

TOWN OF CORNING  
ZONING ORDINANCE

2025

Original Law adopted: September 13, 1983

Amended February 18, 2025 and repeals and replaces the following adopted Local Zoning Laws and Ordinances:

Revised on: June 14, 2005 (*general*)  
Revised on: August 22, 2006 (*flood damage*)  
Revised on: December 13, 2006 (*mining*)  
Revised on: August 10, 2010 (*signs*)  
Revised on: June 14, 2011 (*use table & density table update*)  
Revised on: March 12, 2013 (*single family homes in a B2*)  
Revised on: June 11, 2013 (*conditional use permits operation*)  
Revised on: July 9, 2013 (*road use standards*)  
Revised: April, 2015 (*definitions and use table*)  
Revised: December, 2015 (*agricultural considerations*)  
Revised: June, 2023 (*general*)  
Revised: March, 2024 (*general*)

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## **ARTICLE 1. TITLE, PURPOSE, AND AUTHORITY**

### **1.0. 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 fully revised on June 20, 2023 to wit:

AN ORDINANCE to promote the health, safety, and general welfare of the Town of Corning (outside of the limits of the Towns 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 AND DEFINITIONS**

### **2.0. Interpretation, Separability and Conflict**

A. The following rules of construction of language shall apply to the text of this Law.

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 Law 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 law- fully adopted rules, regulations or ordinances, the ordinance with the most restrictive provisions or those imposing the higher standards shall govern.

E. This Ordinance is not intended to abrogate or annul any easement, covenant, or any other private agreement. Such private agreements shall not allow what the law prohibits.

F. These regulations and requirements are in addition to, and not in place of, other restrictions controlling the use of land which may be found in other regulations such as subdivision regulations, building code, or health regulations.

## **2.1. Definitions<sup>1</sup>**

The following words or phrases as used in this Law 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 APARTMENT.** See Dwelling, Accessory Unit.

**ACCESSORY BUILDING, CUSTOMARY.** A detached building subordinate to the principal building on a lot, and used for purposes customarily incidental to the principal building. This includes, but is not limited to, closed roof structures (roof can be any material) such as barns, sheds, and detached garages. Accessory Dwelling Units do not qualify as Customary Accessory Uses or Buildings.

**ACCESSORY DWELLING UNIT.** See Dwelling, Accessory Unit

**ACCESSORY STRUCTURE, CUSTOMARY.** A subordinate structure detached from a principal structure, but located on the same lot, the use of which is incidental and subordinate to that of the principal structure or use. This includes, but is not limited to pools, permanent play equipment, and open roof structures such as animal pens, wood sheds, etc. Accessory Dwelling Units do not qualify as Customary Accessory Uses or Structures.

**ACCESSORY USE.** Any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including in the case of residential structures, professional, commercial and artisan activities carried on by the residents of such structures.

**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.”

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<sup>1</sup> Where questions or conflicts arise over the definition of other words used in this chapter that are not defined above, the code enforcement officer shall make a determination as to the appropriate definition or meaning.

**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 USE.** 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.

**AGRICULTURAL TOURISM/AGRITOURISM.** A commercially used enterprise, or part thereof, that links agricultural production and/or processing with tourism in order to attract visitors onto a farm, ranch, or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm, ranch, or business owner.

**AISLE, TRAFFIC.** The traveled way by which cars enter and depart spaces in parking lots.

**AIRPORT.** Any runway, land area or other facility, designed, used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxi ways, aircraft storage and tie-down areas, hangars and other necessary buildings.

**ALL-WEATHER SURFACE.** A surface which is passable in all weather conditions and is designed to support all reasonably anticipated loads in all weather conditions. An all-weather surface may be either pervious or impervious, however, it must not produce dust.

**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.

**AMUSEMENT CENTER, INDOOR.** Commercial establishment which includes indoor only as a group, or as an individual establishment: skating, paintball, archery, arcades, min golf, skateboarding, bowling alley.

**AMUSEMENT CENTER, OUTDOOR.** Commercial establishment which includes indoor and outdoor as a group, or as an individual establishment: paintball, mini golf, archery, skating, skateboarding, baseball hitting range, waterslide, etc.

**ANIMAL, COMPANION/HOUSEHOLD PET.** A domestic or tamed animal kept for companionship or pleasure. This term excludes exotic animals and wild animals. Agricultural animals, animals bred for sale, game and wild species or hybrids thereof, poisonous snakes, or animals regulated under federal law as research animals shall not be considered as companion animals or household pets.

**ANIMAL SERVICES/KENNEL, with OUTSIDE RUNS.** A place or establishment where companion animals not owned by the proprietor are sheltered, fed, and watered temporarily for a fee and where outdoor spaces are provided for the animals.

**ANIMAL SERVICES, without OUTSIDE RUNS.** An indoor-only place or establishment where companion animals not owned by the proprietor are sheltered, fed, and watered temporarily for a fee.

**AMPITHEATER, INDOOR/AUDITORIUM.** A permanent structure with rising tiers of seats arranged about an open space, used as a place of indoor public entertainment (games, concerts, performances, etc.).

**AMPITHEATER, OUTDOOR.** A permanent outdoor structure with rising tiers of seats arranged about an open space, used as a place of outdoor public entertainment (games, concerts, etc.).

**ANTENNA.** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

**APARTMENT.** See “DWELLING, ACCESSORY UNIT/APARTMENT” or “DWELLING, MULTI-FAMILY”

**APPROVED.** Approved by the enforcement officer under the regulations of this Law, or approved by an authority designated by Law or this Law.

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

**ARBORIST.** An individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees. This definition shall also incorporate the term urban forester.

**ARCADE.** A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained as a primary source of revenue.

**ARCHITECT.** An individual licensed by the State of New York to practice architecture.

**ARCHITECT, LANDSCAPE.** An individual certified by the State of New York to practice landscape architecture.

**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.

**AREA OF INFLUENCE.** (also referred to as service or trade area) The area from which a land use draws its customers or users or from which it can be reasonably expected to draw.

**ASSISTED LIVING/ADULT CARE FACILITIES.** A facility that provides long term, non-medical residential services to adults who are substantially unable to live independently due to physical, mental, or other limitations associated with age or other factors. Residents must not require the continual medical or nursing services provided in acute care hospitals, in-patient psychiatric facilities, skilled nursing homes, or other health related facilities, as Adult Care Facilities are not licensed to provide for such nursing or medical care.

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

**ATTIC, HABITABLE.** See building code definition.

**AUTO BODY WORK & PAINTING.** A structure or premises used commercially for the repair, restore, refinish, and replace vehicle bodies and frames, windshields, and window glass.

**AUTO REPAIR GARAGE.** A structure or premises used commercially or intended to be used for motor vehicle inspections and for repairs to motor vehicles, trailers and parts thereof, but does not include the manufacture, assembly or body building of motor vehicles nor manufacturing of parts.

**AUTOMOBILE FUEL DISPENSING ESTABLISHMENT/SERVICE STATION.** A retail place of business engaged in the sale of motor fuels and in supplying goods and services generally required in the operation and maintenance of automotive vehicles. These may include free restroom facilities for service station customers.

**AUTOMOBILE SALES.** A premises, including open areas, other than a street or way, and enclosed showrooms for the display and sale of new or used Department of Motor Vehicle registered automobiles, trucks, trailers, motor cycles and recreational vehicles, and where mechanical and/or body repairs may be conducted as an accessory use incidental to the primary use.

**AUTOMOBILE SALVAGE YARD.** A commercial operation involving the dismantling or wrecking of legally unregistered used motor vehicles not capable of operating under their own power, trailers, or the storage, sales, or dumping of dismantled or wrecked vehicles or their parts for monetary gain.

**AUTOMOBILE STORAGE LOT.** An operation involving the temporary storage of operable motor vehicles. This shall specifically include vehicle impound areas.

**AVERAGE DAILY TRAFFIC (ADT).** The average number of vehicles per day which pass over a given point on a roadway.

**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.

**BAR.** A business establishment licensed by the State of New York to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

**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.

**BED AND BREAKFAST.** A commercially used dwelling or part thereof in which, for compensation, breakfast and overnight accommodations are provided for transient guests and the owner of the property lives on the same lot, either in or outside of the principal dwelling and is the operator/provider of the bed and breakfast accommodations and services.

**BERM.** A mound of earth used to shield, screen, or buffer views, separate land uses, provide visual interest, decrease noise, or control the direction of water or traffic flow.

**BEST MANAGEMENT PRACTICE (BMP).** A practice, or combination of practices, that is determined to be the most effective, and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

**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.

**BORROW PIT.** See Surface mine.

**BOTTOM ASH.** Particulate matter, resulting from the burning of pulverized coal or other fossil fuel, which is collected from the floor of a boiler, furnace or combustion chamber.

**BUFFER.** An area, fencing, landscaping, or a combination thereof which is used to separate one use from another or to shield or block noise, lights, glare, pollutants or other potential or actual nuisances. See Article 6 for required buffers.

**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).

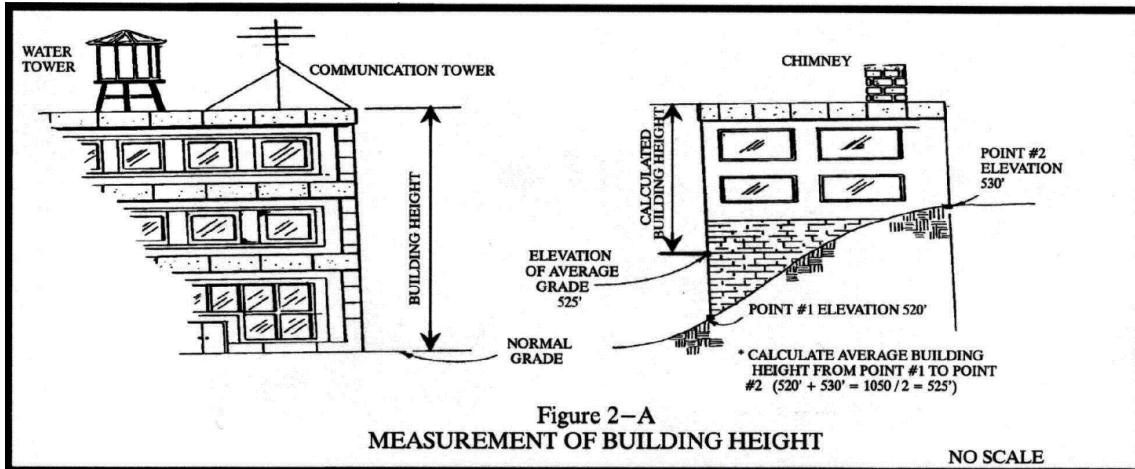
**BUILDING.** Any structure which is wholly or partially enclosed within exterior walls; is permanently affixed to the land; has one (1) or more floors and a roof; and is intended for the shelter, housing or enclosure of persons, animals or chattel.

**BUILDING, ACCESSORY.** See "ACCESSORY USE/STRUCTURE, CUSTOMARY."

**BUILDING, DETACHED.** 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.

See figure below:



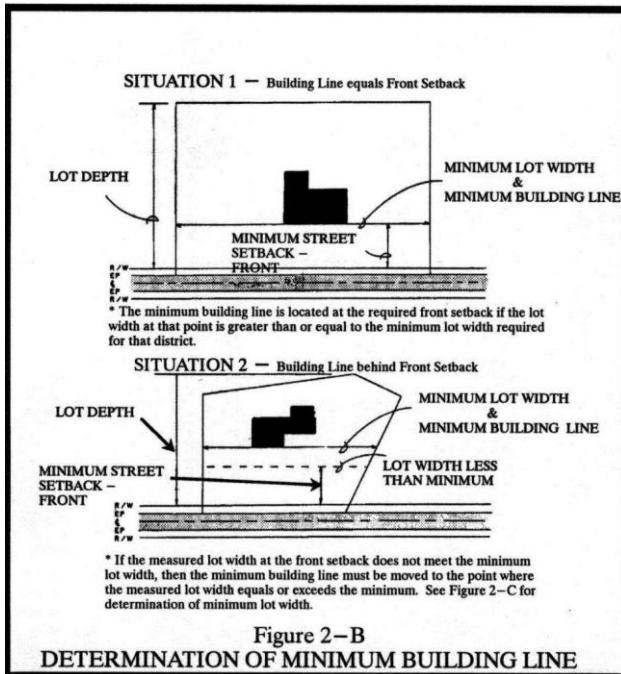
**BUILDING, PRINCIPAL.** A building in which is conducted the main or principal use of the lot on which said building is situated

**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, MINIMUM.** A line, established by statute, local law or ordinance, perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line. In the instance of a cantilevered section of a building or projected roof or porch, said line shall coincide with the most projected surface but excluding the outermost steps, uncovered porches, gutters, and similar fixtures.

See figure below:



**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.

**CALIPER.** The diameter of a tree trunk measured six inches (6") above ground level for nursery stock and four and one-half feet (4 1/2') above ground level for all other trees.

**CAMPGROUND.** An area or tract of land on which a grouping of outdoor accommodations for temporary occupancy are located or may be placed, including cabins, tents, cottages and major recreational equipment, and which is primarily used for commercial recreational use/purpose and is operated in accordance with all applicable health department regulations for campgrounds. May or may not include sales as an accessory use.

**CAMPING.** The use of a property as a site for parking of recreational vehicles, travel trailers, or similar equipment, including motor vehicles which are used for sleeping overnight, and/or the erection of tents or other structures to serve as temporary shelters.

**CAMPSITE.** A lot or space within a campground or RV park used for tent camping or as a site for recreational vehicles; or an area of land otherwise offered by the owner, developer or operator through sale, lease, rent, membership or any other means for camping purposes, regardless of whether or not done for pecuniary gain.

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

**CATERING KITCHEN.** A commercially used facility in which food is prepared and cooked in quantity and then transported from the premises by the caterer for off-premises serving and consumption at special events, receptions, parties, or similar activities.

**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.

**CEMETERY.** Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery. All uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, or mausoleum and soil storage shall be considered part of the allowable "cemetery" use.

**CEMETERY, PET.** Development of a parcel of land as a burial ground for domestic pets and may include accessory buildings or structures.

**CERTIFICATE OF COMPLIANCE.** A certificate issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Law and such adjustments thereto granted by the municipal boards.

**CERTIFICATE OF OCCUPANCY.** A document issued by the Town pursuant to the New York Building Code permitting the occupancy or use of a building.

**CHICKEN KEEPING.** The keeping of domestic chickens as an accessory use on same parcel as the principal residential structure.

**CHILD DAY CARE CENTER (INCLUDING SCHOOL AGE CHILD CARE).** A facility, or portion thereof, operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during a part of the day only, as regulated by the State of New York and not located in a private residence or dwelling unit. As used in this Law, the term is not intended to include babysitting services of a casual, non-recurring nature or in

the child's home. The term is also not intended to include cooperative, reciprocated child care by a group of parents in their respective homes.

**CHURCH OR PLACE OF WORSHIP.** A building or premises used for regular public worship by members or representatives of a religious sect or organization as defined by State Statute.

**CLEAR-CUTTING.** The removal of more than twenty-five percent (25%) of the trees, shrubs, or undergrowth from a site with the intention of preparing real property for nonagricultural development purposes. This definition shall not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed, removal of dead trees, or normal mowing operations.

**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.

**CLINIC OR EMERGENCY CARE CENTER.** An establishment where persons who are not lodged overnight are admitted for examination and treatment by a group of physicians or similar professionals practicing together.

**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.

**CLUSTER SUBDIVISION.** A form of residential development that concentrates dwellings in a specified area with a corresponding reduction in lot area and dimension requirements in order to allow the remaining land area to be devoted to perpetual common open space which may be used for recreation, both active and passive, and the preservation of environmentally sensitive areas.

**CODE ENFORCEMENT OFFICER.** A sworn or non-sworn inspector, officer or investigator, employed by a municipality, who possesses specialized training in, and whose primary duties are the prevention, detection, investigation, and enforcement of violations of laws regulating public nuisance, public health, safety, and welfare, public works, business activities and consumer protection, building standards, land-use, or municipal affairs

**COMFORT CARE HOME.** A dwelling unit, or portion thereof, whose primary purpose is to provide supportive and palliative care to no more than two individuals residing there who are suffering from medically determined terminal illness(es). Typically, care is provided on a regular basis, often 24 hours per day, by volunteers, family members, physicians and home care agencies.

**COMMERCIAL EVENT FACILITY.** A parcel of land solely used for the rental of the on-site facilities in whole or part thereof for hosting a party, banquet, wedding or other reception, or other social events. May also include a kitchen used for on-premise food service only as well as prepared products or materials for events being held on premise.

**COMMERCIAL HORSE STABLE.** the use of lands, buildings, or structures for the purpose of boarding 10 or more horses, and/or the rental of horses to the general public for riding purposes, but does not include the training of horses and/or riders, equestrian events, horse racing, or the overnight accommodation of patrons.

**COMMERCIAL USE.** A use intended to make a monetary profit

**COMMERCIAL VEHICLE.** Any vehicle designed for or primarily used for commercial purposes in conjunction with a business such as the transportation or persons or goods primarily for gain.

**COMMUNITY CENTER.** A meeting place, either a building or a complex of buildings, used for recreational, social, educational and cultural activities.

**COMPREHENSIVE PLAN/MASTER PLAN.** A plan, adopted by a municipality, that defines the community's goals and objectives, provides a blueprint for future land use, and serves as the basis for zoning, subdivision, and land use codes.

**CONCESSION STAND, INFORMATION BOOTH, DISPLAY BOOTH.** A temporary structure established as an accessory use to a special event or celebration and from which items are sold or displayed.

**CONDITIONAL USE.** A use that is not permitted in a particular zoning district except by a conditional use permit granted in accordance with the provisions established by this code.

**CONDITIONAL USE PERMIT.** A permit which may be authorized by the Planning Board for those uses identified as conditional uses by this code, in accordance with all applicable standards, criteria and procedures as established herein.

**CONDOMINIUM.** See "DWELLING, MULTI-FAMILY"

**CONFERENCE CENTER.** Specialized hotel (usually in a less busy but easily accessible location) designed and built almost exclusively to host 2 or more uses (conferences, exhibitions, large meetings, seminars, training sessions, etc). A conference center often also provides office facilities, and a range of on-site leisure activities.

**CONSERVATION EASEMENT.** An easement granting a right or interest in real property that is appropriate to retaining and for maintaining land or water areas predominantly in their natural, scenic, open, or wooded conditions; retaining such areas as suitable habitat for fish, plants, or wildlife.

**CONSTRUCTION TRAILER.** A vehicular unit which either has its own motor power or is mounted on or drawn by another vehicle and used or intended to be used solely in connection with construction or development for the storage of materials, tools or equipment or for office purposes. The term "construction trailer" shall not include a dwelling, mobile home, recreational vehicle or any other vehicle designed or used as living or sleeping quarters.

**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.** Any person, firm, association, or corporation that for a fixed price, commission, fee or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled or leased by another person, or any other improvements to such real property including but not limited to clearing, grading or excavation.

**CONTRACTOR SHOP.** Facility used as an office for a contracting business.

**CONTRACTOR STORAGE & YARDS.** Facilities and areas which are used by contractors solely for storage of supplies, materials or equipment, fabrication, assembly or repair of materials or equipment, or places for vehicular and equipment storage, and not as offices.

**CONVENIENCE STORE.** A store offering for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast-food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales when in accordance with all applicable requirements of this ordinance.

**CONVENT/MONASTERY.** A facility housing a group of individuals devoted to a religious life and existence, such as a group of monks, friars, or nuns, and in which the inhabitants live in a communal manner as a single residential unit with various shared facilities such as, but not necessarily limited to, cooking and meal preparation.

**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".

**COTTAGE INDUSTRY.** A limited commercial or industrial use in conjunction with a dwelling which is more extensive than a Home Occupation, but which, like Home Occupations, do not alter or disturb the residential or rural nature of the premises or its surroundings.

**COUNTRY CLUB DEVELOPMENT.** A parcel of land containing a country club and other outdoor recreational facilities including but not limited to swimming pool, golf course, tennis courts available only to private paying members.

**COURT/PLAZA.** An open, uncovered space, other than a yard, which may or may not have direct street access, and around which is arranged a single building or a group of related buildings.

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

**CREMATORIAL.** A place, however designated, operated for the purpose of reducing deceased bodies to ashes.

**CUL-DE-SAC.** A minor street with only one outlet and having an adequate turn-around at its terminus for the safe and convenient reversal of traffic movement.

**CUT.** A portion of the land surface or area from which earth has been or will be removed by excavation.

**DENSITY.** The number of dwellings per unit of land.

**GROSS DENSITY.** Gross density is calculated by including all the land within the boundaries of a particular tract, parcel or area.

**NET DENSITY.** Net density is calculated by excluding certain areas such as streets, easements, water areas, lands with environmental constraints, and such other areas.

**DESIGN HOUR.** The peak traffic situation on a given street or at a given intersection expected to occur within a one-hour period during a typical day in the year a development is scheduled to be completely developed.

**DESIGN YEAR.** The year in which a development project is anticipated to be completely constructed and occupied, or twenty (20) years from initial development, whichever shall be later.

**DETENTION BASIN.** A manmade or natural water impoundment designed to collect surface and subsurface water in order to impede its flow and to release it gradually, at a rate not greater than that existing prior to the development of the property, into natural or manmade outlets or channels. Also referred to as a "dry pond."

**DEVELOPER.** The legal or beneficial owner or owners of a lot or of any land included in a given development including the holder of an option or contract to purchase, or other persons having an enforceable proprietary interest in such land.

**DEVELOPMENT.** The division of land into two or more parcels, or the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, paving, grading, filling or land disturbance, or any use or extension of the use of land; provided however, the term shall not be construed to include any tract of land which will be principally devoted to agricultural production.

**DISTRICT OR ZONING DISTRICT.** A classification set out in this Law and defined by a prescribed set of requirements and regulations which, when applied to a portion or portions of the Town, uniformly governs the use of land and buildings within such areas.

**DRAINAGE.** The removal of surface water or groundwater from land by drains, ditches, piping, grading, or other means.

**DRAINAGE FACILITY.** Any component of a drainage system.

**DRAINAGE STRUCTURE.** Any manmade component of a drainage system.

**DRAINAGE SYSTEM.** A system through which water flows from land, including all drainage structures, drainage facilities, watercourses, waterbodies and wetlands

**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.

**DRIVE-THROUGH ESTABLISHMENT.** An establishment which by design, physical facilities, service, or by method of sale encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**DRONE.** An unmanned aircraft guided by remote control.

**DRY-CLEANING / LAUNDRY (RETAIL).** An apparel service establishment of less than 7,500 square feet in floor area that offers laundry and dry-cleaning service primarily to retail customers who bring their clothing and other articles to the premises. The establishment may include on-premises laundering and dry-cleaning equipment. In addition to servicing walk-in retail customers, the establishment may also include laundering/dry-cleaning of articles delivered from other drop-off locations.

**DRY-CLEANING / LAUNDRY PLANT (INSTITUTIONAL).** Any establishment that:

- has in excess of 7,500 square feet in floor area engaged in laundering and dry-cleaning services; or
- is engaged primarily in providing on-premises laundering and dry-cleaning services for large commercial or institutional accounts. This type of operation is also characterized by extensive truck traffic.

**DRUGSTORE.** A retail facility containing a pharmacy where the sale of non-drug, non-proprietary medications and other nonpharmaceutical items constitutes a portion of the retail business.

**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 or portion thereof designed or used for permanent residential purposes (but not including hotels, motels, motor lodges, tents, travel trailers, recreational vehicles, or similar accommodations allowing transient occupancy).

**DWELLING, ACCESSORY UNIT/APARTMENT.** A separate and complete housekeeping unit which provides complete and independent living, sleeping, and sanitation facilities, and which may or may not include permanent cooking facilities. Such unit may be contained within or outside of a primary residence but is clearly secondary to a primary single-family dwelling located on the same lot. When in a detached structure, the presence of a habitable room or rooms, as defined by the New York State building code, including a living area and a bathroom with sink, toilet and tub or shower shall be considered to constitute an accessory apartment. When such habitable space is a part of the principal structure on the property, the presence of an independent entrance, a bathroom with sink, toilet, and tub / shower, and physical separation (by walls or floors) from the principal residence shall be deemed to constitute an accessory apartment.

**DWELLING, MULTI-UNIT.** A building or building arrangement consisting of three (3) or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other.

- **APARTMENT COMPLEX.** A type of multiplex unit, of at least three such units, with each having its own access to the outside, each unit separated from any other by common fire-resistant walls, located on one lot with common areas.
- **TOWNHOUSE.** A type of multiplex unit, in a row of at least three such units, with each having its own front and rear or side access to the outside, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.
- **CONDOMINIUM.** A building or group of buildings, in which residential, units are owned individually while the structure, common areas and facilities are owned jointly by all the owners of a proportional basis.

**DWELLING, SINGLE-UNIT DETACHED.** A detached building consisting of a single dwelling unit (excluding accessory dwelling units on the same parcel).

**DWELLING, TEMPORARY OCCUPANCY.** Temporary living accommodations in a permanent structure. This includes hotels, motels, air b&b's, etc.

**DWELLING UNIT.** A single unit of one or more rooms providing complete, permanent, independent living facilities, including permanent provisions for living, sleeping, cooking, and sanitation.

**DWELLING UNIT, SINGLE ROOM OCCUPANCY.** A single-family residence that offers individual bedrooms within the home as long-term (six months or more) rental accommodations.

**DUPLEX.** A building consisting of one dwelling unit attached to one other dwelling unit by a common vertical fire-resistant wall.

**EASEMENT.** A grant by a property owner, evidenced by a recorded deed, of the right to use the described portion of land for a specific purpose.

**EDUCATIONAL USES.** Includes: Elementary, Intermediate, High School and/ Vo-tech and related support facilities, Corning-Painted Post public schools, technical, vocational business schools, colleges, and universities.

**EMERGENCY SHELTER, POST-DISASTER.** A shelter provided by organizations or governmental emergency management departments, in response to natural disasters, such as a flood or earthquake.

**ENGINEER.** An individual licensed by the State of New York to engage in the practice of engineering.

**ENVIRONMENTAL CONSTRAINTS.** Features, natural resources, or land characteristics that are sensitive to development activities or installation of improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment when developed.

**ENVIRONMENTALLY SENSITIVE AREAS.** Areas with one (1) or more of the following characteristics:

- slopes in excess of fifteen percent (15%);
- 100-year floodplains;
- wetlands;
- land formerly used for landfill operations or hazardous industrial or commercial use.

**EROSION.** The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, or gravity.

**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.

**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.

**FARMER'S MARKET**. A place where farmers or other people who are engaged in truck farming gather regularly for the purpose of selling produce, goods and crafts produced at their farms. The sale of seafood is included in this definition.

**FENCE**. A constructed, artificial barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of yard areas.

**FILL**. Sand, gravel, earth, or other material deposited to raise the elevation.

**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.

**FIRING RANGE**. A specialized facility designed for firearms qualifications, training or practice. This definition also applies to paintball facilities.

**FITNESS CENTER**. A commercial facility and associated lands used solely for health, recreational, and social purposes providing exercise, sports, and other physical activities.

**FLAG LOT**. (See LOT, “FLAG”)

**FLEA MARKET**. A building and/or outdoor area rented for use by various individuals to sell articles. This definition shall not be construed to include sidewalk sales by retail merchants, fruit or produce stands, bake sales, or garage, yard or rummage sales held in conjunction with and incidental to residential uses or sponsored and conducted by religious, civic or charitable organizations on their own property.

**FLOODPLAIN**. See Article 13.3 Section B.

**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:

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

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

- 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.
- Elevator and stair bulkheads, accessory water tanks, and cooling towers.
- Floor space used for mechanical equipment, with structural headroom of less than six (6) feet.
- Attic space, whether or not a floor has actually been laid, providing structural headroom of less than six (6) feet.
- Uncovered steps; exterior fire escapes.
- Terraces, breezeways, open porches, and outside balconies and open spaces.
- Accessory off-street parking spaces.
- Accessory off-street loading berths.

**FLY ASH.** Fine particulate matter resulting from the burning of coal or other fossil fuel which is collected from flue gases.

**FORESTRY.** The development or maintenance of a forest or woodland area under a forest management plan. Included are establishments engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or other silvicultural activities.

**FOWL.** Any domesticated or wild gallinaceous birds such as chickens, turkeys, grouse, pheasants, ducks, partridges, and geese.

**FRONTAGE.** The distance along which a lot abuts a legally accessible street right-of-way.

**FULL CUT-OFF LUMINAIRE.** An outdoor lighting fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane defined by the fixture.

**GARDEN CENTER.** A business which sells and/or cultivates trees, plants and also sells natural materials such as rock, wood chips, mulch, and decorative features, including sculpture, trellises, fountains and pools, and walkways. A garden center may be part of a home improvement center, but is not to be used as the definition of a home improvement center.

**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.

**GLARE.** A sensation of brightness within a person's visual field sufficient to cause annoyance, discomfort, distraction or loss of visual performance and visibility.

**GOLF COURSE.** (with or without Country Club). An area of land laid out for golf with a series of 9 or 18 holes each including tee, fairway, and putting green and often one or more natural or artificial hazards.

**GOLF DRIVING RANGE.** A commercial facility and area equipped with distance markers, clubs, balls, and tees for practicing golf shots.

**GOVERNMENT OFFICE.** Any room, clinic, suite or building wherein the primary use is to conduct government or official business.

**GROCERY STORE.** A commercial retail use which provides for the sale of a full range of food products including meat, fruits, vegetables, dairy products, snack foods, beverages and similar grocery items.

**GROUP HOME.** A place of residence in which a group of persons who do not meet the definition of a family live together in rooms or areas that do not constitute individual dwelling units, and that does not meet the definition of a hotel, boarding house, dormitory, or community residential facility. This use includes but is not limited to the following uses:

- Transitional housing

- Fraternity and sorority houses
- Homeless shelters
- Domestic violence shelters
- Halfway houses.

**HOME OCCUPATION.** A business conducted as an accessory use which is clearly incidental to or secondary to the residential use of the dwelling unit and does not change the character thereof and is carried on wholly within the enclosed walls of a dwelling unit and/or accessory building by the occupant(s) of such dwelling.

- **HOME OCCUPATION, OFF SITE SERVICE.** A home occupation which does not generate non-resident traffic, including employee parking, on premises. A general development permit issued by the Code Enforcement Officer is required for any off-site home occupation.
- **HOME OCCUPATION, ON SITE SERVICE.** A home occupation which generates non-resident traffic, including employee parking, on premises. An administrative permit is required to operate any on-site home occupation.

**HOMELESS SHELTER.** Temporary lodging for homeless individuals.

**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.

**IMPERVIOUS SURFACE.** A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to: roofs, buildings, decks, streets, paved parking areas, and any concrete, asphalt or compacted aggregate surface.

**INDUSTRIAL PARK.** A comprehensively planned and unified, industrially oriented development containing at least two (2) separate buildings on at least five (5) acres and protected by covenants and restrictions designed to control such things as architectural design or building facades, landscaping, screening, buffering, and environmental protection. Industrial parks typically have a mixture of industrial, service, office, and commercial activities and are designed to incorporate aesthetic and service amenities for the employees and patrons of the uses located within the park.

**INFILTRATION BASIN.** An area which is designed and located to allow stormwater runoff to filter through it and to take advantage of the natural absorption and filtering qualities of the soil and vegetation, thereby reducing the volume and rate of total stormwater runoff and impacts on water quality.

**IN-FILL DEVELOPMENT.** The development of small, scattered vacant sites which are surrounded or essentially surrounded by existing development and which because of location, configuration, access requirements, adjacent development patterns, or similar characteristics, may necessitate special consideration during the development process.

**INOPERABLE MOTOR VEHICLE.** A vehicle that cannot be driven under its own power or is in a state of disrepair.

**JUNK.** This category includes but is not limited to dilapidated, discarded or scrap copper, brass, plastic, rope, rags, furniture, beds and bedding, batteries, bottles, glass, appliances, paper, trash, rubber, debris, building material waste, tools, implements, household waste, inoperable vehicles or parts thereof, uninhabitable manufactured homes, iron, steel and other old or scrap ferrous or nonferrous material.

**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.

**LABORATORY/RESEARCH FACILITY.** A building for experimentation in pure or applied research design, development, and production of products and uses accessory thereto, including facilities that use hazardous materials.

**LAND SURVEYOR OR SURVEYOR.** An individual certified and licensed by the State of New York to engage in the practice of land surveying.

**LAUNDROMAT, SELF SERVICE.** A business premises equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house of a hotel/motel.

**LEVEL OF SERVICE (LOS).** A set of criteria which describes the degree to which an intersection, roadway, lane configuration, weaving section or ramp serves peak period or daily traffic.

**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.

**LOADING SPACE, OFF-STREET.** A space within a main building or on the premises which provides for the standing, loading, or unloading of trucks or other delivery vehicles, and including any area necessary for ingress and egress.

**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, COVERAGE.** That lot area or percentage of lot area covered by buildings or structures, including accessory buildings, structures and impervious surfaces.
- **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 AREA.** The total computed area of a lot as defined by the closure of the rear, side and front lot lines.

**LOT COVERAGE.** See "COVERAGE."

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

**LOT FRONTRAGE.** A lot line which is coincident with the road right-of-way.

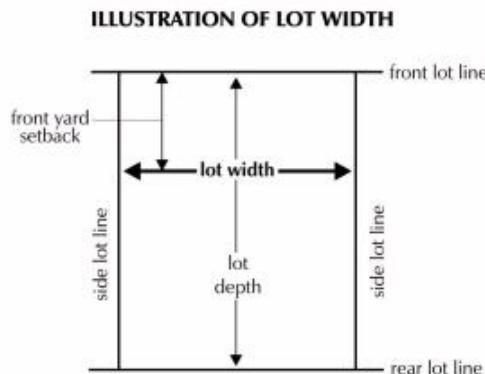
**LOT LINE.** A line dividing one lot from another lot or from a street or alley.

- **LOT LINE, FRONT.** Any street or right-of-way line, whether public or private, which forms the boundary of a lot or such other property boundary as determined to be a “front lot line” by the code enforcement officer.
- **LOT LINE, REAR.** The lot line or lines opposite and most distant from and most nearly parallel to the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet (10') in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- **LOT LINE, SIDE.** Any lot line other than a front or rear lot line, as defined herein.

**LOT OF RECORD/LEGAL LOT.** Any lot created by recordation of a plat provided that:

- Such lot and plat complied fully with all zoning and subdivision regulations in effect at the time of such recording; or,
- Such lot or plat was not in conformance with the regulations contained in the zoning Law or subdivision Law at the time of said recordation, but has become conforming by subsequent amendment of said regulations.

**LOT WIDTH.** The width of a lot measured along the “rear line” of the required front yard. See figure below:



**MAIN-LINE UTILITIES.** Within each type of utility system, such as sewer, gas, or water, the principal artery or arteries of the system to which individual lots or buildings may be connected.

**MANUFACTURING.** Mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials.

**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:

- The manufactured home has a minimum width over twenty (20) feet (multi-section)
- The manufactured home has a minimum of 900 square feet of enclosed living area
- 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.
- 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.
- 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 non-transient use.

**MEDICAL CARE FACILITY.** An institution, place, building or agency that furnishes, conducts, and operates health services for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity, or physical condition. This definition includes General Care Hospitals and Trauma Centers.

**MICROBREWERY/MICRO-DISTILLERY/MICRO-WINERY/MICRO-CIDERY.** A facility for the small-scale production and packaging of alcoholic beverages/spirits of the following types and quantities for distribution, retail or wholesale, on or off the premises: beer (not more than 15,000 barrels per year), distilled spirits, wine, or alcoholic cider (not more than 20,000 gallons per year). Permitted accessory uses shall include retail sales, tasting rooms for beverages produced on site, restaurants, reception halls, and live entertainment as otherwise permitted in the zoning district.

**MINERAL.** 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.

**MINING.** The extraction of valuable minerals or other geological materials from the Earth. Specifically exempt from this definition are the following:

- Any excavation for roads, utilities, buildings, drainage structures, channels or ditches, or ponds, lakes or other water bodies or features, whether intended for drainage, recreational or aesthetic purposes, when such excavations are determined by the Code Enforcement Officer to be incidental to and in accordance with the approved development plans or site plans for a residential, commercial, industrial or other development activity, even though the excavated material, or a portion thereof, may be hauled offsite and sold.
- Any excavation for the purpose of conducting a bona fide agricultural operation, including but not limited to excavations to improve drainage, provide watering facilities for livestock or create a holding lagoon for animal waste, but only so long as such excavation is devoted solely to such use.

- Any trench, ditch or hole for utility lines, drainage pipe or other similar public works facilities or projects.
- Excavations for the installation of underground storage tanks, if to be backfilled to natural grade.
- Excavations for the purpose of enlarging or improving an existing structure.
- Any excavation for a pond or lake less than one (1) acre in size when, in the opinion of the code enforcement officer, the sole purpose of such pond or lake is the recreational or aesthetic use and benefit of the occupants or intended occupants of the property and the objectives of this chapter would not be served by requiring a use permit.
- Any excavation found by resolution of the Town Board to be operated, or proposed to be operated, directly or indirectly by or for the exclusive benefit of the State of New York for the purpose of facilitating public roadway improvements, provided that such operation will not result in the creation of an excavated pit on the subject property, and provided further that the Town Board is assured that such surface mining operation will be conducted in accordance with appropriate erosion and sediment control practices.

Notwithstanding the foregoing, in any of the above situations where the Code Enforcement Officer determines that the primary purpose or motivation for the excavation is to sell the excavated material as a commercial undertaking, the excavation shall be considered a surface mine and shall be subject to conditional use permit review.

**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 FOOD VENDING VEHICLE (FOOD TRUCKS).** A self-propelled or towed vehicle licensed by the Department of Motor Vehicles, containing a mobile kitchen in which food and non-alcoholic beverages are stored and prepared, which is not parked on public rights-of-way, and from which menu items are served in individual portions to walk-up customers. The term shall not include vehicles that traverse streets in residential areas to sell and dispense exclusively ice cream and similar frozen dessert products, nor shall it include mobile food concession vehicles (aka “chuck wagons”) that travel from construction site to construction site during the course of a day to sell and dispense pre-packaged food items to persons engaged in permitted work being conducted on the site.

**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.

**MONUMENT OR SURVEY MONUMENT.** A permanent structure or edifice used or installed to mark the position of a survey station.

**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.

**MULTI-FAMILY DWELLING UNIT, APARTMENT COMPLEX OR CONDOMINIUM.** See “Dwelling, Multi-family.”

**MUSEUM.** A parcel/building operating as an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

**NIGHTCLUB.** Venue, with or without a bar, providing a stage for live music, one or more dance floor areas that usually operates late into the night.

**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.

**NONCONFORMING LOT.** A lawfully created lot of record, the area, dimensions or location of which complied with the regulations in effect at the time of lot creation, but which fails by reason of adoption of or subsequent amendment to this law to conform to the present requirements of the zoning district in which located.

**NONCONFORMING STRUCTURE OR BUILDING.** A lawfully constructed structure or building, the size, dimensions or location of which complied with the regulations in effect at the time of the construction, but which fails by reason of adoption of or subsequent amendment to this law to conform to the present requirements of the zoning district in which located.

**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 on a 24-hour basis 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.

**OFFICE.** The facilities in which the administrative activities, record keeping, clerical work and other similar affairs of a business, profession, service, industry, or government are conducted and, in the case of professions such as dentists, physicians, lawyers or engineers, the facilities where such professional services are rendered.

**OFFICE PARK.** A comprehensively planned and unified office-oriented development containing at least 2 separate buildings on at least 5 acres and protected by covenants and restrictions designed to control such things as architectural design, building facades, landscaping, screening, buffering and environmental protection. Office parks typically have a mixture of office, service, professional, and commercial activities and are designed to incorporate aesthetic and service amenities for the employees and patrons of the establishments located within the park.

**OPEN SPACE.** An area that is intended to provide light and air, and is designed, depending upon the particular situation, for environmental, scenic or recreational purposes. Open space may include but need not be limited to, lawns, decorative plantings, bikeways, walkways, outdoor active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, greenways and water courses. The computation of open space shall not include driveways, parking lots or other surfaces designed or intended for motorized vehicular traffic.

**OPEN SPACE, COMMON.** Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of all the residents or property owners of the development.

**OPEN SPACE, PUBLIC.** Area not occupied by any building, structure or parking area which is available to the general public.

**OPERATING PERMIT.** A renewable license to operate a mobile home park in the town, in compliance with Article 11.8 Section A of this Ordinance.

**OUTDOOR DISPLAY.** A temporary form of advertisement involving the arrangement of representative samples of items offered for sale on the premises of a business establishment in a neat and organized manner.

**OUTDOOR STORAGE.** The keeping of any goods or materials, excluding junk or solid waste, outside of a building for a period of time comprising twenty-four (24) continuous hours or more.

**PARK, PUBLIC.** See “OPEN SPACE, PUBLIC.”

**PARK & RECREATION FACILITY, PUBLIC.** Lands and facilities serving a range of recreation and/or preservation functions and owned by public agencies or other nonprofit organizations. Such facilities include, but are not limited to, public beaches, parks, recreation areas (including golf courses), natural preserves, athletic fields, wild areas and trails.

**PARKING, OFF-STREET.** Space provided for vehicular parking outside the dedicated street right-of-way, and including any area necessary for ingress or egress.

**PARKING LOT OR GARAGE, COMMERCIAL.** Any tract of privately owned land which is used for the storage of motor vehicles and is not accessory to any other use on the same or any other lot, and contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

**PARKING LOT, PRIVATE.** Any tract of privately owned land which is used for the storage of motor vehicles and is accessory to a use on another parcel or lot, and contains parking spaces reserved or leased in some manner for that principal use only and not by the general public

**PARKING SPACE.** An off-street space available for the parking of one motor vehicle and having an area of not less than 20'x 10' exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

**PARKING STRUCTURE (GARAGE, DECK).** Any privately owned structure in which motor vehicles may be parked or stored that is not accessory to any other use on the same lot, and contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

**PARTICULATE.** Any finely divided solid or liquid material.

**PAYDAY LOAN ESTABLISHMENT.** A place of business engaged in offering small, short-maturity loans on the security of (i) a check, (ii) any form of assignment of an interest in the account of an individual or individuals at a depository institution, or (iii) any form of assignment of income payable to an individual or individuals, other than loans based on income tax refunds. For the purposes of this law, such establishments shall not be construed to be “banks” or “financial institutions.”

**PEAK PERIOD (also peak hour).** The period or hour in which the heaviest traffic volume occurs on a roadway or within a network.

**PERFORMANCE GUARANTEE.** A financial guarantee to ensure that all improvements, facilities, or work required by this law will be completed in compliance with this law, regulations, and the approved plans and specifications of a development.

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

**PERSONAL SERVICE ESTABLISHMENTS.** Establishments primarily engaged in the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person, including barber shops, beauty parlors, laundering, cleaning and other garment services, tailors, shoe repair, and similar establishments.

**PET SHOP.** An establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

**PHARMACY.** An establishment solely devoted to distribution of drugs, medicines or medical chemicals and the compounding of prescriptions in accordance with New York State law.

**PLACE OF WORSHIP.** A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. The term "place of worship" is not to be construed in any way to include private residences within which religiously related gatherings are conducted.

**PLANNED DEVELOPMENT.** An area approved by the Planning Board planned and developed under a single master plan and containing one (1) or more land uses.

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

**PLANT NURSERY/GREENHOUSE.** A place where plants are propagated and grown to a desired age. They include retail nurseries which sell to the general public, wholesale nurseries which sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries which supply the needs of institutions or private estates.

**PLANTING AREA.** The area within which vegetation is installed which provides a sufficient bed to maintain and ensure the survival of trees and other vegetation.

**PLAT.** A plan or map of a tract or parcel of land, meeting the requirements of this chapter and the subdivision Law, which is to be or has been subdivided. As a verb, the term is synonymous with subdivide.

**POOL HOUSE.** A detached accessory structure located on a lot containing a single-family detached residential structure and an accessory swimming pool. Such pool house may contain a bathroom consisting of a sink, toilet and shower, but not a bathtub.

**PRINCIPAL BUILDING OR STRUCTURE.** A building or structure or, where the context so indicates, a group of buildings or structures, in which the primary use of a lot or parcel is conducted.

**PRINCIPAL USE.** The primary or main use of land or structures, as distinguished from a secondary or 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 STORAGE.** A structure or structures used for the storage of miscellaneous items of private property.

**PUBLIC ROAD.** A right-of-way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, 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 or RV.** A vehicular unit primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper and motor home.

**RECREATIONAL VEHICLE (RV) PARK OR CAMPGROUND.** The development or use of a lot, tract or parcel of land for the purpose of providing a site for travel trailers, truck campers, camper trailers, recreational vehicles or tents for camping. Campsites, campgrounds or recreational vehicle parks, tent camping facilities and other similar facilities, regardless of whether rights to occupy a campsite are conveyed by lease, rent, sale or any other means, shall be included in this definition. Also, this definition shall include those situations where camping occurs with no specific rights of occupation offered but the use is nonetheless permitted by the owner's direct or indirect action or lack thereof.

- **TRANSIENT CAMPGROUNDS OR RV PARKS.** Persons offering five or more campsites or RV park lots with or without accessory recreational facilities or permanent water and sewer infrastructure, for use for tent camping and/or recreational vehicle camping on a transient basis for a period of time not to exceed 60 cumulative hours in any calendar year as set forth in 10 New York CRR 7-1.2(a)(5) or any amendment thereof. Notwithstanding the foregoing, and as set forth in this chapter, the sixty-cumulative hour standard may be increased by a waiver approved by the Steuben County Department of Health and the Town of Corning Planning Board.
- **NONTRANSIENT CAMPGROUNDS OR RV PARKS.** Planned communities with recreational and service facilities, including central water and sewer infrastructure and may include a restaurant and/or bar, lounge, house of worship and community center, for use only by occupants of tent and/or recreational vehicle sites within the campground. Sites may be owned in common or may be owned individually by deed conveyance or may be leased on an annual, monthly or other seasonal basis. Any use of real property as a campground or recreational vehicle park that does not qualify as a transient campground or recreational vehicle park, shall be deemed to be a nontransient campground or recreational vehicle park.

**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 an area equal to or greater than 144 square feet requiring a building permit 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.

**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 more 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.** See Article 5.2.

**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 4.2 for conditional uses as specified in Use Regulation Table.

**SOLAR ENERGY SYSTEM** See Article 11.10 Section A.

**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:

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

**STORAGE FACILITY/WAREHOUSE.** A type of warehousing consisting of individual, small, self contained storage spaces which may be owned, leased, or rented to individuals. Such facilities may also be known as self-storage, or mini-storage warehouses. For the purposes of this law, the two types of mini-storage warehouse/self-storage facilities are:

- Single-story: Facilities in which the storage units/cubicles typically are arranged in long, narrow single-story buildings with the majority of the individual units accessed through doors that open directly to the outside.
- Multi-story: Facilities in which the storage units are arranged in a multi-story structure with all of the individual storage units/cubicles accessed through doors that open to interior corridors.

Outdoor storage also falls under the definition of storage facility/warehouse. Outdoor storage is defined as the occasional or continuous keeping of items owned by individuals outside but does not include damaged, impounded, or inoperable vehicles.

**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.

**TOWNHOUSE.** See “DWELLING, MULTI-UNIT”, “TOWNHOUSE”.

**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:

- The purpose for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied;
- 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, 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, 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 SALE.** See Article 11.1 Temporary and Semi-Temporary Uses. Any display of used goods for sale on a property customarily used as a residence, and not operated as a business establishment or home occupation. 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 Corning 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 pet- ting to the public. This includes avian and small animal rehabilitation, rescue and education centers.

**NOTE: WORDS AND PHRASES NOT HEREIN DEFINED OR NOT CURRENT IN MEANING SHALL BE GIVEN THEIR CURRENT STANDARD DICTIONARY DEFINITIONS OR COMMON USAGE MEANING**

## **ARTICLE 3. ESTABLISHMENT OF DISTRICTS**

### **3.0. Application of Regulations**

- 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 Law 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 Law.
- E. No building or occupancy permit shall be issued unless the Code Enforcement Officer 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 Code Enforcement Officer 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.
- G. In their interpretation and application, the provisions of this Zoning Law shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.
- H. Nothing in this Law 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. Any other utility facilities may be constructed subject to a conditional use permit.

### **3.1. Zoning Districts.**

- A. In order to fulfill the purpose of this Zoning Law, the Town of Corning establishes the following Districts:

R-1	Rural Residential District
R-2	Low Density Residential District
R-3	Medium Density Residential District
C	Commercial Business District
C-LI	Commercial & Light Industrial District
I	Industrial District

- A. R-1: Residential - Rural Residential District

The Residential Rural Residential District is intended to delineate those areas that are predominately single-family detached, low-density residential development or where such development is likely to occur, and to protect the integrity of these residential areas by prohibiting the intrusion of any use that is not compatible with this predominant land use type and intensity.

**B. R-2: Residential – Low Density Residential District**

The Residential Low Density Residential District is intended to delineate those areas that are predominately single-family detached, low-density residential development or where such development is likely to occur, and to protect the integrity of these residential areas by prohibiting the intrusion of any use that is not compatible with this predominant land use type and intensity.

**C. R-3: Residential – Medium Density Residential District**

The Residential Medium Density Residential District is intended to delineate those areas where a combination of single-family detached, moderate density residential development, two family development and scattered multi-family development has or is likely to occur, and to protect the integrity of these residential areas by prohibiting the intrusion of any use that is not compatible with this predominant land use type and intensity.

**D. C: Commercial Business District**

It is the intent of the Commercial Business District to delineate those areas that are currently, primarily utilized for retail, service, office and related business uses in those areas located along major transportation routes that would support such development, catering to the needs of the Town's population.

**E. C-LI: Commercial & Light Industrial District**

It is the intent of the Commercial & Light Industrial District to accommodate business uses not favored for the Commercial Business District along Route 352 and not dependent upon visual discovery from major transportation routes.

**F. I: Industrial District**

The Industrial District delineates portions of the Town, that, due to its location, visibility and access, provides a unique opportunity for a variety of compatible industrial uses, and promotes the development of such compatible uses through the provision of minimum development guidelines as set by the Planning Board.

**3.2. Official 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 June 20, 2023, 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.

**3.3. Interpretation of Zoning 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. Centerlines and Right-of-Way Lines**

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. Lot or Boundary Lines

Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

C. Parallel to Lot or Boundary Lines

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 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 Zoning 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.

I. Buildings Divided by Zoning District Lines

Where a district boundary line divides a building existing on the effective date of this Law, so that fifty percent (50%) or more of such building lies within the less restricted district, the regulations prescribed by this Law for such less restricted district shall apply to the entire building. Such provisions shall apply only if, and as long as, the building is in single ownership and its structural characteristics prevent its use in conformity with the requirements of each district.

### **3.4. Area Bulk Regulations**

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 or population, and to lesson congestion of streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Article.

#### **A. Corner Lots**

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

#### **B. Projections into Required Yards**

The following projections into required yards are permitted:

1. Open fire escapes – 4 feet into side or rear yards.
2. Awnings or movable canopies and overhangs – 6 feet into any yard
3. Cornices, eaves, insulation walls and roofs, and other similar architectural features – 3 feet into any yard
4. Solar Energy Systems – see Section 11.11(A) for permitted yard projections

#### **C. Porches, Decks and Carports**

Any open or enclosed porch, deck 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.

#### **D. Accessory Uses/Buildings**

Accessory uses and buildings may be located in accordance with Section 11.7.

#### **E. Livestock & Agricultural Exemptions**

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. 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 (Article 3.7) 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.

#### **F. 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.

#### **G. Distance Between Non-Residential Principal Buildings on Same Lot**

Two or more non-residential principal buildings are allowed on same lot, provided no detached non-residential principal building shall be closer to any other non-residential principal building on the same lot than the average heights of said buildings.

### **3.5. Activities Prohibited in all Districts**

- A. No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.
- B. No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectional features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.
- C. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall not be permitted.

### **3.6. 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 Law. 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 more than 75% of its appraised valuation must be reconstructed within a period not to exceed 12 months or be razed by or at the cost of the owner.
- C. Enforcement will be by the Code Enforcement Officer, utilizing the services of a qualified appraiser when necessary.

### 3.7. Density

#### A. Density Control Schedule (Area and Bulk Schedule)

Zoning District	Residential		Non-Residential		Required Minimum Setback (feet)			Required Minimum Setback (feet)			Maximum Lot Coverage (percent)	Maximum Height (feet)		
	Minimum Lot Size Per Dwelling Unit	Minimum Lot Width (feet)	Minimum Lot Size Per Principal Use	Minimum Lot Width (feet)	PRINCIPAL BUILDING			ACCESSORY BUILDING						
					Front	Side	Rear	Front	Side	Rear				
<b>R-1</b>	85,000 s.f.	250		250	75	50	80	75	15	15	15	35		
<b>R-2</b>	40,000 s.f.	200		200	35	20	50	35	15	15	25	35		
<b>R-3</b>	25,000 s.f.	100		200	30	10	25	30	10	5	30	35		
<b>C</b>			5,000 s.f.	50	35	6	25	35	15	15	75	35		
<b>C-LI</b>			12,500 s.f.	100	35	20	25	35	15	15	75	35		
<b>I</b>			12,500 s.f.	100	50	25	35	50	15	15	75	35		

#### B. Exceptions to Bulk and Density Table

1. For permitted special grouping of houses in clusters and for different yard dimensions, see Article 11.8, Section B. "Cluster Developments"
2. For flag lot standards, see Subdivision Ordinance.
3. For Planned Developments, see Article 11.10 for permitted variations in setbacks and lot sizes.
4. Front Yards

If there are principal structures 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 structures. If there is a principal structure on an 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 (1/2) way between the depth of the abutting lot and the required front yard depth.

If there are principal structures on both abutting lots with front yards greater than the required depth for the district, or if there is a principal structure 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 above.

5. Side Yards

Where the side wall of a building is not parallel to the side lot line or the side lot line is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower or any one point than one-half (1/2) the otherwise required minimum width.

6. Height

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

7. Through Lots

In the case of a lot running through from one (1) street to another street or alley, the front of such lot shall, for the purposes of this Law, be considered that frontage upon which the majority of the buildings in the same block front, but in case there has been no clearly defined frontage established, the owner may, when applying for a building permit, specify on the permit application which lot line shall be considered the front line. The rear portion of such a lot shall, however, be treated as a lot front for the purposes of determining required setbacks and locations of permitted principal structures and uses.

### 3.8. Table of Permitted Uses

The following regulations apply to land uses allowed in the Town of Corning. If no letter is shown, use is not allowed in zone. If use is not listed in Permitted Use Table or permitted in any zoning district, then use is not allowed in the Town of Corning. All official Federal, NY State, Steuben County and Town of Corning Government/Municipal services/uses are exempt from this Zoning Law. Any proposed use located in a flood zone must meet standards as listed in Article 13.3.

Key:

<b>P</b>	Use Permitted in Zoning District without Zoning Permit (Building Permit Required for Structures)
<b>A</b>	Use Permitted in Zoning District with an Administrative Permit from Code Enforcement Officer
<b>C</b>	Use Allowed in Zone with a Conditional Use Permit Subject to Site Plan Review and Approval by the Planning Board
*	Use has Development Standards
<b>No</b>	Use Not Permitted
<b>Letter</b>	

Districts:

<b>R-1</b>	Rural Residential District
<b>R-2</b>	Low Density Residential District
<b>R-3</b>	Medium Density Residential District
<b>C</b>	Commercial Business District
<b>C-LI</b>	Commercial & Light Industrial District
<b>I</b>	Industrial District

Use	R1	R2	R3	C	C-LI	I
<i>Temporary &amp; Semi-Temporary Uses</i>						
Temporary Event	A*	A*	A*	A*	A*	A*
Recycling Collection Point <sup>3</sup>				A*	A*	A*
Temporary Construction Office Trailers & Buildings	P*	P*	P*	P*	P*	P*
Temporary Family Healthcare Structure				P	P	P
Commercial Vehicles	P*	P*	P*	P*	P*	P*
Recreational Vehicles	P*	P*	P*	P*	P*	P*
Roadside Stands	A*	A*	A*	A*	A*	A*
<i>Accessory Uses &amp; Structures on Same Lot as Principal Use</i>						
Accessory antennas < 3' in diameter	P	P	P	P	P	P
Accessory antennas > 3' in diameter	C	C	C	C	C	C
Home Occupation	A*	A*	A*	A*	A*	
Cottage Industry	C*	C*		C*	C*	
Accessory Dwelling Unit/Apartment (ADU)	C*	C*	C*	C*		
Inoperable Motor Vehicle <sup>4</sup>	P*	P*	P*	P*	P*	P*
Solar Energy System Type 1 (Roof-mounted)	P*	P*	P*	P*	P*	P*
Solar Energy System Type 2 (Freestanding Accessory Use)	C*	C*	C*	C*	C*	C*
Customary Accessory Uses, Accessory Structures, and Accessory Buildings	P*	P*	P*	P*	P*	P*
<i>Agricultural Uses</i>						
Agricultural Use/Production – without Livestock	P	P			P	
Agriculture Use/Production – with Livestock	P				C	
Stable (Public or Private)	C				C	
Backyard Chicken Keeping <sup>5</sup>	P	P	P			
Farmer's Market – 365 Days/Year	C			C	C	C
<i>Residential Uses<sup>6</sup></i>						
Boarding House		C	C			
Bed and Breakfast	C	C	C			
Dwelling, Single-Unit Detached	P	P	P			

<sup>3</sup> Allowed no more than 4 consecutive days at one location

<sup>4</sup> Must be covered, in an accessory building, or screened from view from all property lines when not being worked on

<sup>5</sup> Maximum number of birds: R1-60; R2-18, R3-12

<sup>6</sup> Residential uses on slope of 15% or greater are considered a conditional use and subject to site plan approval

Use	R1	R2	R3	C	C-LI	I
Duplex	C	C	C			
Dwelling, Multi-Unit			C			
Manufactured (Mobile) Home Park		C*	C*			
Mixed Use Development			C*	C*		
Residential Cluster Development	C*	C*				
Convent/Monastery	C	C		C		
<i>Community Uses</i>						
Private Community Centers, Meeting Halls, and Clubs (incl. Country Clubs)	C	C	C	C		
Place of Worship including Accessory Parsonage, Parochial School, Accessory Day Care, Cemetery	C	C	C	C		C
City, Town, or Village Governmental/Municipal Uses			C	C		
Animal Services	C			C		C
Kennel	C			C		C
Private Drug & Alcohol Treatment Center				C		C
Private Group Home, including for the mentally disabled	C	C	C			
Private Homeless Shelter						
Private Medical Care Facility				C		C
Private Secured Psychiatric Medical Care Facility						
Nursing, Convalescent, & Comfort Care Homes	C	C		C		
Adult Day Care	C	C		C		
Child Day Care Center & After school Care Center		C	C	C		C
Residential Child Day Care Home / Residential After school Care Home	C	C		C	C	
<i>Educational Uses</i>						
Private Technical, Vocational, Business, College/University, Elementary, Intermediate, High Schools and Related Support Facilities		C	C	C		
<i>Recreation &amp; Amusement Uses</i>						
Indoor Only Recreation/Amusement Facilities				C	C	
Recreation/Amusement Facilities with outdoor amenities				C	C	
Art Gallery			C	C	C	
Outdoor Recreation/Amusement Facilities – golf course, driving range, trails, racetracks, skateboard parks				C	C	
Campgrounds or Recreational Vehicle Parks	C*				C*	
Commercial Event Facility	C			C	C	
<i>Commercial/Business/Retail/Personal Uses</i>						
Museums				C		
Adult Uses						C
Barber /Hair Salon				C		
Apparel Services, Dry Cleaning /Laundry retail, Laundromat, Tailor, Seamstress Shoe Repair, etc.)				C		C
Funeral Homes				C		C
Cremation Services					C	C
Household Items & small appliance repair, small furniture refinishing				C	C	
Banks, Financial Institutions, Freestanding Automatic Teller Machines, Payday Loan Establishments, Fortune Tellers, Tattoo Parlors, and Pawn Shops				C		
General Offices				C	C	
Hotel/Motel				C	C	
Restaurants & Bars-- Sit Down, Fast Food, and Drive Through				C		
Restaurants - Carryout/Delivery only, and Catering Kitchens/Services				C	C	
Small Engine Repair (lawn and garden equipment, outboard motors, etc.), Tool, Household Equipment, Lawn & Garden Equipment Rental				C	C	
Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception and Transmission				C		
Sales of Appliances, Hardware, Paint, Household Furnishing/Furniture, Lumber, Building Materials, Electronics, Sporting Goods, Firearms, Office Equipment/Supplies, New Auto Parts/Accessories				C	C	
Auction House				C		
Bakery				C	C	

Use	R1	R2	R3	C	C-LI	I
Gifts, Souvenirs, Hobby, Craft, Florist, Book, Magazine, Card, Pet, Bicycle (including Rental/Repair), Piece Goods, Sewing Supplies				C		
Department, Variety, Second-Hand, Used Merchandise Store, Shopping Center, Convenience, Grocery, or Liquor store, Drugstore/Pharmacy, Optical Goods, Health Aids, Hospital Supply, CDB Oil Dispensary, Jewelry, Antiques, and Apparel Stores				C		
Veterinary Office/Hospital			C	C	C	C
Private Storage	C	C	C	C	C	C
<i>Utilities</i>						
Private Utility Transmission Facilities, Electric Substations, Distribution Center, Transformer Stations	C	C	C	C	C	C
Private Electric Generating Plants						C
Type 1 Solar Energy Systems	P*	P*	P*	P*	P*	P*
Type 2 & 3 Solar Energy Systems	C*	C*	C*	C*	C*	C*
Windmills						
Telecommunications	C*	C*	C*	C*	C*	C*
Private Sewage Pump/Lift Stations	C	C	C	C	C	P
Private Sewage Treatment/Disposal Facilities	C	C	C	C	C	C
Private Water Purification Facilities	C	C	C	C	C	C
Private Water Storage Towers	C	C	C	C	C	C
Private Solid Waste Disposal and Treatment Facilities including Incinerators, Landfills, Transfer Stations						C
<i>Wholesaling &amp; Warehousing Uses</i>						
Warehousing and wholesale and retail distribution centers less than 25,000 square feet, including offices and showrooms with outdoor storage (may include accessory retail sales)				C	C	C
Warehousing and wholesale and retail distribution centers 25,000 square feet or larger, including offices and showrooms with outdoor storage (may include accessory retail sales)					C	C
Mini-storage Warehouse				C	C	C
<i>Light Industrial Uses*</i>						
Publishing, Printing, other than general public and business/professional services				C	C	C
Contractor's Shops (e.g., Plumbing, Electrical, Mechanical, HVAC, Home Improvement or Construction, Swimming Pool, Cabinetmaking, General Building, etc.)				C	C	C
Contractor's Storage Yards (Landscaping, Excavating, etc.)					C	C
Microbreweries, micro-distilleries, micro-wineries, micro-cideries				C	C	C
Recycling Center						C
<i>Motor Vehicle &amp; Transportation Uses</i>						
Automobile Sales, Rental, Service, Wash, Fuel Dispensing, Repair, Body Work, and Painting				C	C	C
Commercial Parking Lot or Garage						C
Automobile (and other material) Junkyard						C*
<i>General Industrial Uses*</i>						
Laboratories, research/development testing facilities; manufacturing, assembly, processing, fabrication, compounding, or packaging facilities; food packing, curing, canning, smoking				C	C	C
Extractive operations, soil mining, reclamation of borrow pits, soil stockpiling					C	C
Sawmill/Firewood splitting/sales lot					C	C
Construction Trailer Storage Yards					C	C
Industrial Park						C

## **ARTICLE 4. PERMITS & PROCEDURES**

### **4.0. General**

Uses allowed either through an Administrative or Conditional Use permit require an application to the Town. Administrative permit requests are reviewed and issued through the Code Enforcement Officer. Conditional Use permits are reviewed by the Code Enforcement Officer and Planning Board, and the Planning Board is responsible for rendering a decision on all Conditional Uses prior to the issuance of the Conditional Use permit and building permit(s) by Code Enforcement. The intent of administrative and conditional use permit review is to determine compliance with the objectives of this Ordinance and 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 effects concerning health, safety, and overall welfare of the residents of the community.

The Town Office may develop checklists of application submittal requirements and make those checklists available to the public. Application forms and checklists of required submittal information may be available in the Town Office

### **4.1 Application for Building Permits, Administrative Permits, and Conditional Uses**

- A. Applications submitted to the Planning Board are required to include up to eight copies of required materials and maps as well as one electronic version of all materials and maps unless otherwise waived by the Code Enforcement Officer. The Code Enforcement Officer may also require a site plan as part of any building or administrative permit application if deemed necessary.
- B. The Code Enforcement Officer shall indicate that an application is considered complete and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required filing fee.
- C. A complete application declaration by the Code Enforcement Officer in no way shall be interpreted to include a determination of the adequacy or accuracy of application materials, but rather serves as an acknowledgement to the full submission of all initially required application materials. The Code Enforcement Officer may consult with other agents of the Town Office, Planning Board, Town Board, or consultants in making such a determination.
- D. If an application is determined to be incomplete, the Code Enforcement Officer must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review of the application. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 62 days, the application will be considered withdrawn.
- E. No further processing of incomplete applications will occur; any incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.
- F. The Code Enforcement Officer may require that applications or plans be revised before being placed on the agenda of a review or decision-making body if:
  1. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/ application's compliance with Zoning Law standards; or
  2. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Zoning Law standards.

- G. Applications deemed complete will be considered to be in the processing cycle and will be reviewed by the Code Enforcement Officer and other review and decision-making bodies in accordance with applicable review and approval procedures of this Zoning Law.
- H. Application filing fees are required for processing permits and applications by the Code Enforcement Officer, Town Board, Planning Board, and Zoning Board of Appeals. The amount of the initial fees for the various applications covered by this article shall be established from time to time by resolution of the Town Board. Said schedule shall remain in effect and shall apply to all applicants until amended or revised by subsequent resolution. Said fee schedule shall be kept on file at the Town Office. Fees shall be paid to the Town Clerk. The payment of fees is not required with applications initiated by the Town Board, Planning Board, or Zoning Board of Appeals. If the application for a building permit and/or certificate of occupancy is denied, that portion of the fee in excess of the minimum shall be refunded to the applicant. All other application fees are nonrefundable.
- I. Applications shall not be accepted for review that include a parcel(s) for which there is an outstanding, unresolved written violation from the Code Enforcement Officer that is not the subject of said application.

## **4.2. Site Plan Requirements**

### **A. Building and Administrative Permit Applications**

Prior to receiving a building permit for the construction of any use approved through an administrative permit, code enforcement will decide if a site plan is necessary for the proposed use. The site plan and required application materials as determined by code enforcement shall be submitted for review by the Code Enforcement Officer who may approve the use and plans administratively.

### **B. Conditional Use Permit Applications**

In the case of a conditional use permit request, a site plan and supporting documentation shall be submitted to the Code Enforcement Officer as part of the Conditional Use permit application and advertised for review by the Planning Board at a scheduled public hearing. The Planning Board or Code Enforcement Officer may require that 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.

#### **1. Concept Plan Conference (Optional)**

The general procedure for a conditional use site plan review consists of an optional Concept Plan Conference, preliminary site plan review and approval, and final site plan review and approval. The applicant shall complete the appropriate application form and the form and required materials shall be filed with the Town Office together with the appropriate application fee. The purpose of the Concept Plan Conference is to encourage the person applying for a conditional use to consult early and informally with Code Enforcement and 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. The following shall be part of the Concept Plan Conference:

- a. Before preparing a concept layout, the developer may discuss with the Code Enforcement Officer, Town Planning Consultant, and/or Planning Board 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.

- b. 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.
- c. The Planning Board shall provide written comments on the concept plan of a proposed development in relation to the applicable requirements of the zoning code, 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.
- d. The concept plan shall include a map or maps providing the following information:
  - Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.
  - Existing natural features such as water bodies, watercourses wetlands, wooded areas, individual large trees, flood hazard areas.
  - Zoning districts, certified agricultural districts, school districts.
  - Special improvement districts (water, sewer, light, fire, drainage and the like).
  - Easements.
  - All properties, their ownership and uses, subdivisions, streets, zoning districts, easements, and adjacent buildings within five hundred (500) feet of the applicant's property.
  - All existing man-made features.
  - All proposed buildings, man-made structures and public improvements
  - A map of site topography (USGS topo map).
  - A soils overlay, if general site grades exceed 15% or portions of the site have susceptibility to erosion, flooding or ponding.

## 2. Preliminary Site Plan

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. 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 Planning Board may waive the preliminary site plan review step for an applicant when deemed unnecessary due to the nature of the application. In the event that preliminary site plan review is waived, the applicant shall comply with the requirements of final site plan review and outlined in this article and all other applicable provisions of this chapter.

- a. The preliminary site plan(s) shall include the information listed below. If necessary, the Planning Board may at its discretion waive any of these preliminary requirements which are clearly not relevant to the proposed use and site:
  - 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.
  - Title of drawing, including name and address of applicant.
  - North points, scale and date.
  - Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch.
  - Existing natural features such as watercourses, water bodies wetlands, wooded areas and individual large trees. Features to be retained should be noted.
  - Existing and proposed contours at intervals of not more than five (5) feet of elevation.

- Location of proposed land uses and their areas in acres and height of all buildings.
- Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
- 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.
- Location and proposed development of buffer areas and other landscaping
- 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.
- Location of all parking and truck-loading areas, with access and egress drives thereto.
- Locations, design and size of all signs and lighting facilities.
- The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.
- Building orientation and site design for energy efficiency.
- Location and design of all energy distribution facilities, including electrical, gas and solar
- Grading and erosion. Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc.
- Location and design for stormwater management facilities.
- Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.
- 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

### 3. Final Site Plan

The final site plan shall reflect any Planning Board required changes or conditions imposed during the Preliminary Plan review.

### 4.3. **Review Criteria for Decision-Making**

In considering and acting on Conditional Uses or Administrative Permits, the Planning Board and Code Enforcement Officer shall consider the public health, safety, and general welfare. The Planning Board and Code Enforcement Officer 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 and Code Enforcement Officer shall not grant a Conditional Use Permit or Administrative Permit unless the proposed use is determined and found, except where the criteria is not applicable:

#### A. 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.

#### B. 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.

**C. 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.

**D. 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.

**E. Aesthetic Resources of Local and Statewide Significance.**

All adverse impacts on visual and aesthetic resources of local and statewide significance and on community character are avoided or minimized to the maximum extent practicable consistent with social, economic, and other essential considerations.

**F. 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.

**G. 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, topo- graphic, 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.

**H. Consistency with Future Land Use or Comprehensive Plans**

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.

**4.4. Site Plan Review Process**

**A. Preliminary Site Plan**

1. Within 62 days of the Planning Board's receipt of a complete application for preliminary site plan approval, the Planning Board shall act on it, unless the deadline is extended by mutual consent or unless the deadlines of the State Environmental Quality Review Act (SEQRA) do not allow for this decision by the Planning Board because of the SEQRA review process. If no decision is made within said 62 day period, the preliminary site plan shall be considered approved and the applicant so notified. 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, disapproved, approved with modifications/conditions or approved by default when not reaching a timely decision.

2. The Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. The Planning Board may also include conditions, recommendations or modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings.
3. In the case of a proposed development that is phased over a number of years, the applicant shall submit an overall plan for the total development of the project and a phasing plan for each phase of the development. If the overall plan for this project is approved and the first phase of the project is approved, then the first phase of the project continues on to final site plan review and approval. If there is no substantial change in the overall plan or the phasing plan of the project, each succeeding phase of the development need only be reviewed for final site plan approval. If there are substantial changes to the overall plan or the phasing plan, the Planning Board shall require subsequent phases to go through preliminary site plan review and approval.
4. Any resubmission of a previously approved preliminary site plan (including for amendments or changes to original approved plan) shall be required to go through the same procedures as the original preliminary site plan application.

B. Final Site Plan & Approval

1. After receiving approval from the Planning Board on a preliminary site plan and approval for all necessary permits and from state, county and local officials, the applicant may submit a complete final site plan for review and approval by the Planning Board. A public hearing shall be scheduled within sixty (60) days from the time of such certification. The hearing shall be advertised at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Town.
2. If more than one year has elapsed since the Planning Board issued its preliminary approval, and if conditions have substantially changed, the Planning Board may require resubmission of the preliminary site plan for possible revision prior to accepting the proposed final plan for review.
3. Within 62 days of the receipt of the final site plan application the Planning Board shall render a decision. The time period in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified, or agreed upon between the applicant and Board, shall constitute Planning Board approval of the site plan as submitted or last amended.
4. Upon approval, the Planning Board Chairperson shall endorse the Planning Board's approval on two copies of the final site plan. A copy of the approved final plan shall be forwarded to the Code Enforcement Officer who shall then issue a building permit if the project conforms to all other applicable requirements. A copy of the written statement of approval shall be mailed to the applicant by certified mail. The written statement shall contain a list of modifications or conditions if required by the Planning Board. Upon disapproval of the site plan, a letter stating the reasons for disapproval shall be mailed to the applicant.
5. A final site plan approval by the Planning Board shall be valid for a period of one year from the date of such approval. An approval granted hereunder shall become null and void if a building permit has not been issued or, in the event a building permit has been issued, if construction has not commenced within one year of the date of such approval. An applicant may submit a written application for an extension of the site plan approval, provided that such application has been submitted in writing prior to the expiration of one year.

Such application shall set the reason or reasons that prevented the applicant from either obtaining a building permit or commencing construction within the required time period. The Planning Board shall have the discretion to grant an extension and to set any reasonable time limit thereon, or to deny the extension. If the application for extension is denied, the Planning Board shall set forth the basis for its denial in written findings.

6. The planning board may require the developer/applicant provide a letter of credit or other acceptable form of security that complies with Town Law to ensure 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 Zoning Board of Appeals, 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 Zoning Board of Appeals 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.
7. 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.
8. 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. 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. 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.
9. 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.

C. 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 5. SIGNS**

### **5.0. Purpose and Intent**

A. 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.

### **5.1. General Provisions**

A. No sign shall be erected or installed after the effective date of this Ordinance unless in accordance with this Ordinance.

B. 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.

C. 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 Article 12 “Non-conforming Buildings, Uses, and Lots.” However, if a business containing a non-conforming sign ceases to exist and a new business locates on the same lot, all existing signage must be brought into conformance with all current sign regulations.

D. Any signs that code enforcement deems to impact the public safety are required to be remedied or removed within 14 days of notice.

E. Any sign or illumination that causes any direct glare into or upon any building other than the building to which the sign may be related, or any sign whose level of intensity exceeds the average ambient levels in the immediate area is prohibited.

F. All displays which are not shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver are prohibited. No device shall be illuminated in such manner as to interfere with or obscure an official traffic sign or signal.

G. An on-site abandoned sign shall be removed sixty (60) days from the discontinuance of the related use.

- H. 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.
- I. Signs with moving parts are not permitted.
- J. 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.
- K. Building permits are required for all signs.
- L. Off-site signs (billboards) are prohibited except for off-site temporary signs.
- L.. All signs shall conform to the Uniform Fire Prevention and Building Code.
- M. 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.
- N. Vehicles and/or trailers are prohibited from being used as permanent signage and are subject to sign regulations, unless vehicle is parked at and directly associated with an approved home occupation or cottage industry. Vehicles must be licensed, inspected, and in working order.
- O. No sign shall be located within the clear vision area of a road (see Article 8). In the case of signs associated with a Conditional Use, the Planning Board may increase or decrease the required clear vision area. The design, size, location, and area requirements of any sign(s) proposed on a site with a use allowed as a Conditional Use, may be altered by the Planning Board based on topography, safety, impact to neighboring properties or neighborhood character, or other physical site characteristics.
- P. All signs, certificates and licenses that are mandated to be on display by any local, county, state or federal law or authority, traffic or other municipal signs, legal notice and such temporary or non-commercial signs for government purposes, public schools, other public educational institutions, and public emergency response facilities shall be exempt from the sign regulation size.
- Q. Where permitted, Adult Uses signs must display only the name of the establishment and type of Adult Use in block lettering and muted colors

## **5.2. Definitions**

**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/freestanding permanent sign(s).

**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.** 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, 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, 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.** 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, 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.

### 5.3. Sign Matrix – Signs Allowed in Residential Districts

Use as Listed in Table of Permitted Uses	Sign Type Allowed	Total Allowable sq. ft. per sign			Minimum Setback From all property lines in Feet			Maximum Height in Feet			Illumination Permitted			Total Number Allowed per Lot			Permit Required			Additional Requirements																			
		R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3																	
Temporary <sup>10</sup>	Freestanding	2 sq. ft.			5 ft.			4 ft.			No			5			No			Must be removed within 72 hours of event's end																			
Temporary Off-site <sup>10</sup>																																							
Home Occupation	Window OR Wall Permanent	1 H.Occ. – 2 sq. ft. 2 H. Occ. - 3 sq. ft.			N/A			N/A			No			1			Site Plan Review by Code Enforcement			Site Plan Review by Planning Board as part of a Conditional Use Permit																			
Boarding House	Freestanding OR Wall OR Window Permanent	4 sq. ft.	10 ft.	4 ft.	Direct	1																																	
B&B		6 sq. ft.	4 sq. ft.	10 ft.			4 ft.			Direct			1			Yes			Site Plan Review by Planning Board as part of a Conditional Use Permit																				
Single Bldg. Mixed Use		4 sq. ft.																																					
Cottage Industry		6 sq. ft.	4 sq. ft.	10 ft.			4 ft.			Direct			1			Yes			Site Plan Review by Planning Board as part of a Conditional Use Permit																				
Farmers Market, Commercial Event Facility		6 sq. ft.	4 sq. ft.																																				
Community Uses, and Educational Uses <sup>9</sup>		6 sq. ft.	4 sq. ft.																																				

<sup>9</sup> See Table of Permitted Uses for zones where each use is allowed. Total allowable square feet per sign will be based on zone where each use is allowed.

Use as Listed in Table of Permitted Uses	Sign Type Allowed	Total Allowable sq. ft. per sign			Minimum Setback From all property lines in Feet			Maximum Height in Feet			Illumination Permitted			Total Number Allowed per Lot			Permit Required			Additional Requirements			
		R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	R1	R2	R3	
Residential Subdivision or Planned Development Entrance	Freestanding Permanent	20 sq. ft.			10 ft.			Direct			1			Yes	Site Plan Review by Planning Board as part of a Conditional Use Permit								
Multi-family Residences of 10 or more units	Freestanding or Wall Permanent			15 sq. ft.																			
All uses (except Temporary uses)	Directional Permanent	2 sq. ft.			5 ft.		3 ft.		No			2											

## 5.4. Sign Matrix - Signs Allowed in C, CL-I, and I Districts

Use	Sign Type Allowed	Total Allowable sq. ft. per sign			Minimum Setback From all property lines in Feet			Maximum Height in Feet			Illumination Permitted			Total Number Allowed per Lot			Permit Required			Additional Requirements				
		C	CL-I	I	C	C-LI	I	C	C-LI	I	C	CL-I	I	C	C-LI	I	C	C-LI	I					
Temporary <sup>10</sup>	Freestanding	4 sq. ft.	5 ft.	6 ft.	No	2/100 linear feet of road frontage	No	1												Construction signs are allowed a maximum of thirty (30) square feet in sign area. Signs shall be removed within thirty (30) days after construction is completed. Real estate signs shall be removed fourteen (14) days after the sale/lease of the property				
Temporary Off-site	Freestanding																							
Home Occupation	Window OR Wall Permanent	4 sq. ft	10 ft.	4 ft.	Direct	1	Yes													Site Plan Required for Review & Approval by Code Enforcement				
Cottage Industry & Single Bldg Mixed Use	Freestanding OR Wall OR Window Permanent	6 sq. ft <sup>11</sup>																						
	Accessory Attached	15% of front façade <sup>11</sup>																						
	Directional	4 sq. ft <sup>11</sup>																						
Planned Development, Subdivision Development Entrance	Freestanding Permanent	20 sq. ft	10 ft.	10 ft.	Direct	1																		

<sup>10</sup> Includes banners, flags, and “air-dancers”. Additional temporary signage may be allowed on a case-by-case basis by Code Enforcement if related to the initial opening or promotion of a new business and may include limited display period.

<sup>11</sup> Single Bldg Mixed Use only allowed in the C zone

Use	Sign Type Allowed	Total Allowable sq. ft. per sign			Minimum Setback From all property lines in Feet			Maximum Height in Feet			Illumination Permitted			Total Number Allowed per Lot			Permit Required			Additional Requirements		
		C	CL-I	I	C	C-LI	I	C	C-LI	I	C	CL-I	I	C	C-LI	I	C	C-LI	I			
Community Uses, Educational Uses, and all other uses in CB, C-LI and I not specified herein	Freestanding OR Wall Permanent	15 sq. ft	20	10 ft.	10 ft.			Direct			1			Yes	Site Plan Required for Review & Approval by Code Enforcement							
	Accessory Attached Permanent	15% of front façade						No							Window signs shall not exceed 30% of the window area;							
	Directional Permanent	4 sq. ft		5 ft.	3 ft.			Indirect			4				Illumination shall cease at close of business or 11:00 p.m., whichever is earlier.							

## **ARTICLE 6. LANDSCAPING & BUFFERS**

### **6.0 Intent**

The objective of this Section is to provide the necessary consideration to those physical and visual elements of the land uses in the Town of Corning that require, or may be improved by treatment of the landform, plant materials and/or man-made features arranged so as to enhance the appearance, screen or effectively separate different types of land use as well as to eliminate or minimize impacts on adjoining uses such as dirt, litter, noise, glare and incompatible buildings or uses. The Planning Board may require that a professional licensed Landscape Architect (or equivalent) prepare plans under this Section.

### **6.1 Applicability**

The regulations in this Section shall apply to the following:

- A. New Principal Building or Uses Principal buildings or open uses of land constructed or established after the adoption of this Ordinance.
- B. Changes In Use Category (see Section 3.8: Permitted Use Table). The requirements of this Section shall be applicable to the entire lot (see pages 59-62 pf this ordinance).
- C. Expansions or Reconstruction
  1. Expansions increasing parking or building square footage for developments existing on the effective date of this Ordinance. In such cases, the landscaping requirements shall apply to the entire lot. Site plan is required and will be reviewed by Planning Board, who may allow for variations or adaptations to existing code landscaping/buffering requirements.

### **6.2 Planting Specifications**

The following planting specifications indicate guidelines for each buffer and landscape technique. The requirements are stated in terms of the width of the proposed planted yard and the number of plant units required, the type and quantity of plant materials required by each yard, and each yard option. In addition, the Planning Board reserves the right to require an alternate type of treatment than those required in this section based on the uniqueness of each site based on the following:

- Visual separation/screening including earth mounding, berm, and screen-planting techniques designed to separate, obscure or soften an incompatible view or use.
- Visual setting, including ground-cover and plant materials designed to stabilize the landform and provide an appropriate foreground or setting.
- Physical separation, including a combination of plant and man-made materials or features designed to separate distinct land use types or activities.

#### **A. Minimum Plant Size**

Unless otherwise specifically stated elsewhere in this Law, all plant materials shall meet the following minimum size standards:

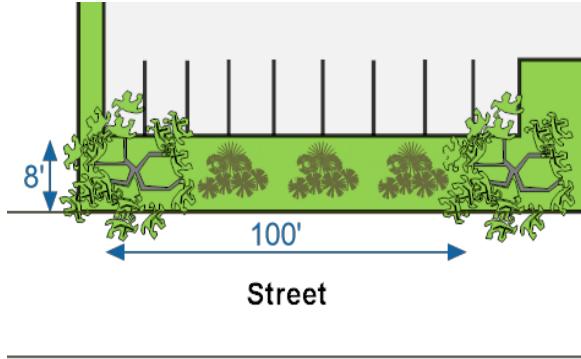
Plant Material Type	Planting in Buffer yards Abutting Vacant Land	All Other Plantings
<b>Canopy Tree</b>		
<b>Single Stem</b>	1 ½ inch caliper	2 ½ inch caliper
<b>Multi-Stem Clump</b>	6 feet (height)	9 feet (height)
<b>Understory Tree</b>	4 feet (height)	1 ½ inch caliper
<b>Evergreen Tree</b>	3 feet (height)	5 feet (height)
<b>Shrub</b>	Min. 1 gal container	Min. 2 gal container

## B. Minimum Planting Yard Requirements

### 1. Required Landscaping

The following areas are required to be landscaped:

- Street planting yards
- Planting yards (Types A through D)

Planting Yard Type	Description	Min. Width	Max. Width	Planting Requirement Rate
<b>STREET PLANTING YARD</b>				
	 <p>A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and a pleasing view from the road. No more than fifteen percent 15% of the street planting yard may be used for walkways or signs. Parking and off-street loading are prohibited in the street planting yard.</p>	8'	25'	Tree Canopy: 2 per 100 lf. Tree Understory: No requirement Shrubs: 17 per 100 lf.

2. Planting Area Descriptions:

 PLANTING YARD BUFFERS		
TYPE	MIN WIDTH	PLANTING REQUIREMENT RATE
<b>TYPE A PLANTING YARD</b>		
A high density screen intended to block substantially visual contact between adjacent uses and create spatial separation. A Type A Planting Yard reduces lighting and noise which would otherwise intrude upon adjacent uses.	40'	Canopy: 4 per 100 lf.  Understory: 10 per 100 lf.  Shrubs: 33 per 100 lf.
<b>TYPE B PLANTING YARD</b>		
A medium density screen intended to partially block visual contact between uses and create spatial separation	25'	Canopy: 3 per 100 lf.  Understory: 5 per 100 lf.  Shrubs: 25 per 100 lf.
<b>TYPE C PLANTING YARD</b>		
A low-density screen intended to partially block visual contact between uses and create spatial separation.	15'	Canopy: 2 per 100 lf.  Understory: 3 per 100 lf.  Shrubs: 17 per 100 lf.
<b>Type D PLANTING YARD</b>		
A peripheral planting strip intended to separate uses, provide vegetation in densely developed areas and enhance the appearance of individual properties.	5'	Canopy: N/A  Understory: 2 per 100 lf  Shrubs: 18 per 100 lf

3. Grouping

For the Type B, C, and D planting yards, shrubs and trees may be grouped or clustered; however, not more than fifty percent (50%) of each required plant material may be grouped or clustered. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards.

4. Planting Yard Determination

To determine the planting yards required by this Ordinance, the following steps shall be taken:

1. Identify the zoning classification(s)/district(s) of the **subject site(s)** for proposed development and zoning classification(s)/district(s) of **adjacent site(s)**.
2. Use the Planting Yard Matrix, to determine the appropriate letter designation for each planting yard.
3. Match the letter designation obtained from the Planting Yard Chart with the Planting Requirement Rate column above to determine the types and numbers of shrubs and trees required.

**TABLE 6.2.1: PLANTING YARD MATRIX**

Subject Site Proposed for Development

Zoning Classification of Site	Existing Site Adjacent to Site Proposed for Development					
	R-1	R-2	R-3	CB	C-LI	I
<b>R-1 District</b>	N/A	D	C	B	B	A
<b>R-2 District</b>	D	N/A	D	B	B	A
<b>R-3 District</b>	C	D	N/A	B	B	A
<b>CB District</b>	B	B	B	N/A	D	B
<b>C-LI District</b>	B	B	B	D	N/A	C
<b>I District</b>	A	A	A	B	C	N/A

Notes:

1. A proposed nonresidential use locating next to vacant property shall be required to install a Type D planting yard. Where a proposed non-residential use (i.e., a change in Use Category per Table 4-3-1 – Permitted Use Schedule) in a residential zoning district (includes Agricultural Zoning District) abuts a single-family or two-family dwelling along any property line, a Type B planting yard is required.
2. A non-residential or multi-family residential with 8 or more units adjacent to an AG or RS zoning district shall be required to install a Type C planting yard.
3. Use of a vacant parcel with a valid preliminary plat or site plan shall be considered developed for the approved use.
4. Single-unit detached dwellings or duplexes on individual or adjacent lots are exempt from installing planting yards requirements.

#### D. Plant Material Substitutions

The following plant materials substitutions shall satisfy the requirements of this Section.

1. In all buffer yards, evergreen canopy or evergreen understory trees may be substituted for deciduous canopy trees without limitations.
2. In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
3. The Planning Board may, on a case by case basis, substitute part or all of required landscaping with a combination of fencing AND plantings. In no case shall a fence be used to meet landscaping requirements on its own.

#### E. Additional Landscaping Requirements

1. All disturbed soil areas of the site shall be replanted or reseeded in an appropriate fashion.
2. No landscape feature shall be erected, placed or maintained in such a manner as to interfere with clear vision and/or the safe movement of vehicular traffic.

## **ARTICLE 7. LOTS, STREETS, DRIVEWAYS, AND PARKING REQUIREMENTS**

### **7.0. General.**

The 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 Code Enforcement Officer shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

### **7.1. 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.

### **7.2. 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 stormwater 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 Planning 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.

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.

### **7.3. 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 access points 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.

### **7.4. Off-Street Parking.**

- A. It shall be the responsibility of the owner of a property to provide adequate off-street parking spaces 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 at least 10 feet x 20 feet exclusive of the passageway.
- B. All ADA (Americans with Disabilities Act) parking requirements must be shown on parking plan.
- C. All parking lots shall be paved, unless this requirement is waived by the Planning Board.
- D. The Planning Board may consider evidence from applicant to determine required spaces for any use. Where appropriate, the Planning Board may vary the number and circumstance of the parking space requirements, in order that the general welfare is served and the prospective user is equitably treated.
- E. The lighting of off-street parking lots shall not be directed into adjacent properties and shall follow all lighting requirements per Lighting section, Article 9 of this code.

- F. If code enforcement officer determines any existing parking lot or parking accommodation is unsafe or a nuisance, owner shall remedy according to current code.
- G. The following minimum number of spaces are required for the following uses:
  - 1. Seasonal sales – one (1) space for every fifty (50) square feet of area devoted to selling or display
  - 2. Temporary event – one (1) space for every five (5) occupants. Promoter must ensure that adequate and safe parking is provided.

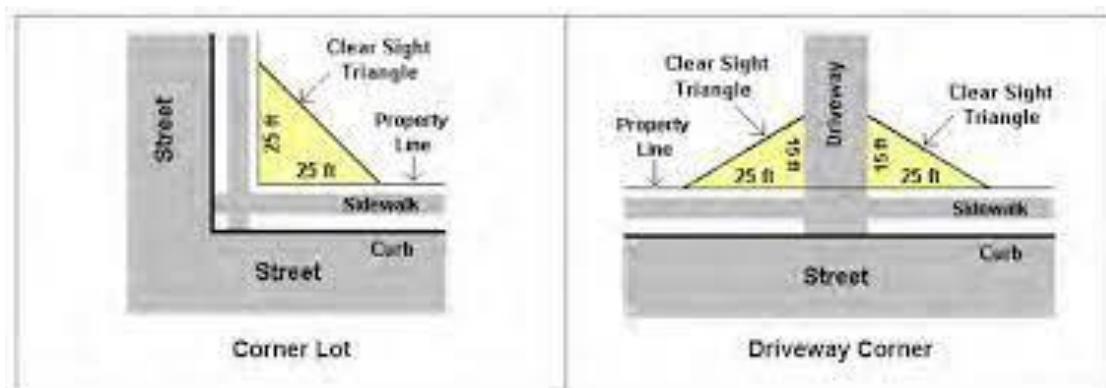
#### **7.5. Off-Street Loading and Unloading Requirements.**

- A. The Planning Board may consider evidence from applicant to determine required off-street loading and unloading requirements for any use, in order that the general welfare is served and the prospective user is equitably treated.
- B. Location of Berths. The Code Enforcement Officer 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.
- C. The Code Enforcement Officer may consult with the Town Planning Board.

## ARTICLE 8. CLEAR VISION ZONES, FENCES, WALLS, HEDGES, AND OTHER OBSTRUCTIONS

### 8.0. General

- A. Clear vision zones shall be defined as the triangular area formed by the intersecting pavement lines
- B. The clear vision zones shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the road pavement, except that 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.
- C. Where a driveway meets a street/road, obstructions shall not exceed three (3) feet in height within a clear vision zone of 25 feet x 15 ft.
- D. On any corner lot or intersection of two streets/roads, no obstruction over three (3) feet above the center line of the road elevation shall be permitted within the clear vision zone of 25 ft. x 25 feet.



- E. For Signage Standards, see Article 5.

## **ARTICLE 9. LIGHTING**

### *Outdoor Lighting Requirements*

#### **9.0 Definitions**

**DARK SKY COMPLIANT.** when an outdoor lighting fixture or fixtures minimize light pollution, light trespass, glare and offensive light by passing the IDA Fixture Seal of Approval program.

**FOOT-CANDLE.** A unit of illumination equal to that given by a source of one candela at a distance of one foot.

**LIGHT SPILL.** When light falls outside the object to be illuminated.

**LIGHT TRESPASS.** When light spill is cast where it is not wanted.

**LUMEN.** A unit of luminous flux equal to the light emitted in a unit solid angle by a uniform point source of one candle intensity.

**LUX.** The SI unit of illuminance, equal to one lumen per square meter.

**NUISANCE GLARE.** Glare that causes complaints.

#### **9.1 Purpose**

To require and set minimum standards for outdoor lighting to:

- A. Provide for and control lighting in outdoor public places where public health, safety and welfare are potential concerns
- B. Protect drivers and pedestrians from the glare of non-vehicular light sources
- C. Protect neighbors, the environment and the night sky from nuisance glare and light trespass from improperly selected, placed, aimed, applied, maintained or shielded light sources
- D. Promote energy efficient lighting design and operation.
- E. Protect and retain the intended visual character of the Town.

#### **9.2 Applicability & Approvals**

- A. This section shall apply to all new outdoor lighting fixtures and shall apply to the replacement and maintenance of existing lighting fixtures.
- B. For commercial uses and uses which require a site plan review defined in Article 4 of the Town of Corning's Zoning Code the Planning Board may require a lighting site plan showing conformance to the requirements contained herein.

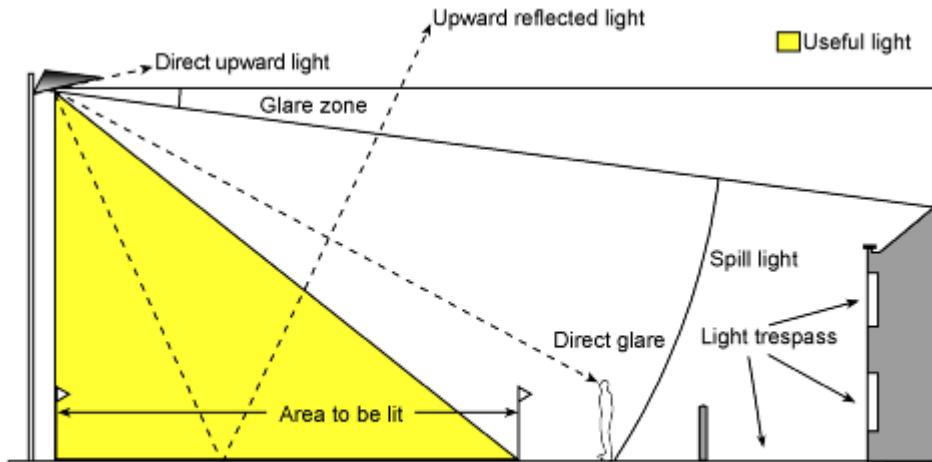
#### **9.3 General Requirements**

- A. All lighting shall be dark sky compliant.
- B. All lighting devices shall be directed, screened, or shielded so that the principal light beam is not visible at any site property line or roadway for properties abutting residentially used properties. Motion

detected security lights' sensitivity shall be set in such a way that the frequency of turning on and off does not pose a nuisance to neighboring properties.

- C. After 11:00 p.m. all commercial properties shall reduce their lumen intensity to no more than 25% illumination permitted during normal business hours.
- D. Lighting devices that accent building facades, plantings, or site features shall direct illumination only at the building facade, plantings, or other intended site features. Light directed upward to accent architectural features shall be shielded to avoid light spill.
- E. Lighting devices on any site shall not exceed a total visible light intensity over 5 lux (0.5 foot-candle) at the site's property line.
- F. All outdoor lighting shall be designed and located that the maximum illumination measured in footcandles at the lot line shall not exceed the standards in the table below:

Residential use or vacant land zoned residential	0.5 foot-candle
Civic, Educational & Institutional	1.0 foot-candle
Commercial, Mixed Use or Vacant Land	2.0 foot-candle
Industrial Use	3.0 foot-candle
Parking Lot	2.5 foot-candle



Light pollution is often caused by the way light is emitted from lighting equipment. Choosing proper equipment and carefully mounting and aiming it can make a significant difference.

- G. Uniform color rendition on one site is preferred. Mixtures should be avoided.

#### 9.4. Exceptions

- A. The following types of lighting are exempt from these regulations:
  - Street and Hazard Lighting provided by the Town of Corning, Steuben County, NYS DOT or Regulatory Agencies.
  - Temporary Lighting that is extinguished or removed when not in use

- Construction and Emergency Lighting
- Agricultural Lighting
- Holiday Lighting

## **9.5 Enforcement, Notice Of Violations And Remedies**

- Enforcement and Notice of Violations of these lighting regulations will be the responsibility of the Town Code Enforcement Officer.
- Compliance Monitoring
  - Safety Hazards**
    - If the Code Enforcement Officer determines that a lighting installation creates a safety hazard, the party responsible for the lighting shall be notified and required to take remedial action without undue delay.
    - If appropriate corrective action has not been effected within thirty (30) days of notification, the Town may initiate appropriate legal action.
  - Nuisance Glare and Inadequate Illumination Levels**
    - When the Code Enforcement Officer determines that an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this code, the Code Enforcement Officer may notify the party responsible for the lighting and require appropriate remedial action.
    - If the infraction so warrants, the Town may initiate appropriate legal action.

## **9.6 Nonconforming Lighting**

- Any luminaire or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance shall be made to conform with the requirements of this Ordinance when:
  - Minor corrective action, such as re-aiming or shielding can achieve conformity with the applicable requirements of this Section/Code.
  - It is deemed by the Code Enforcement Officer to create a safety hazard.
  - It is replaced by another luminaire or luminaires or abandoned or relocated.
  - The number of existing luminaires is increased by 30% or more.
  - There is a change in use.
- Regardless of the requirements above, the Planning Board may, based on current site conditions, require luminaires and lighting installations to conform with the requirements of this Section.

## **9.7 Remedies**

- Those seeking information about remedies (penalties for noncompliance) may refer to Article 17 of the Town's Zoning Code.

## **ARTICLE 10. NOISE**

Excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life. In the effort to prevent excessive sound all land uses shall comply with the Town of Corning's Noise Control Ordinance, unless specifically stated maximums or hours are stated in this code for a specific use or as part of a conditional use permit as determined by the Planning Board.

## **ARTICLE 11. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES**

The following uses have required development standards. If the use is subject to Conditional Use Permit review, the applicable standards in this section may be altered or additional standards added as determined by the Planning Board during the Conditional Use Permit review and approval process. All other uses are subject to the development standards listed herein. Any persons who wish to seek relief from development standards in this section may seek relief through a variance application to the Zoning Board of Appeals.

### **11.1       Temporary & Semi-Temporary Uses**

#### **A. Definitions.**

For purposes of this chapter, the following words and phrases have the following meanings:

1. "Event" means an occasion on private property organized for a particular and limited purpose and time and is an organized outdoor assemblage that exceeds 75 persons at a venue in a residential zoning district or at a residence in any other zoning district, or exceeds 150 at a venue in any other zoning district. Events include athletic events, arts and crafts shows, garden parties, carnivals, circuses, fairs, festivals, musical concerts and other cultural or live entertainment events, and swap meets. "Persons at a venue" means the total of all attendees, invitees, caterers, event monitors, security, and all other persons who are at an event venue. An outdoor assemblage of 75 or fewer people at a venue in a residential zoning district or at a residence in any other zoning district, or one hundred fifty or fewer people at a venue in any other zoning district, is not an "event" for purposes of this ordinance.
2. "Commercial event" means an event intended to generate financial gain for the sponsors of the event, or to advertise products, goods or services. An event sponsored by or intended to benefit any organization that is exempt from taxation under Section 501(c)(3) or Section 501(c)(4) of the United States Internal Revenue Code is not a commercial event.
3. "Noise level" means the "A" weighed sound pressure level in decibels obtained by using a sound level meter at slow meter response with a reference pressure of twenty micropascals.
4. "Parade" means a march or procession of people on any county street or right-of-way that obstructs, delays, or interferes with the normal flow of vehicular traffic, or does not comply with traffic laws or controls.
5. "Sound level meter" means an instrument that meets or exceeds American National Standard Institute's Standard S1.4-1971 for Type 2 sound level meters, or an instrument and the associated recording and analyzing equipment that will provide equivalent data.
6. "Temporary event" means an event that occurs for up to one day at a residence or in a residential zoning district, or up to three consecutive days at any other location.
7. "Venue" means the site, lot, parcel, contiguous lots or parcels under common ownership, location, area, or facility for which an event is held or is proposed to be held.

#### **B. Administrative Permit for Temporary Event Required.**

The following uses are allowed in any zoning district only after the issuance of a temporary event permit:

1. A temporary event, unless the temporary event is exempt from the requirement to obtain a temporary event permit or a conditional use permit is required for the event.

2. Retail seasonal sales of Christmas trees operating not as part of an event.
3. Retail seasonal sales of produce or goods operating not as part of an event.
4. Food trucks operating not as part of an event.

C. Exemptions.

The following activities are exempt from the permit requirements of this chapter:

1. An event held on public property, in a public facility, or in a public park, provided all other permits and licenses required by this code or state law are obtained, including encroachment permits, environmental health permits, and state alcoholic beverage control permits.
2. An event held in a public right-of-way, including a funeral procession or parade, provided all other permits and licenses required by this code or state law are obtained, including encroachment permits, environmental health permits, and state alcoholic beverage control permits.
3. An activity conducted by a governmental agency acting within the scope of its authority.
4. Weddings, birthday parties, graduation parties, or other family events held at a private residence, provided there are under 75 people and action does not meet the definition of a commercial event facility.
5. An event held at a members-only nonresidential facility where the only participants are members and their guests.
6. An event held at a school, provided the event is consistent with the underlying land use regulations.
7. An event held at a religious entity's facility, provided the event is consistent with the underlying land use entitlement.
8. A film-making activity for which a filming permit has been obtained.
9. Car washes for fund raising purposes, provided that the car washes are held on private property other than a residence, are limited to a maximum of 2 days each month for each sponsoring organization, and are sponsored by an educational, charitable, religious, or nonprofit group.
10. Garage and estate sales held at a private residence, provided that sales occur no more than 4 times within a 12-month period per residence, for a maximum of 3 consecutive days each.
11. A real estate open house, where a property is for sale, lease or rent.

D. Restrictions.

1. No two events shall be held at the same venue with fewer than seven days between events.
2. Food trucks allowed no more than 4 days in one location.

E. Application and review.

1. Any person, entity, business, or group wishing to hold, sponsor, conduct, operate or maintain a temporary event shall submit a completed temporary event permit application to the code enforcement officer. The application form shall be signed and verified by the applicant, if an

individual; a general partner authorized to sign on behalf of a partnership; an officer or director authorized to sign on behalf of a corporation; or a participant authorized to sign on behalf of a joint venture or association.

2. An application is not complete unless it includes all of the following information:
  - a. The name, address, and telephone number of the applicant and an alternate contact person.
  - b. If the event is proposed to be a commercial event, the name, address and telephone number of the organization, and the authorized head of the organization. If the event is sponsored by or intended to benefit a non-profit organization, certification that the organization is exempt from taxation under Section 501(c)(3) or Section 501(c)(4) of the United States Internal Revenue Code. The name of the non-profit organization is not required to be indicated on the permit application. For a period of 90 days following the event, the applicant must retain records indicating the name of the organization that the event is sponsored by or intended to benefit.
  - c. The name, address and telephone number of the person who will be present and in charge of the event on the day of the event.
  - d. The type of event (e.g., a concert or arts and crafts show).
  - e. Date and estimated starting and ending time of the event, including the time required to prepare and clean up the venue.
  - f. Location of the event, including its street address and assessor's parcel number.
  - g. Estimated number of attendees and participants at the event.
  - h. The type and estimated number of vehicles and structures that will be used at the event, if any.
  - i. Description of any sound amplification equipment that is proposed for use at the event.
  - j. Whether any food will be served or sold at the event and, if applicable, the time and manner in which caterers and catering/food trucks will be used.
  - k. Whether any beverages, including alcoholic beverages, will be served or sold at the event, and whether any such sales will be wholesale or retail.
  - l. Whether security will be employed at the event.
  - m. Parking, traffic control, and crowd control measures proposed for the event.
  - n. The number and type of events held at the venue in the preceding 24 months.
  - o. A site plan showing the size and location of property lines, sidewalks, streets, and improvements on adjacent properties, clearly labeled and drawn to scale.
  - p. The time and acts required to prepare the venue for the event and the time and acts required following the event to clean up and restore the regular use of the property or venue.
  - q. The type and location of on-site restrooms.
  - r. An application must be submitted at least 15 days before the proposed event. Applicants must allow 5 days of review by Code Enforcement Officer with each submission. Permits must be obtained within 5 days of the start of the event.
  - s. No event permit application shall be denied on any grounds except for any of the following:
    - i. Information contained in the application is found to be false in any material detail.

- ii. The applicant fails to timely file the application form or fails to complete and submit the application form within 5 calendar days after having been notified of the additional information or documents required for a complete application.
- iii. A violation of any term or condition of a temporary event permit previously issued within the preceding 24 months to the applicant or for the private property venue.
- iv. Another temporary event permit application has been received prior in time, or has already been approved, to hold another event at the same time and place requested by the applicant, or so close in time and place as to cause undue traffic congestion.
- v. The time, route, characteristics, or size of the event will substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or disrupt the use of a street at a time when it is usually subject to great traffic congestion.
- vi. The concentration of persons, animals, or vehicles at the site of the event, or the assembly and disbanding areas around an event, will prevent proper police, fire, or ambulance services to the venue and areas contiguous to the event.
- vii. The location of the event will substantially interfere with a previously granted encroachment permit or with any previously scheduled construction or maintenance work scheduled to take place upon or along county, town or state roads.
- viii. The proposed event is not allowed under the terms of a previously issued conditional use permit.
- ix. A temporary event permit previously issued within the preceding 24 months to the applicant or for the specific private property venue was revoked.
- x. Failure to pay an outstanding fine owed for an event previously held at the venue or owed by the applicant for any event held at any location.
- xi. When the grounds for denial of an application for permit can be mitigated by altering the date, time, duration, size, route, or location of the event, the Code Enforcement Officer shall conditionally approve the application upon the applicant's acceptance of conditions for permit issuance instead of denying the application. If the grounds for denial cannot be mitigated by imposing conditions, the permit will be denied.

3. The Code Enforcement Officer's decision on the issuance of a permit may be appealed to the Town's Zoning Board of Appeals. The applicant may appeal the denial of a permit and may appeal any conditions imposed on a permit. Any person affected by any time, place, or manner conditions imposed on a permit may appeal only the permit conditions. Any person other than the applicant who appeals any time, place, or manner conditions must specify which conditions are being appealed. An appeal must be in writing, must be filed within 10 days of the Code Enforcement Officer's decision on the permit, and must include an appeal fee. An appeal hearing will be scheduled before the Zoning Board of Appeals. The decision will be made at least 10 days before the date of the proposed event. The decision following an appeal hearing is final for purposes of exhaustion of administrative remedies.

#### F. Exemption.

1. No temporary event permit is required for an event held at a venue in a residential zoning district if:
  - a. 3 or fewer events are held at the venue within a twelve-month period; and
  - b. For properties 40,000 square feet or greater in size, 200 or fewer total people will be present at the event; and

- c. For properties less than 40,000 square feet in size, 125 or fewer total people total will be present at the event.
2. An event at a residence that is exempt under this subsection (F) from the requirement to obtain a temporary event permit must comply with the following standards and requirements:
  - a. The sound levels at the event cannot exceed the levels specified in subsection G(2) of this article.
  - b. On-site restrooms must be provided at the event.
  - c. Adequate parking must be provided.
  - d. Dedicated remote parking for the event sufficient to accommodate attendees must be available if the adjacent streets do not have a graded or paved eight-foot-wide shoulder for parking, and if parking for all attendees is unable to occur on-site.
  - e. At least 10 days before the event, the property owner must inform the Code Enforcement Officer in writing of the time, date, and location of the event.
  - f. At least 10 days before the event, the property owner must send a notice to all property occupants within 200 feet of the event venue of the time, date, and location of the event.
3. The exemption under this subsection (F) does not apply if:
  - a. 4 or more events are held at a venue in a residential district in a 12-month period.
  - b. One of the standards or requirements specified in subsection (F)(2) was violated at a previous event within the previous 12 months.

G. Conditions.

1. The Code Enforcement Officer may condition the issuance of a temporary events permit by imposing any of the following requirements concerning the time, place, and manner of the event. The Code Enforcement Officer may consult with the Town Planning Board, public works, fire, and law enforcement officials and may impose time, place, and manner conditions that are requested by those officials, provided the requested conditions are among the conditions specified below. No conditions other than those specified below may be placed on a permit. Conditions may not restrict expressive activity or the content of speech.
  - a. Alteration of the date, time, route or location of the event proposed on the application.
  - b. Conditions concerning accommodation of pedestrian or vehicular traffic.
  - c. Conditions concerning parking, including but not limited to requirements for the use of shuttles from parking areas to the venue.
  - d. Conditions concerning traffic control, including but not limited to requirements for the use of traffic cones or barricades.
  - e. Requirements for provision of on-site restrooms.
  - f. Requirements for use of security responsible for crowd control, fire watch, general security, and evacuation of occupants.
  - g. Conditions concerning maximum occupancy, based on the size of the venue and for purposes of minimizing impacts on traffic and parking. In imposing conditions concerning maximum occupancy, the Code Enforcement Officer may consider the lot size of the event venue, proximity of surrounding residences, density of the underlying zoning district, and the location and size of any buildings between the venue and surrounding properties.

- h. Restrictions on the number and type of structures at the event, and inspection and approval of structures.
- i. Compliance with animal protection ordinances and laws.
- j. Requirements for use of garbage containers and cleanup.
- k. Conditions limiting the duration of time and hours of the event (including the time to prepare and clean up the venue) in order to minimize impacts on traffic and parking.
- l. Time, place, and manner restrictions on the use of amplified sound. The use of amplified sound is prohibited in a residential district unless allowed as a condition of a temporary event permit.
- 2. When a temporary event permit is granted for any event in a residential zoning district or at a residence in any other zoning district, it is granted subject to the following conditions:
  - a. The event shall not generate or emit any noise or sound that exceeds any of the levels specified in the table below measured at the exterior of any dwelling unit located on another residential property. The noise generated or emitted shall not exceed the levels specified in the table for the duration of time specified in the table. Exterior noise levels shall be measured with a sound level meter. The permit shall incorporate the applicable "allowable exterior noise levels" specified in the table into the permit conditions only for the duration of time allowed for the event by the permit. For example, if the permit provides that an event shall end by seven p.m., the "allowable exterior noise levels" allowed between nine a.m. and eight p.m. shall be incorporated into the conditions, but the event must end by seven p.m.

b. Allowable Exterior Noise Levels for Temporary Event

Cumulative Duration of Noise	9 a.m. - 8 p.m.	8 p.m. - 10 p.m.
30 minutes per hour	60 dBA	55 dBA
15 minutes per hour	65 dBA	60 dBA
5 minutes per hour	70 dBA	65 dBA
1 minute per hour	75 dBA	70 dBA
Level not to be exceeded at any time	80 dBA	75 dBA

- c. For temporary events, amplified sound is prohibited after eight p.m. Sundays through Thursdays and after ten p.m. Fridays, Saturdays, and holidays. A temporary event permit shall not allow the use of amplified sound after these hours.

H. Duration.

A temporary event permit is valid only for one event. A temporary event permit is valid only for the time or times specified in the permit. A temporary event permit lapses if not used within the time or times specified.

I. Other permits and licenses.

1. The issuance of a temporary event permit does not relieve anyone from the obligation to obtain any other permit or license required by this code or state law, including, but not limited to, business permit, encroachment permits, environmental health permits, building, and state alcoholic beverage control permits.
2. The issuance of any other permit or license does not relieve anyone from the obligation to obtain a temporary event permit pursuant to this chapter.

J. Conditional Use Permit.

1. A conditional use permit is required if:
  - a. An event will be held after three events that required a temporary event permit, have occurred after 3 events at a venue in a residential zoning district that were exempt from obtaining a permit under subsection (F) of Article 11.1, were previously held at a venue within the preceding 12 months.
  - b. Four or more events will be held at a venue in a 12-month period.
  - c. More than 300 people will be present at an event at a venue in a residential zoning district or an event at a residence in any other zoning district.
  - d. A temporary event permit previously issued to the applicant or for the venue was revoked within the preceding 24 months.
    - i. It is a violation of this section if the number of people present at an event exceeded a size threshold specified in subsection (A) of Article 11.1 above, and a Commercial Event Facility Conditional Use permit was not obtained before the event. For purposes of this section, "the number of people present at an event" means the total of all attendees, invitees, caterers, event monitors, security, and all other persons who are at the event venue.
    - ii. If a conditional use permit or building permit is required for a structure associated with a temporary event, then no event may be held at the venue without a Conditional Use permit.
    - iii. An application for a Conditional Use Permit will be decided in accordance with Article 4.1 of this code.
    - iv. No conditions that restrict expressive activity or the content of speech may be imposed on any Conditional Use permit issued.

K. Enforcement.

1. An event may be monitored by law enforcement and code enforcement officials to determine compliance with the terms and conditions of the permit.

2. A temporary event permit may be revoked for any violation of any term or condition that occurs at an event or for any other reason specified of this code.

L. Application fee.

A nonrefundable application fee for a temporary event permit shall be paid when the application is submitted. An application for a temporary event permit is not complete until the application fee is paid.

M. Bond and insurance.

The Code Enforcement Officer may require an applicant for a temporary event permit to post a bond of up to a maximum of \$5,000.00 or to otherwise financially secure that the event location is restored to its original condition and that the Town is fully reimbursed for any unanticipated law enforcement or emergency medical expenses. The Code Enforcement Officer shall determine the amount of the bond or other security and the applicant shall post it with the Town Clerk. The Code Enforcement Officer may also require an applicant for a minor event permit to obtain indemnity or liability insurance naming the Town as the insured.

N. Advertising/ticket sales.

No person shall advertise, sell or furnish tickets for a temporary event until a permit has been obtained for the event in accordance with this chapter. All outdoor displays and products must relate to the primary seasonal product available for purchase.

## **11.2 Recycling Collection Point**

A. Administrative permits are required for collection receptacles for recyclable materials which are available for use by the general public and are used temporarily or on a regularly scheduled occasional basis. The provisions of this section do not apply to individual recycling bins or receptacles used by individual home owners or businesses.

1. Such receptacles shall be intended to serve as collection points for recyclable materials such as paper, glass, metal, clothing and similar items.
2. Such receptacles shall be clearly incidental and subordinate to the principal use of the property on which they are located.
3. The receptacles shall not infringe on any vehicular or pedestrian access or circulation routes.
4. The receptacle shall be positioned on the property so that it is readily accessible and so that adequate off-street parking space is available for persons desiring to deposit items in it.
5. The receptacle, which may be a trailer, shall not be placed on a permanent foundation, nor shall it be connected to any utilities other than electrical service.

6. A sign, not to exceed sixteen (16) square feet in area, may be painted on or otherwise permanently affixed to the receptacle.
7. The applicant shall furnish written evidence of the approval of the owner of the property on which the receptacle is to be located.
8. The applicant shall be responsible for the proper maintenance of the receptacle and the timely retrieval of deposited materials. No materials, litter, or debris shall be allowed to accumulate around or overflow from the approved collection receptacle.
9. All applicable state and local business license regulations shall be complied with.
10. Must not remain in same location for more than 4 days.

### **11.3        Temporary Construction Office Trailers & Buildings**

- A. Such use shall be in conjunction with a bona fide construction or land disturbing project for which all necessary state and local permits have been obtained.
- B. The use, for office or storage purposes, of an industrialized building unit which meets the definition of "manufactured home," may be authorized; however, such unit shall in no instance be utilized for residential purposes.
- C. The installation of construction trailers and offices shall be subject to all applicable permits and inspections as required by the NY State Building Code.

### **11.4        Roadside Stands**

- A. Roadside stands shall not be subject to minimum yard setbacks, but in all cases shall be set back from the edge of a public or private right-of-way by a minimum of fifteen (15) feet.
- B. Roadside stands must provide a minimum of one (1) parking space. All such parking spaces shall be on private property, off the edge of a public or private right-of-way for a roadside stand, set back a minimum of ten (10) feet from the paved portion of the street, and shall be physically restricted or channeled on the lot to define a readily recognizable driveway. There are no off-street loading requirements for roadside stands.

### **11.5        Campgrounds and Recreational Vehicle Parks**

- A. Conditional Use Permit Required

No person, partnership, association, limited liability or other company, entity or corporation, being the owner, user, operator or occupant of any land within the Town of Corning, shall use or allow the use of such land for a transient

or non-transient campground or RV park unless a conditional use permit has been issued in the appropriate zoning district in the table of permitted uses.

#### B. General Requirements

1. The application shall identify each waiver application or request that has been, or will be, made to the New York State Department of Health for relief from any of its regulations applicable to the subject matter of this chapter.
2. If an applicant receives a relevant waiver from the State Department of Health, it may seek a waiver of any of the requirements of this Chapter which pertain to the same subject matter as the State Department of Health waiver, upon written application to the Zoning Board of Appeals. Said waiver application must provide written evidence of the waiver received from the State Department of Health. Notwithstanding the foregoing, the Zoning Board of Appeals shall not be required to grant any waiver application.
3. Any application approved by the Planning Board shall be subject to any approvals required or issued by the State Department of Health for the use in question. Upon receipt, the applicant shall provide a copy of any such approvals given by the New York State Department of Health to the Code Enforcement Officer.
4. The conditional use permit shall not be transferable or assignable and shall expire upon a change of the operator of the campground or the ownership of the real property in question.
5. The conditional use permit may be revoked by the Planning Board when the applicant has exhibited a history of noncompliance with the requirements of this chapter; the campground is found to be a potential source of danger to the general public health and safety or the health and safety of the occupants of the campground; or the transient campground or RV park does not comply with the requirements of this chapter.

#### C. Design standards and general requirements.

1. Minimum development area. A transient campground or RV park shall have a gross area of at least five contiguous acres of land in single ownership or under unified control and a non-transient campground or RV park shall have a gross area of at least 25 contiguous acres of land in single ownership or under unified control.
2. Screening requirements. All non-transient campgrounds and RV parks shall provide and maintain a screening strip of planted natural materials along all property boundary lines. Such screening shall be a depth of not less than 20 feet, to effectively screen the area within a reasonable time period (five to 10

years). A planting plan specifying types, size and location of existing and proposed plant materials shall be required and reviewed as part of the conditional use permit application.

3. Off-street parking requirements. At least one off-street parking space shall be provided for each campsite.

D. Transient campgrounds or RV parks.

1. Transient recreational land development streets shall be cleared, graded and improved to a twelve-foot width for one-way traffic and twenty-foot width for two-way traffic.
2. Occupancy. Campground or RV park lots shall be used only for camping purposes. Excluding owner/operator, no improvement or living unit designed for permanent occupancy shall be erected or placed on any campground or RV park lot. All recreational vehicles in a transient campground or RV park shall be maintained in a transportable condition at all times and meet all requirements which may be imposed by the State of New York;
3. Sanitary facilities. No owner or occupant of any transient campground or RV park lot or within such campground or RV park lot shall permit or allow the dumping or placement of any sanitary or other waste anywhere upon any campground or RV park, except in places designated therefor. Toilets shall be erected or maintained on any transient campground or RV park lot per the requirements of the license issued by the Planning Board and Health Department;
4. Fire rims. Where applicable, each campsite fireplace shall be provided with a fire rim that meet fire/building code; and
5. Water supply. Potable water supplies shall be provided.

E. Non-transient campgrounds and RV parks:

1. No permanent external structures, such as carports, cabanas or patios, may be attached to any travel trailer or other recreational vehicle parked in a campground or RV park, and the removal of wheels or placement of the unit on a foundation in such a park is prohibited.
2. Location. A campground or RV park shall be so located that no entrance or exit from a park shall discharge traffic into a residential area
3. Common use areas. A minimum of 10% of the gross site area of the campground or RV park shall be set aside and developed as common use areas for open and enclosed recreational facilities. No recreational vehicle site, required buffer strip, street right-of-way, cartway, storage area or utility site shall be counted as meeting this requirement.
4. Entrances and exits. Entrances and exits to nontransient campgrounds or RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and the radii of curbs and pavements at intersections shall be

such as to facilitate easy turning movement for vehicles with trailer attached. Developer shall make sure visibility is good and provides safe ingress and egress from the site, nor shall such intersection be located within 150 feet of any other intersection.

5. **Parking areas.** In connection with the use of any nontransient campground or RV park, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk, required buffer, right-of-way or any public grounds, nor any private grounds not part of the nontransient campground or RV park unless the owner has given written permission for such use. Each nontransient campground or RV park operator shall provide off-street parking and loading and shall be responsible for violations of these requirements.
6. **Occupancy.** Campground or RV park lots shall be used only for camping purposes. No improvement or living unit designed for permanent occupancy shall be erected or placed on any campground or RV park lot, other than the owner/operator. All recreational vehicles in the development shall be maintained in a transportable condition at all times and meet all requirements which may be imposed by the State of New York. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilization purposes is hereby prohibited. No campground or RV park lot shall be occupied for more than 270 consecutive days, and no campground or RV park lot shall be the primary and principal residence of occupants, other than the owner/operator or their designee.
7. **Records.** The management of every non-transient campground or RV park shall be responsible for maintaining accurate records concerning the occupancy of all campground or RV park lots. The term "management" shall include associations of property owners when such are responsible for maintenance and operation of common facilities. The Town Code Enforcement Officer shall have access to, and the right, pursuant to applicable law, to inspect, records for evidence of permanent residency or lack thereof. The Town Planning Board and/or Code Enforcement Officer shall, in addition, have the authority, when any provision of this chapter is violated, to prohibit the occupancy of any and all non-transient campground or RV park lots until the owners and/or management provide evidence of compliance with these provisions.
8. **Sanitary facilities.** No owner or occupant of any campground or RV park lot or within such campground or RV park lot shall permit or allow the dumping or placement of any sanitary or other waste anywhere upon any campground or RV park lot or elsewhere within the development, except in places designated therefore. All applicable permits from the state must be obtained and owner/operator shall follow all applicable health department regulations.
9. **Nuisances.**
  - a) No noxious or offensive activities or nuisances shall be permitted on any campground or RV park lot or anywhere within such developments. Such nuisances shall include, but not be limited to:
    - i. Noise which exceeds the limitations of Noise as stated in the Town of Corning Noise Ordinance;
    - ii. Uncontrolled fires or any burning which results in soot, cinders, smoke, noxious fumes, gases or unusual odors emanating beyond the property line of the development; and

- iii. Any other activity which would, notwithstanding the numbers of persons assembling or camping, exceed the limitations found in Temporary Events section (Article 11.1) of the Corning Zoning Code.
- b) Responsibility for meeting such requirements shall extend in all circumstances to individual occupants of campground or RV park lots as well as owners and operators.
- 10. Animals. No animals shall be kept or maintained on any campground or RV park lot, except the usual household pets. Pets shall be kept under control so as not to become a nuisance.
- 11. Garbage and refuse disposal. No person shall burn trash, garbage or other like refuse on any campground or RV park lot. All such refuse shall be placed and kept in covered receptacles for the same, which shall be provided by the owners of the campground or RV park lots. No owner or occupant shall permit the accumulation of litter or refuse or junk vehicles on a campground or RV park.
- 12. Camping accessories. Notwithstanding any provisions herein contained to the contrary, picnic tables, benches, storage sheds, fireboxes or fireplaces and similar items of personal property may be placed on a campground or RV park lot. All personal property on a campground or RV park lot shall be maintained in good condition so as not to become unsightly.
- 13. Ditches and swales. Each owner shall keep drainage ditches and swales located on his campground or RV park lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon his campground or RV park lot as may be reasonably required for proper drainage. He shall also prevent erosion on his campground or RV park lot.
- 14. Vehicle parking. No recreation vehicle shall be parked on any street or roadway within the campground or RV park.
- 15. Fire rims. Each campground or RV park lot fireplace (if charcoal or gas grills are not provided) shall be provided with a fire rim of at least eight inches in height to contain the fire.
- 16. Water supply. Potable water drinking supplies shall be provided within 250 feet of each campground or RV park lot and be operational during any period of occupancy. All applicable NYS laws shall be followed.
- 17. Fire and emergency access. Every campsite shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access.

F. Applicability to existing campgrounds and RV parks.

1. The regulations of this chapter shall apply to any expansion of an existing campground or RV park, including increases in the number of lots or available spaces, even though no additional land area is involved in the expanded use.
2. Any existing park which does not have a permit from the Department of Health or approval from the Town shall not qualify for this treatment and shall be required to make a new submission.

G. Enforcement.

The Code Enforcement Officer shall enforce all of the provisions of this chapter and shall have the right, at all reasonable times, to enter and inspect the grounds of any transient or non-transient campground or RV park or other nonresidential buildings used in any transient or non-transient campground or RV park such as shower facilities, toilets, vendors' stands, or other facilities associated with the operation of the campground or RV park. Nothing herein shall confer authority upon the Code Enforcement Officer the right to enter and inspect the interior of any RV, travel trailer or similar equipment, tent or other structure serving as a temporary shelter without the permission of the owner or occupant thereof or the prior issuance of lawful process.

#### H. General Camping Conditions.

The following uses are permissible uses:

1. Camping by the owner, or his or her invitees, on his or her own real property is permitted provided that:
  - a) There are four or fewer campsites on each tax lot as those lots appear on the tax map for the Town;
  - b) Five or more campsites shall be governed by the lot and siting requirements set forth in this ordinance
  - c) There shall be permitted only one recreational vehicle, travel trailer or similar equipment, or tent or other structure serving as a temporary shelter per campsite;
  - d) Any recreational vehicle must be registered and any recreational vehicle, travel trailer or similar equipment must be operable at all times and the wheels of each such vehicle shall remain attached;
  - e) Any such recreational vehicle, travel trailer or similar equipment, or tent or other structure serving as a temporary shelter per campsite must be structurally sound and in good repair;
  - f) Camping shall not occur more than 270 cumulative days annually;
  - g) Camping takes place in the side or rear yard of an improved lot; and
  - h) Camping takes place in a screened portion of an unimproved lot, where practicable;
2. Use as temporary shelter by owner.
  - a) The use of an RV as a temporary shelter by the owner of real property, which real property contains a permanent dwelling, shall be permitted provided that:
    - i. The real property in question is used as the principal residence of the owner and his or her family or legal tenants;
    - ii. The permanent dwelling serving as the principal residence is no longer habitable due to an act of nature;
    - iii. The owner has received a building permit to repair or replace the permanent dwelling in question; and

#### I. Exceptions.

None of the provisions of this chapter shall be applicable to the following:

1. The business of recreational vehicle sales operating pursuant to applicable law;
2. Any mobile home park regulated by the Town Zoning Code;

3. A recreational vehicle, travel trailer, or similar equipment not in use may be stored on premises containing a dwelling owned or leased by the owner of such recreational vehicle, travel trailer, or similar equipment; provided, however, that the owner of such recreational vehicle, travel trailer, or similar equipment shall at all times comply with the New York State Property Maintenance Code, or any amendment thereof; and
4. The lawful use of a construction trailer at a construction site

### **11.5. Recreational Vehicles not in Campground or RV Park.**

It is the purpose of this section to regulate the parking of recreational vehicles in all districts zoned for residential use in the Town so as to reduce hazardous traffic conditions, protect those districts from polluted air, excessive noise, trash and refuse; protect the residents from unreasonable burdens in gaining access to their residences, preserve the character of those districts as residential, to promote efficiency in the maintenance of those streets, preserve the value of property, protect the safety of pedestrians and maintain the general health and welfare of the residents of those districts.

#### **General requirements.**

- At any given time, no more than two recreational vehicles shall be parked or stored in the open on the premises.
- Recreational vehicles stored on the premises must be owned by the occupant of the premises.
- Recreational vehicles shall not have fixed connections to electricity, water, gas or sanitary facilities, nor shall any recreational vehicle at any time be used for living or housekeeping purposes while on the premises.
- Any such recreational vehicle shall be kept in good repair and in working condition, with current license plate and/or registration, unless stored within a garage.
- Recreational vehicles shall not be parked or stored upon any public highway or right-of-way.
- Must be located at least 14' from structures on neighboring properties.

### **11.6. Commercial Vehicles**

Purpose. It is the purpose of this section to regulate the parking of motor vehicles in all districts zoned for residential use in the Town so as to reduce hazardous traffic conditions, protect those districts from polluted air, excessive noise, trash and refuse; protect the residents from unreasonable burdens in gaining access to their residences, preserve the character of those districts as residential, to protect the public highways from excessive wear and tear, to promote efficiency in the maintenance of those streets, preserve the value of property, protect the safety of pedestrians and maintain the general health and welfare of the residents of those districts.

This section shall apply to all residential zoning districts.

**General requirements.**

- One such vehicle per dwelling unit.
- Personal use by occupant of the dwelling unit.
- No parking or storage of such vehicles on vacant lots or lots without a principal structure unless a conditional use permit is obtained from the Planning Board.
- Parking within a public highway or right-of-way is prohibited.
- Occupants shall submit proof of ownership and vehicle weight when requested by the Code Enforcement Officer.
- Sanitation equipment not allowed.
- Code enforcement may consult the planning board, police/fire departments, or other applicable agencies if he/she determines any situation a nuisance or impacting the health, safety, or welfare of residents.

**11.7. Accessory Uses, Structures, and Buildings On Same Lot As Principal Use**

**A. Home Occupation**

**a. Home Occupation Standards**

- a. No more than two home occupations may be located on a lot.
- b. No more than twenty-five percent (25%) of the total floor area of a dwelling unit or five hundred (500) square feet, whichever is the lesser, may be used for single home occupation; two home occupations on one site may occupy up to 35% or six hundred-fifty (650) square feet, whichever is the lesser.
- c. Home occupations are either “off site” or “on site.”
- d. Business owner(s) must reside in the home to be used for the home occupation(s); if business owner is not the homeowner, written proof of permission to operate a home occupation from the site must be given by the homeowner.
- e. The following uses shall not be permitted as a home occupation:
  - Any form of motor vehicle repair, including vehicle body work;
  - Motor vehicle sales;
  - Any small engine or appliance repair;
  - A veterinary hospital;
  - A kennel;
  - A bar and/or restaurant;
  - A cottage industry; and

- Any use that, under the provisions of the New York State Uniform Fire Prevention and Building Code, is not permitted based on the type of construction or a use prohibited based on any other federal, state or local law, rule or regulation.
- f. Home occupations shall be carried on wholly within the enclosed walls of the dwelling unit and/or accessory building.
- g. Businesses whose primary function is the wholesale or retail sale of goods or articles from the premises, such as a small grocery store, shall not be deemed a home occupation; any wholesale or retail on-site sales shall be solely incidental to the primary home occupation's use.
- h. All contact with customers on the premises shall be by appointment only.
- i. There shall be no external evidence of such use except for one (1) sign not exceeding two (2) square feet in area mounted flush with and on the front facade of the dwelling unit for homes with 1 home occupation. Homes with two home occupations may share one (1) sign not exceeding three (3) square feet in area. Stock, merchandise, equipment, or displays of any kind shall not be visible outside the dwelling unit or accessory building.
- j. No external structural alterations or additions, which are not customary to a residential building, shall be allowed. (pole barns, etc.)
- k. Home occupations shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- l. On-site home occupations are allowed no more than 2 customer vehicles on site at any given time per home occupation. Code Enforcement may seek Planning Board review in order to increase or decrease this number based upon area site conditions.
- m. Code Enforcement shall review each home occupation application using the same criteria used by the Planning Board when reviewing a Conditional Use Permit application per this code. Applicant is required to provide the same material as required for a Conditional Use Permit site plan review to Code Enforcement.
- n. Only 1 single-axle motorized vehicle per home occupation is allowed to be stored on site.
- o. All equipment and vehicles associated with a home occupation shall be typical of vehicles and equipment normally associated with a residential environment.
- p. On-site home occupations shall not have more than one (1) full-time equivalent non-resident employee per home occupation;
- q. One (1) space must be provided for each employee
- r. 239m County review might apply. The County is allotted 30 days to return comments on the application to the Town.
- s. Any home-based business not meeting the definition of "home occupation" as described in this code will be required to come before the Planning Board as a condition use application.

## B. Cottage Industry

### 1. Restrictions. The following uses shall not be permitted as a cottage industry use:

- A business which has a primary function of on-site wholesale or retail sale of goods or articles.
- Any form of motor vehicle repair, including vehicle body work.
- Motor vehicle sales.
- A veterinary hospital
- A bar and/or restaurant.

- Any use that, under the provisions of the New York State Uniform Fire Prevention and Building Code, is not permitted based on the type of construction or a use prohibited based on any other federal, state or local law, rule or regulation.

2. General requirements. A cottage industry use may be permitted when an approved site plan is in compliance with the following minimum requirements:
  - a. The use is to be conducted within the enclosed walls of an accessory structure.
  - b. Residents are allowed up to 1 total accessory structure to be used for all use(s), the square footage to be determined by the Planning Board and the nature of the site.
  - c. Adequate parking must be provided for both residents, vehicles associated with use, and potential customers, as well as safe ingress and egress to/from site.
  - d. No external evidence of such use except for signage allowed per Article 5. No stock, merchandise, packaging, equipment or displays related to the use shall be visible from outside the dwelling unit and/or accessory structure.
  - e. Construction and/or modification of an accessory structure to accommodate the use is permitted.
  - f. The Planning Board shall review impact of proposed use(s) regarding vehicular traffic volumes and potential nuisances to abutting properties.
  - g. A maximum of 10% of any interior area devoted to or used for the use may be for display and/or wholesale and retail sales.
  - h. Applicant must provide evidence of any certification and/or license that is required by the law for the specific occupation.
  - i. The use shall remain compliant with all conditions of site plan approval.
  - j. The storage and utilization of flammable liquids, gases or solids shall be in accordance with the New York State Uniform Fire Prevention and Building Codes and shall require annual fire inspection.

#### C. Accessory Dwelling Unit/Structure (ADU)

1. Maximum of one structure/unit with separate entry permitted on each residential lot having no more than 1 bedroom, 1 bath, and 1 kitchen.
2. May not exceed 50% the size of principal residential structure and comply with required setbacks for the district in which located.
3. Must meet all applicable building, health, and fire/safety codes.
4. Should an Accessory Dwelling Unit become the principal use of a lot in the future, it must meet all applicable requirements of the Density Control Schedule.

#### **D. Inoperable Motor Vehicle**

Enforced via NYS standards by Code Enforcement.

#### **E. Mixed Uses**

1. 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.
2. 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.

#### **F. Accessory Building, Customary**

1. A maximum of three (3) accessory buildings shall be allowed on a lot.
2. The area occupied by accessory buildings collectively shall not exceed the following:
  - a. R-1 District: The lesser of 12% of the lot area or 4,500 square feet.
  - b. R-2 District: The lesser of 12% of the lot area or 2,250 square feet.
  - c. R-3 District: The lesser of 12% of the lot area or 1,125 square feet.
  - d. C, C-LI, and I Districts: 12% of the lot area.
3. All accessory buildings must comply with required setbacks for the district in which located.
4. Active-duty military personnel serving overseas may exceed the standards listed in this section at the discretion of the Code Enforcement Officer.

### **11.8. Residential Uses**

#### **A. Manufactured Mobile Home Park**

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 require a Conditional Use Permit. An Operating Permit shall also be required in accordance with the New York State Building Code.

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.

1. Standards Governing Mobile Home Parks. Any mobile home park shall conform to the following standards which are to be regarded as minimum requirements.
  - (a.) 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
    1. (30%) of the mobile home space.
5. Parking: Parking spaces shall be provided in conformance with Article 7.4. Two parking spaces shall be situated on a side yard of each lot, plus additional off-street as required for visitors. Each parking space shall have dimensions of at least 10 feet by 20 feet.
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 effectively 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: Current state code must be followed.

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 Planning 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 Article 13.2 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.

## B. Cluster Developments

### 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.

### 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.

### 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.

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 (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 Code Enforcement Officer.

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 Article 3.7, 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 Article 17, if such property is not maintained in reasonable order and condition.

#### 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.

#### 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.

### **11.9. Commercial/Business/Retail/Personal Uses**

#### A. Adult Uses

##### Statement of 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.

A. 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.

B. Location Within Allowed Zoning Districts. An Adult Use and Entertainment Establishment shall be permitted only in the allowed zoning district, 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.

C. 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."

## **11.10. Planned Development**

### **A. 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. The planned

development shall be considered a rezoning and be subject to all procedures and requirements set forth in this section.

#### B. Permitted Uses

Any use not explicitly prohibited within the Town of Corning shall be allowed in a Planned Development district as well as any other use approved by the Town and Planning Boards consistent with the purpose and intent of this section and the adopted Comprehensive Plan for the Town.

#### C. Standards Governing Planned Development Districts

- 1) **Location and Minimum Size.** The Planned Development district shall be applicable to any zoned area of the Town of Corning provided the applicant is able to demonstrate that the characteristics of the development will satisfy the purpose and intent of this section and that the land meets the minimum size requirements. Such land shall be a contiguous parcel, a minimum of five (5) acres in size and shall have a minimum of 250' of frontage along a major road and a minimum depth of 200'. Adjacent property owners may petition jointly if their aggregate holdings meet these requirements and they agree to a coordinated development plan.
- 2) **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.
- 3) **Industrial development.** See Article 11.12 for special provisions which apply to an industrial component of a Planned Development.
- 4) **Perimeter Landscaping.** Except for points of access and egress, the land abutting the major road(s), or 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.
- 5) **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.
- 6) **Parking.** The parking requirements of Article 7 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.

7) Access.

- (a.) Access points to the major road(s) shall be minimized and spaced no closer together than five hundred (500') feet.
- (b.) Industrial truck traffic ingress and egress shall be limited to state roads.

8) Signs. Signs shall be allowed as per Article 5. The sign matrix shall be utilized at the discretion of code enforcement based upon the uses of the Planned Development district.

9) Water and Sewer. All parcels shall be serviced by public water and sanitary sewer systems if available.

D. Standards Governing Residential Uses within Planned Development Districts

1) 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:
  - (i) Front Yard - minimum 25 feet
  - (ii) Rear Yard - minimum 25 feet
  - (iii) Side Yard - minimum 12.5 feet

2) 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:
  - (i) Front Yard - minimum 25 feet
  - (ii) Rear Yard - minimum 30 feet
  - (iii) 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.

3) 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.

## E. Procedures for Establishing a Planned Development District

- 1) The applicant may petition the Town Planning Board for a Concept Plan Conference, as defined in Article 4.2, prior to submitting a full application.
- 2) The applicant shall submit a full site plan in accordance with the Site Plan Requirements as defined in Article 4.2. Upon satisfaction of all conditions of the site plan approval, the site plan will be conditionally approved by the planning board, subject to the necessary rezoning of the Town Board.
- 3) The applicant shall submit a full conditionally approved site plan along with the application for rezoning to the Town Board. The Town Board shall advertise and conduct the required public hearing on the rezoning request within 90 days of receiving the application for rezoning. A decision to either approve, approve with modifications and/or conditions, or deny the application for rezoning shall be rendered by the Town Board within 120 days of receiving the application for rezoning and after holding public hearings. The applicant shall be notified of such decision within five business days after the decision is rendered.

## F. Special Provisions Applying to Planned Development Districts

- 1) 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.
- 2) Construction shall start within one year of the date of approval of the rezoning by the Town Board and shall be completed within a mutually acceptable time period. The failure to commence construction within the required time period shall, unless an extension has been granted by the Town Board, automatically render void the rezoning, final development plan approval, and all permits based on such approvals.
- 3) If the project is proposed to be constructed in sections or phases and contains residential uses, all public improvements shall be complete in each phase prior to occupancy of any dwelling unit.
- 4) 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.
- 5) 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.

6) If the Planned Development proposal involves the subdivision of land into parcels for sale to individual owners, the site plan required 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.

7) 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 Planning Board.

## **11.11. Utilities**

### **A. Solar Energy Systems**

#### Statement of Purpose

These Solar Energy Local Regulations are adopted to advance and protect the public health, safety, and welfare of the Town of Corning by creating regulations for the installation and use of solar energy generating systems and equipment. Any Solar Energy System within the Town shall be designed and installed to meet all current applicable codes. The Town needs to ensure that the development of solar energy is done in a careful and responsible manner that does not disproportionately affect residents and takes into consideration any scenic viewsheds and the landscape of the Town of Corning. In addition, this law will help ensure that farmland once used for solar energy systems and later abandoned will be returned to farmable land.

#### Definitions

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

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

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

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

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

**POLLINATOR:** bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**PRIME FARMLAND:** Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

**SOLAR ENERGY EQUIPMENT:** Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment (solar panels) associated with the production of electricity.

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

A. Tier 1 Solar Energy Systems include:

- a. Roof-Mounted Solar Energy Systems with a Kw rating up to 25 kw with no more than 110% of the electricity consumed on the site over the previous 12 months.
- b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW AC or the equivalent energy units (ie 85,000 BTUs) and that generate no more than 110 % of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electricity.

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

#### Applicability

A. The requirements of the Town of Corning Zoning Law shall apply to all Solar Energy Systems permitted, installed, or modified in Town after the effective date of this ordinance, excluding general maintenance and repair.

- B. Solar Energy Systems constructed or installed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to the Zoning Law.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention, Electrical and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town of Corning Code.
- E. The Town of Corning reserves the right to negotiate a Pay In Lieu of Taxes (PILOT) agreement with any developer of a Tier 3 Solar Energy System.

#### General Requirements

- A. A building permit shall be required for installation of all Solar Energy Systems. However, the following Solar Energy Systems do not require a building permit:
  - 1. Non-grid connected solar panels under four (4) sq. ft.,
  - 2. Systems consisting of one or more panels under four (4) sq. ft., not exceeding more than sixteen (16) sq. ft. of lot or roof coverage. It is advised that:
    - Roof be in good condition with no signs of leaking or damage.
    - Imposed load – including wind and snow - be taken into account; property owner understands installation of solar energy system is at their own risk
  - 3. Any device with a solar panel under four (4) square feet.
- B. When reviewing development applications on sites adjacent to parcels containing a Solar Energy System, the Town of Corning will consider the protection of access to sufficient sunlight by the existing panels.
- C. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].

#### Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

##### A. Roof-Mounted Solar Energy Systems

- 1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

- a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
- b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

2) Glare: All Solar Panels shall have anti-reflective coating(s) and shall have been manufactured within the last 3 years at the time of installation.

3) Height: All Roof-Mounted Solar Energy Systems shall be limited to 8" above the existing height of the roof.

4) The location of all equipment shall be located in side or rear yards, not in front yards, and shall be located out of view from neighboring properties as much as possible.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

#### Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall only be permitted as accessory structures on conforming lots consisting of at least 2 acres and shall be permitted as a conditional use and required to undergo site plan review by the Planning Board under the local zoning code or other land use regulations and is subject to the following conditions:

- A. Glare: All Solar Panels shall have anti-reflective coating(s) and shall have been manufactured within the last 3 years at the time of installation.
- B. Setbacks: Tier 2 Solar Energy Systems shall only be located in rear yards and on lots having a residential principal use. Rear and side setbacks shall follow those for district in which site is located.
- C. Height: Tier 2 Solar Energy Systems shall be no higher than 15'.
- D. Screening and Visibility: Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access. The Planning Board may require fencing on a case-by-case basis.
- E. Lot Size: Tier 2 Solar Energy Systems shall be a minimum of two (2) acres.
- F. Removal: Landowner/Developer responsible for complete removal of Solar Energy System(s) after 12 months of not producing energy.
- G. Maintenance: Landowner/Developer must keep Solar Energy Equipment in good, safe working order.

H. Bond: The Planning Board may, at their discretion, require a bond for any Tier 2 Solar Energy Systems. In the case of requiring a decommissioning plan for Tier 2 Solar Energy Systems, Article 11.10.A. section "Permitting Requirements for Tier 3 Solar Energy Systems" sub-section J - "Decommissioning" will be applied to Tier 2 Solar Energy Systems.

I. Site plan and approval. For any Solar Energy System requiring a conditional use permit, site plan approval shall be required. Any site plan application shall include the following information:

- 1) Property lines and physical features, including roads, for the project site
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
- 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic (solar cell), electrical equipment, maintenance and property upkeep, such as including mowing and trimming.
- 9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 10) Prior to the issuance of the building permit or final approval by Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.
- 11) Electronically generated renderings/images of views of the proposed finished site from N, S, E, W viewpoints, as deemed necessary by the Planning Board.

#### Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a conditional use permit in all zoning districts and subject to site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System shall be:

- 1) Reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within 20 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 2) Subject to a public hearing to hear all comments for and against the application. The Town shall have a notice printed in a newspaper of general circulation in at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners within 500 feet of the property at least 20 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
- 3) Referred to the Steuben County Planning Department pursuant to General Municipal Law § 239-m if required.
- 4) Upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.

B. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way. All on-site utility lines installed aboveground shall be located outside agricultural field boundaries where feasible. When aboveground utility lines must cross agricultural fields, taller structures that provide longer spanning distances and poles located on field edges shall be used to the greatest extent practicable. All buried electric cables in cropland, hayland, and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.

C. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction, and disruption of agricultural lands. Vehicular paths are to be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries and in the nonagricultural portions of the site. The width of access roads across or along agricultural fields is to be no wider than the greater of 20 feet or the minimum width required under the State of New York fire access code so as to minimize the loss of agricultural lands. The surface of solar farm access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.

D. Signage. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than [8] square feet and must have yellow background with black letters and be located near pad-mounted transformers/substations. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

E. Glare. All Solar Panels shall have anti-reflective coating(s) and shall have been manufactured within the last 3 years at the time of installation.

F. Lighting. Lighting of the Tier 3 Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

- G. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
- H. The applicant/developer/owner shall provide a quarterly report of power production to the Town through the life of the Solar Energy System.
- I. Soil Sampling: With application materials, a soil sampling plan to obtain representative soil samples in accordance with guidelines from New York State Department of Agriculture and Markets shall be submitted, if applicable.
- J. Decommissioning.
  - 1) Tier 3 (or Tier 2, as required by Planning Board) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town of Corning as set forth in Sub-paragraph 3 herein below.
  - 2) A decommissioning plan (see Article 11.10.B.) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
    - a. The estimated cost of removing the Solar Energy System.
    - b. The time required to decommission and remove the Solar Energy System any ancillary structures.
    - c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System. Site shall be returned to its original condition prior to installation of solar system. This includes removal of any concrete supports, foundations, piers, concrete pads, all electrical wiring, disposal of any components, and the stabilization and re-vegetation of the site.
    - d. Soil shall be taken from originally sampled locations to confirm presence or lack thereof of contaminants or hazardous waste. Any material the Department of Environmental Conservation (DEC) determines hazardous waste or a contaminant shall be mitigated on site.
    - e. Decommissioning plan must be reviewed by the Town of Corning Code Enforcement Officer and Engineer prior to approval of project. All costs associated with the review will be incurred by the applicant/developer.
  - 3) Security.
    - a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System, as the salvage value of the solar energy equipment is speculative. Bond shall be in effect prior to construction.

- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Corning, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
  - c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in “Permitting Requirements for Tier 3 Solar Energy Systems” sub-section J - “Decommissioning” herein.
- 4) Scenic Viewshed Protection. The initial targeted site must be deemed suitable by a review by the Planning Board. This review will include, but not be limited to scenic views as identified by area residents.

K. Site plan and approval. For any Solar Energy System requiring a conditional use permit, site plan approval shall be required. Any site plan application shall include the following information:

- 12) Property lines and physical features, including roads, for the project site
- 13) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
- 14) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 15) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 16) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 17) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 18) Zoning district designation for the parcel(s) of land comprising the project site.
- 19) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic (solar cell), electrical equipment, maintenance and property upkeep, such as including mowing and trimming.
- 20) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 21) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

22) Electronically generated renderings/images of views of the proposed finished site from N, S, E, W viewpoints, as deemed necessary by the Planning Board.

L. Tier 3 Solar Energy System Standards.

- 1) Lot size. Minimum lot size for Tier 3 Solar Energy Systems is five (5) acres.
- 2) Setbacks. Setbacks for Tier 3 Solar Energy Systems shall be as follows:

Front	100ft.
Rear	100ft.
Side	100ft.

- 3) Height. Maximum height shall be 15 feet.

- 4) Lot coverage

- a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

- I. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
    - II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
    - III. Paved access roads servicing the Solar Energy System (impervious road surfaces).
    - IV. Any building accessory to the Solar Energy System located on the same lot.

- b. Lot coverage shall not exceed 50%.

- 5) Fencing Requirements. All mechanical equipment, Solar Energy Systems, and any structure for storage batteries, shall be enclosed by a 7-foot-high, woven wire fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

- 6) Screening and Visibility.

- a. Tier 3 Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable, as determined by the Planning Board, using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

- b. Solar Energy Systems larger than 10 acres shall be required to:

- I. Conduct a visual assessment of the visual impacts of the Tier 3 Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential

significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.

- II. Submit a screening & landscaping plan to show adequate measures, as determined by the Planning Board, to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

At the reasonable discretion of the Town Planning Board, the screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of [1] evergreen tree, at least [6] feet high at time of planting, plus [2] supplemental shrubs all planted within each [10] linear feet of the Solar Energy System so as to minimize visual impacts while minimizing disruption to agricultural lands. The screening shall be planted along property lines. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town.

7) Agricultural Resources. For projects located on agricultural lands:

- 1) Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland shall not exceed 20% of the area on the parcel. Tier 3 Solar Energy Systems located on Farmland of Statewide Importance shall not exceed 40% of the area on the parcel.

AND

Tier 3 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 20% of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.

Design of ground-mounted solar energy systems shall favor concurrent use of the land for livestock grazing or similar sustainable use.

In pasture areas, temporary or permanent fences shall be constructed around work areas to prevent livestock access, consistent with landowner agreements.

- 2) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets. The construction and installation of any energy system shall be designed to minimize any adverse impacts on the productivity of the soil and the farm operation.
- 3) Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators.

To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

- Plant short-growing, low-maintenance, native seed mix underneath and around the panels;
- Plant a diverse pollinator seed mix in between the rows of panels;
- Plant buffers with vegetation that benefit pollinators and early successional species; Plant native shrubs along the property boundary;
- Provide a minimum of 8 native flowers (including species for each bloom period) and native grass species.

M. Ownership Changes. If the owner or operator of the Tier 3 Solar Energy System changes or the owner of the property changes, the conditional use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the conditional use permit, site plan approval, and decommissioning plan. A new owner or operator of the Tier 3 Solar Energy System shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change.

#### Safety

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
- C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

#### Permit Time Frame and Abandonment

- A. The Conditional Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, following the issuance of the site plan approval or the conditional use permit, whichever occurs last. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Planning Board may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 12 months, the approvals shall expire and the decommissioning plan will take effect.
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

#### Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Corning.

#### Severability

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

## B. Decommission Plan - Tier 2 and Tier 3

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at:

[Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by the Town, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the “Facility”).

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months or is abandoned.
3. The system is damaged and will not be repaired or replaced
4. The system has become obsolete and cannot produce power efficiently.

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.
4. Removal of all electrical wiring, buried or above ground and electrical conduits.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

Decommissioning plan must be reviewed by the Town of Corning Planning Board, Town of Corning Code Enforcement Officer and Engineer prior to approval of project. The Town of Corning Code Enforcement Officer and Engineer will oversee the decommissioning process and will deem the decommissioning complete. The completion of the decommissioning will be reviewed by NY State electric and gas, Department of Environmental Conservation (DEC), Steuben County Planning, and NYSERDA. Costs associated with all review and oversight by the Town will be incurred by the applicant/developer.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## C. Wireless Telecommunications

### A. Use and Location

1. Conditional Use. Telecommunication towers and telecommunication facilities are permitted in the following districts in accordance with the regulations in this article:
2. Approvals. No person shall construct or operate a telecommunication tower or telecommunications facility, except those approved prior to the effective date of this article, until they have obtained a visual impact assessment approval and site plan approval from the Planning Board.
3. Preference for higher-intensity use districts. It is the preference of the Town of Corning to locate telecommunication towers and telecommunication facilities in a higher-intensity use district or on higher-intensity use property, provided that there is a technologically and economically feasible and available location. A guideline for the preference, from most favorable to least favorable district/property, shall be as follows:
  - A. Property with an existing structure suitable for co-location.
  - B. Municipal or government-owned property
  - C. R-1
4. Existing structure/co-location. An applicant proposing to share use of an existing tall structure shall be required to submit:
  - A. A completed application for a building permit.
  - B. Documentation of intent from the owner of the existing facility to allow shared use.
  - C. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.
  - D. A completed short environmental assessment form (EAF) and a completed visual EAF addendum.
5. New towers considered; report required. The Planning Board may consider a new telecommunication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers cannot provide coverage to required areas based on propagation maps.
  - A. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.

1. For any proposed new tower site that is not on municipal or government-owned property, the applicant must also document the physical, technical and/or financial reasons why all of the preceding uses/districts of preference are impractical (e.g., if the proposed site is in the R-1 District, the applicant must demonstrate why no municipal or government-owned property are feasible).
- B. The applicant shall design a proposed new telecommunications tower to provide for collocation of at least three carriers or designed so that it can be retrofitted to accommodate a minimum of three carriers. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit and shall state that the applicant will:
  1. Respond within 90 days to a request for information from a potential shared-use applicant.
  2. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
  3. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a prorated share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation and all of the costs adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B. Site Plan Requirements.

1. In addition to the requirements of Article 4, the site plan review for a telecommunications tower shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wires and anchors, antennas, parking and landscaping and fencing, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.
2. Supporting documentation. The applicant shall submit a complete short EAF, a complete visual environmental assessment form (visual EAF addendum) and documentation on the proposed intent and capacity of use as well as a justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.
3. Parcel size and setbacks. All proposed telecommunication towers and telecommunication facilities shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.
  - A. Parcel size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived.

- B. Telecommunication towers and telecommunication facilities shall comply with all existing setback requirements of the underlying zoning district and shall be located with a minimum setback from any property line, building, and/or structure (other than structures associated with the telecommunication facilities) equal to the height of the tower. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
- 2. Visual impact assessment. All new telecommunications towers and telecommunications facilities shall be subject to a visual impact assessment.
- 3. New tower design. Alternative designs shall be considered for new towers, including lattice and single-pole structures. The design of a proposed new tower shall comply with the following:
  - A. Any new tower shall be designed to accommodate future shared use by at least three other telecommunications providers.
  - B. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
  - C. The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state and/or federal law and/or regulation. The Planning Board at their discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.
  - D. The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for and the design of any new tower, at the applicant's expense.
  - E. Accessory structures shall maximize the use of building materials, color and textures designed to blend with the natural surroundings.
  - F. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
- 4. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent practicable. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the approval of the site plan.
- 5. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the telecommunications tower and/or telecommunications facility from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.
- 6. Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

7. **Parking.** Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.
8. **Fencing.** The telecommunications tower and telecommunication facilities shall be adequately enclosed by a fence, the design of which shall be approved by the Planning Board.

#### C. Other Requirements

1. **Removal.** The applicant shall submit to the Planning Board a letter of intent committing the tower owner and his/her successors in interest to notify the Code Enforcement Officer within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months after such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations, shall be a violation of this section and shall be punishable according to Article 17.
2. **Letter of credit or other security.** The applicant and the owner of record of the premises shall be required to execute and file with the Town Clerk of the Town of Corning a letter of credit or other form of security in an amount sufficient for the faithful performance of the terms and conditions of this section, the conditions of the permit or approval issued hereunder, for the observation of all Town local laws or ordinances to cover the maintenance of the tower during its lifetime, and provide for its removal. The amount required shall be at the applicant's expense as determined by the Planning Board, with the advice of the Code Enforcement Officer, Town engineer, and/or Town attorney. In the event of default upon the performance of any of such conditions, the letter of credit or security shall be forfeited to the Town of Corning, which shall be entitled to maintain an action thereon. The letter of credit or security shall remain in full force and effect until the removal of the telecommunications tower and/or telecommunications facility, and site restoration.
3. **Intermunicipal notification for new towers.** In order to keep neighboring municipalities informed, facilitate the possibility of directing an applicant to an existing tall structure or existing telecommunication tower in a neighboring municipality, and assist in the continued development of county 911 services, the Planning Board shall require that:
  - A. An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that it borders, the Steuben County Planning Department, and the Director of Steuben County Emergency Services. Notification shall include the exact location of the proposed tower and a general description of the project including but not limited to the height of the tower and its capacity for future shared use, and a request that such municipality contact the Planning Board within thirty (30) days of the date the notification is received if such municipality believes, in its sole discretion, that another location within its municipality would be available for co-location.
    1. If a municipality contacts the Planning Board within thirty (30) days of the date of the notification regarding a potential co-location opportunity within that municipality, the applicant must demonstrate why such location is not feasible in accordance with Paragraph 6(a), above.

B. Documentation of receipt of this notification shall be submitted to the Planning Board at the time of application. The Planning Board shall not approve a site plan for a new tower prior to thirty (30) days from the date such notification is received.

## **11.12. Industrial Uses**

### Special Regulations for Industrial Uses and all Uses in an Industrial District

A. General Standards: The following general standards are hereby adopted for the control of uses in any Industrial district and no use shall be permitted, established, maintained or conducted therein which shall cause or be likely to cause:

1. 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.
2. Noise levels greater than 55 d.b.a. measured at the boundaries of the lot occupied by such use causing the same.
3. Any pollution by discharges of any effluent whatsoever into any watercourse, open ditch, or land surface.
4. 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.
5. Storage or stocking of any waste materials whatsoever.
6. Glare, objectionably high light levels, or vibration perceptible beyond the lot lines whereon such use is conducted.
7. Hazard to person or property by reason of fire, explosion, radiation, or other cause.
8. Any other nuisance harmful to person or property.

B. 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:

2. 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.
3. 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.
4. 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 well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.

5. **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.
6. **Off-Street Parking and Loading:** Refer to Articles 7.4 and 7.5.\_\_\_\_
7. **Signs:** Refer to Article 5.
8. **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 Article 6.\_\_\_\_
9. **Utilities:** All water and sewer facilities shall be designed and installed according to NYS DOH, DEC and Town standards.
10. **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.

**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.

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

### **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 physically extended or enlarged. Residences in the C and C-LI districts existing at the time of adoption of this ordinance may, however, be physically extended or enlarged as long as they conform to the table of permitted uses and bulk and density table for that district, as well as conform to all floodplain requirements if located in any flood zone.

#### **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 has not been active and continuous for a contiguous twenty-four (24) months shall not thereafter be used for a non-conforming use.

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

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

#### **12.3. Change to Other Non-Conforming Use.**

A non-conforming use of a building, structure, or land may not be changed to another non-conforming use.

#### **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.

#### **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 considered 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 40 feet at the required setback line if it is to be used for residential purposes.
3. The following minimum yard dimensions are maintained for all uses:

Side Yards: 20% of lot width; no less than 8'

Rear Yards: 15% of depth; no less than 8'

Front Yards: Not less than 25'

When the street right-of-way width is not known, the front yard setback shall be calculated from the edge of pavement.

4. No accessory structure shall be located in the front setback area.
5. All other bulk requirements for that district are complied with.

B. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one (1) single family dwelling.

**12.6. Reduction in Lot Area.**

A non-conforming lot shall not be reduced in area. The area of a non-conforming lot may be increased so as to create a less non-conforming lot area.

## **ARTICLE 13. ENVIRONMENTAL REGULATIONS**

### **13.1. 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 guidelines allow 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.

### **13.2. 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 flood- plain, 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 ensure 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.

### **13.3. Flood Damage Prevention**

#### **A. STATUTORY AUTHORIZATION AND PURPOSE**

##### **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 ordinance is adopted.

##### **2. STATEMENT OF PURPOSE**

It is the purpose of this ordinance 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.

### **3. OBJECTIVES**

The objectives of this ordinance 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.

### **B. DEFINITIONS**

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

**"Accessory Structure"** is a structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

**"Appeal"** means a request for a review of the Local Administrator's interpretation of any provision of this ordinance 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 ordinance, 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 (i) 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 (ii) 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.

**"Encroachment"** means any development in a riverine floodplain with the potential to obstruct or divert flood flows.

**"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 determination 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. This term includes dry floodproofing, in which a structure is watertight with walls substantially impermeable to the passage of water.

**"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:

(i) by an approved state program as determined by the Secretary of the Interior or

(ii) 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 ordinance 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 ordinance.

**"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 D.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 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 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 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 ordinance which permits construction or use in a manner that would otherwise be prohibited by this ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

## C. GENERAL PROVISIONS

### 1. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Corning, Steuben County.

## **2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard for the Town of Corning, Community Number 360773, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (multiple panels).
- (2) Flood Insurance Rate Map Panel Numbers:  
Index No. 360773-IND0A, whose effective date is September 27, 2002;  
Panel No. 360773-0010C, whose effective date is September 27, 1991;  
Panel No. 360773-0015D, whose effective date is September 27, 2002; and  
Panel No. 360773-0025C, whose effective date is September 27, 1991.
- (3) 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 ordinance. The Flood Insurance Study and/or maps are on file at: Corning Town Hall, 20 South Maple Street, Corning, NY 14830.

## **3. INTERPRETATION AND CONFLICT WITH OTHER LAWS**

This ordinance includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or laws, the most restrictive, or that imposing the higher standards, shall govern.

## **4. SEVERABILITY**

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

## **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 ordinance and any other applicable regulations. Any infraction of the provisions of this ordinance 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 ordinance 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 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 ordinance for which the developer and/or owner has

not applied for and received an approved variance under Section F will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

## **6. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance 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 ordinance 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 ordinance 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 ordinance or any administrative decision lawfully made there under.

## **D. ADMINISTRATION**

### **1. DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this ordinance by granting or denying floodplain development permits in accordance with its provisions.

### **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 C.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; and the boundaries of the area of special flood hazard and regulatory floodway in relation to the above features.

The requirements for floodplain development permits apply to projects undertaken by any private entity, county, city, town, village, school district, or public improvement district. Development activities by the Town of Corning shall comply with the standards specified in this ordinance. Federal actions and New York State actions are not subject to regulation under this ordinance.

#### **b. FEES**

All applications for a floodplain development permit shall be accompanied by an application fee as stated in the Town's fee schedule. 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.

### **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 residential structure to be located in an area of special flood hazard. 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, of the lowest floor (including basement or cellar) of any new or substantially improved non-residential 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.
- (3) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be dry 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.
- (4) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Article 13.3 Section E.2.c UTILITIES.
- (5) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the dry floodproofing criteria in Article 13.3 Section E.4, NON-RESIDENTIAL STRUCTURES.
- (6) 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 C.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.
- (7) 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.
- (8) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data developed in accordance with accepted hydrologic and hydraulic engineering practices shall be provided by the permit applicant for (1) 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 if any development site is located within an area of special flood hazard or (2) proposed residential structures for which a base flood elevation is not available from a federal, state or other source. Determinations shall be undertaken by a registered design professional who shall document that the technical methods

used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.

- (9) Documentation by a licensed land surveyor or professional engineer of Flood Insurance Rate Map features (flood zone, floodway, and base flood elevation) at the location of the proposed development, if required by the Local Administrator.
- (10) A technical analysis of the impact of any proposed encroachment on the base flood elevation or the information and fees required for a map revision, as specified in Section E.1.b, ENCROACHMENTS.

#### **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 issuing a floodplain development permit:

- (1) Determine whether any portion of the proposed development is located within an area of special flood hazard or a regulatory floodway.
- (2) If the site for any new or substantially improved structure is partially or completely within Zones A1-A30, AE, AH, or Zone A if base flood elevation data are available, determine the base flood elevation applicable to that structure.
- (3) Review all applications for completeness, particularly with the requirements of subsection D.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (4) 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 E, CONSTRUCTION STANDARDS and, in particular, sub-section E.1.a SUBDIVISION AND DEVELOPMENT PROPOSALS.
- (5) 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 E, 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.

- (6) 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 obtain, 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 D.3(8), 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.
- (3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in Section C.2, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

**c. ALTERATION OF WATERCOURSES**

- (1) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Administrator, 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 dry 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 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) For new and substantially improved structures elevated above the highest adjacent grade in compliance with Section E, CONSTRUCTION STANDARDS, the Local Administrator shall require documentation of natural grade at the building site prior to any grading or placement of fill.
- (3) 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 C.5 of this ordinance.
- (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 C.5 of this ordinance.

**g. CERTIFICATE OF COMPLIANCE**

- (1) In areas of special flood hazard, as determined by documents enumerated in Section C.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 ordinance.
- (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 D.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 sub-sections D.4.d(1) and D.4.d(2), and whether or not the structures contain a basement;

- (3) Floodproofing certificates required pursuant to sub-section D.4.d(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section F, VARIANCE PROCEDURES;
- (5) Notices required under sub-section D.4.c, ALTERATION OF WATERCOURSES;
- (6) Base flood elevations developed pursuant to sub-section D.3(8) and supporting technical analysis; and
- (7) Documentation demonstrating compliance with Section E.1.b, ENCROACHMENTS.

## **E. CONSTRUCTION STANDARDS**

### **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 C.2. When the proposed development is located in more than one flood hazard area, the provisions associated with the most restrictive flood hazard area shall apply.

#### **a. SUBDIVISION AND DEVELOPMENT 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.
- (4) Proposed development shall not result in physical damage to any other property (e.g., stream bank erosion or increased flood velocities). If requested by the Local Administrator, the applicant shall provide a technical analysis, by a licensed professional engineer, demonstrating that this condition has been met.
- (5) Proposed development shall be designed, located, and constructed so as to offer the minimum resistance to the flow of water and shall be designed to have a minimum effect upon the height of flood water.
- (6) Any equipment or materials located in a special flood hazard area shall be elevated, anchored, and floodproofed as necessary to prevent flotation, flood damage, and the release of hazardous substances.
- (7) No alteration or relocation of a watercourse shall be permitted unless:

- (i) a technical evaluation by a licensed professional engineer demonstrates that the altered or relocated segment will provide conveyance equal to or greater than that of the original stream segment and will not result in physical damage to any other property;
- (ii) if warranted, a conditional revision of the Flood Insurance Rate Map is obtained from the Federal Emergency Management Agency, with the applicant providing the necessary data, analyses, and mapping and reimbursing the Town of Corning for all fees and other costs in relation to the application; and
- (iii) the applicant provides assurance that maintenance will be provided so that the flood carrying capacity of the altered or relocated portion of the watercourse will not be diminished.

## **b. ENCROACHMENTS**

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development that constitutes an encroachment (including fill) shall be permitted unless:
  - (i) 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,
  - (ii) 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 C.2, no new construction, substantial improvements or other development in the floodway that constitutes an encroachment (including fill) shall be permitted unless:
  - (i) a technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
  - (ii) 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.
- (3) Within Zone A in riverine areas, all permit applications for new construction, substantial improvements or other development that constitutes an encroachment (including fill) shall be reviewed as set forth in Section D.4.a(5), Permit Application Review, to determine the

effects of the encroachment on the flood carrying capacity of the stream. The Local Administrator may require submission of additional technical analysis and data necessary to complete the determination.

- (4) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Corning shall as soon as practicable, but not later than six months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

## **2. STANDARDS FOR ALL STRUCTURES**

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 C.2. Any alteration, repair, reconstruction, addition, or improvements to a structure that was built or substantially improved after the adoption of floodplain management regulations shall meet the requirements for new construction. Any alteration, repair, reconstruction, addition, or improvements to an existing structure that constitutes substantial improvement shall require that the entire structure comply with the requirements for substantially improved structures. Any alteration, repair, reconstruction, or improvements to an existing structure that does not constitute new construction or a substantial improvement, shall be elevated and/or floodproofed to the greatest extent practical.

### **a. ANCHORING**

New structures and substantial improvement to structures in areas of special flood hazard, together with equipment servicing those structures, 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 new and substantially improved structures within Zones A1-A30, AE, AO, AH, or A that have unfinished flood-resistant enclosed areas below the lowest floor, including crawl spaces or attached garages, the enclosed area shall be useable solely for parking of vehicles, building access or storage in an area other than a basement. The enclosed area below the lowest floor shall be subject to flooding and 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:
  - (i) a minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) the bottom of all such openings no higher than one foot above the adjacent finished grade and;

(iii) openings not less than three inches in any direction.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters without intervention and that any resulting obstruction to flow be accounted for when determining the net area of the openings. Openings may be installed in doors or windows; however, doors and windows without installed openings do not meet the requirements of this section. 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, hot water heaters, and other service equipment (including ductwork) shall be located at least two feet above the base flood elevation, or at least three feet above the highest adjacent grade for non-residential construction in a Zone A without an available base flood elevation, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components 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. The Local Administrator may require certification of utility floodproofing from a licensed professional engineer or architect;
- (2) New and replacement water supply systems shall be designed and constructed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into 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.

#### **d. STORAGE TANKS**

- (1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood. Fill caps and fittings below the base flood elevation must be tested to be liquid tight. Tank vent openings must be two or more feet above the base flood elevation or three or more feet above natural grade when no base flood elevation data are available.
- (2) Above-ground tanks shall be:

- (i) anchored to prevent floatation, collapse or lateral movement during conditions of the base flood or;
- (ii) installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in Section C.2 plus two feet or at least three feet above natural grade when no base flood elevation data are available.

### **3. RESIDENTIAL STRUCTURES**

#### **a. ELEVATION**

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in Article 13.3 sub-sections E.1.a, SUBDIVISION AND DEVELOPMENT PROPOSALS, and E.1.b, ENCROACHMENTS, and Section E.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within areas of special flood hazard, new construction and substantial improvements shall have the top of the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, if the base flood elevation data are not specified, a base flood elevation shall be determined by either of the following:
  - (i) obtain and reasonably use data available from a federal, state or other source; or
  - (ii) determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a registered design professional who shall document that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.
- (3) Within Zone AO, new construction and substantial improvements shall have the top of 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 C.2 plus two feet of freeboard, or not less than 3 feet if a depth number is not specified.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

### **4. NON-RESIDENTIAL STRUCTURES**

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in Article 13.3 sub-sections E.1.a, SUBDIVISION AND DEVELOPMENT PROPOSALS, and E.1.b, ENCROACHMENTS, and Section E.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 shall either:

- (i) have the top of the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
- (ii) be dry floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, 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:

- (i) have the top of 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 plus two feet (at least three feet if no depth number is specified), or
- (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section E.4(1)(ii).

(3) If the structure is to be dry floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. 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 E.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 top of the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

## **5. MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

The following standards in addition to the standards in Section E.1, GENERAL STANDARDS, and Section E.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, AO, AH, and A shall either:

- (i) be on site fewer than 180 consecutive days,
- (ii) be fully licensed and ready for highway use, or
- (iii) meet the requirements for manufactured homes in paragraphs E.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, AH and Zone A shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two feet 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 AO, the bottom of the frame of the manufactured home chassis 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 C.2 plus two feet (at least three feet if no depth number is specified).
- (4) The foundation and anchorage of manufactured homes to be located in identified floodways shall be designed and constructed in accordance with Section E.2.a, ANCHORING.

## **6. ACCESSORY STRUCTURES INCLUDING DETACHED GARAGES**

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section C.2.

- (1) Within Zones A1-A30, AE, AO, AH, A, accessory structures must meet the standards of Section E.2.a, ANCHORING,
- (2) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, areas below two feet above the base flood elevation shall be constructed using methods and practices that minimize flood damage.
- (3) Within Zones AO and A, if base flood elevation data are not available, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.
- (4) Structures must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters in accordance with Section E.2.b(3).
- (5) Utilities must meet the requirements of Section E.2.c, UTILITIES.

## **F. VARIANCE PROCEDURE**

### **1. APPEALS BOARD**

- (1) The Zoning Board of Appeals as established by the Town of Corning shall hear and decide appeals and requests for variances from the requirements of this ordinance.

- (2) The Zoning Board of 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 ordinance.
- (3) Those aggrieved by the decision of the Zoning Board of 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 Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance and:
  - (i) the danger that materials may be swept onto other lands to the injury of others;
  - (ii) the danger to life and property due to flooding or erosion damage;
  - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) the importance of the services provided by the proposed facility to the community;
  - (v) the necessity to the facility of a waterfront location, where applicable;
  - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (vii) the compatibility of the proposed use with existing and anticipated development;
  - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - (xi) 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
  - (xii) 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 F.1(4) and the purposes of this ordinance, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (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.

## 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 (i-xii) in Section F.1(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:
  - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
  - (ii) 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:
  - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
  - (ii) 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:
  - (i) a showing of good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (iii) 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.
- (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:
  - (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section D.4.h of this ordinance.

## **ARTICLE 14. ZONING BOARD OF APPEALS**

### **14.0. Establishment and Duties**

Pursuant to Town Law, the Town Board shall appoint a Board of Zoning Appeals consisting of five (5), shall designate its chairman, and also provide for such expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

### **14.1. Term of Appointment**

Of the members of the Zoning Board of Appeals first appointed, one (1) shall hold office for the term of one (1) year, one for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years, one for the term of five (5) years, from and after their appointment. The appointment of a chairman shall be for a term of one (1) year.

Their successor shall be appointed for the term of five (5) 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.

### **14.2. Staff**

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

### **14.3. Rules of Procedure, By-Laws, Forms**

The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Zoning Law. Such rules, by-laws and forms shall not be in conflict with, nor have the effect of, waiving any provisions of this Zoning Law or any other zoning law or Law 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.

### **14.4. Meetings**

All meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as such Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Zoning Board of Appeals shall be open to the public. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to decide in favor of an applicant in any matter upon which they are required to pass under any Law to effect any variation in the Zoning Law.

### **14.5. Minutes.**

The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every

amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.

#### **14.6. Referrals to the Zoning Board of Appeals**

Up to 45 days before the date of hearing held in connection with any appeal or application submitted to the Zoning Board of Appeals, the Code Enforcement Officer shall transmit to the Zoning Board of Appeals a copy of said appeal or application. The Planning Board will submit to the Zoning Board of Appeals its advisory opinion prior to the date of said hearing.

#### **14.7. Public Notice and Hearing**

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

- 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 Zoning Board of Appeals, and to the Zoning Board of Appeals, not less than five days prior to such hearing.
- C. By giving written notice of hearing to any required Municipal, Town, Metropolitan, Regional, State or Federal agency in the manner prescribed by Law.

#### **14.8. Appeals**

The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision, or determination made by the Code Enforcement Officer under this Zoning Law 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 Zoning Board of Appeals in writing, in a form required by such Board of Trustees, 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 Zoning Board of Appeals all the paper constituting the record upon which the action appealed from was taken.
- C. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent or by attorney. The Zoning Board of 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 Zoning Board of Appeals, after Notice of Appeal shall have been filed with them, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.

E. Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the power of the Code Enforcement Officer. If the action by the Zoning Board of Appeals is to reverse the action of the Code Enforcement Officer in whole, the filing fee shall be refundable to the appellant.

#### **14.9. Variances**

- i. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Law, the Zoning Board of Appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of such Law relating to the use, construction, structural changes in, equipment or alteration of buildings or structures, or the use of land, so that the spirit of the Law shall be observed, public safety and welfare secured and substantial justice done. 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.
- ii. All applications for variances shall be filed with the Secretary to the Zoning Board of Appeals in writing, shall be made in a form required by the Zoning Board of Appeals, and shall be accompanied by 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.
- iii. Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.

#### **14.10. 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 of Trustees 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 of Appeals 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.

#### **14.11. Use Variance**

A use variance is requested when the applicant desires to utilize the land for a use not allowed by the Zoning Law in the district. The established rule is that the Appeals Board of Trustees 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 their 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 Law 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.

#### **14.12. Hardship Variance - Mobile Homes.**

In those instances in which the Zoning Board of 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.

**14.13. Relief from Decisions.**

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

## **ARTICLE 15. AMENDMENTS**

### **15.0. Procedure.**

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this Zoning Law 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.

### **15.1. Advisory Report by Planning Board.**

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report in writing its recommendations thereon to the Town Board of Trustees, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 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 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.

### **15.2. 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, Town, Regional, Metropolitan, State or Federal agency in a manner prescribed by law.

### **15.3. Mandated County Referral**

Should any proposed amendment consist of or include any of the following conditions, the Town Clerk shall, prior to final action, refer the proposed amendment to the County Planning Department in accordance with Section 239-m, of Article 12-B of the General Municipal Law:

- A. Any change in the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from:
  1. The boundary of any municipality.
  2. The boundary of any existing or proposed county or state park or other recreation area.
  3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway.
  4. The right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines.

5. The boundary of any existing or proposed county or state owned land on which a public building or institution is situated.

**15.4. 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.

**15.5. 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.

**15.6. 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.

**15.7. Filing with the Secretary of State.**

Every amendment to this ordinance shall be filed with the Secretary of State of New York State and become effective five (5) days thereafter.

## **ARTICLE 16. CODE ENFORCEMENT & BUILDING PERMITS**

### **16.0. Enforcement.**

This Law shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Board. No building permit shall be issued by them except where all the provisions of this Law have been complied with. They shall keep the Planning Board advised of all matters pertaining to the enforcement of this Law 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 Law 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 Criminal Procedure Law.

### **16.1. 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 Zoning Board of 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 Law. Further, the Code Enforcement Officer shall be satisfied that issuance of a building permit is not in violation of the Town's Land Subdivision Law and/or Zoning Law.
- B. There shall be submitted with all applications for building permits two (2) 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 Law.
- C. One (1) 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 proposed work which does not conform to all of the 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 the reasons therefor, to be transmitted to the applicant in writing.

**16.2. Certificate of Occupancy or Compliance.**

- 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 used by the Code Enforcement Officer in accordance with the provisions of this Law.
- 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 Law.

## **ARTICLE 17. REMEDIES**

### **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 Law; and any person, firm, company, or corporation who shall assist in the commission of any violation of this Law or any conditions imposed by the Town Board or the Planning Board; or who shall build, contrary to the plans or specifications submitted to the Code Enforcement Officer and by him certified as complying with this Law 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.

### **17.1. Alternative Penalty.**

In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed by the Town Board of Trustees, Code Enforcement Officer, or Planning Board, 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**

### **18.0. Schedule**

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

## **ARTICLE 19. EFFECTIVE DATE**

This ordinance shall be filed with the Secretary of State and shall become effective five (5) days thereafter.

## **APPENDICES**

## Great Performers in the Landscape: Native Trees and Shrubs

Donald J. Leopold – SUNY-ESF

March 18, 2007

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### SHRUBS

bottlebrush buckeye – *Aesculus parviflora*  
\*devil's-walkingstick – *Aralia spinosa*  
\*bearberry – *Arctostaphylos uva-ursi*  
\*red chokeberry – *Aronia arbutifolia*  
\*buttonbush – *Cephalanthus occidentalis*  
fringetree – *Chionanthus virginicus*  
\*summersweet clethra – *Clethra alnifolia*  
\*bunchberry – *Cornus canadensis*  
\*roundleaf dogwood – *Cornus rugosa*  
\*red-osier dogwood – *Cornus sericea*  
dwarf fothergilla – *Fothergilla gardenii*  
\*teaberry – *Gaultheria procumbens*  
\*witch-hazel – *Hamamelis virginiana*  
\*smooth hydrangea – *Hydrangea arborescens*  
oakleaf hydrangea – *Hydrangea quercifolia*  
\*inkberry – *Ilex glabra*  
\*winterberry – *Ilex verticillata*  
Virginia sweet spire – *Itea virginica*  
\*horizontal juniper – *Juniperus horizontalis*  
\*mountain-laurel – *Kalmia latifolia*  
\*spicebush – *Lindera benzoin*  
\*northern bayberry – *Myrica pensylvanica*  
\*eastern ninebark – *Physocarpus opulifolius*  
\*chokeberry – *Prunus virginiana*  
\*hoptree – *Ptelea trifoliata*  
\*flame azalea – *Rhododendron calendulaceum*  
\*rosebay rhododendron – *Rhododendron maximum*  
\*fragrant sumac – *Rhus aromatica*  
\*winged sumac – *Rhus copallina*  
\*highbush blueberry – *Vaccinium corymbosum*  
\*witherod viburnum – *Viburnum cassinoides*

### TREES

\*black maple – *Acer nigrum*  
\*striped maple – *Acer pensylvanicum*  
\*red maple – *Acer rubrum*  
\*sugar maple – *Acer saccharum*  
\*downy serviceberry – *Amelanchier arborea*  
\*pawpaw – *Asimina triloba*  
\*river birch – *Betula nigra*  
\*shagbark hickory – *Carya ovata*  
eastern redbud – *Cercis canadensis*

yellowwood – *Cladrastis kentukea*  
\*alternate-leaf dogwood – *Cornus alternifolia*  
\*cockspur hawthorn – *Crataegus crus-galli*  
Carolina silverbell – *Halesia carolina*  
\*eastern redcedar – *Juniperus virginiana*  
\*sweetgum – *Liquidambar styraciflua*  
\*yellow-poplar – *Liriodendron tulipifera*  
bigleaf magnolia – *Magnolia macrophylla*  
\*sweetbay magnolia – *Magnolia virginiana*  
sourwood – *Oxydendrum arboreum*  
\*eastern white pine – *Pinus strobus*  
\*pin cherry – *Prunus pensylvanica*  
\*white oak – *Quercus alba*  
\*swamp white oak – *Quercus bicolor*  
shingle oak – *Quercus imbricaria*  
\*northern red oak – *Quercus rubra*  
\*sassafras – *Sassafras albidum*  
baldcypress – *Taxodium distichum*  
\*northern white-cedar – *Thuja occidentalis*  
\*eastern hemlock – *Tsuga canadensis*  
Carolina hemlock – *Tsuga caroliniana*  
\*nannyberry – *Viburnum lentago*  
\*blackhaw – *Viburnum prunifolium*

\*native to NYS; county distributions can be found at:  
<http://atlas.nyflora.org/>