien on said properties.

7. If the Planned Residential District proposal involves the subdivision of land into parcels for sale to individual owners, the site plan required for the PRD shall suffice for Planning Board review under the Town's subdivision regulations. In such cases, the developer shall prepare a subdivision plat suitable for filing with the Steuben County Clerk in addition to the required site plan drawings. The Planning Board shall carry out their subdivision review concurrently with site plan review. Upon final site plan and plat approval, the plat shall be filed with the County Clerk in the manner prescribed by said regulation.
8. For the purposes of regulating the development and use of property after initial construction and occupancy, any changes shall be processed as a conditional use request to the Town Board. Properties lying in the PRD are unique and shall be so considered by the Town Board when evaluating these requests; and maintenance of the intent and function of the planned unit shall be of primary importance.

Section 4.4 Planned Neighborhood Business District (PBD)  
See Article 8 for regulations.

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Section 4.5 Planned District (PD)  
See Article 8 for regulations.

Section 4.7 Highway Business District (B-2).

- A. Intent. To provide for a wide range of essential highway services not involving regular local shopping. Since these services establishments often involve objectionable influences, such as large volumes of traffic, they must be designed not to interrupt traffic flow on high volume roads. Because these zones are entrance points to the City of Corning, the destination of many of the traveling public, the buildings, signage and landscaping must be visually pleasing. Examples of preferred layouts are included in the Site Design Illustrations attached to this law.
- B. Uses. Permitted and conditional uses allowed in Highway Business District shall be as specified in Section 4.9 of this article, Use Regulation Table.
- C. Dimensional Requirements. The dimensional requirements set forth in Article 5, Town of Corning Density and Control Schedule (Area and Bulk Schedule) shall be observed for all uses in the Highway Business District.
- D. Lot Coverage. The maximum lot coverage by all buildings, structures including accessory buildings, parking lots, and impervious surfaces is fifty (50%) percent. Setback and height limits shall be reviewed as part of the overall site plan review process.
- E. Landscaping. Landscaping shall be required for all yards and adjacent to the building. Parking lots shall be appropriately screened from roadways and adjacent buildings.
- F. Parking. Parking areas shall adjoin the neighboring development, if possible, to create shared, well-designed parking areas. Landscaping shall make up fifteen (15%) of the parking area. Provision for safe and direct pedestrian movements from the parking areas to the buildings shall be required. Parking areas shall be designed in accordance with the attached site design illustrations.
- G. Access. Access points to the major road(s) shall be shared between properties where possible. Access points shall be spaced no closer together than two hundred (200') feet.

Section 4.8 Industrial District (I).

- A. Intent. The purpose of this district is to provide for the establishment of industrial uses essential to the development of a balanced economic base in an industrial environment and to regulate such industrial development so that it will not be detrimental or hazardous to the surrounding community and the citizens thereof. The intent is to establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these areas.

- B. Uses. Permitted and conditional uses allowed in the Industrial District shall be as specified in Section 4.9 of this article, Use Regulation Table.
- C. Dimensional Requirements. The dimensional requirements set forth in Article 5, Town of Corning Density and Control Schedule (Area and Bulk Schedule) shall be observed for all uses in the Industrial District.

Section 4.9 Use Regulation Table.

Key to Abbreviations:

P - Permitted

C - Conditional Use Subject to Site Plan Provisions

No Letter - Not Permitted

R1 - Residence, Rural, Low Density

R1-C - Residence, Rural Conservation, Low Density

R2 - Residence Suburban, Low Density

R3 - Residence, Suburban, Medium Density

PRD - Planned Residential District

PBD - Planned Neighborhood Business District

PD - Planned District

B2 - Highway Business

I - Industrial

USES	DISTRICTS								
	R1 R1C	R2	R3	PRD	PBD	PD		B2	I
<u>RESIDENTIAL USES</u> *									
Boarding House	C		C	C	C	C		C	
Single-family dwelling (detached) (includes Residential Designed Manufactured Homes and Modular Homes)	P	P	P	P	C	P		C**	
Two-family dwelling			C	C	C	C			
Standard Designed Mobile home (individual unit, not in mobile home or trailer park)									
Manufactured / Mobile home parks		C	C						
Multi-family dwelling		C	C	C	C	C		C	
Townhouse dwelling			C	C		C			
Semi-detached one-family dwelling			C	C	C	C			

\* Residential uses on slope of 15% or greater are considered a conditional use, subject to site plan approval

\*\*Single Family Homes in a B2 district will be permitted through a Conditional Use Permit process only if the house is a preexisting single family home and no major structural changes have been made to the building in order to make it a single family home. No new construction of single family homes and no business structures should be renovated to become single family homes in the B-2 zone.

USES	DISTRICTS							
	R1 RIC	R2	R3	PRD	PBD	PD	B2	I
<u>GENERAL USES</u>								
Agricultural produce (retail sales of), grown on the same lot from a roadside stand	P	P	P	P	P	P	P	P
Agriculture – Farm operations located in an Agricultural District as defined by NYS Agriculture and Markets Article 25AA	P	P	P	P	P	P	P	P
Agriculture (Greenhouses and Nurseries)	P	P	P				P	P
Agriculture – keeping fowl	P <sup>+</sup>	P <sup>+</sup>	P <sup>+</sup>	P <sup>+</sup>	P <sup>+</sup>	P <sup>+</sup>	P <sup>+</sup>	P <sup>+</sup>
Agriculture -keeping of livestock (not including fowl).	P <sup>+</sup>	C <sup>+</sup>						P <sup>+</sup>
Agriculture (not including the keeping of fowl or livestock)	P	P	P	P	P	P	P	P
Cottage, Camp, or Cabin Development	C						C	
Cemetery	C							
Church or other place of worship	P	P	P	P	P	P		
Cultural facilities (library, art gallery, museum, etc.)	C	C	C	C		C	P	
Day nursery or daycare facility	P	C	C	C	P	C		
Golf course or country club	C	C	C	C		C		
Hospital or sanitarium	C	C		C	C	C	C	
Non-profit club	C	C	C		C			
Nursing or convalescent home	C	C		C	C	C	C	
Private, public or parochial school	C	C	C	C				
Public utility or transportation use	C	C	C	C	C	C	C	C
Signs - High Rise	C	C	C	C	C	C	C	C
Vacation resort hotel, motel						C	C	
Wind mills (energy or water production)	C							C
Towers (radio or communications)	C	C	C					

\*No livestock other than fowl shall be permitted on lots less than two (2) acres. Eighteen (18) or fewer fowl are permitted on lots less than two (2) acres.

USES	DISTRICTS							
	R1 R1C	R2	R3	PRD	PBD	PD	B2	I
<u>ACCESSORY USES</u>								
Accessory use customarily incident to a primary use on the same lot and not mentioned below.	C	C	C	C	C	C	C	C
Garage or Barn (on parcel where no other accessory use sits)	P	P	P	P	P	P	P	P
Home occupation	C <sup>+</sup>	C <sup>+</sup>	C <sup>+</sup>	C <sup>+</sup>	C <sup>+</sup>	C <sup>+</sup>	C <sup>+</sup>	
Stables for horses for non-commercial purposes	C	C						
Accessory Structure, Cottage or Cabin	C	C	C					
<u>BUSINESS USES</u>								
Adult Uses								C
Airport	C							
Automobile sales and repair							C	C
Bar or night club					C		C	
Bowling alley							C	
Car washing station					C		C	
Drive-in movie							C	
Equipment rental or sales yard					C		C	C
Funeral Home			C	C	C	C	C	
Gasoline filling station					C		C	C
Laundry or dry cleaning plant					C		C	C
Newspaper offices and printing shops					C		C	C
Office building (general and professional)				C	C	C	C	
Restaurant	C			C	C	C	C	C
Retail business or service, not otherwise specifically mentioned herein				C	C	C	C	
Riding academy and/or boarding	C	C						
Rural enterprise	C	C						C

USES	DISTRICTS							
	R1 R1C	R2	R3	PRD	PBD	PD	B2	I
<u>BUSINESS USES</u> (cont)								
School conducted for profit	C				C	C	C	
Self-service laundry					C		C	
Theater or concert hall						C	C	
Veterinarian office/hospital, kennels and grooming.	C						C	
Wholesale business or services, not otherwise specifically mentioned herein	C				C	C	C	C
<u>INDUSTRIAL USES</u>								
Contractor's yard	C							C
Extractive operations and soil mining in compliance with Article 11, Section 11. 15	C			C		C		C
Junk and trash storage (automotive and other materials)								
Manufacture, fabrication, assembly, warehousing and other handling of material in compliance with Article 11, Section 17						C	C	C
Research laboratories						C	C	C
Storage facility - indoor							C	C
Storage facility - outdoor								C
Trucking terminal								C
Warehouse								C

**ARTICLE 5. AREA BULK REGULATIONS - DENSITY CONTROL**

Section 5.0 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 Article.

Section 5.1 Density Control Schedule (Area and Bulk Schedule). - The attached schedule of density control regulations is hereby adopted and declared to be a part of this Zoning Ordinance and is hereinafter referred to as the "Town of Corning Density Control Schedule."

Section 5.2 Corner Lots. - A corner lot shall have only one front lot line on the street which the principal building faces.

Section 5.3 Projections Into Required Yards.

A. The following projections into required yards may be permitted:

1. Open fire escapes - four (4) feet into side or rear yards.
2. Awnings or movable canopies and overhangs - six (6) feet into any yard.
3. Cornices, eaves, insulation walls and roofs, and other similar architectural features - three (3) feet into any yard.
4. Apparatus needed for the operation of active or passive solar energy systems, including detached solar collectors, reflectors, piping or ductwork, and insulation necessary for efficient utilization thereof.

B. Any open or enclosed porch or attached carport or garage shall be considered a part of the building in the determination of the size of the required yard or lot coverage. Non-roofed paved terraces shall not be considered a part of the building.

C. Accessory uses and buildings may be located in accordance with Section 11.6.

D. Livestock shall be kept a minimum of two (2) feet from any property line and in no case be allowed roam into any public roads.

Section 5.4 Agricultural Exemptions. Farm operations located in an agricultural district as defined by NYS Department of Agricultural and Markets are exempt from the Town of Corning's Density Control Schedule (Section 5.1) Farm operations located in an agricultural district are also exempt from other buffers and setbacks including the construction of fences for agricultural purposes and any screening requirements. All uses that do not fall under the definition of "Farm Operations" are subject to the Town's Zoning Law.

SECTION 5.1  
TOWN OF CORNING  
DENSITY CONTROL SCHEDULE  
(AREA AND BULK SCHEDULE)

Use	Zoning District	Min. Area Per Dwelling Unit (Sq. Ft.)	Min. Area Per Principal Use (Sq. Ft.)	Min. Lot-Width as measured along the rear line of the required front yard	Minimum Yard Dimensions***** (Setbacks)			Max. Lot Cover (Inc. All Accessory Buildings)	Maximum Height ****
					Front	Side	Rear		
Residential	R-1*	85,000**	—	250'	75'	50'	80'	15%	35'
	R-1C*	85,000**	--	250'	75''	50'	80'	15%	35'
	R-2*	40,000	—	200'	35'	20'	50'	25%	35'
	R-3*	30,000	—	100'	30'	10'	25'	30%	35'
	PRD*	30,000	—	100'	30'	10'	25'	30%	35'
	B-1	20,000	—	100'	35'	20'	25'	50%	35'
	B-2	20,000	—	100'	35'	6'	25'	50%	35'
Non-Residential	R-1	—	85,000**	250'	75'	50'	150'	10%	35'
	R-1C	--	85,000*	250'	75'	50'	150'	10%	35'
	R-2	—	25,000	200'	35'	20'	50'	25%	35'
	R-3	—	25,000	200'	30'	10'	25'	30%	35'
	PRD	—	12,500***	100'	50'	25'	50'	50%***	35'
	B-1	—	5,000	50'	30'	20'	25'	50%	35'
	B-2	-	12,500	100'	35'	6'	35'	50%	35'
	PBD	—	12,500***	100'	35'	6'	35'	50%***	35'
	I	-	12,500	100'	50'	25'	35'	35%	
PD	-	12,500***	100'	50'	25'	50'	50%***		

\* See "Residential Cluster Development" Regulations (Article 7) for permitted special grouping of houses in clusters and for different yard dimensions. Clustering required in R1-C Zones unless waived by the Planning Board. See Subdivision Ordinance for flag lot regulations.

\*\* Where soil and drainage conditions permit, the minimum lot size may be reduced to as low as 40,000 square feet upon the presentation to the Building Inspector of a passable New York State Percolation Test Certificate, or a satisfactory percolation test witnessed by the Town Building Inspector.

\*\*\* See Planned Development regulations (Article 8) for permitted variations in setbacks and lot sizes.

\*\*\*\* See Section 13.3 for exceptions to Building Height

\*\*\*\*\* The front yard setbacks shall be measured from the edge of the pavement to the front edge of the development. Side and rear setbacks shall be measured from the lot lines.

\*\*\*\*\* Two or more primary uses are permitted on the same parcel as long as the “Min. Area Per Principal Use” density requirement is met for EACH principal use.

Section 5.4 Standards for Mixed Uses.

- A. In all districts where mixed uses are permitted, a lot held in single ownership may be improved for a mixed use. The lot must meet at least one minimum lot size, as required for each of the permitted uses in a mixed use, whichever is largest. The lot must also accommodate all requirements for each of the uses, such as parking, buffering, coverage, etc. The building group, as a unit, must meet all setbacks.
- B. A residential lot of required or larger than required size as set forth in this Zoning Ordinance shall not be reduced in size for transfer of ownership if such lot so subdivided will form one or more lots which shall not be in compliance with the requirements for the minimum average residential density for the district in which such lot or lots are situated, except as provided in Article 7.

Section 5.5 Side Yards for Multi-family Dwelling Units.

Side yards for semi-detached, townhouses or multi-family dwelling units, where permitted, shall be required at the ends of the total structure only.

Section 5.6 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 twice the minimum side yard requirement.

**ARTICLE 6. FLOOD DAMAGE PREVENTION DISTRICT (as revised on August 22, 2006)**

Section 6.0 Statutory Authorization and Purpose

6.0.1 Findings

The Town Board of the Town of Corning finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Corning and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

6.0.2 Statement of Purpose

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. control filling, grading, dredging and other development which may increase erosion or flood damages;
5. regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
6. qualify and maintain for participation in the National Flood Insurance Program.

6.0.3 Objectives

The objectives of this local law are:

1. to protect human life and health;
2. to minimize expenditure of public money for costly flood control projects;
3. to minimize the need for rescue and relief efforts associated with flooding and

generally undertaken at the expense of the general public;

4. to minimize prolonged business interruptions;
5. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. to provide that developers are notified that property is in an area of special flood hazard; and,
8. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### Section 6.1 Definitions

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

**"Appeal"** means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

**"Area of shallow flooding"** means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of special flood hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means that portion of a building having its floor subgrade (below ground level) on all sides.

**"Building"** see "Structure."

**"Cellar"** has the same meaning as "Basement."

**"Crawl Space"** means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**"Elevated building"** means a non-basement building (a.) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (b.) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**"Federal Emergency Management Agency"** means the Federal agency that administers the National Flood Insurance Program.

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters;
2. the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

**"Flood Elevation Study"** means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determi-

nation of flood- related erosion hazards.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**"Flood Insurance Study"** see "flood elevation study."

**"Floodplain"** or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

**"Floodproofing"** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**"Floodway"** - has the same meaning as "Regulatory Floodway."

**"Functionally dependent use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**"Historic structure"** means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a.) by an approved state program as determined by the Secretary of the Interior or

(b.) directly by the Secretary of the Interior in states without approved programs.

**"Local Administrator"** is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**"Lowest floor"** means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Mean sea level"** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**"Mobile home"** - has the same meaning as "Manufactured home."

**"New construction"** means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**"One hundred year flood"** or **"100-year flood"** has the same meaning as "Base Flood."

**"Principally above ground"** means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**"Recreational vehicle"** means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water

surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 6.3.4-B of this Law.

**"Start of construction"** means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within one-hundred eighty (180) days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**"Substantial damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. any alteration of a "Historic structure," provided that the alteration will not preclude the structure's continued designation as a "Historic structure."

**"Variance"** means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

## Section 6.2 General Provisions

### 6.2.1 Lands to which this Local Law Applies

This local law shall apply to all areas of special flood hazard within the jurisdiction of the

Town of Corning.

6.2.2 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency (**COMPLETE ONE THROUGH FIVE AS NECESSARY, RENUMBER SEQUENTIALLY AND CROSS OUT OR DELETE UNUSED SUBSECTIONS**):

1. Flood Insurance Rate Map (multiple panels): Index No. 360773-0010C, whose effective date is September 27, 1991; Index No. 360773-0015D, whose effective date is September 27, 2002; and Index No. 360773-0025C, whose effective date is September 27, 1991.
2. A scientific and engineering report entitled "Flood Insurance Study, Town of Corning, New York, Steuben County" dated September 27, 2002.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

The office of the Town Clerk for the Town of Corning.

6.2.3 Interpretation and Conflict with other Laws

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

6.2.4 Severability

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

6.2.5 Penalties for Non-Compliance

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or

fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than fifteen (15) days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Corning from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

6.2.6 Warning and Disclaimer of Liability

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Corning, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

Section 6.3 Administration

6.3.1 Designation of the Local Administrator

The Planning Board is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions. The Planning Board may delegate parts or all of the floodplain management authorities to the Code Enforcement Officer.

6.3.2 The Floodplain Development Permit

A. Purpose

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 6.2.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

B. Fees

1. All applications for a floodplain development permit shall be accompanied by an application fee of \$15.00. In addition, the applicant shall be responsible for reimbursing the Town of Corning for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

### 6.3.3 Application for a Permit

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

1. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
2. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
3. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 6.4.2C, UTILITIES.
4. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 6.4.4, NON-RESIDENTIAL STRUCTURES.
5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 6.2.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
6. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

7. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

#### 6.3.4 Duties and Responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to the following.

##### A. Permit Application Review

The Local Administrator shall conduct the following permit application review before suing a floodplain development permit:

1. Review all applications for completeness, particularly with the requirements of Subsection 6.3.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
2. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 6.4, CONSTRUCTION STANDARDS and, in particular, Subsection 6.4.1-A SUBDIVISION PROPOSALS.
3. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 6.4, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

4. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

##### B. Use of Other Flood Data

1. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall ob-

tain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 6.3.3 7., as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

2. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

C. Alteration of Watercourses

1. Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
2. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D. Construction Stage

1. In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for one-hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).
2. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

E. Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop Work Orders

1. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 6.2.5 of this local law.
2. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 6.2.5 of this local law.

G. Certificate of Compliance

1. In areas of special flood hazard, as determined by documents enumerated in Section 6.2.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
2. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
3. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 6.3.4-E, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be Retained

The Local Administrator shall retain and make available for inspection, copies of the following:

1. Floodplain development permits and certificates of compliance;
2. Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections 6.3.4-D 1. and 6.3.4-D 2., and whether or not the structures contain a basement;
3. Floodproofing certificates required pursuant to Subsection 6.3.4-D 1. and whether or not the structures contain a basement;
4. Variances issued pursuant to Section 6.5, VARIANCE PROCEDURES; and,

5. Notices required under Subsection 6.3.4-C, ALTERATION OF WATER-COURSES.

Section 6.4 Construction Standards

6.4.1 General Standards

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 6.2.2.

A. Subdivision Proposals

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

1. Proposals shall be consistent with the need to minimize flood damage;
2. Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
3. Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments

1. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (a.) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
  - (b.) the Town of Corning agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Corning for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Corning for all costs related to the final map revision.
2. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 6.2.2, no new construction, substantial improvements or other develop-

ment in the floodway (including fill) shall be permitted unless:

- (a.) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
- (b.) the Town of Corning agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Corning for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Corning for all costs related to the final map revisions.

#### 6.4.2 Standards for All Structures

##### A. Anchoring

- 1. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

##### B. Construction Materials and Methods

- 1. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- 2. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- 3. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - (a.) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

- (b.) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C. Utilities

1. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
2. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

6.4.3 Residential Structures

A. Elevation

The following standards, in addition to the standards in Subsections 6.4.1-A, SUBDIVISION PROPOSALS, and 6.4.1-B, ENCROACHMENTS, and Section 6.4.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

1. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated two feet or more above the base flood level.
2. Within Zone A, when no base flood elevation data are available, new and

substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

3. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 6.2.2 (at least two feet if no depth number is specified).
4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

#### 6.4.4 Non-Residential Structures

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in Subsections 6.4.1-A, SUBDIVISION PROPOSALS, and 6.4.1-B, ENCROACHMENTS, and Section 6.4.2, STANDARDS FOR ALL STRUCTURES.

1. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
  - (a.) have the lowest floor, including basement or cellar, elevated two feet or more above the base flood elevation; or
  - (b.) be floodproofed so that the structure is watertight below a level three feet or more above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
2. Within Zone AO, new construction and substantial improvements of non-residential structures shall:
  - (a.) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  - (b.) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection 6.4.4 1. (b.).
3. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for con-

struction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 6.4.4 (1) (ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
5. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

#### 6.4.5 Manufactured Homes and Recreational Vehicles

The following standards in addition to the standards in Section 6.4.1, GENERAL STANDARDS, and Section 6.4.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

1. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
  - (a.) be on site fewer than 180 consecutive days,
  - (b.) be fully licensed and ready for highway use, or
  - (c.) meet the requirements for manufactured homes in paragraphs 6.4.5 2., 3., and 4.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated two feet or more above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

4. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 6.2.2 (at least two feet if no depth number is specified).

Section 6.5 Variance Procedure

6.5.1 Appeals Board

1. The Board of Zoning Appeals as established by the Town of Corning shall hear and decide appeals and requests for variances from the requirements of this local law.
2. The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
3. Those aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
4. In passing upon such applications, the Board of Zoning Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
  - (a.) the danger that materials may be swept onto other lands to the injury of others;
  - (b.) the danger to life and property due to flooding or erosion damage;
  - (c.) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d.) the importance of the services provided by the proposed facility to the community;
  - (e.) the necessity to the facility of a waterfront location, where applicable;
  - (f.) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (g.) the compatibility of the proposed use with existing and anticipated development;
  - (h.) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (i.) the safety of access to the property in times of flood for ordinary and

emergency vehicles;

- (j.) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (k.) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (l.) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- 5. Upon consideration of the factors of Section 6.5.1 4. and the purposes of this local law, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- 6. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

#### 6.5.2 Conditions for Variances

- 1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-1) in Section 6.1.5 4. have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 2. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (a.) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure."
  - (b.) the variance is the minimum necessary to preserve the historic character and design of the structure.
- 3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (a.) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
  - (b.) the structure or other development is protected by methods that minimize

flood damages during the base flood and create no additional threat to public safety.

4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances shall only be issued upon receiving written justification of:
  - (a.) a showing of good and sufficient cause;
  - (b.) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (c.) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
7. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that: (a.) the issuance of a variance to construct a structure below the base flood level will result in a substantial increase in the premium rates for flood insurance and (b.) such construction below the base flood level increases the risk to life and property. Such notification shall be maintained with a record of all variance actions and provided to the Federal Emergency Management Agency and to the NYSDEC upon request.

**ARTICLE 6A. AQUIFER PROTECTION OVERLAY DISTRICT**

Section 6A.1 Intent.

Residents of the Corning Manor Water District depend on a public water supply system which draws water from the unconsolidated sand and gravel aquifer underlying the Chemung River Valley. This aquifer is replenished in part by rainfall within the watershed and in part by the river. Approximately 75 percent of the Corning Manor Water District service area overlies the recharge area for its water supply. Contamination can be contributed to the groundwater by improper handling and disposal of hazardous substances, petroleum products and other sources by accidental spills along nearby roads and railroads which can lead to public and private losses and costs, business interruptions, damage to facilities and utilities.

The purpose of this law is to protect public health, safety, and welfare of the users of the Corning Manor Water District by minimizing continued and future water supply contamination without applying burdensome regulations on land use. This purpose will be accomplished by regulating certain uses that have been determined to be potentially damaging to groundwater quality, and by establishing minimum documentation and submittal requirements to ensure that other uses will not adversely affect the groundwater and quantity.

Section 6A.2 Regulations Applicable in All APOD's.

- A. Permitted Uses. Any use permitted in the portions of the APOD's so overlaid shall be permitted subject to all the provisions of this Section. In any cases where conflicts arise between these supplemental requirements and any other existing requirement, the more restrictive shall apply.
  
- B. Discharge of Hazardous Substances. This discharge or disposal of any hazardous substance, petroleum, or radioactive material is prohibited, except as allowed by a valid permit per regulations promulgated under the NYS Environmental Conservation Law Articles 1, 3, 8, 15, 17, 19, 23, 27, 52 and 70 and the NYS Public Health Law Section 225 and amendments thereto. This includes:
  - 1. Septic System Cleaners. The use of septic system cleaners which contain toxic substance or hazardous materials.
  - 2. Discharge To Septic Tanks. The disposal of toxic substances or hazardous materials by means of discharge to a septic system.
  - 3. Land Spreading. Land spreading of septic waste without a valid permit from DEC.
  - 4. Leaks or Spills. Any spill, leak, or discharge or other release to the environment, actual or suspected, must be reported to the New York State

Department of Environmental Conservation Spill Hotline (800-457-7362) pursuant to the New York State Chemical Bulk Storage Regulations (6NYCRR Part 595) and Petroleum Bulk Storage Regulations (6NYCRR 611-614), within two hours of the release.

- C. Spill Response. Should a spill occur, the owner and/or operator must take immediate action to stop the spill and restore the environment in accordance with the Town of Corning Emergency Spill Response Plan.
- D. Production of Hazardous Materials. Any principal use that is the production or processing of any hazardous material or toxic substance shall be prohibited.
- E. Snow Disposal. The dumping or disposal of snow or ice collected off site from roadways or parking areas into any watercourse shall be prohibited.
- F. New APOD's. Upon delineation, any new or revised Aquifer Protection Overlay District boundaries within the Town of Corning shall be subject to all applicable rules and requirements established herein.

Section 6A.3 Regulations Applicable in APOD #1.

A. Prohibitions.

- 1. Open Storage. The open storage of pesticides, herbicides, or fungicides. All other storage of such material is also prohibited unless authorization has been obtained from the New York State Department of Environmental Conservation as provided in the New York Environmental Conservation Law.
- 2. Solid Waste Disposal Facility. As defined by 6NYCRR Part 360 Rules and Regulations.
- 3. Bulk Storage. The bulk storage of coal or salt, except in a watertight structure constructed on an impervious surface.
- 4. Snow Disposal. The dumping or disposal of snow or ice collected off site from roadways or parking areas.
- 5. Mining. All mining unless permitted by New York State Department of Environmental Conservation.

B. Other Regulations.

- 1. Utilities. All new development shall be served by sewer and water where applicable.
- 2. Stormwater Management. For any new development proposing storm-

water management systems, such systems shall be designed to filter and remove contaminants from the collected runoff in accordance with NYSDEC stormwater management guidelines.

Section 6A.4 Regulations in APOD's 2 and 3.

A. Prohibitions.

1. Open Storage. The open storage of pesticides, herbicides, or fungicides and fertilizers within one hundred (100) feet linear distance of any watercourse.
2. Salt. The open storage of salt within one hundred (100) feet linear distance of any watercourse.

B. Other Regulations.

1. Hazardous Materials Storage Compliance. All commercial and industrial uses and home occupations shall comply with all local, state and federal requirements concerning storage, use and disposal of toxic substances, hazardous materials and hazardous wastes.
2. Hazardous Material Use. All commercial and industrial uses and home occupations shall provide to the Town code enforcement officer lists of all toxic substances, hazardous materials or hazardous wastes known to be used or stored on a lot together with sufficient detail to apprise the Town of the method of storage and the amount of toxic substances, hazardous materials, or hazardous wastes on the lots.
3. Time Frame. In the case of existing uses, this information shall be supplied within six (6) months of enactment of this law. In the case of proposed use, this information will be supplied as part of the plans prepared for site plan approval.
4. Petroleum Bulk Storage Registration. Petroleum bulk storage facilities installed above or below ground shall comply with New York State Department of Environmental Conservation requirements.
5. Abandoned Wells. All abandoned wells shall be properly closed to prevent groundwater contamination.
6. Chemical Applications. Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.
7. Buffers. Establishment or protection of buffers/wetlands along waterways: all land owners are encouraged to establish or maintain permanent

vegetated buffers and/or wetlands along waterways including creeks and swales to filter water from the adjacent land before entering the stream. Recommended buffer width shall be one hundred (100) feet, depending on nature of the streambank and adjacent land use.

8. Outside Storage. Any outside storage area shall be designed so as to prevent seepage and runoff from entering the groundwater or any water-course.

**ARTICLE 7. RESIDENTIAL CLUSTER DEVELOPMENT**

Section 7.0 Intent.

The intent of this article is to permit variation in lot size and housing type, to provide the opportunity for development to occur on the most suitable lands, to facilitate the adequate and economical provisions of public services and to preserve open space areas.

Section 7.1 Authorization to Grant or Deny Residential Cluster Development.

In accordance with Section 281 of the Town Law, the Town Board authorizes the Planning Board to permit variations in the dimensional requirements of this Ordinance under their subdivision review powers. The Planning Board shall comply with all procedures and standards set forth in this Article when implementing such power.

Section 7.2 Standards Governing Residential Cluster Development.

Any residential cluster development considered shall conform to the following standards which are regarded as minimum requirements.

- A. This procedure shall apply only to residential zoned land which shall be a minimum of ten (10) contiguous acres in size. In addition, it shall be determined that such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or improvements in close proximity, and that the proposed development create an attractive residential environment that is in conformity with the objectives of the Town Comprehensive Plan, and that the gross density will be no greater than the existing zoning requirements, and that the permanent retention of open space areas along with their care and maintenance is guaranteed.
- B. When such development is proposed adjacent to any existing residence or residential area, a buffer area of at least five hundred (500) feet in width shall be maintained within the proposed development along any lot line that abuts an existing residential development area or a conventionally platted residential map that has been filed with the Steuben County Clerk. The five hundred (500) foot buffer area may be developed in a conventionally platted manner (non-clustered) consistent with the residential zoning district upon which such land is situated.
- C. The size of lots in a residential cluster development may vary from the normal requirements of the district, but no dimensional or area requirement of the district shall be reduced by more than fifty (50%) percent.
  - 1. Single-Detached Houses: Single-family detached houses may be grouped in clusters with maximum lot size reductions for each residence as follows:

R-1 Districts	42,500 sq. ft.
R-2 District	20,000 sq. ft.

R-3 District	10,000 sq. ft.
PRD District	15,000 sq. ft.

and shall be subject to the following minimum requirements:

Front Yard	25 ft.
Rear Yard	25 ft.
Side Yard	12.5 ft.

Townhouse and multi-family: Shall comply with all standards set forth in sub-section 4.3.3 (d.) and (e.).

- D. All residential cluster development plans shall be prepared with competent professional assistance and shall be consistent with the spirit and intent of the Zoning Ordinance.
- E. In areas without public water and sewer, any reduction in lot size allowed under this Article shall be dependent on approval of the on-lot water and sewer system by N.Y.S. Department of Health, N.Y.S. Department of Environmental Conservation and the Town Building Inspector.
- F. All the land not contained in the lots or the road right-of-way, if provided, shall be contiguous and of such size and shape as to be usable for recreation or agriculture. No such lands shall be in parcels of less than 3 acres.

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

The open space lands shall be subject to taxation, unless deeded to the Town. In the case of such tracts, the developer may petition to the Town to take over the land to be used in perpetuity as open space.

- G. Special Designs: In cases where a developer has proposed architecturally unusual groups of dwellings and garages, the Town Planning Board after inspecting the plans and elevations, may recommend approval of smaller minimum lot sizes than those specified in Section 7.2 C, provided that the sanitary systems are approved by the NYS DEC, that the gross density does not exceed that permitted within the zoning district in which the land occurs, and the layout is not detrimental to the health, general welfare, and aesthetic character of the community.
- H. Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the developer and the Planning Board. If such time frame is not met by the developer, the residential cluster development approval shall be revoked.
- I. In the event that an organization is established to own and maintain common property, the Town Board may resort to the procedure stated in sub-section 4.3.4 (f.), if such property is not maintained in reasonable order and condition.

Section 7.3 Review of Residential Cluster Development Plans.

The approval procedure shall be generally the same as that specified in the subdivision regulations for the review and approval of a proposed subdivision of land. The applicant shall submit at successive stages a sketch plan, preliminary layout, and subdivision plat in accordance with the requirements of the subdivision regulations. In addition the applicant at each stage shall provide the following information:

- A. Proposed number of dwelling units and computation of overall residential density per gross acre.
- B. A tabulation of the total number of acres in the proposed project; the percentage designated for each use area.
- C. Proposed location and acreage for parks, playgrounds, natural watercourses and other open space.

Section 7.4 Public Hearing on Residential Cluster Development.

A residential cluster development shall not be approved as a subdivision plat by the Planning Board until a public hearing has been held on the proposal in the manner specified in the subdivision regulations and by Section 281 of the Town Law.

## **ARTICLE 8. PLANNED DEVELOPMENT**

### **Section 8.0 Intent.**

The intent of planned development is to provide an opportunity for centers of convenient shopping to serve residential neighborhoods, small light industrial activities, planned residential development, and campus style, professional office/research and development complexes to locate in the most-suitable locations without causing detrimental effects to neighboring uses or the health, safety and general welfare of the community. A planned development district shall be considered a rezoning and shall be subject to the procedures and requirements of this Article, and Article 9; and may be applicable to any district in the Town where the applicant can prove his holdings will meet the objectives of this Article and the Town of Corning Comprehensive Plan as amended.

### **Section 8.1 Dimensional Requirements.**

- A. Planned Neighborhood Business (PBD). The minimum area required to qualify for a Planned Neighborhood Business District shall be a two (2) acre contiguous parcel.
- B. Planned District (PD). The minimum area required to qualify for a Planned District shall be a five (5) acre contiguous parcel.

### **Section 8.2 Permitted Uses**

- A. Planned Neighborhood Business. Permitted and conditional uses allowed in the PBD districts shall be as specified in Section 4.9 of this article, Use Regulation Table.
- B. Planned District. Permitted and conditional uses allowed in the PD districts shall be as specified in Section 4.9 of this article, Use Regulation Table.

### **Section 8.3 Special Provisions Applying to Planned Development**

- A. Land Ownership. The tract of land proposed for a project may be owned, leased, or controlled either by a single person, or corporation, or a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- B. Residential development. See Section 4.3 Planned Residential District (PRD) for special provisions which apply to the residential component of a Planned District.
- C. Industrial development. See Section 11.17 Industrial District Regulations for special provisions which apply to an industrial component of a Planned District.
- D. Lot Coverage. The maximum lot coverage by all buildings, structures including accessory buildings and impervious areas such as parking lots, is fifty percent (50%). Setback and height limits shall be reviewed as part of the overall site plan review process.

- E. Perimeter Landscaping. Except for points of access and egress, the land abutting the major road(s), residentially zoned areas or existing homes, shall be landscaped along the entire length of such property line(s). Perimeter planting shall be required along all exterior lot lines except those between two (2) or more parcels which are the subjects of a joint application under a coordinated plan.
- F. Architectural Treatment. The design of the structure(s) must be of a consistent architectural style and treatment compatible with the adjoining residential areas. Facades visible from main roads shall be similar to the front. Similarly, signs shall be of a uniform type in both lettering and design. Clear, legible signing is encouraged.
- G. Building Placement. Buildings should be designed as multiple smaller footprints instead of one large footprint building. Buildings shall be arranged generally in groups of two or three buildings, sharing access roads and parking areas.
- H. Parking. The parking requirements of Article 11 shall govern generally though the Town Board, in its site plan review process, will take due account of the particular use groupings in assessing potential overlap of space standards. Single, large parking areas should be avoided and instead, the lots should be broken into smaller units through the provision of islands and plantings. Interior landscaping shall be a minimum of fifteen percent (15%) of the parking areas. The design shall reflect the difference between through aisles for the relatively unobstructed conduct of traffic through the area and interior aisles for the purpose of providing access to the individual parking stalls. Provision for safe and direct pedestrian movements from the parking areas to the buildings shall be required. Parking shall be screened from highways and residential areas with evergreen landscaping, low berms, and/or opaque fences or walls. See the attached site design illustrations for suggested parking lot layouts and building placement.
- I. Access.
  - 1. Access points to the major road(s) shall be minimized and spaced no closer together than five hundred (500') feet.
  - 2. Industrial truck traffic ingress and egress shall be limited to state roads.
- J. Permanent Lighting.
  - 1. No light from any fixture may escape from above the horizontal plane, and at no time shall the light source be visible at the property line.
  - 2. Pedestrian scale and area lighting fixtures will be full cut-off fixtures designed to shield adjacent streets, properties, and the sky from glare. Cobra Head fixtures are prohibited. No exposed light pole foundations will be permitted in pedestrian areas.
  - 3. Security lighting. Fixtures on buildings and structures shall be hooded. They shall not be located above the eave line or above the top of the parapet wall. All lighting, including pedestrian, area and building-mounted lights, shall be reduced to security levels one-half hour before sunset through one-half hour after sunrise.

4. Buildings shall not be indirectly illuminated except for approved security lighting.
5. Pre-existing non-conforming lights must become compliant with the new regulations at the time said lights need to be replaced including fixtures and/or support structures.
6. Height:  
  
Pedestrian Lighting = 12' (maximum)  
  
Area Lighting = 18' or building height whichever is less.
7. Color rendition: preferred in the following order:  
  
metal halide,  
high-pressure sodium,  
low-pressure sodium.  
Mixtures of light fixtures should be avoided.
8. No lights shall produce glare so as to cause illumination beyond the boundaries of the property on which it is located in excess of two-tenths (0.2) footcandle when adjoining a residential district or five-tenths (0.5) foot candles when adjoining property is within the same district and at the pavement edge of adjoining public roads. Illumination for low activity (neighborhood shopping, industrial, schools, church) parking areas shall be as follows:

Section 8.3 J.8 - ILLUMINATION

PARKING LOT LEVELS OF ACTIVITY	EXAMPLES	MAINTAINED HORIZONTAL ILLUMINANCE RECOMMENDED (FOOTCANDLES)					
		General Parking & Pedestrian			Vehicle-Use Only		
		Ave	Min	U. Ratio	Ave	Min	U.Ratio
High	Major League Athletic Events; Manor Cultural or Civic Events; Regional Shopping Centers; Fast Food Facilities	3.6	.9	4:1	2.0	.67	3:1
Medium	Community Shopping Centers; Cultural, Civic or Recreational Events; Office Parks; Hospital Parking; (Airports, Commuter Lots, Etc.); Residential Complex Parking	2.4	.6	4:1	1.0	.33	3:1
Low*	Neighborhood Shopping; Industrial Employee Parking; Educational Facility Parking; Church Parking	.8	.2	4:1	.5	.13	4:1

\*The Illuminating Engineering Society of North America (IES) states: "This recommendation is based on the requirement to maintain security at any time in areas where there is a low level of nighttime activity."

9. Flashing or strobing lights shall be prohibited.
10. The Planning Board will have the authority to require the illumination level within the specified range.

K. Noise.

1. Noise shall be limited to the lesser of the following two measurements.
  - (a.) Noise shall not exceed the background sound level, as determined by standard engineering practices, by more than 5 dBA during daytime (7:00 a.m. to 10:00 p.m.) hours or by more than 3 dBA during nighttime (10:00 p.m. to 7:00 a.m.) hours when measured at the property line. Such a sound source would constitute a noise disturbance.
  - (b.) If the background sound level cannot be determined, the absolute sound level limits set forth in the following Table shall be used.
  - (c.) If the sound source in question is a pure tone, the limits of Section

8.3.K Maximum Permissible Sound Levels Table shall be reduced by 5 dBA.

- (d.) See also the Town of Corning Anti-noise Ordinance.

Section 8.3 K  
Maximum Permissible Sound Levels in dBA Table

Source Property	Receiving Property		
	Residential		Commercial/Industrial
	7:00 a.m. - 10:00 p.m.	10:00 p.m. - 7:00 a.m.	(All times)
Residential	55	50	65
Commercial	55	50	65
Industrial	55	50	65

- L. Upon construction, the town board may hire a qualified expert to conduct noise and light measurements to ensure compliance with town requirements. These costs shall be borne by the developer.

Section 8.4 Procedures for Establishing A Planned Development District

- A. The Town Planning Board, in its review of the proposed Planned Development District, will consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.
- B. Upon acceptance of the final site plan application, the Town Board shall, after the required publication of notice, hold a public hearing on the rezoning.
- C. The Town Board may then amend the Zoning Ordinance to define the boundaries of the Planned Development District, but such action shall have the effect of only granting permission for the development of the specific proposed use in accordance with the specifications and plans shown on the final application filed with the Town Board.
- D. For the purposes of regulating development and use of property after the zoning change has been enacted, any modifications of the approved site plan shall be handled as a site plan amendment for action by the Town Board.

## ARTICLE 9. CONDITIONAL USES

### Section 9.0 Intent.

The intent of conditional use approval is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their special characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties.

### Section 9.1 Authorization to Grant, Amend or Deny Conditional Uses.

The conditional uses listed in this Ordinance may be permitted upon authorization by the Planning Board in accordance with the standards and procedures set forth in this Ordinance. Conditional uses may also be enlarged or otherwise altered by such authorization. Before making a decision on any conditional use, the Planning Board shall review the appropriateness of such use, its effect on the intent of the Zoning Ordinance and its compliance with the Comprehensive Land Use Plan. In permitting a conditional use or the modification of a conditional use, the Planning Board may impose in addition to those standards and requirements expressly specified by the Ordinance, any additional conditions which the Planning Board considers necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These conditions may include limiting the height of buildings, controlling the location and number of vehicle access points, increasing the street width, increasing the number of off-street parking and loading spaces required, limiting the number, size and location of signs, and requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this ordinance and classified in this Ordinance as a conditional use, any change in use or in lot area or alteration of structure shall conform to this Ordinance.

### Section 9.2 Application for Conditional Use.

A property owner(s) or his agent(s) may initiate a request for a conditional use by filing an application with the Planning Board. Such application shall be accompanied by a site plan in conformance with Article 10. A filing fee, as set by the Town Board, shall also be required, no part of which is returnable.

### Section 9.3 Standards Governing Conditional Uses.

A conditional use shall comply with the procedures and standards set forth in Article 10 and Article 11 except as these standards have been modified in authorizing the conditional use or as otherwise modified when consideration is given to the following:

- A. The submission of a site plan in accordance with Article 10 is required before any

consideration can be given for a conditional use.

B. General Criteria for all Conditional Uses.

In considering and acting on Conditional Uses, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Planning Board shall not grant a Conditional Use Permit unless the Planning Board determines and finds, except where the criteria is not applicable:

1. Compatibility. That the proposed use is of a character, type, scale, and intensity that, when mitigated, is not incompatible with the surrounding neighborhood, land uses, and general area of where the use is proposed to be located, that the use incorporates a site design which is consistent with the character of and is harmonious with the Town, promotes the purposes, goals, and intent of the Town of Corning Comprehensive Plan, and safeguards the health, safety, and welfare of the Town and its residents.
2. Neighboring Properties. That the proposed use, operation, and/or structures do not significantly and adversely affect neighboring properties with respect to such things as storm water drainage, glare, noise, vibration, loss of natural light, risk of fire, flood, or erosion, odors, dust, historic structures, the structural integrity of buildings, the value of nearby buildings and properties, and other similar matters.
3. Vehicular Access. That proposed access points are adequate in width, grade, alignment, and visibility; are not excessive in number; are located at appropriate distances from intersections or places of public assembly; that the proposed use will not generate more volume or type of traffic than existing road infrastructure can adequately and safely accommodate; and that they satisfy other similar Conditional Use Permit and Site Plan Review safety and traffic flow considerations, including conditions for school buses, cyclists, and pedestrians.
4. Circulation and Parking. That adequate off-road parking and loading spaces are provided to minimize, or, where required, to eliminate the need for parking of vehicles on public highways by any persons connected with or visiting the site of the use; that the interior circulation system is adequate to provide safe accessibility to all required parking spaces; and that adequate separation of pedestrian and vehicular movements is provided.
5. Aesthetic Resources of Local and Statewide Significance. All adverse impacts on visual and aesthetic resources of local and statewide signifi-

cance and on community character are avoided or minimized to the maximum extent practicable consistent with social, economic, and other essential considerations and utilizing the review process and mitigation strategies set forth in the Aesthetic Resources Overlay District Regulations of this Chapter as such may be amended from time to time.

6. Landscaping and Screening. That all parking, storage, loading, and service areas can be and are reasonably screened at all seasons of the year from the view of nearby residential areas and public spaces and that the general landscaping of the site is in character with the surrounding areas. Such screening shall be maintained as a condition of the Conditional Use Permit and/or site plan approval and shall be guided by the minimum standards set forth in this Chapter.
  7. Natural Features. That the proposed use, together with its sanitary and water service facilities, parking facilities, and other facilities necessary for the operation of the use, are compatible with geologic, hydrologic, topographic, and soil conditions of the site and of adjacent areas; that the proposed use, operation, and structures do not significantly impact existing natural and scenic features; and that such features are preserved to the maximum extent possible.
  8. That once the proposed use ceases to operate for any reason, that the parcel of land on which it is located will be able to be restored and is restored so that said land may be suitable for development and use for one or more of the uses allowed in the zoning district where the property is located other than the use proposed. In Residential Districts, the land must remain suitable for residential development after the Conditional Use Permit has been terminated. In connection with the construction or operation of any use in a Residential District, any disturbance of an area greater than 40,000 square feet which will substantially and irreversibly alter the natural contours and grade of the site shall be limited to an area or areas that do not exceed a total of 60% of the total area of the site that is developable for residential uses with sufficient non-disturbed areas remaining so that infill of residential development can occur.
  9. That the proposed use will not be inconsistent with the recommended Future Land Use Concepts for the area in which the use is proposed as described in the current Town of Corning Comprehensive Plan.
- C. In the case where a conditional use has been permitted, no building permit shall be issued until fifteen (15) days after the granting of the conditional use by the Planning Board, and then only in accordance with the terms and conditions of said permit. An appeal from the action of the Planning Board shall automatically stay the issuance of the building or other permit until such appeal has been completed.

In the event the Court acts to grant said conditional use, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

- D. A Conditional Use Permit shall become void one year after approval or after such time as may be specified as a condition of approval, if no construction or use activity has begun. The Conditional Use Permit shall be void if the original use shall cease for more than one year for any reason.
- E. The Planning Board, on its own motion, may revoke any approval of a conditional use for noncompliance with conditions set forth in the granting of said use after first holding a public hearing and giving notice of such hearing as provided in Article 16. The foregoing shall not be the exclusive remedy, but it shall be unlawful and punishable hereunder for any person to violate any condition imposed by an approved conditional use.

Section 9.4 Public Hearing on Conditional Use.

Before a conditional use is permitted, the proposed conditional use shall be considered by the Planning Board at a public hearing. Notice of said hearing shall be given as provided in Section 10.5.

Section 9.5 Notification of Action.

The Planning Board shall notify the applicant for a conditional use in writing of the Planning Board's action within forty-five (45) days after the public hearing.

Section 9.6 Appeal.

The applicant or any interested person may appeal a decision of the Planning Board. The appeal shall be made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within four (4) months after the filing of a decision on a conditional use application.

## ARTICLE 10. SITE PLAN APPROVAL FOR CONDITIONAL USES

### Section 10.0 Intent.

The intent of site plan approval is to determine compliance with the objectives of this Ordinance and with regard to conditional uses that may be permitted in the Town of Corning. The objective is to evaluate various land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the adverse affects concerning health, safety, and overall welfare of the residents of the community. The Planning Board, at its discretion, may waive the concept and final application procedure.

### Section 10.1 Authorization.

- A. The power to approve, approve with modification, or deny site plans for conditional uses as required by this Ordinance is vested in the Planning Board. Prior to issuing a building permit for the construction of any conditional use, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval. The Planning Board may require that the site plans be prepared by a licensed architect or engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure(s) or land use as related to same.

### Section 10.2 Concept Plan Conference.

The concept plan submittal is optional. The purpose off the concept is to encourage the person applying for a conditional use to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development. The Planning Board shall be authorized to carry out the concept site plan review.

#### A. Requirements.

1. A concept plan shall be prepared and submitted in triplicate to the Planning Board. Before preparing a concept layout, the developer may discuss with the Planning Board or the Town Planning Consultant the general requirements as to design of streets, reservations of land, drainage, sewerage, water supply, fire protection, and other improvements as well as procedural matters.
2. Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning

Board shall provide written comments on the concept plan of a proposed development in relation to the applicable requirements of this Article and Article 11, existing or potential development of the adjacent area, the Town Comprehensive Plan, and in the course of its review may consult with other interested public agencies.

3. The concept plan shall include in as much detail as possible the following information:

(a.) An area map showing:

- (1.) Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.
- (2.) Existing natural features such as water bodies, watercourses wetlands, wooded areas, individual large trees, flood hazard areas.
- (3.) Zoning districts, certified agricultural districts, school districts.
- (4.) Special improvement districts (water, sewer, light, fire, drainage and the like).
- (5.) Easements.
- (6.) All properties, their ownership and uses, subdivisions, streets, zoning districts, easements, and adjacent buildings within five hundred (500) feet of the applicant's property.
- (7.) All existing man-made features.
- (8.) All proposed buildings, man-made structures and public improvements.

(b.) A map of site topography (USGS topo map).

(c.) A soils overlay, if general site grades exceed 15% or portions of the site have susceptibility to erosion, flooding or ponding.

Section 10.3 Preliminary Site Plan Application.

Application for preliminary site plan approval shall be made in writing in triplicate to the

Code Enforcement Officer fifteen (15) days prior to a scheduled Planning Board meeting. The Code Enforcement Officer shall refer all preliminary site plan applications to the Planning Board for certification that the application is complete and in compliance with requirements set forth in Article 11.

Section 10.4 Preliminary Site Plan Requirements.

The preliminary site plan application shall include the information listed below. The Planning Board may at its discretion waive any preliminary requirements, which are clearly not relevant to the proposed use and site.

- A. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred (500') feet of applicant's property.
  
- B. A preliminary site plan shall include the following information:
  - 1. Title of drawing, including name and address of applicant.
  - 2. North points, scale and date.
  - 3. Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch.
  - 4. Existing natural features such as watercourses, water bodies wetlands, wooded areas and individual large trees. Features to be retained should be noted.
  - 5. Existing and proposed contours at intervals of not more than five (5) feet of elevation.
  - 6. Location of proposed land uses and their areas in acres and location proposed use and height of all buildings.
  - 7. Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
  - 8. Description of sewage disposal and water systems, location of such facilities, a pumping test to determine impact on neighboring wells and a management plan to curtail water use or reimburse landowners if the new well adversely affects existing wells.
  - 9. Location and proposed development of buffer areas and other landscaping.

10. Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and a calculation of the residential density in dwelling units per gross acre for each such area.
  11. Location of all parking and truck-loading areas, with access and egress drives thereto.
  12. Locations, design and size of all signs and lighting facilities.
  13. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.
  14. Building orientation and site design for energy efficiency.
  15. Location and design of all energy distribution facilities, including electrical, gas and solar energy.
  16. Grading and erosion. Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc.
  17. Location and design for stormwater management facilities.
  18. Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.
  19. The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.
- C. The Planning Board may require such additional information that appears necessary for a complete assessment of the project.
- D. The Planning Board's review of the preliminary site plan shall include, but is not limited to the following considerations:
1. Adequacy and arrangement of vehicular traffic access and circulation.
  2. Location, arrangement, appearance and sufficiency of off-street parking and loading.

3. Location, arrangement, size and design of buildings, lighting and signs.
4. Relationship of the various uses to one another and their scale.
5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands.
6. Adequacy of stormwater, water supply and sanitary waste disposal so that neighboring properties and the natural environment are not adversely affected.
7. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding and/or erosion.
8. Compatibility of development with natural features of the site and with surrounding land uses.
9. Adequacy of floodproofing and prevention measures consistent with flood hazard prevention district regulations.
10. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.
11. Adequacies of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
12. Adequacy of pedestrian access, circulation, convenience and safety.

In their review of a preliminary site plan, the Planning Board may consult with the Town Building Inspector, Fire Commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Environmental Conservation.

Section 10.5 Public Hearing.

Upon the Planning Board's certification that the preliminary site plan application is complete and satisfactory, the Planning Board shall schedule a public hearing within forty-five (45) days from the time of such certification. All desirable revisions that should be incorporated in the final site plan application.

Section 10.6 Notification of Decision on Preliminary Site Plan.

Within forty-five (45) days of the public hearing at which a preliminary site plan is considered, the Planning Board shall act upon it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the Planning Board's statement will contain the reasons for such findings.

Section 10.7 Final Site Plan Application.

After receiving approval, with or without conditions, from the Planning Board on a preliminary site plan, and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final site plan and submit it to the Planning Board for its review and approval. However, if more than six (6) months have elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revisions prior to accepting the proposed final site plan for review. The final site plan shall conform to the approved preliminary site plan, and shall incorporate any revisions or other features that may have been recommended by the Planning Board at the preliminary review. All compliances shall be clearly indicated by the applicant.

Section 10.8 Notification of Decision on Final Site Plan.

Within forty-five (45) days of the submission of the final site plan, the Planning Board shall render a decision.

- A. Upon approval, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Building Inspector who shall then issue a building permit following the fifteen (15) day appeal period if the project conforms to all other applicable requirements.
- B. Upon disapproval, the Planning Board shall so inform the Building Inspector and he shall deny a building permit. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
- C. Specifications for improvements shown on the site plan shall be those set forth in this ordinance and in other ordinances, rules and regulations, or in construction specifications of the Town of Corning.
- D. Performance Guarantee. The developer shall provide a letter of credit or other

acceptable form of security that complies with Town Law to insure installation of all improvements shown upon the final site plan within one (1) year of site plan approval, in accordance with the standards and specifications of the Town of Corning. The time limit may be extended by the Planning Board, upon written application made not less than thirty (30) days prior to the expiration of said period. Upon completion, the developer shall convey all utilities to the Town of Corning or to the appropriate improvement district without charge or expense, and deliver to the Town of Corning a form of security in an amount to be set by the Town Board guaranteeing for a period of two (2) years from such conveyance, defects in material or workmanship or malfunctioning of the component parts of such improvements.

Section 10.9 Appeal.

The applicant or any interested person may appeal a decision of the Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within four (4) months after the filing of a decision on a conditional use application.

**ARTICLE 11. DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS**

Section 11.0 General.

The Town Board and Planning Board, in reviewing a site plan, shall be guided by the considerations and standards presented in this Article. In the review, they shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. For permitted uses the Building Inspector shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

Section 11.1 Lots and Blocks.

- A. Lot Size and Arrangement. The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build. In general, side lot lines shall be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.
  
- B. Access. Insofar as possible, lots shall not derive access from a major road. Access to lots adjacent to a major road shall, in general, be from marginal access streets or other streets within the development. Where a watercourse separates the BUILDABLE area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other storm water drainage facilities in the development.

Section 11.2 Street, Road, and Pavement Design.

- A. Street Arrangement.
  - 1. Street systems shall be designed with due regard to the needs for: convenient traffic access and circulation; traffic control and safety; access for fire fighting, snow removal, and street maintenance equipment; and storm-water drainage and sewage disposal. Streets shall be designed to accommodate the prospective traffic, and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.
    - (a.) The streets in contiguous developments shall be coordinated so as to compose a convenient system. Where a development adjoins undeveloped land, its streets shall be laid out so as to provide suitable future street connections with the adjoining land when the latter shall be developed. A street thus temporarily dead-ended shall

be constructed to the property line and shall be provided with a temporary turn-around of the same dimensions as for permanent dead-end streets if in excess of two-hundred (200') feet, with a notation on the construction plat providing for temporary easements for the turn-around until such time as the street is extended.

(b.) Streets shall be logically related to the topography, and all streets shall be arranged so as to obtain as many as possible of the building sites at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.

2. Where a development abuts on or contains an existing or proposed primary street, the Town Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with or without rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. All streets must meet Town Specifications and be approved by the Highway Superintendent.

3. Where a development borders or contains an existing or proposed railroad right-of-way or controlled access highway right-of-way, the Town Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for business, commercial or industrial purpose in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

B. Standards for Street Design. All streets shall be designed and constructed to conform to N.Y.S. and Town specifications. The Town Highway Superintendent shall approve all street design and construction.

1. Any Town road that is adjacent or intersects a right-of-way belonging to another entity (ie. New York State DOT, Steuben County) must comply with the more restrictive road specification standards.

C. Street Intersections. Intersections of primary streets shall be held to a minimum and spaced at least one thousand (1000) feet apart, and intersections of a collector street by other streets shall be at least eight hundred (800) feet apart. Cross (four cornered) street intersections shall be avoided insofar as possible, except at intersections where both streets are at least of collector designation. Between offset intersections there shall be a distance of at least one hundred fifty (150) feet. Within fifty (50) feet of an intersection, streets shall be approximately at right angles and in no case shall the angle of intersection be less than seventy-five (75) degrees without additional channelization. Minimum curb radii shall depend on

the intersecting street types; and shall be as follows:

Collector with collector:	35'
Minor with collector:	30'
Minor with minor:	25'

Access streets into a development from a primary street shall have minimum curb radii of forty (40) feet. All property corners at street intersections shall be rounded with a radius of twenty (20) feet or have comparable cutoffs or chords, as the Town Board sees fit. Within triangular areas formed by the intersecting street lines, for a distance of seventy-five feet from their intersection and the diagonals connecting the end points of these lines, visibility for traffic safety shall be provided by exclusions of plantings or structures. Grades within the intersection shall not exceed one and one-half percent (1-1/2%) for a distance of fifty (50) feet from the intersection, from fifty (50) to one hundred (100) feet, the grades should not exceed three percent (3%), and in no case shall they exceed five percent (5%). Triangles, circles or other traffic channeling islands may be required at intersections where present or anticipated traffic conditions indicate their advisability for traffic control or safety.

- D. Dead-end Streets. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a lot meeting the requirements of this Ordinance. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. However, the Town Board may require the reservation of an easement fifteen (15) feet wide for pedestrian traffic or utilities. A turn-around of a minimum right-of-way radius of eighty (80) feet shall be provided at the end of any permanent dead-end street. For greater convenience to traffic and more efficient police and fire protection, the length of permanent dead-end streets shall be limited to six (6) times the minimum lot width for the zoning district, such length to be measured to the center point of the turn-around.
  
- E. Street Grading and Shoulders. Areas within street rights-of-way shall be graded as necessary to eliminate any slopes steeper than one (1) foot vertical in two (2) feet of horizontal distance. Street shoulders shall not exceed a slope of ten (10%) percent at right angle to the street center line. Shoulders at least eight (8) feet wide shall be provided on both sides of collector streets. Minor streets shall have a shoulder at least eight (8) feet wide on one (1) side of the street and at least four (4) feet wide on the other. Shoulders and all other unpaved areas within the street right-of-way shall be treated with topsoil and seeded to grass.
  
- F. Sidewalks. Concrete sidewalks at least five (5) feet wide may be required on both sides of all streets. They may also be required within pedestrian easements through blocks to provide a system of pedestrian walkways to schools, parks and

other community facilities. Sidewalks should be two (2) feet from the property line inside the right-of-way, unless the adjacent street is a state or county highway, in which case the sidewalk shall be placed adjacent to and outside of the right-of-way. Sidewalks within pedestrian easements shall be generally centered within the easement.

G. Trees. The Developer shall take adequate measures to preserve desirable existing trees in suitable locations within the development. Street trees shall be planted on both sides of the street and ten (10) feet outside the right-of-way, at intervals of approximately fifty (50) feet, subject to location of drives, street intersections, or other features. In general, the street right-of-way shall be cleared of existing trees, but occasional existing trees of unusual value may be preserved within the street right-of-way if approved by the Planning Board.

H. Street Names and Signs. All streets shall be named, and such names shall be subject to the approval of the Town Board. A street, which is a continuation of an existing street, shall bear the same name. Relating street names to features of local historical, topographical, or other natural interest is encouraged. Street signs shall be provided by the developer at all intersections and shall be of a type approved by the Town Highway Superintendent.

I. Monuments.

1. Permanent survey monuments shall be set in the boundary of rights-of-way at intersecting streets, PC and PT of curves, though P.I. of short curves may be used instead, where such is practical, at the discretion of the Town.
2. Monuments shall be placed on one side of the street only and at one corner of intersecting streets. Adjacent monumented points shall be intervisible.
3. Monument locations shall be shown on the final site plan; field notes of ties to monuments or a tie sheet shall be submitted to the Town after installation of monuments.

J. Street Improvements - General. In addition to the required improvements specifically referred to elsewhere in these regulations, plans shall provide for all other customary elements of street construction and utility service, which may be appropriate in each locality as, determined by the Town. Such elements may include, but shall not be limited to, street pavement, gutters, storm water inlets, manholes, curbs, sidewalks, street lighting standards, water mains, fire hydrants, fire alarm signal devices, and sanitary sewers. Underground utilities within the street right-of-way shall be

located as required by the Town and underground service connections to the property line of each lot shall be installed before the street is paved.

All street improvements and other construction features of the development shall conform to municipal specifications which may be established from time to time and shall be subject to approval as to design, specifications, and construction by the Town Highway Superintendent.

- K. Widening of Existing Street Right-of-Way. Where a development adjoins an existing street which does not conform to the Town's right-of-way standards, the developer shall dedicate whatever additional right-of-way width is necessary to provide, on the development side of the normal street centerline, a width which is equal to at least one-half of the minimum standard width for the respective type of street.
- L. Typical Road Section. The typical section approved by the Town Highway Superintendent shall be used for all roads. Pavement and R.O.W. widths shall vary with type of use.

Section 11.3 Off-Street Parking.

- A. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required in the listing below for any use, which is erected, enlarged, or altered after the effective date of this Ordinance. A parking space shall be considered adequate if it is not less than two hundred (200) square feet in area exclusive of the passageway, provided that adequate maneuvering area is allowed by an average space per car of two hundred (200) square feet.
- B. Parking for commercial and industrial developments shall be designed in accordance with the attached site design illustrations.
- C. Where appropriate, the Board of Zoning Appeals may, upon the presentation of evidence, issue a variance in relation to the number and circumstance of the following parking space requirements, in order that the general welfare is served and the prospective user is equitably treated.
- D. Uses not permitted within residential districts shall not locate there parking within residentially zoned districts, unless specifically permitted to do so in writing by the Board of Zoning Appeals.
- E. The lighting of off-street parking lots shall not be directed into adjacent properties.
  - 1. SINGLE FAMILY RESIDENCES - one space per dwelling unit.
  - 2. MULTI-FAMILY RESIDENCES - one space per dwelling unit, plus one additional space for each four (4) dwelling units.

3. MANUFACTURED /MOBILE HOME PARKS - one space per dwelling unit, plus one additional space for each four (4) dwelling units.
4. HOME OCCUPATION - two (2) spaces for each person or employee engaged in any home occupation.
5. HOSPITALS, SANITARIUMS, NURSING HOMES - one (1) space for every three (3) beds, plus one for every two (2) employees.
6. MONASTERIES, CONVENTS, COLLEGES, NURSERY SCHOOLS - to be determined by the Board of Zoning Appeals based upon enrollment, seating capacity of any public auditorium, and employment.
7. TOURIST HOME, ROOMING HOUSE - one (1) space for each bedroom within the facility.
8. MOTELS - HOTELS - one (1) space for each unit plus one (1) space for each five (5) seats in a public restaurant associated with the motel or hotel.
9. OFFICES - one (1) space per employee.
10. RETAIL ESTABLISHMENTS, FUNERAL HOMES, VETERINARY HOSPITALS, BANKS, RESTAURANTS, AND RELATED COMMERCIAL ESTABLISHMENTS OF A PERSONAL SERVICE OR BUSINESS SERVICE NATURE - one (1) space for each one hundred (100) square feet of gross floor area. The Town Planning Board shall approve the layout of shopping center parking in writing.
11. COMMERCIAL RECREATION, PRIVATE MEMBERSHIP CLUBS - one (1) space for every five (5) customers based upon the maximum customer or membership capacity of the facility.
12. ROADSIDE STANDS - one (1) space for every fifty (50) square feet of area devoted to selling or display.
13. ELEMENTARY SCHOOLS - one (1) space per employee plus one (1) additional space for every fifty (50) students.
14. HIGH SCHOOLS AND COLLEGES - five (5) spaces for each classroom.
15. CHURCHES, TEMPLES, AUDITORIUMS, THEATERS - one (1) space for every five (5) seats.
16. INDUSTRIAL - (including warehousing and wholesaling) - one (1) space

per employee of the main shift. The Town Planning Board shall approve the layout of the proposed parking facility in writing.

Section 11.4 Off-Street Loading and Unloading Requirements.

- A. Size of Berths. Each loading berth, either open or enclosed, shall be fifty-five (55) feet long, twelve (12) feet wide and fourteen (14) feet high; businesses utilizing vehicles not larger than panel trucks may have berths which are not smaller than twenty (20) feet long, ten (10) feet wide and eight (8) feet high.
- B. Location of Berths. The Building Inspector shall make sure that berths are located in such a way as not to unreasonably interfere with the movement of people and vehicles on public ways. The Building Inspector may refer this question to the Town Planning Board for advice.

C. Requirements.

<u>Use</u>	<u>Gross Floor Area (Sq. Ft.)</u>	<u>Loading and Unloading Berth</u>
Retail Stores, Wholesale Establishments	3,000 - 15,000	1
Storage Uses, Other Commercial Uses	15,001 - 40,000	2
Motels - Hotels, Office Buildings	each 25,000 add'l.	1 add'l.
	100,000 or less	1
	100,001 to 300,000	2
	each 200,000 add'l.	1 add'l.
Industrial	15,000 or less	1
	15,001 - 40,000	2
	40,001 - 100,000	3
	each 40,000 add'l.	1 add'l.

Section 11.5 Regulations For Signs. (As revised May 21, 2010)

A. Purpose and Intent

The purpose of this Section is to promote the public health, safety, and welfare by establishing standards and criteria for the construction, installation, maintenance, and operation of all types of signs in the Town of Corning, which are subject to the provisions of this Section. More specifically, this Section is intended to:

1. Enhance and protect the physical appearance of the municipality.
2. Protect property values.

3. Promote and maintain visual attractive, high-value residential, business, and industrial districts.
4. Promote the economic well being of the community by creating a favorable physical image.
5. Ensure that signs are located and designed to:
  - (a.) Provide an effective means of directional information in the community
  - (b.) Afford the community an equal and fair way to advertise and promote its products and services
  - (c.) Reduce sign clutter and the distractions and obstructions that may contribute to traffic accidents, and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.
  - (d.) Preserve scenic views and the visual character of neighborhoods, historic districts and parkland.

B. General Provisions.

1. No sign shall be erected or installed after the effective date of this Ordinance unless in accordance with this Ordinance.
2. Legitimate non-conforming uses in any district may continue the use of signs established prior to the effective date of this Ordinance or amendments thereto.
3. Any sign existing legally at the time of adoption of this Ordinance or amendments thereto that does not conform to this Ordinance or amendments thereto is considered "non-conforming." See also Section 12 "Non-conforming Buildings, Uses, and Lots."
4. The message on an abandoned sign shall be removed sixty (60) days from the discontinuance of the related use.
5. Illumination of signs shall not be flashing, or of varying intensity, and shall not produce direct glare beyond the limits of the property line. A sign shall not display a message that flashes.
6. Signs with moving parts are not permitted.

7. Signs are not permitted which would constitute a traffic hazard, nor which could confuse, because of shape or color, with official traffic lights or signals. In addition, signs may not be erected which interfere with, or unreasonably obstruct, the view of an existing sign or signs.
  8. Upon petition to the Board of Zoning Appeals for a variance, signs may be approved which are not in conformance with the standards enumerated herein provided that, in the opinion of the Board of Zoning Appeals, the sign so created would meet the purpose of the standards enumerated herein, would allow proper identification of the property in question, and would not adversely affect adjoining properties or the character of the neighborhood.
  9. Building permits are required for all signs, except those listed in Section 11.5 subsection C. In the case of high-rise signs, a Conditional Use Permit is also required.
  10. Off-site signs are prohibited except for community pole signs and off-site temporary signs less than twenty (20) sq. ft. Locations of the community poles are to be approved by the Town Planning Board.
  11. Accessory signs may include window signs, copy-change signs, awning signs, and non-traditional signs and shall include temporary sign and portable signs which are not used as the primary identification sign.
    - (a.) Window signs shall not exceed thirty percent (30%) of the window area.
    - (b.) Additional signs may be located on the building façade.
    - (c.) Merchandise displays may be stored outside during business hours.
  12. All signs shall conform to the Uniform Fire Prevention and Building Code.
  13. The height of a sign shall be measured from the average surface of the ground within a fifty (50) foot radius from the base of the proposed sign.
  14. No sign shall be located within the clear vision area of a road.
  15. Public schools, other public educational institutions, and public emergency response facilities shall be exempt from the sign area requirements.
- C. The following signs are permitted in any district:

1. Permanent Signs:

- (a.) Name plates shall not exceed two (2) square feet for each occupant, profession or business located on the premises.
- (b.) Memorial signs or tablets.
- (c.) Traffic or other municipal signs, legal notice and such temporary or non-commercial signs for government purposes.
- (d.) All signs, certificates and licenses that are mandated to be on display by any local, county, state or federal law or authority. Such signs shall be exempt from the total sign area calculation.
- (e.) Two (2) On-site directional signs each not exceeding four (4) square feet in sign area, indicating or calling attention to traffic entrances and exits, provided that, if illuminated, such illumination shall cease at the close of business hours or 11:00 p.m. whichever is later. Such signs shall not be nearer than ten (10) feet to any lot line and shall not project more than three (3) feet from the ground.

2. Temporary Signs:

- (a.) Temporary signs shall be removed or replaced after ninety (90) days unless otherwise noted.
- (b.) Construction signs shall not exceed thirty (30) square feet in sign area. Signs shall be removed within thirty (30) days after construction is completed.
- (c.) Temporary banners not in excess of twenty (20) square feet in sign area or posters not in excess of four (4) square feet in sign area.
- (d.) Real estate signs shall be removed fourteen (14) days after the sale/lease of the property.

D. Residential Districts.

- 1. Real estate signs shall not exceed six (6) square feet and shall not exceed four (4) feet in height above the ground and no more than one such sign for each lot or building being sold
- 2. A residence in which a home occupation occurs may display an accessory sign noting the home occupation which shall be no more than two (2) square feet in area.

3. Two (2) primary identification signs shall not exceed thirty (30) square feet in sign area, unless otherwise stated. Such sign shall not project beyond the face of the principal building more than twenty-four (24) inches, shall be setback at least ten (10) feet from all property lines and shall not be higher than ten (10) feet.

(a) R-1 Districts:

Two (2) primary identification signs shall not exceed twenty (20) square feet in sign area, unless otherwise stated.

(b) Institutions within Residential Districts:

Two (2) primary identification signs, one of which may be a double-sided freestanding sign and the other may be a wall sign, shall not exceed one hundred twenty five (125) square feet in total sign area.

4. Subdivision Signs: Any person offering lots for sale in a subdivision may erect a temporary non-illuminated sign within the limits of the subdivision, or adjoining property in the same ownership, having an aggregate total face area of not more than thirty (30) square feet. The permit for such signs shall be issued for a period of one (1) year, and may be renewed for successive period of one (1) year each following a determination by the Building Inspector that the signs have been repainted or are in good condition in each case.
5. Multi-family dwellings, apartments, mobile home parks of ten (10) or more units, and housing communities may display a primary identification sign which is not illuminated and which sign(s) shall not exceed fifteen (15) square feet in total sign area.
6. Accessory signs shall not exceed thirty (30) square feet in total sign area, unless otherwise stated.

(a) Institutions within Residential Districts:

Accessory signs shall not exceed fifty (50) square feet in total sign area.

E. B-1 District.

1. Two on-site primary identification signs shall not exceed sixty (60) square feet in sign area. Projecting signs are permitted but shall not be less than ten (10) feet above the sidewalk or ground level and shall not project more than five (5) feet beyond the property line.

2. Accessory signs shall not exceed thirty (30) square feet in total sign area.
3. Real estate signs shall not exceed six (6) square feet in sign area and shall not exceed four (4) feet above the ground.

F. B-2 and I District.

1. Two (2) on premise signs each having a face area of not more than 150 square feet may be displayed for each establishment. If freestanding signs face substantially at right angles to the road and are visible from more than one direction, they shall have a face area of not more than 300 square feet. The supports for such signs shall not be located nearer than ten (10) feet to any property line and shall not extend more than twenty (20) feet above the ground. If the sign is on a building it shall not extend more than five (5) feet above the height of the roof of the building at the point of location of signs. On premise advertising devices, which are painted or represented on a structure, may be permitted and not counted as a part of the maximum face area of 300 square feet.
2. One (1) high-rise sign which advertises travelers services (gas, food, lodging) located on the property where services are available, and within 800 feet of a limited access highway may be permitted, by the Town Board, provided that the supports and foundations for high-rise signs are designed by a licensed professional engineer and the drawings of such sign bear his seal and signature. Such sign shall not exceed one hundred (100) square feet in sign area and shall not exceed thirty-two (32) feet in height above the ground.
3. Accessory signs shall not exceed two-hundred (200) square feet in sign area.
4. Real estate signs shall not exceed six (6) square feet in sign area for signs located in the B2 district and shall not exceed four (4) feet above the ground. Real estate signs shall not exceed twenty (20) square feet in sign area for signs located in the Industrial district.
5. Where permitted, Adult Uses signs must display only the name of the establishment and type of Adult Use in block lettering and muted colors.

Section 11.6 Accessory Buildings and Uses.

- A. Accessory Buildings. Accessory buildings not attached to principal buildings shall be located on a lot as follows:

1. In compliance with all setback requirements for principal buildings in the zoning district.
  2. Be located no closer to the principal building than twelve (12) feet.
- B. Accessory Uses. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as the principal structure, shall not be located in front yard on such lot and shall be located not less than twenty (20) feet from any lot line nor less than 10 feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.
1. A swimming pool or the lot or any part thereof within which a pool is located shall be completely enclosed by a chainlink fence, or a type of fence that offers the same degree of security against accidental or unauthorized entry. Such fence shall be four (4) to six (6) feet in height, and all entrance gates thereof shall be self-enclosing, self-latching and capable of being locked. The fence shall be separate and physically detached from the swimming pool itself, and shall be a minimum distance of four (4) feet from the water's edge.
  2. An above ground pool with no part of its side wall height less than four (4) feet above ground and so constructed by the manufacturer that the vertical sides are smooth, sheer and do not provide any means for intermediate foot or hand holds, may be exempt from the full provisions of the above fence requirement. However, a full height fence with a self-closing, self-latching gate capable of being locked shall enclose the ladder area not less than four (4) feet in width and four (4) feet in depth, and the ladder shall remain permanently therein. Above ground pools provided with foot or hand holds (draw-banded) and above ground pools less than four (4) foot side wall height above ground are not exempt from the full fencing requirement.
- C. Where 25% or more of the lots in a block are occupied by buildings, the average yard dimensions, average of lot coverage of such buildings and the average side and rear yard set-back shall determine the yard set-back and coverage requirements for any new accessory building or use, within the block. Or, where no standard block exists the word "block" as used above shall be interpreted to mean those residences within 250 feet of either side of the lot in question, on the same side of the street. The average set-back shall be based on no fewer than two existing residences.
- D. Special Designs. In cases where a developer has designed a grouping of buildings, the Town Board may approve the siting of accessory buildings such as garages

and carports in the front yard, provided that the buildings are in compliance with all required setbacks.

Section 11.7 Driveway Standards.

No person, firm or corporation shall construct or locate any driveway entrance or exit into a highway of the Town of Corning without having first met the provisions of this section. The “Standard Entrance and Exit Crossing Requirements” shall be as follows:

- A. The applicant shall furnish all materials and bear all costs of construction within the town road right-of-way; pay the cost of all work done and materials furnished as required to meet the conditions set by the Town Highway Superintendent.
- B. No alteration or addition shall be made to any driveway without first securing permission from the Town Highway Superintendent.
- C. No more than two driveways to a single commercial or industrial establishment entering on one highway shall be permitted.
- D. The maximum width for a single combined entrance / exit shall be not more than fifty (50) feet for commercial or industrial use and not more than twenty (20) feet for residential use.
- E. The slope of the driveway shall not be greater than ten (10%) percent. Slope of the driveway shall not exceed two (2%) percent within twenty-five (25) feet of the intersecting public highway.
- F. The driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. In addition, as specified by the Town Highway Superintendent, a catch basin at a point near the intersection of the driveway and town highway may be required. This will prevent surface water and debris from being discharged onto the highway.

Section 11.8 Fences, Walls, Hedges and Screen Planting.

Fences, walls, hedges and screen planting are permitted as follows:

- A. Where the driveway meets the road the hedge shall not exceed three (3) feet in height.
- B. On a corner lot, no fence, wall, hedge or screen planting over three (3) feet in height shall be constructed at the intersection of the two streets.

- C. Fences, walls, hedges or screen plantings may be required, in multi-family, commercial or industrial districts, or on parcels containing non-residential uses in residential zones, including Adult Uses, by the Town Board, as is necessary to protect the residential quality of adjacent property.
- D. In any use, the minimum clear vision distance shall be twenty-five (25) feet from the edge of the pavement at in intersection.
- E. The vision clearance area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the street pavement, except that street trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the grade.

Section 11.9 Steep Slope Guidelines.

The Town of Corning is characterized by numerous steep slope (15% or greater) areas. Special design treatment for streets, building sites and other development is needed to preserve the natural terrain, trees, rock formation, scenic views, etc. Development on steep slopes will be permitted subject to the following guidelines:

- A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).
- B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
- C. Design principles shall include, but not be limited to, the following:
  1. Landscaping of areas around structures making them compatible with the natural terrain.
  2. Shaping, grouping and placement of man-made structures to complement the natural landscape.
  3. Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer shall first of all determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them.

4. Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
5. Encourage the development of off-street parking bays.
6. Encourage the use of turning circles at mid-block points to avoid the use of private driveways for turning and parking movement.
7. Encourage split-level building sites.
8. Use one-way streets when consistent with traffic safety, circulation needs, and natural topography. These guideline allows for smaller road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.
9. Land within the hill area that is in excess of twenty-five (25%) percent slope shall not be developed as individual residential lots.
10. Outstanding natural features such as the highest crest of the hill, range, natural rock outcroppings, particularly desirable vegetation, etc. should be retained.

Section 11.10 Drainage System and Erosion Control.

- A. Drainage Systems. Adequate and comprehensive drainage systems shall be provided to convey the storm water runoff originating within and outside the proposed development as follows:
1. Drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed upland of the development.
  2. Preservation of natural watercourses is generally preferable to the construction of drainage channels.
  3. Interior drainage systems shall be designed to accommodate a ten (10) year storm.
  4. The design of natural watercourses and structures shall depend upon the drainage area, but in general:

- (a.) Watersheds of less than one (1) square mile shall be designed for a 50 year storm frequency.
  - (b.) Areas of one (1) square mile and over shall be designed for a 100-year storm frequency.
5. All structures shall be set back a minimum of fifty (50) feet from the streambank.
  6. Utilizing the drainage guidelines outlined above, the Planning Board may require the developer to submit the following:
    - (a.) Plan profiles, and typical and special cross-sections of proposed storm water drainage facilities.
    - (b.) Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.
    - (c.) The grading plan shall be developed to suitable contour interval with grading details to indicate proposed street grades and elevations and building site grades and elevations.
    - (d.) If the development is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the drainage report.
    - (e.) Design criteria as specified in town design standards shall be applicable to this section.

B. Erosion Control. In order to insure that the land will be developed with a minimum amount of soil erosion, the Town Board shall require the developer to follow certain erosion control practices. Both the Planning Board and the developer shall consult with the Soil Conservation Service, as required, and the Soil Conservation Service shall determine whether or not the required procedures are being put into practice. Such procedures may include:

1. Exposing the smallest practical area of land at any one time during the development.
2. Provision of temporary vegetation and/or mulching to protect critical areas.

3. Provision of adequate drainage facilities to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after development. The developer's engineer shall show, as part of their submitted plans, the interceptor swales and sedimentation basins along the lower edges of all developments. Topographic data and design grades for the swales shall be shown on the plans.
4. Fitting of the development plan to the topography and soils so as to minimize the erosion potential.
5. Retention and protection of natural vegetation wherever possible.
6. Installation of permanent final vegetation and structures as soon as practicable.
7. Provision of adequate protective measures when slopes in excess of 15% are graded, and minimizing such steep grading.
8. Installation of temporary sedimentation basins as required by the Soil Conservation Service.

Section 11.11 Open Space, Parks and Playgrounds.

The Town Board may, as a condition of site plan approval, require that specific areas be designated for recreational purposes. Such designation shall depend upon the magnitude and character of the project, and accessibility to existing recreational areas. All lands proposed for park or recreation purposes shall meet the following minimum standards.

- A. Such land shall either be deeded to the Town or be held in corporate ownership and maintained by an established organization.
- B. Shall have physical characteristics and locations which render them readily usable for appropriate recreation purposes and their locations shall be selected with a view to minimize hazards and vehicular traffic for children walking between such facilities and their homes in the neighborhood.
- C. No such area may be smaller than two (2) acres, and in general, recreation areas shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.
- D. A detailed development plan shall be provided for each Neighborhood Park or playground. As a minimum, the development plan shall provide for an approximately level area at least one hundred seventy-five (175) feet square for children's field games.

- E. The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

Section 11.12 Utilities.

- A. Water Supply and Sewage Disposal. Provisions for water supply and sewage disposal shall comply with requirements of the Town of Corning, N.Y.S. Health Department and/or N.Y.S. Department of Environmental Conservation. All habitable structures shall meet minimum requirements as identified by the Town or N.Y.S. Health Department.
- B. Underground Installation. All utility companies (telephone, electric, etc.) are now equipped to make underground installation of their services; underground installation shall be required when practical.

Section 11.13 Standard Designed Manufactured Homes.

- A. Single lot mobile homes are allowed only in MOBILE HOME PARKS
- B. STANDARD DESIGNED MANUFACTURED HOME STANDARDS

All standard designed manufactured homes installed in the Town of Corning shall meet the following minimum requirements:

1. Minimum size - 920 square feet.
  2. No less than two (2) means of exit.
  3. Water and sewage facilities that meet state and local health standards.
  4. The home must be properly installed per the manufacturer's installation manual. In the event
  5. Skirting or a curtain wall unpierced except for required ventilation and access door and may consist of metal, vinyl, brick or masonry.
  6. Permanent landing and steps with handrails are required at each exterior doorway and must
  7. No manufactured /mobile shall be nearer than fifty (50) feet to the road line of any dedicat
- C. Temporary Location. A standard designed manufactured home to be used, as a temporary business office, storehouse or construction field office may be temporarily located within any zoning district. Such temporary location, however, shall be subject to the site plan provision and shall be allowed for a period not to exceed six (6) months. This time limit may be extended if in the opinion of the

Building Inspector, such extension is a proper continuance of the temporary purpose.

Section 11.13A      Placement of Residential Designed Manufactured Homes:

Home meeting the criteria of a residential designed manufactured home shall be allowed in all districts subject to the provisions and requirements of such districts, and shall be regulated uniformly with site built homes in those districts. Additionally, they must meet the limitations set forth.

- A.      In the event that no district requirements call for the orientation of the home, the manufactured home shall be placed on the lot in such a manner that is compatible with and reasonably similar in orientation to the other homes in adjacent or nearby locations.
- B.      The home must be permanently installed in accordance with the manufacturer's Installation manual. In the event that the manual is not provided the home must be installed according to ANSI A225.1 (1994)
- C.      Permanent landing and steps with handrails are required at each doorway leading to ground level.
- D.      Skirting or a curtain wall unpierced except for ventilation and access door must be installed and must be of metal, vinyl, brick or masonry.

Section 11.14      Manufactured Mobile Home Parks.

It is the intent of the Town of Corning to provide for the development and operation of manufactured/mobile home parks in an appropriate, safe, sanitary and attractive environment. All new manufactured/mobile home park developments and improvements to or expansion of existing parks shall be considered a conditional use subject to site plan approval. Operational permits shall also be required and shall be renewed annually at twenty-five dollars (\$25.00) per ten (10) lots or fraction thereof or whatever fee the Town Board shall set. All existing mobile home parks shall be required to obtain an operation permit within two (2) years of the enactment of this Ordinance.

All construction and operation permits shall be reviewed and issued in conformance with the site plan provision of this Ordinance. The following standards shall apply to any mobile home park. Existing manufactured/mobile home parks shall be required to upgrade the facility to reasonably comply with the standards contained herein to promote the health, safety and general welfare in the Town. The Town Board may use some discretion in the application of the standards.

- A. Standards Governing Mobile Home Parks. Any mobile home park shall conform to the following standards which are to be regarded as minimum requirements.
1. Sites for mobile home parks shall be a contiguous parcel a minimum of ten (10) acres in size of which a minimum of seven (7) acres shall be buildable. The parcel shall have at least three hundred (300) feet frontage on a suitably improved public road. Where the applicant can demonstrate that the characteristics of his holding will meet the objectives of this section, the Planning Board may consider projects with less acreage or frontage. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new such road may be approved as part of the plan.
  2. Conformance with health regulations - all sanitary and health regulations, state and local shall be met.
  3. Location near residential areas No park shall be permitted whose proposed boundaries are within two hundred (200) feet of an existing permanent residential dwelling unit, unless there exists a natural vegetation barrier or an artificial man-made screen is erected that are of sufficient height and opacity to screen the park from the residence, or unless all of the property owners residing in the area within said 200 feet, consent in writing to the establishment of the park.
  4. Mobile Home Spaces: Boundaries of mobile home spaces shall be well-defined and permanently marked. Mobile home spaces shall meet the following requirements:
    - (a.) The density of development shall not exceed five (5) units per developed acre (buildable land excluding required open space).
    - (b.) Each space shall be a minimum of eight thousand (8000) square feet buildable land with a minimum width of 50 feet.
    - (c.) No more than one mobile home shall be placed on a mobile home space.
    - (d.) Maximum site coverage by all buildings shall be thirty percent (30%) of the mobile home space.
  5. Parking: Parking spaces shall be provided in conformance with Section 11.3. Two parking
  6. Outdoor Storage: Secure outdoor storage areas shall also be provided for parking trucks, maintenance equipment, boat trailers, utility trailers, and similar such equipment and vehicles. All such parking areas shall be ef-

fectively screened from roads and mobile home sites. Storage of unlicensed vehicles for more than six (6) months shall be prohibited. Except in the case of emergency, there shall be no on-street parking.

7. Yard dimensions:
  - (a.) Minimum front setback from public road right-of-way - 75 feet
  - (b.) Minimum setback from pavement edge of any roadway located within the park - 25 feet.
  - (c.) Minimum rear setback - 10 feet.
  - (d.) Minimum side yard setback - 10 feet.
  - (e.) The side of the Manufactured/mobile home opposite the driveway shall be a minimum of 10 feet from the lot line.
  - (f.) Minimum distance between adjacent mobile homes - 35 feet.
8. Mobile home stand: Each mobile home lot shall contain a mobile home stand capable of containing a mobile home in a fixed position. The mobile home stand shall be graded with an impenetrable material at least six (6) inches in thickness. It may be surfaced with a layer of uniform sized crushed stone to a depth of nine (9) inches in lieu of paving. The topographic angle of the mobile home stand shall not exceed one and one-half (1-1/2) feet for the length of the stand. The elevation, distance and angle of the mobile home stand in relation to the access way shall be such as to facilitate the safe and efficient placement and removal of the mobile home. In addition, all mobile homes shall be anchored to the stand or the ground in such a way to resist forces of wind. Such anchors shall be approved by the Code Enforcement Officer.
9. Patios: A patio, if proposed for the individual mobile home lots, shall be constructed of concrete, asphalt or similar suitable material. It shall be located so as to provide easy access to the mobile home and shall extend the full size of any awning or patio cover to allow adequate anchoring.
10. Sidewalks: Individual sidewalks shall be constructed to each mobile home stand from a paved street or from a paved driveway or parking space connecting to a paved street. Common walks shall be constructed in a suitable layout and width as determined by the Town Board taking into consideration the following; locations where pedestrian traffic is concentrated; for example, at the court entrance, and to the court office and other important facilities.

11. Entrances and streets: All mobile home parks containing sixteen (16) or more mobile home lots shall have access from two points along a single street or highway, or if bordering on two streets, access may be one for each street, each such access shall be a minimum 60 ft. right-of-way, and shall be separated by a minimum of one hundred (100) feet.
- (a.) Streets shall be provided on the site where necessary to furnish principal trafficways for convenient access to the mobile home stands and other important facilities on the property.
  - (b.) Streets shall be privately owned with right-of-way widths of not less than 30 feet. Interior intersections shall have rights-of-way of not less than 50 feet to facilitate the turning movements of vehicles with mobile homes attached.
  - (c.) All streets within the mobile home park shall meet town highway specifications and be hard surfaced and not less than 24 feet in width.
  - (d.) No individual mobile home shall have direct access to a state, county or town road without first entering the mobile home park access road.
12. Fire District Approval and Firefighting Requirements: No Conditional Use for a mobile home park shall be approved until the plans have been reviewed and approved by the appropriate fire district concerning access and availability of sufficient water. If fire district approval cannot be obtained, the Town Planning Board may require a financial contribution from the applicant toward providing fire-fighting services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the mobile home park.
13. Service buildings: Each park shall provide community service buildings to house laundry facilities and other sanitary facilities, as required by the N.Y.S. Department of Health. Service buildings shall be well lighted at all times from dawn to 11:00 p.m. and capable of being lighted between 11:00 p.m. and dawn.
14. Accessory building: One accessory building may be located on each site to a size not to exceed the maximum site coverage. Such building shall require a building permit and shall be placed on a permanent foundation or permanently anchored to the ground. No outside storage shall be permitted on a mobile home space.

15. Drainage facilities: The mobile home park shall be provided with a storm water system in accordance with Section 11.10 Drainage Systems and Erosion Control.
16. Landscaping: Mobile home parks shall be landscaped to provide an attractive setting for mobile homes and other improvements, to provide adequate privacy, and pleasant outlooks for living units, to minimize reflected glare, and to afford summer shade. Such landscaping shall include the planting and maintenance of at least the following
  - (a.) Every attempt shall be made to retain any existing trees four (4) inches or larger in caliper.
  - (b.) Trees and shrubs at suitable intervals along park streets, within recreation areas, and around park borders providing a visual screen from adjacent land uses and the public road.
  - (c.) Special planting to screen objectionable views such as laundry drying yards, garbage and trash collection stations, non-residential uses, and any unsightly objects or conditions on adjacent properties.
  - (d.) Lawns shall be planted on all areas which are not paved or used as sites for mobile homes or buildings.
17. Skirts: Each mobile homeowner shall be required to enclose the bottom portion of the mobile home with either a metal, vinyl, brick or masonry skirt properly ventilated within fifteen (15) days after arrival in the park.
18. Open Space: Each mobile home park shall provide common, conveniently located open space for the use of the residents of the park. Such space shall be an area of at least twenty-five percent (25%) of the gross land area of the park.
19. Recreation facilities: For mobile home parks designed for ten (10) spaces or more, recreation areas and facilities, such as playgrounds, ball fields, picnic areas, swimming pools, and community buildings shall be provided to meet the anticipated needs of the residents. Not less than fifty percent (50%) of the gross site open space area shall be devoted to recreation facilities, generally provided in a location or locations convenient to all. All recreational areas shall be buildable land.
20. Utilities: All electric utility, telephone, and cable conduit shall be installed underground and maintained in accordance with applicable codes and regulations governing such systems. An electrical connection receptacle or

terminal box of an approved weather proof type shall be provided at each mobile home lot. Such receptacle shall be properly grounded and shall provide adequate voltage.

21. Lighting: The minimum requirements for such shall be a street light at the end of a street, at any street intersection and near recreation areas.
22. Water supply: An adequate supply of water must be available to all occupants of mobile homes in the park and the quality must be satisfactory to the New York State Health Department.
23. Sewage disposal: An adequate and safe sewerage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such systems shall be designed, constructed and maintained in accordance with local and state health laws.
24. Refuse disposal: The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident of fire hazards or air pollution. All refuse shall be stored in fly-tight, watertight, rodent proof containers, which shall be located not more than 150 feet from any mobile home site. Containers shall be provided in sufficient number and capacity to properly store refuse.
25. Sales lot: No sales lot or area for the purpose of selling or parking mobile homes for off-site sale shall be permitted,, within the mobile home park. However, mobile homes may be sold if set up on specified lots, complete with electrical, sanitary and water services. The lots shall be landscaped and the mobile homes shall be suitable for living quarters.

Section 11.15            Mining (as revised on December 13, 2006)

- A.    Intent    The intent of mining regulations in the Town of Corning is to:
1.    Protect the aquifer recharge areas for public wells.
  2.    Protect quiet enjoyment of existing neighborhoods.
  3.    Return remaining developable land to an economically viable use.
  4.    Maintain and/or enhance the ecological function of the remaining land which is located within a floodplain or floodway.
  5.    Protect the Town road system.

6. Add appropriate ponds created by mining to the town greenway system in accordance with the 1997 Town of Corning Master Plan Update, as amended.
7. Recognize the previously approved "Life of Mine" and "grandfathered" mines as existing mines which will not be affected by new regulations unless there is an application to expand or modify the existing permits.

Mining (both large and small scale) shall be allowed only by Conditional Use Permit in R-1 Districts, R1-C Districts, PRD Districts, PD Districts and I Districts subject to the following provisions. Mining shall be prohibited in Aquifer Protection Overlay Districts (APOD's):

1. Mining - Small-scale.
  - (a.) Submittal Requirements. Before a Conditional Use Permit is issued the applicant shall submit to the Planning Board and Town Board the following information:
    - (1.) A Site Plan at a scale of one inch equals not more than 100 feet showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of landowners. For larger or complex projects, such map shall also show the present topography at two (2) foot contour intervals. A professional engineer or land surveyor for certification of its accuracy may be required to sign the map.
    - (2.) A proposed plan of excavation at the same scale as above showing the proposed finished elevations at two- (2) foot contour intervals and the proposed drainage plan. It shall also show: the entrance to and exit from the mining operation on town roads, the location, construction and maintenance of haul roads on the site, setbacks from property lines and streams, and locations of natural or manmade barriers to restrict access to the site. It shall also include dust control measures, and hours of operation.
    - (3.) A reclamation plan. The plan must show the land restored to a configuration permitting reuse of the land for another purpose such as housing, industrial parks, commercial areas, parks, etc. Such a plan would illustrate road and

building layout as well as final contour elevations. Pre-planning for such future use enables an efficient, sequential restoration of land as excavation progresses, thereby permitting an economically efficient operation. Competent professionals such as architects, landscape architects or civil engineers may be required to prepare the plans.

(b.) Standards.

- (1.) The site proposed for mining shall not exceed ten (10) acres. Additional acreage to be mined shall be considered a separate mine and require a separate mining permit.
- (2.) The top of the mined area slope and all structures, parking areas, loading areas, and truck staging areas shall not be closer than the setbacks in the applicable zoning district, setbacks as noted in this section, or forty (40) feet, whichever is greater, to a property line. Suitable landscaping may also be required if appropriate to the public health, safety, or welfare. In those cases where excavating is already in progress but has not as yet come within 40 feet of the property line, this Ordinance shall be retroactive to prevent excavation within 40 feet of the property line.
- (3.) The location of any rock crusher, or other crushing, washing, sorting, grinding, polishing, or cutting machinery or other physical process for treating the product of such excavation shall be a minimum of five hundred (500) feet from the property line.
- (4.) The proposed finished grading plan shall show the land to be smooth-graded and topsoil re-spread to a minimum depth of four (4) inches; the slope shall not exceed the normal angle of repose of the material removed but in no instance shall a finished slope exceed one (1) foot vertical to three (3) feet horizontal. If pits are not reclaimed as ponds or constructed wetlands, the excavated areas shall be filled with clean fill and brought up to grade. Slopes shall be planted in accordance with the final reclamation plan.
- (5.) The applicant may be required to furnish a performance bond, in an amount determined by the Town Board to be sufficient to guarantee completion of the finished grading and drainage plan. The Town Board only upon certification

that all requirements including the finished grading and drainage have been complied with shall release such bond.

- (c.) Approval process. Upon approval, one copy of the approved excavation plan shall be returned to the applicant by the Code Enforcement Officer together with a Conditional Use Permit upon payment of a fee as set by the Town Board resolution to cover all engineering and other costs directly attributable to the approval and field checking of the proposed mining operation.

2. Mining - Large scale. When the Town of Corning receives the Lead Agency letter from NYSDEC acknowledging that a mining permit application has been received, the Town shall send a letter to the applicant advising him/her of the Town permit requirements and requesting immediate appearance at the Planning Board meeting for a concept plan meeting. This will allow the applicant to make changes as necessary to meet the Town standards. The Town shall also send relevant comments from the Planning Board meeting to NYSDEC as input to the NYSDEC permit process.

- (a.) Submittal Requirements. Before a Conditional Use Permit is issued the applicant shall submit to the Planning Board and Town Board a site plan showing the following information:
  - (1.) The entrance to and exit from the mining operation on town roads.
  - (2.) The location, construction and maintenance of haul roads on the site
  - (3.) Setbacks from property lines and streams
  - (4.) Locations of natural or manmade barriers to restrict access to the site
  - (5.) Access to remaining property during mining and upon completion of the reclamation plan.
  - (6.) Dust control measures
  - (7.) Hours of operation
  - (8.) Signed letter of authorization from the landowner and owner of the mineral rights if the applicant is the operator.

- (b.) Standards

- (1.) Minimum lot area is twenty (20) acres.
- (2.) The site proposed for mining shall not exceed ten (10) acres. Additional acreage to be mined shall be considered a separate mine and require a separate mining permit.
- (3.) All lands to be covered by Conditional Use Permits must be owned, leased, or otherwise under control by applicant for duration of the Conditional Use Permit.
- (4.) The property on which the mining is proposed must have road frontage on a State or County highway, private road access onto a State or County highway for purposes of ingress and egress, or on a Town road if bonded to an amount set by the Town Board.
- (5.) Site must have only one entrance and one exit. Locations for driveways for sites accessing State or County highways must meet applicable standards for safety and sight distance. Drives accessing Town roads must be designed and located by a licensed engineer.
- (6.) The boundaries of the area of the site proposed for mining must be a minimum distance of five hundred (500) feet from the closest property line of residences, businesses, schools, places of worship, and public gathering places.
- (7.) Sites outside floodplains/floodways. The boundaries of the area of the site proposed for mining and all structures, parking areas, loading areas, and truck staging areas must be set back a minimum distance of three hundred (300) feet from property lines.
- (8.) Sites within floodplains/floodways. The boundaries of the area of the site proposed for mining and all structures, parking areas, loading areas, and truck staging areas must be set back a minimum distance of forty (40) feet (or the setbacks in the applicable zoning district, whichever is greater) from property lines.
- (9.) The boundaries of the area of the site proposed for mining and all structures, parking areas, loading areas, and truck staging areas must be set back a minimum distance of one hundred (100) feet from wetlands and watercourses.

- (10.) Setbacks from rights-of-way shall be determined upon consultation with the holder of the right-of-way.
  - (11.) If the mining operations propose to include blasting, the areas where such activities will take place must be a minimum distance of two thousand (2,000) feet from property lines and off-site roads.
  - (12.) The operation shall not endanger stability of adjacent structures, or adversely affect wetlands, watercourses, residential, commercial, or municipal water supply or sewage disposal systems, or existing drainage flow patterns or systems.
  - (13.) The operation shall not adversely affect any environmental, cultural, or historic features of significance to the community.
  - (14.) All operations must be screened from public view with appropriate roadside landscaping, berms, and/or fencing.
  - (15.) No phases of operations shall cause dust or other airborne particles, vibrations, odors, or glare beyond the property lines of the site.
  - (16.) Appropriate truck routes and transportation facilities must be available for the volume and type of truck traffic involved.
  - (17.) Noise from any phase of operations shall not interfere with the quiet enjoyment of neighboring properties and shall be in conformance with the noise control regulations of this Chapter.
  - (18.) Use and operations shall not adversely alter the prevailing character of the surrounding neighborhood or area.
  - (19.) Location and terrain shall be reasonably suitable for development of allowed uses in zoning districts where property is located once the operations have terminated
- (c.) Should the State fail in its duty to enforce reclamation requirements in the DEC mining permit as described in Environmental

Conservation Law §23-2703 (2) (b) and (c), the Town of Corning is authorized to enforce these requirements.

3. No Conditional Use Permit for mining, either large-scale or small-scale, shall be granted for a period of more than five (5) years, but such permit may be extended for additional five (5) year periods upon approval of the Town Board. To receive such an extension, the applicant must provide plans and information showing the sequence and timing of excavation operations, any changes to haul roads and access, any change in the intensity of use such as increase/decrease in truck traffic, any change in the generation of noise, vibration or other objectionable characteristic, and any changes to the surrounding area.

Section 11.16      Erection, Re-erection, and Razing of Damaged Buildings.

- A. Any building which has been damaged by fire or other causes to the extent of more than fifty percent (50%) of its appraised valuation shall be repaired or rebuilt in conformance with the regulations of this Ordinance. Repair or demolition shall start within sixty (60) days. Repair shall be completed within 12 months in a fashion which leaves the site clean.
- B. A building which has been damaged by fire or other causes to the extent of less than 75% of its appraised valuation must be reconstructed within a pe-riod not to exceed
- C. Enforcement will be by the Building Inspector, utilizing the services of a qualified appraiser

Section 11.17      Industrial District Regulations.

A. Performance Standards.

1. 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:
  - (a.) Excessive smoke, fumes, gas, dusts, odor, or any other atmospheric pollutant beyond the boundaries of the lot whereon such use is located. What smoke is excessive shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines, when the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart.
  - (b.) Noise levels greater than 55 d.b.a. measured at the boundaries of the lot occupied by such use causing the same.

- (c.) Any pollution by discharges of any effluent whatsoever into any watercourse, open ditch, or land surface.
  - (d.) Discharge of any effluent 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, shall not be discharged into any municipal system and must be treated by the industrial use.
  - (e.) Storage or stocking of any waste materials whatsoever.
  - (f.) Glare, objectionably high light levels, or vibration perceptible beyond the lot lines whereon such use is conducted.
  - (g.) Hazard to person or property by reason of fire, explosion, radiation, or other cause.
  - (h.) Any other nuisance harmful to person or property.
2. Specific Standards: The following specific standards are hereby adopted and must be complied with, for, any use in any Industrial district and before the same be permitted, established, maintained or conducted:
- (a.) 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.
  - (b.) Loading Docks: No loading docks shall be on any street frontage. Provision for handling of all freight shall be on those sides of any building which do not face on any street or proposed streets.
  - (c.) Landscaping: All areas of the plot not occupied by buildings, parking, driveways or walkways, or storage shall be landscaped 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.
  - (d.) Fences and Walls: Property that is adjacent to a residential or business 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 (6) 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 (6) foot solid masonry wall, chain link fence covered with an evergreen vine, or compact evergreen hedge. Where a front yard adjoins a street, the wall, fence, or hedge shall be located not closer to the street than the depth of the required yard.

- (e.) Off-Street Parking and Loading: Refer to Sections 11.3 and 11.4.
- (f.) Signs: Refer to Section 11.5.
- (g.) Buffer Strip: In addition to the fences, walls and hedges, all principal buildings shall be set back from any lot lines abutting residential zones a minimum of 100 feet. Such buffer shall be landscaped in accordance with Section 11.17.1 (b.) (3).
- (h.) Utilities: All water and sewer facilities shall be designed and installed according to NYS DOH, DEC and Town standards.
- (j.) Access: Special consideration shall be given to access to and from public streets and traffic volumes generated by the proposed use. Access shall not be allowed from residential streets unless the Zoning Board of Appeals approves a variance. A projection of expected vehicular use of neighborhood streets, including estimates of traffic volumes shall be submitted. No access drive for any 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.

B. Prohibited Industrial Activities. In the Industrial 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 the 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.

Section 11.18      Solar Energy Systems and Solar Access.

To the maximum extent possible, all new development proposals totaling ten (10) or more acres may be designed so that the maximum number of buildings shall receive

direct sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. Buildings and vegetation should be sited and maintained so that unobstructed direct sun light reaches the southern exposure of the greatest number of buildings according to the following guidelines:

- A. Solar Access shall be protected between the solar azimuths of - 45 degrees (east of due south) to +45 degrees (west of due south).
- B. In considering dimensional modifications permitted in Section 4.3 and Articles 7 and 8, the Town Board shall also consider solar access and design considerations.
- C. For purposes of solar access, streets, lots and building setbacks should be designed so that the buildings are oriented with their long axes running from east to west for single-family development and north to south for townhouse and multi-family development.
- D. In order to maximize solar access, the highest densities shall to the maximum extent possible be placed on the south facing slopes with lower densities sited on north-facing slopes.
- E. Streets should be oriented on an east/west axis to the greatest possible extent.
- F. Buildings shall to the greatest extent possible be sited as close to the north lot line or lines as possible to increase yard space to the south for better owner control of shading.
- G. Tall buildings shall to the greatest possible extent be sited to the north of shorter ones and be buffered from adjacent development.
- H. Existing vegetation shall be retained and incorporated into the design as practicable.
- I. A description of any mechanisms, such as deed restrictions covenants, etc., that are to be applied shall be provided.

Section 11.19            Wind Energy Conversion Systems (Windmills).

The intent of this section is to regulate the placement of and access to wind energy conversion systems for the purpose of protecting the health and safety of individuals on adjacent properties as well as the general public.

- A. Setback - The installation shall not be erected nearer to any lot line than the total height of the structure. Such height shall be defined as the tower height plus one-half (1/2) the rotor diameter on a horizontal axis installation, and, on vertical axis installations, the distance from the base of the tower to the top of the unit.

B. Dimensions:

1. Maximum allowable height shall be 80 feet unless otherwise prohibited by state or federal statutes or restrictions.
2. Minimum blade height shall be 15 feet at the lowest point of arc.

C. Safety:

1. A licensed professional engineer shall design the foundation and supports for the windmill and the drawings bear his seal and signature, or carry a manufacturer's seal or certification.
2. At least one sign shall be posted at the base of the tower warning of high voltage.
3. Tower climbing apparatus shall be no lower than 12 feet from the ground.
4. All installations shall be designed with braking systems.

D. Noise - The maximum level of noise permitted to be generated by an installation shall be 55 d.b.a., measured at the property line.

E. Design considerations:

1. All electric lines serving the installation shall be installed underground.
2. No towers with guy wire supports shall be allowed.

Section 11.20 Home Occupation.

A home occupation as defined in this Ordinance may be permitted as stated in Section 4.9 Use Regulation Table. Such use shall conform to the following standards, which shall be minimum requirements:

- A. The use shall be carried on wholly within the enclosed walls of the dwelling unit or accessory building.
- B. There shall be no external evidence of such use except for one sign not exceeding two (2) square feet in area in conformance with Section 11.5. Stock, merchandise, equipment or displays of any kind shall not be visible from outside the dwelling unit or accessory building.

- C. No external structural alternations, which are not customary to a residential building, shall be allowed.
- D. No more than one profession or occupation, and office shall be allowed per dwelling unit.
- E. The use shall not result in or cause vehicular traffic or noise that will create a nuisance to abutting properties, be detrimental to the residential character of the neighborhood or be detrimental to the health, safety, and general welfare of the neighborhood.
- F. Such uses shall also be subject to any other conditions the Town Board deems necessary to meet the intent of these requirements.

Section 11.21            Adult Uses.

- A. Purpose: It is the purpose of this law to regulate the creation, opening, commencement and/or operation of Adult Use and Entertainment Establishments, as herein defined, in order to achieve the following:
  - 1. To preserve the character and the quality of life in the Town of Corning's neighborhood and business areas.
  - 2. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.
  - 3. To restrict minors' access to adult uses.
  - 4. To maintain the general welfare and safety for the Town of Corning's residents and the general public.
- B. Allowed Zoning Districts. All Adult Use and Entertainment Establishments as defined herein may only be created, opened, commenced or operated within the Industrial (I) zoning districts within the Town of Corning created by Article 3 of the Town of Corning Zoning Ordinance.
- C. Location Within Allowed Zoning Districts. An Adult Use and Entertainment Establishment shall be permitted only in the allowed zoning district set forth in Section 4.9 - Use regulation table, and, within such a district, shall not be allowed:
  - 1. Within two hundred (200) feet of the boundary of any residential zoning district in the Town;

2. Within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town;
3. Within five hundred (500) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park, or playground, within the Town;
4. On the same parcel as another Adult Use and Entertainment Establishment;
5. Within one thousand (1,000) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such other establishment is located in the Town; or
6. Within one thousand (1,000) feet of the property line of an establishment with a liquor license.

The above distances of separation shall be measured from the nearest exterior wall of the portion of the structure containing the Adult Use and Entertainment Establishment.

- A. Display Prohibited. All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity.”

Section 11.22            Rural Enterprises.

Farms may establish rural enterprises and may construct new, or expand any existing, buildings and/or improvements for rural enterprises. The total aggregate foot print of the associated buildings and improvements, for rural enterprises, including associated parking areas, may not exceed 7,000 square feet.

Section 11.23            Communication Towers.  
 (As amended by Local Law No. 5 of the Year 2010.)  
 Adopted December 14, 2010

No communications tower shall hereafter be used, erected, moved, or modified except after the granting of Conditional Use Permit approval by the Town Board in conformity with the provisions of this Section. No existing structure shall be modified to serve as a communications tower unless in conformity with this Section. In reviewing an application for Conditional Use Permit approval for a communications tower, the Town Board shall, at a minimum, require that the following criteria be met;

- A. **Site Location:**
  - 1. Documentation of the need for the use of the site proposed. Higher intensity/density sites are preferred in the following order:
    - a. Property with an existing structure suitable for co-location.
    - b. Industrial Districts (I)
    - c. **Residential, Rural, Low Density District (R-1)**
  - 2. A completed Visual Environmental Assessment Form (visual EAF), including simulated photographic visualization of the site, with attention to visibility from key viewpoints.
- B. **Height.** Documentation of the minimum height necessary for the applicant's needs.
- C. **Co-Location and Use of Pre-Existing Structures.**
  - 1. Applicants are encouraged to provide their towers for use by other carriers, to co-locate on existing towers or locate antenna on existing structures. An application must include an inventory of existing towers within a reasonable distance of the proposed site with documentation of intent from an existing tower to allow colocation.
  - 2. Inventory of pre-existing structures as alternatives to new construction.
  - 3. If 1 and 2 above are not feasible, communications tower design to accommodate future demand for additional facilities. This requirement may be waived by the Town Board provided that the applicant demonstrates that future shared usage is not feasible based upon:
    - a. The number of Federal Communications Commissioner (FCC) licenses anticipated for the area.
    - b. The number of existing and potential licenses without tower spaces/sites.
    - c. Available spaces on existing and approved towers.
- D. **Setbacks.** Communication towers, guy wire anchors and any accessory structures shall be erected no nearer to the lot line than the greater of:
  - 1. The required setback as specified in the Density Control Schedule, or
  - 2. The tower height plus the tallest antenna.

E. Visibility and Aesthetics.

1. Monopoles or guyed towers shall be preferred to freestanding communications towers.
2. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be galvanized finish or painted gray above the surrounding tree line and painted gray, green, or black below the surrounding tree lines, unless other standards are required by the FAA. Towers shall be designed and sited to avoid the application of FAA lighting and painting requirements.
3. Accessory facilities shall maximize use of location, building materials, colors and textures designed to blend with natural surroundings.
4. No communications tower, antenna or accessory facility shall contain any signs or advertising devices except for safety information.

F. Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible.

G. Fencing and Screening.

1. Screening of communication towers shall comply with standards set forth in Section 9.3.
2. All communications towers and accessory facilities shall be enclosed by a fence not less than six (6) feet in height or otherwise sufficiently protected from trespassing and vandalism. Any guy supports shall be sleeved, visibly marked or entirely fenced in to a height of eight (8) feet above the finished grade to protect against accidental impact by persons or animals.

H. Access. Access is required to assure adequate emergency and service access. Construction of pervious roadways (crushed stone, gravel, etc.) are preferred.

I. Radio Frequency Effects. Communications antennas may be operated only at FCC frequencies and power levels unless otherwise justified.

J. Applicant Build-Out Plan.

1. A build-out plan will include:
  - a. A map of the applicant's facilities in the Town.
  - b. Potential locations for additional facilities within the next twenty-four (24) months.

- c. A description of the proposed facility's impact on existing communications towers in the Town.
  - d. A map of discontinued or relocated facilities.
2. A build-out plan and certification of use of existing facilities shall be submitted by January 31st of each year, including any further application for additional facilities.

K. Removal of Facilities.

- 1. Upon abandonment, the applicant shall remove any and all communication structures immediately upon the discontinuance of the permitted use, shall reasonably restore the site, and shall incur all expenses related to the abandonment.
- 2. The applicant shall post a bond or other surety to be renewed annually with the Town of Corning to ensure #1, above.

L. Exceptions. The provisions of this Section shall not apply to the following:

- 1. Individual, scientific, medical, weather, navigational, military or government radar antennas and associated communications towers.
- 2. Pre-existing towers including repair and maintenance of existing communication towers and antennas.
- 3. Antennas used solely for the residential household television and radio reception.

## **ARTICLE 12. NON-CONFORMING BUILDINGS, USES AND LOTS**

### **Section 12.0 Continuation of Non-Conforming Buildings and Lots.**

Any lawful building, structure or use of premises existing at the time of enactment of this Zoning Ordinance, 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 of this Ordinance. A non-conforming use may not be extended or enlarged unless the expansion or extension more nearly conforms to the requirements of the district in which it is situated.

### **Section 12.1 Discontinuance.**

- A. Any building or land which is used for or occupied by a nonconforming use and which is changed to or replaced by a conforming use, shall not thereafter be used for or occupied by a non-conforming use.
- B. Any non-conforming use which is discontinued for twenty-four (24) months out of a thirty-six (36) month period shall not thereafter be used for a non-conforming use.

### **Section 12.2 Necessary Maintenance and Repairs.**

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

### **Section 12.3 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.

### **Section 12.4 Construction Started Prior to this Zoning Ordinance.**

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

### **Section 12.5 Existing Undersized Lots.**

- A. Any lot held in single and separate ownership prior to the adoption of this Zoning Ordinance, and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Zoning Ordinance for the district, may be con-

sidered as complying with such minimum lot requirements and no variance shall be required, provided that:

1. 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.
2. 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.
4. The following minimum yard dimensions are maintained for residences:

Side yards - 8 feet  
Rear yards - 25 feet  
Front yards - 25 feet

When the street right-of-way width is not known, the front yard setback shall be 50 feet from the centerline of the street.

4. No detached accessory building shall be located closer to a side lot line than five (5) feet, provided, however, that the side yard requirement for accessory buildings shall not be less than three (3) feet, if such accessory building is ten (10) feet or more to the rear of the residence building and is located behind the rear line of such residence building. No accessory building shall be located closer to the rear lot line than three (3) feet if no easement is located along such rear lot line.
  5. All other bulk requirements for that district are complied with.
- A. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one (1) single family dwelling.

Section 12.6 Reduction in Lot Area.

A building permit shall not be issued for any lot that is reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this Ordinance.

**ARTICLE 13. GENERAL EXCEPTIONS**

Section 13.0 Public Properties.

Nothing in this Ordinance shall restrict construction or use in the exercise of a governmental function of public buildings, lands or property supported in whole or in part by taxes imposed on property in the Town of Corning.

Section 13.1 Public Utilities.

Nothing in this Ordinance shall restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the Laws of the State of New York. Other facilities may be constructed subject to a Conditional Use Permit.

Section 13.2 Exceptions to Front Yard Requirements.

If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.

If there are dwellings on both abutting lots with front yards greater than the required depth for the district, or if there is a dwelling on one abutting lot with a front yard greater than the required depth for the district, the front yard for the lot shall be determined by averages as specified.

Section 13.3 General Exception to Height Regulations.

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, solar energy collectors and equipment used for the mounting and operation of such collectors, and other similar objects not used for human occupancy are not subject to the building height limitations of this Ordinance.

## ARTICLE 14. BOARD OF ZONING APPEALS

### Section 14.0 Establishment and Duties.

Pursuant to Town Law, the Town Board shall appoint a Board of Zoning Appeals consisting of five (5) members, shall designate its chairman, and also provide for such expenses as may be necessary and proper. A member of the Board of Zoning 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 Board of Zoning Appeals for cause and after public hearing.

- A. Term of Appointment. Of the members of the Board of Zoning 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. The appointment of a chairman shall be for a term of one year.

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 duration of the unexpired term.

- B. Staff. The Board of Zoning Appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.
- C. Rules of Procedure, By-Laws, Forms. The Board of Zoning 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 Zoning Ordinance. Such rules, by-laws and forms shall not be in conflict with, nor have the effect of, waiving any provisions of this Zoning Ordinance or any other zoning law or ordinance of the Town of Corning. Such rules, by-laws and forms, and any subsequent amendments or supplements thereto, shall be submitted to the Town Board by the Board of Zoning 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.
- D. Meetings. All meetings of the Board of Zoning 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 Board of Zoning 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 effect any variation in the Zoning Ordinance.

- E. Minutes. The Board of Zoning 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 Board of Zoning Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.
- F. Referrals to the Town Planning Board. Up to 45 days before the date of hearing held in connection with any appeal or application submitted to the Board of Zoning Appeals, said Board shall transmit to the Town Planning Board a copy of said appeal or application submitted to the Board of Zoning Appeals, and shall request that the Town Planning Board submit to the Board of Zoning Appeals its advisory opinion prior to the date of said public hearings.

#### Section 14.1 Public Notice and Hearing.

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

- A. 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 Corning, not less than five days, prior to the date of such hearing.
- B. By giving written notice of hearing to any appellant or applicant, and any other such notice to property owners in an affected area as may be required by the Board of Zoning Appeals, and to the Town Planning Board, not less than five days prior to such hearing.
- C. By giving written notice of hearing to any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by Law.

#### Section 14.2 Appeals.

The Board of Zoning Appeals shall hear and decide appeals from, and review any order, requirement, decision, or determination made by the Code Enforcement Officer under this Zoning Ordinance in accordance with the procedure set forth herewith:

- A. Notice of Appeal shall be filed with the Code Enforcement Officer and/or the Secretary to the Board of Zoning Appeals in writing, in a form required by such Board, within 30 days from the date of the action appealed from, specifying the grounds thereof.

- B. Upon filing of a Notice of Appeal and payment of a filing fee, as set by Town Board resolution, by the appellant or applicant, the Code Enforcement Officer shall forthwith transmit to the Board of Zoning Appeals all the paper constituting the record upon which the action appealed from was taken.
- C. The Board of Zoning 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 shall appear in person or by agent or by attorney. The Board of Zoning Appeals shall decide on the appeal within 60 days after the final hearing.
- D. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Code Enforcement Officer certifies to the Board of Zoning Appeals, after Notice of Appeal shall have been filed with him, 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 Board of Zoning Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.
- E. Following public notice and hearing, the Board of Zoning 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 Code Enforcement Officer. If the action by the Board of Zoning Appeals is to reverse the action of the Code Enforcement Officer in whole, the filing fee shall be refundable to the appellant.

Section 14.3 Variances.

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Ordinance, the Board of Zoning Appeals shall have the power, after public notice and hearing, to vary or modify through a variance the application of any of the regulations or provisions of the Zoning Ordinance. There are two types of variance which the Zoning Board of Appeals will have to act on and it is imperative that a clear distinction be made between them.
- B. Area Variance. So called because the applicant requests relief in dimensional nature from requirements such as setback lines, lot coverage, and frontage requirements, a peculiar size, shape lot, etc. Area variances may be granted upon the applicant's showing of practical difficulties and by satisfying all of the following criteria:

1. The variation is the minimum necessary to meet the needs of the applicant. To this end the Board may permit a lesser variance than that applied for.
2. A substantial change in the character of the neighborhood or a substantial detriment to adjoining properties or the public welfare is not created.
3. Where the applicant can prove significant economic injury, the Board must determine that the public health, safety and general welfare will be served by denying the variance.
4. The difficulty cannot be avoided by some method feasible for the applicant to pursue other than a variance.
5. In view of the manner in which the difficulty arose and in considering all the above factors, the interest of justice will be served by allowing the variance. The granting of an area variance can only result in a restriction or modification which permits the applicant to use his land for one of the uses permitted in the district.

C. Use Variance. A use variance is requested when the applicant desires to utilize the land for a use not allowed by the Zoning Ordinance in the district. The established rule is that the Appeals Board has the power to grant a use variance only when the applicant has proved that the literal application of the Zoning Regulations will result in an unnecessary hardship. When determining unnecessary hardship for a use variance, all of the following criteria shall be satisfied.

1. The land in question cannot yield a reasonable return if used only for uses permitted in the Zoning District.
  - (a.) Financial loss alone will not satisfy as unnecessary hardship, such loss may be considered along with the criteria listed here.
  - (b.) Proof of a more profitable return if the variance is granted is not itself evidence of hardship.
  - (c.) An applicant who maintains a nonconforming use or structure must show not only that all permitted uses will be unprofitable, but that his nonconforming use of the premises is incapable of yielding a reasonable return.
2. The modification or use to be authorized will not alter the essential character of the locality. The proposed modification of the property must not materially change the essential character or quality of the neighborhood and the spirit of the Ordinance shall be preserved.

3. The unnecessary hardship claimed as a ground for the variance has not been created by the owner or by a predecessor in title. Where all other required findings are made, the purchase of a zoning lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
  4. The unnecessary hardship which will support granting of a variance must relate to the uniqueness of the land not to the applicant/owner.
- D. All applications for variances shall be filed with the Secretary to the Board of Zoning Appeals in writing, shall be made in a form required by the Board of Zoning Appeals, and shall be accompanied by payment of a filing fee, and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
- E. 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 Board of Zoning Appeals.
- F. Hardship Variance - Mobile Homes. In those instances in which the Board of Zoning Appeals finds that a variance is justified in any district because of personal hardship and the hardship is not self-created, the following conditions shall apply:
1. A mobile home granted a "hardship variance," if on a separate lot, shall meet the setback and yard requirements of residential use.
  2. If a mobile home is to be permitted on a lot containing a residence, normal residential setback requirements must be followed by such mobile home, except it shall in no event be situated closer than twenty (20) feet from the principal residential building.
  3. The applicant for the "hardship variance" shall justify the adequacy of the proposed water and sewer arrangement for the mobile home to the Code Enforcement Officer.
  4. The granting of a "hardship variance" shall be for a period of two (2) years, and may be renewed. Such variance, however, shall be allowable only upon the issuance of a permit by the Code Enforcement Officer and may be renewed if, in the opinion of the Code Enforcement Officer, it is a proper extension of the hardship variance.

Section 14.4 Relief from Decisions.

Any person or persons, jointly or severally aggrieved by any decision of the Board of Zoning Appeals may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Costs shall not be allowed against the Board of Zoning 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.

## ARTICLE 15. ADMINISTRATION

### Section 15.0 Enforcement.

This Ordinance shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Board. No building permit shall be issued by him except where all the provisions of this Ordinance have been complied with. He shall keep the Board of Zoning Appeals advised of all matters pertaining to the enforcement of this Ordinance other than routine duties, and shall submit a monthly report to the Town Board enumerating the applications received, inspections made, permits issued or refused, and other actions taken.

Whenever a violation of this Ordinance occurs, any person having knowledge thereof may lay any information in regard thereto before a proper magistrate as provided by law, and the procedures thereafter shall be as set forth in the Code of Criminal Procedure.

### Section 15.1 Building Permits.

- A. No building or structure shall be erected, added to, or structurally altered until a permit thereof has been issued by the Code Enforcement Officer. Except on written order of the Board of Zoning Appeals, no such building permit shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Ordinance. Further, the Code Enforcement Officer shall be satisfied that issuance of a building permit is not in violation of the Town's Land Subdivision Rules and Regulations of the Planning Board.
- B. There shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.
- C. One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer, together with such permit to the applicant, upon the payment of a fee as set by Town Board resolution.
- D. In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid, provided no construction has been commenced. If construction work has been started and the application is not approved, the fees paid shall not be refunded.
- E. Upon approval of the application, and upon receipt of the legal fees therefor, the Code Enforcement Officer shall issue a building permit to the applicant upon the

form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.

- F. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the files of the Building Department and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Code Enforcement Officer or his authorized representative at all reasonable times.
- G. If the application together with plan, specifications, and other documents filed therewith describe requirements of the applicable building regulations, the Code Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Code Enforcement Officer shall cause refusal, together with a written statement of the reasons therefor, to be returned to the applicant.

Section 15.2 Certificate of Occupancy.

- A. 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 Code Enforcement Officer in accordance with the provisions of this Ordinance.
- B. 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 thirty (30) days after the erection or alteration shall have been approved as complying with the provisions of this Zoning Ordinance.

## ARTICLE 16. AMENDMENTS

### Section 16.0 Procedure.

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

### Section 16.1 Advisory Report by Town Planning Board.

Every proposed amendment, unless initiated by the Town Planning Board, shall be referred to the Town Planning Board. The Town Planning Board shall report in writing its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Town Planning Board fails to report within a period of forty five (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 Town Planning Board disapproves the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

### Section 16.2 Public Notice and Hearing.

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

- A. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than ten (10) days prior to the date of public hearing.
- B. By giving written notice of hearing to any required Municipal, County, Regional, Metropolitan, State or Federal agency in a manner prescribed by law.

### Section 16.3 Protest by Owners.

If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of land included in such proposed amendment, or by the owners of twenty (20) percent or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of twenty (20) percent or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the Town Board.

Section 16.4 Decision by Town Board.

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

Section 16.5 Notification of Decision.

The Town Board shall notify the applicant for an amendment of its decision in writing within five (5) days after the decision has been rendered.

**ARTICLE 17. REMEDIES**

Section 17.0 Penalty.

Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed, or there exists anything in violation of any of the provisions of this Ordinance; and any person, firm, company, or corporation who shall assist in the commission of any violation of this Ordinance or any conditions imposed by the Town Board or the Zoning Board of Appeals; or who shall build, contrary to the plans or specifications submitted to the Code Enforcement Officer and by him certified as complying with this Ordinance shall be guilty of an offense and subject to a fine of not less than fifty dollars (\$50) or more than two hundred and fifty dollars (\$250), or imprisonment for a period of not less than one (1) day, or more than six (6) months, or both such fine and imprisonment. Every such person, firm, company, or corporation shall be deemed guilty of a separate offense for each week such a violation, omission, neglect, or refusal shall continue.

Section 17.1 Alternative Penalty.

In case of any violation or threatened violation of any of the provisions of this Ordinance, or conditions imposed by the Town Board, Code Enforcement Officer, or Zoning Board of Appeals, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**ARTICLE 18. FEE SCHEDULE**

Section 18.0

A schedule of fees for all building permits and approval applications as required in this Ordinance shall be set by Town Board resolution from time to time.