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DEPARTMENT OF STATE

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SECRETARY OF STATE

December 14, 2022

Town of Vienna
PO Box 250
North Bay NY 13123

RE: Town of Vienna, Local Law 1 2022, filed on December 6 2022

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**

TOWN OF VIENNA
Oneida County, New York

ZONING LAW

Adopted by Local Law No. 1 of 1991 on 30 September 1991
Effective 18 September 1991

Revision A – Local Law No. 2 of 1994 Adopted 24 March 1994
Effective 16 March 1994

Revision B – Local Law No. 1 of 1997 Adopted 16 May 1997

Revision C – Local Law No. 1 of 1998
Effective 13 July 1998 (Airstrips in Commercial Zone)

Revision D – Local Law No. 5 of 1998 Adopted 5 January 1999
(Definition – Adult Book Stores)

Revision E – Local Law No. 1 of 1999 Adopted 4 August 1999
Effective 10 January 2000 (Telecommunications Towers)

Revision F – Local Law No. 1 of 2000 Adopted 11 April 2000
(Mobile Home Law)

Revision G – Local Law No. 1 of 2001 Adopted 11 July 2001
Moratorium on Junk Yard Storage Facilities

Revision H – Local Law No. 2 of 2004 Adopted 30 June 2004
Uniform Fire Prevention and Building Code – Sections 2,6 and 10 and the Addition of New Section Entitled Remedies

Revision I – Local Law No. 2 of 2006 Adopted 7 September 2006
Change of Zoning Map

Revision J – Local Law No. 1 of 2007 Adopted 21 March 2007
Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code

Revision K – Local Law No. 2 of 2007 Adopted 25 July 2007
Administration and Enforcement of the Property Maintenance Code of the State of New York

Revision L – Local Law No. 6 of 2008 Adopted 16 July 2008
Town of Vienna Sustainable, Independent Vienna

Revision M – Local Law No. 9 of 2008 Adopted 15 October 2008
Amendment to Zoning Law Definition of Fence

Revision N – Local Law No. 13 of 2008 Adopted 19 November 2008
Addition of Section 595 – Accessory Uses and Structures Setbacks

Revision O – Local Law No. Local Law No. 7 of 2013 Adopted 4 September 2013
Changes to Zoning Map, Various Amendments

Revision P – Local Law No. 3 of 2016 Adopted 20 July 2016
Addition: Solar Energy Collection System and Exploration for or
Extraction of Natural Gas and/or Petroleum
Various Amendments

Revision Q – Local Law No. 2 of 2017
Changes to Dimensional Requirements in the Shore Residential Zone

Revision R – Local Law No. 3 of 2018 Adopted 5 October 2018
Various Amendments

Revision S – Local Law 1 of 2022 Adopted 2 November 2022
Changes to Solar Energy Collection Systems and Other Various Amendments

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ARTICLE 1. INTRODUCTION

Section 110. Enacting Clause

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Vienna hereby adopts and enacts the following law.

Section 120. Title

This law shall be known as "The Town of Vienna Zoning Law."

Section 125. Record of Revisions

- Adopted by Local Law No. 1 of 1991 on 30 September 1991
- Revision A – Local Law No. 2 of 1994 Adopted 24 March 1994
- Revision B – Local Law No. 1 of 1997 Adopted 16 May 1997
- Revision C – Local Law No. 1 of 1998 Effective 13 July 1998 (Airstrips in Commercial Zone)
- Revision D – Local Law No. 5 of 1998 Adopted 5 January 1999 (Definition – Adult Book Store)
- Revision E – Local Law No. 1 of 1999 Adopted 4 August 1999 (Telecommunication Towers)
- Revision F – Local Law No. 1 of 2000 Adopted 11 April 2000 (Mobile Homes)
- Revision G – Local Law No. 1 of 2001 Adopted 11 July 2001 (Moratorium on Junk Yard Storage Facilities)
- Revision H – Local Law No. 2 of 2004 Adopted 30 June 2004 (Uniform Fire Prevention and Building Code, Sections 2, 6, 10, Remedies)
- Revision I – Local Law No. 2 of 2006 Adopted 7 September 2006 (Zoning Map)
- Revision J – Local Law No. 1 of 2007 Adopted 21 March 2007 (Uniform Fire Prevention and Building Code)
- Revision K – Local Law No. 2 of 2007 Adopted 25 July 2007 (Property Maintenance Code)
- Revision L – Local Law No. 6 of 2008 Adopted 16 July 2008 (Sustainable Independent Vienna)
- Revision M – Local Law No. 9 of 2008 Adopted 15 October 2008 (Definition – Fence)
- Revision N – Local Law No. 13 of 2008 Adopted 19 November 2008 (Accessory Uses and Structures Setbacks)
- Revision O – Local Law No. 7 of 2013 Adopted 4 September 2013 (Changes to Zoning Map and Various Amendments)
- Revision P – Local Law No. 3 of 2016 Adopted 20 July 2016 (Adoption of Solar Energy Collection System and Exploration For or Extraction of Natural Gas and/or Petroleum and Various Amendments)
- Revision Q – Local Law No. 2 of 2017 Adopted 4 October 2017 (Changes to Dimensional Requirements in the Shore Residential Zone)
- Revision R – Local Law No. 3 of 2018 Adopted 5 October 2018 (Various Amendments)
- Revision S – Local Law No. x of 202x Adopted ____ (Changes to Solar Energy Collection Systems and Other Various Amendments)

Section 130. Purpose

The purposes of this zoning law are to provide for orderly growth in accordance with a comprehensive plan; to lessen congestion in the streets; to secure safety from fire, flood and other dangers; to provide adequate light and air; to make provision for, so far as conditions may permit, the accommodation of alternative

energy systems; 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; and to promote the health, safety, and general welfare of the public.

This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Vienna.

Section 140. Applicability

This law shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

ARTICLE 2. DEFINITIONS

Section 210. General

- A. Except where specifically defined herein, all words used in this law shall carry their customary meanings. Words in the present tense include the future, words in the singular include the plural and the plural the singular, and the word "*shall*" is intended to be mandatory.
- B. Any question as to the precise meaning of any word used in this law may be appealed to the Zoning Board of Appeals and clarified under their powers of interpretation.

Section 220. Specific Definitions

Specifically defined words are as follows:

Accessory Apartment: A dwelling unit located on the same lot as a single-family dwelling, located within an accessory building. Such a dwelling is an accessory use to the single-family dwelling.

Accessory Building: A building which is an accessory structure.

Accessory Structure: A structure incidental and subordinate to the principal structure and located on the same lot with such principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

Accessory Use: A use incidental and subordinate to the principal use and located on the same lot with such principal use.

Acre: A measure of land area containing 43,560 square feet.

Adult Entertainment Use: An establishment of business whether retail or wholesale, having as a substantial or significant portion of its stock in trade, including, but not limited to books, sexual paraphernalia, magazines and/or other periodicals, films or viewing materials for sale or viewing on premises, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, and which establishment is customarily and usually not open to the public generally, but excludes any minor by reason of age.

Agricultural Use: The production, keeping or maintenance, for sale, lease or personal use, of plants and animals.

Agricultural Structure, Large: A structure used for agricultural purposes of 500 square feet or greater of ground coverage.

Agricultural Structure, Small: A structure used for agricultural purposes of less than 500 square feet of ground coverage.

Airstrip: The term airstrip and airport shall be considered interchangeable and are defined as any landing area used regularly by aircraft for receiving or discharging passengers or cargo, or for the landing and takeoff of aircraft being used for personal, private, or training purposes. For the purpose of this law, the term "Airstrip" refers to all airports, airstrips, heliports, seaplane bases, balloon ports, glider ports and other such general aviation facilities.

Airstrip, Personal Use: An airstrip used exclusively by the airstrip owner and the owner's spouse, sons, and daughters.

Airstrip, Private Use: An airstrip used exclusively by the airstrip owner and persons authorized by such owner prior to their use.

Airstrip, Public Use: An airport available for aviation use by the public without a requirement for the prior approval of the owner or operator thereof, except as may be required by Federal Law or regulation.

Antenna, Accessory Facility: An accessory facility serving a telecommunications tower, subordinate in area, extent and purpose to the telecommunication tower, and located on the same lot as the tower. Examples of such facilities include transmission equipment and storage sheds.

Apartment, Accessory: See *Accessory Apartment*

Auction House: A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the objects in competition with each other.

Biofuel: Flammable hydrocarbons derived from plant material or animal waste and used as fuel.

Building: Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

Building, Accessory: See *Accessory Building*

Building Footprint: The area encompassed by a building's outer wall at ground level.

Building Height: The vertical distance of a building measured from the mean of the highest and lowest exposed part of the foundation to the highest point of the roof.

Building Permit: A permit required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement,

removal, relocation or demolition of any building or structure or any portion thereof, the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit, and non-exempt solar systems.

Bulk Storage: The storage of chemicals, petroleum products and other materials in containers such as tank farms for subsequent distribution or resale to distributors or retail dealers or outlets.

Campground: Land on which five or more campsites are located, established, or maintained as a licensed business for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.

Camping Unit: Any tent, lean-to, cabin or similar structure, houseboat, or recreational camping vehicle, excluding mobile homes, established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

Campsite: Any area of land within a campground intended for the exclusive occupancy of a single camping unit.

Certificate of Compliance: A certification by the Zoning Officer that a lot, structure, or use of land has been developed in conformity with an approved zoning permit or special use permit and/or complies with the provisions of this law, and may be occupied and used for the purposes specified in such zoning permit and/or certificate of compliance.

Child Care Facility: A commercial establishment for care, supervision and other services to children and where fees, tuition or other forms of compensation are charged and where such care is provided on a regular basis by someone other than a parent, step-parent, guardian or relative within the third degree of consanguinity of the parents of the child as regulated by New York State.

Classified Stream: A stream protected under Article 15 of the Environmental Conservation Law.

Classified Waterbody: A waterbody protected under Article 15 of the Environmental Conservation Law.

Clear Zone: A defined rectangular area beyond the end of the runway with a width equal to the primary surface, which is cleared, graded and free of obstructions to enhance safety.

Cluster Development: A form of development for single-family residential subdivisions that permits a reduction in lot area requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

Commercial Sales and Service: Retail sales and service including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, and other large items stored outdoors for retail sales; institutional residences or care or confinement facilities; outdoor storage facilities and self-storage facilities, and parking facilities. This definition shall not include *Retail Sales and Service, Large* and *Retail Sales and Service, Small*.

Commercial Transient Lodging: An establishment with more than six bedrooms providing temporary lodging for overnight guests for a fee. Includes motels, hotels, bed and breakfasts and cottages, etc. with more than six bedrooms.

Commercial Use: Activity carried out for financial gain.

Commercial Wind Power Generating Facility: Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of wind power generating facilities shall not include individual wind power generating facilities erected and used primarily for private use.

Condominium: A type of multi-family dwelling which is a building or group of buildings in which dwelling units are owned individually and the land/common areas are owned jointly by dwelling unit owners.

Contracting Equipment and Storage: Any area used for the outdoor storage of contracting equipment and building or construction materials.

Coverage: That portion of the lot that is covered by buildings and structures.

Dwelling, Single-family: A detached building used as living quarters by one family, not including manufactured homes.

Dwelling, Two-family: A building used as living quarters by two families living independently of each other.

Dwelling, Multi-family: A building used as living quarters by three or more families living independently of each other such as condominiums, townhouses and apartments.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Essential Facilities: The operation or maintenance by municipal agencies or public utilities of telephone equipment centers; electrical or gas substations; water treatment, storage and transmission facilities; pumping stations; and similar facilities.

Excavation, Major: Any area of land used for the purpose of extracting stone, sand, gravel or soil for sale, as a commercial operation; or any excavation that results in excavated materials being removed from the site other than in conjunction with a permitted construction project on the site.

Family: One or more persons living, sleeping, cooking or eating on the same premises as a single house-keeping unit.

Fence: An artificially constructed barrier, including walls, pillars, gates, or earthen berms, regardless of construction, except those comprised of living plants, that is erected or maintained for the purpose of enclosing, separating, or screening land or structures.

Flag Lot: A lot having the minimum area required for a zone connected to a public road by a narrow driveway access strip of land having less than minimum frontage on that road. Also called a "pipe stem" or "flag pole" lot.

Flood Hazard Area, Special: See *Special Flood Hazard Area*

Gross Leasable Area: The total floor area for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use.

Hazardous and Toxic Materials: Any item or chemical which can cause harm to people, plants, or animals when released by spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment.

Home Based Business: A nonresidential, nonagricultural activity that is conducted for financial gain within a dwelling unit or in a building or structure accessory to a dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes. Home based businesses shall not include motor vehicle repair operations.

Industrial Use: Any use larger than 20,000 square feet involving the act of storing, preparing for treatment, manufacturing, or assembling any article, substance or commodity.

Institutional Care Facility: A facility regulated by New York State providing health care and other services such as nursing, therapy, boarding and lodging to the aged, sick, infirm, handicapped, disabled or convalescent.

Junk: The outdoor storage or deposit of any of the following:

1. Two or more "junk vehicles" as defined in this law;
2. One or more abandoned manufactured homes or recreational camping vehicles;
3. One or more inoperative, partially dismantled or abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
4. Two or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
5. Two or more inoperable pieces of equipment;
6. Five or more tires;
7. Two or more "junk boats" as defined in this law;
8. Collection and storage of any second-hand or used material which, taken together, equal in bulk volume 500 cubic feet or more;
9. Any combination of two or more of any individual items listed in 1. through 8. above.

Junkyard: The outdoor storage or deposit of any of the following:

1. Five or more junk vehicles;
2. Two or more abandoned mobile homes or recreational vehicles;
3. Two or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
4. Five or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
5. Five or more inoperable pieces of equipment;
6. Nine or more tires;
7. Five or more junk boats;
8. Collection and storage of any second-hand or used material which, taken together, equal in bulk volume 2000 cubic feet or more;
9. Any combination of the above that totals five items.

This definition of junkyard shall not be construed to include the on-premise storage and maintenance of motor vehicles, machinery and equipment being actively used in the business of farming, logging or contracting. This definition shall not be construed to include the parking and storage of motor vehicles in connection with a New York State licensed new and/or used car business or a bona fide motor vehicle repair business and the parking of not to exceed ten vehicles in the process of waiting for repairs.

Junk Boat: Any boat or device intended to float on water which meets all of the following conditions:

1. Its registration, if applicable, has expired;
2. It is either abandoned, wrecked, stored unsupported on the ground, discarded, dismantled or partly dismantled;
3. It is not in a condition suitable for use on the water.

With respect to boats not required to be registered, the fact that such boat has remained unused for more than one year and meets conditions 2 and 3 above shall be presumptive evidence that such boat is a junk boat.

Junk Storage Area: The area of any parcel of land intended to be used for the placement or storage of junk.

Junk Vehicle: Any motor vehicle, whether automobile, bus, trailer, truck, tractor, motor home, motorcycle, mini-bike, all terrain vehicle or snowmobile, or any other device originally intended for travel on the public highways, which meets all of the following conditions:

1. Its registration has expired;
2. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled;
3. It is not in any condition for legal use upon the public highway.

With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle.

Land: Any area of the earth's surface, including areas covered by water.

Large Animals: Horses, cows, sheep, goats, llamas, deer, pigs, and similarly sized farm or zoo animals.

Large Manufacturing and Industrial Use: A use larger than 2,000 square feet, engaged in the manufacture of products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding the production of metals, chemicals, and petroleum products from raw materials.

Operating License: Written permission to operate a business for a specified period of time, granted upon approval of a special use permit by the Planning Board, which is renewable upon certification that such business has been operated in compliance with this law.

Lot: A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

Lot Coverage: That portion of the lot that is covered by buildings and structures.

Lot Depth: The greatest distance between the front lot line and the rear lot line measured along a straight line perpendicular to the front lot line.

Lot Frontage: The length of the front lot line measured as a straight line between each end of the front lot line.

Lot Line: A line of record bounding a lot which divides one lot from another lot or from a public or private road or any other public space.

Lot Line, Front: The lot line separating a lot from a public road or private road. On a flag lot, the interior lot line most parallel to and nearest the road from which access is obtained. Where a road right-of-way is not established or is irregularly shaped, the front lot line shall be considered to be a line parallel to and 25 feet from the centerline or the road pavement of county, town and private roads or 35 feet from the centerline of the road pavement of state roads.

Lot Line, Rear: The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet 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.

Lot of Record: A lot for which a valid conveyance has been recorded in the Office of the County Clerk prior to the effective date of the Town of Vienna Subdivision Regulations; or, is either part of a subdivision plat approved by the Planning Board and filed in the County Clerk's office, or was exempt from the Town of Vienna Subdivision Regulations at the time of recording with the County Clerk.

Lot Size: The total area within the lot lines of a lot, excluding any road rights-of-way.

Lot Width: The greatest distance between side lot lines.

Manufacturing: Establishments engaged in the 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.

Manufacturing Use, Large: A use larger than 4,000 square feet and no greater than 20,000 square feet engaged in the manufacture of products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding the production of metals, chemicals, and petroleum products from raw materials.

Manufacturing Use, Small: A use 4,000 square feet or less engaged in the manufacture of products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding the production of metals, chemicals, and petroleum products from raw materials.

Marina: A commercial facility for the storing, servicing, fueling, berthing and/or securing of pleasure boats.

Metes-and-Bounds: A method of describing the boundaries of land by directions and distances from a known point of reference.

Mining: The extraction for commercial purposes of solid minerals, such as gravel, sand and ores.

Manufactured Home: A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities.

A manufactured home shall be construed to remain a manufactured home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. This definition shall not be construed to include factory

manufactured homes known as "modular homes" bearing an insignia issued by the State Fire Prevention and Building Code Council as required in 9 NYCRR 1212.

Manufactured Home Park: Land on which are located, or which is maintained for use by two or more manufactured homes.

Manufactured Home Site: An area of land in a manufactured home park intended for the exclusive occupancy of a single manufactured home.

Motel: An establishment providing commercial transient lodging containing six or more rooms with not less than 25 percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Motor Vehicle Repair Operation: Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

Motorized Vehicle Park: A tract of land with trails for recreational use by all terrain vehicles, motorcycles, snowmobiles, or trucks operated for commercial purposes or as a private club.

Natural Gas: Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

Natural Gas and/or Petroleum Exploration: Geologic or geophysical activities related to the search for Natural Gas, petroleum, or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search for and evaluation of Natural Gas, petroleum, or other subsurface hydrocarbon deposits.

Natural Gas and/or Petroleum Extraction: The digging or drilling of a well for the purposes of exploring for, developing, or producing Natural Gas, petroleum or other subsurface hydrocarbons, including without limitation, any and all forms of shale fracturing.

Natural Gas and/or Petroleum Exploration and Production Materials: Any solid, semi-solid, liquid, semi-liquid or gaseous material used in the exploration or extraction of Natural Gas.

Natural Gas Exploration and/or Petroleum Production Wastes: Any garbage, refuse, cuttings, sludge, flow-back fluids, brine, produced waters, or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling, or extraction of Natural Gas and/or petroleum and any related hydrocarbons, and any natural or non-natural radioactive, carcinogenic, or toxic chemicals or compounds (herein, "Deleterious Substances") used in or for, occurring or arising from, relating to, or produced by any process or operation relating to the exploration for or the extraction or production of, or the processing, treatment, or transportation of, Natural Gas, petroleum, or any related hydrocarbons, regardless of whether such Deleterious Substances have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic," and regardless of whether considered or classified as "waste" or of a below-regulatory concern level. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 C.F.R. § 261.4(b). "Deleterious Substances"

shall also include, but not be limited to, crude oil and Natural Gas drilling fluids and their exploration, drilling, production, and processing wastes, such as, but not limited to fracturing fluids, brine, produced water, flowback water, waste oils, waste emulsified oils, mud and drilling or lubricating mud, contaminated soils, drill cuttings, fracture fluid holding pit or tank contents, sediments or residues, or any of the foregoing whenever transformed into any other liquid, solid or gaseous state by any process.

Natural Gas and/or Petroleum Support Activities: The construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a Natural Gas or petroleum storage facility, a brine or fracturing/flowback water pit or other enclosed or semi-enclosed container or construct, or a Natural Gas or petroleum gathering line, venting station, compressor, dehydrator, or other appurtenance associated with the exploration or extraction of Natural Gas, petroleum, or any related hydrocarbons.

New York State Unified Solar Permit: A combined building and electrical and zoning permit for a roof mounted and grid tied solar electric system, consistent in format, specifications and general process, as modified and adopted, with those of other municipalities that have adopted the New York State expedited solar permit process.

Nonconformity: A lot of record, structure, or use of land which lawfully existed prior to the enactment of this law, or conformed to the regulations of the zone in which it was located prior to the amendment of this law; which does not conform to the regulations of the zone in which it is located following the enactment or amendment of this law.

Office Building, Large: A building of over 2,000 square feet of gross floor area used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers.

Office Building, Small: A building of 2,000 square feet or less of gross floor area used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

Outdoor Recreation and Entertainment Facility: An outdoor facility operated as a business and open to the public for a fee, including, but not limited to, concert facilities, golf courses, golf driving ranges, paintball facilities, archery or shooting ranges.

Outdoor Storage Facility: Storage of three or more of any combination of automobiles, boats, recreational camping vehicles, or trailers not owned by a resident of the property on which they are stored.

Overlay Zone: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Park Model: A recreational camping vehicle that as originally manufactured must be connected to site power in order to power installed appliances. Designed for temporary or seasonal living, park model recreational vehicles have a blue and gold Recreational Vehicle Industry Association (RVIA) seal (older models have a green Recreational Park Trailer Industry Association (RPTIA) seal) affixed to the right of the main door of the unit.

Passive Solar Collector: Any structure, building material, or property use whose specific design allows it to collect solar electric or solar thermal energy as a secondary function to its primary purpose.

Permit, Special Use: See *Special Use Permit*

Permit, Zoning: See *Zoning Permit*

Plat: A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

Planning Board: The Town of Vienna Planning Board.

Principal Structure: A structure through which the principal use of the lot on which it is located is conducted.

Principal Use: The primary or predominant use of any lot.

Private Roof-mounted Wind Turbine: An individual wind turbine used to generate power for on-site use by the property owner, mounted on the principal building's roof and with a maximum height no greater than ten feet.

Private Wind Turbine Tower: An individual wind turbine tower used to generate power primarily for on-site use by the property owner.

Public and Semi-Public Facility: Any one or more of the following uses, including grounds and accessory buildings necessary for their use: playgrounds and recreational areas; schools; public libraries; fire, ambulance and public safety buildings; and public meeting halls, municipal buildings, emergency centers, and community centers.

Recreational Camping Vehicle: Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, park models, travel trailers, pop-up trailers, tent trailers, over-night trailers, and 'tiny houses' built onto trailers.

Religious Institution: A church, synagogue, temple or mosque or place of worship of a legally recognized religion or religious institution and minor accessory uses, but not including parish houses.

Retail Sales and Service: A commercial establishment engaged in selling goods or merchandise to the general public for personal or household consumption; or providing retail services or entertainment to the general public such as eating and drinking establishments, finance, real estate and insurance, personal services, amusement and recreational services, auction houses, health, educational and social services; and not including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, tree nurseries and other large items stored outdoors for retail sales.

Retail Sales and Service, Large: A retail sales and service establishment of between 2,001 to 10,000 square feet of gross floor area of a single building or a combination of buildings.

Retail Sales and Service, Small: A retail sales and service establishment of 2,000 square feet or less of gross floor area of a single building or a combination of buildings.

Road, Private: Any driveway, right-of-way, or vehicular access which is not intended to be used by the public.

Road, Public: Any vehicular way which 1) is a state, county or town roadway; or 2) is shown upon a plat approved pursuant to law as a public road; or 3) is approved by other official action; or 4) is shown on a plat

duly filed in the office of the County Clerk prior to the grant of plat approval authority to the Planning Board (August 1, 1993) and includes the land between road lines, whether improved or unimproved.

Road-Side Stand: Temporary retail sales facilities used primarily for selling seasonal agricultural and non-agricultural produce. (see: Town of Vienna Hawkers, Peddlers, and Solicitors Ordinance).

Road Line: The right-of-way line of a road as dedicated by a deed, record, or plat. Where the width of the road is not established, the road line shall be considered to be 25 feet from the center line of the road pavement for town and county roads or 35 feet from the center line of the road pavement for state roads.

Sawmill: A nonportable manufacturing facility where logs are processed into lumber, firewood, woodchips, shavings, or mulch, including the on-site storage of any materials used in the manufacturing process.

Self-storage facilities: A structure containing separate, individual, and private storage spaces leased or rented on individual leases for varying periods of time.

Setback: The distance between a lot line, road line or the mean high water line of a body of water and a building or structure.

Setback, Front: The distance from the road line to that part of a building or structure which is nearest to such road line. If a lot adjoins two or more roads, a front setback shall be measured from each.

Setback, Rear: The distance from a rear lot line to that part of a building or structure which is nearest to such lot line.

Setback, Side: The distance from a side lot line to that part of a building or structure which is nearest to such lot line.

Sign: Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

Sign, Off Premises: A sign advertising a business which is not located on the lot on which the sign is located.

Solar Collector: Any stationary or portable surface used to capture solar radiation for the purpose of converting it into electricity or into thermal energy used to heat liquids or gases for space heating, water heating or any other purpose.

Solar Concentrating Devices: A device used to focus or reflect solar radiation onto a solar collector. Any collection of concentrating devices on a single lot shall be considered a single device for zoning purposes.

Solar Electric 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 electric energy system includes all the land inside the perimeter of the solar electric energy system, which extends to any interconnected equipment. A solar electric energy system is classified as a Tier 1, Tier 2, or Tier 3 solar electric energy system as follows:

- A. Tier 1 solar energy systems include the following:
 - (1) Roof mounted solar electric energy systems.
 - (2) Building integrated solar electric energy systems.
- B. Tier 2 solar electric energy systems including ground mounted solar electric energy systems with system capacity up to 25 kW AC.
- C. Tier 3 solar electric energy systems are systems that are not included in the list for Tier 1 and Tier 2 solar electric energy systems.

Solar Thermal System: A solar collector, which converts solar radiation into thermal energy by heating a liquid or a gas. For zoning purposes, these systems are classified as:

Micro Solar Thermal Systems: Any system having a cumulative 145 sq. ft. of collector area or less.

Small Scale Solar Thermal Systems: A roof/wall mounted system with a cumulative collector area of greater than 145 sq. ft. and less than 2,000 sq. ft. and not exceeding the roof outline or a ground mounted system with a cumulative collector area greater than 145 sq. ft. and less than 2,000 sq. ft.

Large Scale Solar Thermal Systems: A system having a collector area of 2,000 sq. ft. or greater.

Solid or Hazardous Waste Facility: A facility, of any size or capacity, such as a landfill, incinerator, transfer station, waste processing facility, composting facility, regulated medical waste facility, recyclables facility, waste tire facility or other facility similar to those regulated by NYCRR Part 360 and Part 373, used for the storage, treatment, processing or transformation of waste materials.

Special Flood Hazard Area: Land in the floodplain subject to a one percent or greater chance of flooding in any given year. It includes the area shown on the Flood Insurance Rate Map as Zone A, AE, AO, AH, and A1 to A99.

Special Use Permit: A permit for special uses which must be approved by the Planning Board, granting permission to the Zoning Officer to issue a zoning permit.

Special Use: A use of land which requires review and approval of the Planning Board prior to the issuance of a special use permit by the Planning Board or a zoning permit by the Zoning Officer.

Storage Vehicle: Any bus, van, travel trailer, semi-trailer, truck trailer, or mobile trailer of any kind used for storage.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground.

Structure, Accessory: See *Accessory Structure*

Structure, Principal: See *Principal Structure*

Telecommunications Tower: A structure, other than a ground dish antenna, on which transmitting and/or receiving antenna are located.

Tourist Home: An establishment that provides temporary transient lodging in a residential setting to overnight guests for a fee and having no more than six guest sleeping rooms. May also be called a boarding house, cottage or “bed-and-breakfast,” having no more than six guest sleeping rooms.

Townhouse: A type of multi family dwelling in which each unit has its own front and rear access to the outside but no unit is over another and each unit is separated from another by one or more common, fire resistant wall.

Use: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

Use, Accessory: See *Accessory Use*

Use, Commercial: See *Commercial Use*

Use, Principal: See *Principal Use*

Use, Special: See *Special Use*

Variance: Any departure from the strict letter of this law granted by the Zoning Board of Appeals as it applies to a particular piece of property.

Warehousing: Terminal facilities for handling freight with or without maintenance facilities, and buildings used primarily for the storage of goods and materials; not including contracting storage.

Wholesale Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Zoning Board of Appeals: A board appointed by the Town Board pursuant to Section 267 of the Town Law to hear and decide appeals of this law.

Zoning Permit: A permit issued by the Zoning Enforcement Officer certifying that all plans for the use and development of land comply with the regulations of this law, and granting permission to commence development activities in conformity with the conditions of the approved permit.

Zoning Enforcement Officer: Any person appointed by the Town Board to enforce the provisions of this law.

ARTICLE 3. ESTABLISHMENT OF ZONES

Section 310. Types of Zones

For the purpose of this law, the Town of Vienna is hereby divided into the following zones:

WR	- Water Resources
WA	- Source Protection Overlay Zone (Groundwater Protection Overlay Zone)
WB	- Recharge Protection Overlay Zone (Groundwater Protection Overlay Zone)
RR-3	- Low Density Rural Residential
RR-2	- Moderate Density Rural Residential
RR-1	- High Density Rural Residential
SR	- Shore Residential
HR	- Hamlet Residential
HC	- Hamlet Center
C	Commercial
I	- Industrial

Section 320. Zoning Map

Said zones are shown, defined and bounded on the map accompanying this law entitled "Zoning Map," dated September 18, 1991 and revised March 16, 1994, April 23, 1997 and September 4, 2013 and filed in the office of the Town Clerk, which map and all explanatory matter thereon is by this reference incorporated into this law.

Section 330. Interpretation of Zone Boundaries

- A. Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:
 - 1. Where the designation on the zoning map indicates a boundary approximately upon a road, the centerline of the road shall be construed to be the boundary.
 - 2. Where the designation on the zoning map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
 - 3. Distances shown on the zoning map are perpendicular distances from road centerlines measured to the zone boundary, which boundaries in all cases where distances are given are parallel to the road centerline.
 - 4. In other cases the zone boundary shall be determined by the use of the scale on the zoning map.
- B. In the event that a metes-and-bounds description has been filed for a zone change or a variance as required by this law, such metes-and-bounds description may be used in lieu of other provisions of this section.
- C. Where a zone boundary divides a lot of record at the time such boundary is adopted, the zone requirements of the least restrictive portion of such lot shall extend 40 feet into the more restrictive portion of the lot.

ARTICLE 4. ZONE REGULATIONS

Section 410. General

All uses and structures requiring a zoning permit shall conform to the regulations of this article which correspond to the zone in which the activity is situated.

Section 420. Schedule A: Dimensional Requirements for Zones

ZONE:	WR	RR-3	RR-2	RR-1	SR	HR	HC	C	I
Lot size minimum:									
acres	3	3	2	1	--	--	--		--
square feet	--	--	--	--	30,000	20,000	8,000	8,000	--
Lot frontage minimum, feet:									
State road	$\frac{1}{4}$ of lot width or 250', whichever is greater				250	100	60	60	250
Other road	$\frac{1}{4}$ of lot width or 200', whichever is greater				100	100	60	60	250
Principle Structure Setbacks minimum, feet*:									
front:	40	40	40	40	10% of lot depth	15	15	15	100
side	40	40	30	25	15% of lot width	10	10	10	50
rear	40	40	30	25	20	10	10	10	50
Principle Structure Setbacks maximum, feet:									
front	n/a	n/a	n/a	n/a	n/a	35	35	35	
one side						20**	20**	25**	
Lot coverage maximum, in percent	10	20	20	25	25	50 on lots smaller than 10,000 s.f. 35 on all other	40	40	25
Building footprint maximum, ft.	n/a	n/a	n/a	n/a	n/a	6,000	6,000	10,000	n/a
Building height maximum	35'	35'	35'	35'	35'	35'	35'	35'	35'
Dwelling and mobile home minimum width, feet (except	14	14	14	14	22	22	22	22	n/a

ZONE:	WR	RR-3	RR-2	RR-1	SR	HR	HC	C	I
additions, mobile home parks and campgrounds).									

*minimum setbacks from lot lines for accessory uses and structures are provided in Section 595

**applies to one of the side setbacks only – the side to which standard applies may be chosen by the applicant

Zones:

WR = Water Resources
 RR-3 = Low-Density Rural Residential
 RR-2 = Moderate-Density Rural Residential
 RR-1 = High-Density Rural Residential
 SR = Shore Residential
 HR = Hamlet Residential
 HC = Hamlet Center
 C = Commercial
 I = Industrial

Section 430. Schedule B: Permitted Uses in Zones

ZONE:	WR	RR-3	RR-2	RR-1	SR	HR	HC	C	I
Accessory Apartment	Z	Z	Z	Z	Z	Z	Z	Z	--
Accessory Use or Structure		(In all zones as required by principal use)							
Adult Entertainment	--	--	--	--	--	--	--	SP	--
Agricultural Structure, Large	Z	Z	Z	Z	SP	SP	--	Z	SP
Agricultural Structure, Small	Z	Z	Z	Z	Z	Z	--	Z	Z
Airstrip	SP	SP	SP	SP	SP	-	--	SP	SP
Bulk Storage	--	--	--	--	--	--	--	SP	SP
Campground	SP	SP	SP	SP	SP	--	--	SP	--
Child Care Facility	SP	SP	SP	SP	SP	SP	SP	SP	SP
Commercial Sales and Service	--	--	--	--	--	--	--	SP	--
Commercial Transient Lodging	SP	SP	SP	SP	SP	SP	SP	SP	SP
Commercial Wind Power Generating Facilities	--	SP	--	--	--	--	--	--	--
Contracting Equipment and Storage	SP	SP	SP	SP	SP	--	SP	SP	SP
Dwelling, Multi-Family	SP	SP	SP	SP	SP	SP	SP	SP	--
Dwelling, Single-Family	Z	Z	Z	Z	Z	Z	Z	Z	--
Dwelling, Two-Family	SP	Z	Z	Z	Z	Z	Z	Z	--
Essential Facilities	SP	SP	SP	SP	SP	SP	SP	SP	SP
Excavation, Major	SP	SP	SP	SP	SP	SP	SP	SP	SP
Fence		(As required by Section 517)							
Home Based Business	Z	Z	Z	Z	Z	Z	Z	Z	--
Institutional Care Facility	SP	SP	SP	SP	SP	SP	SP	SP	--
Junkyard	--	--	--	--	--	--	--	--	--
Industrial Use	--	--	--	--	--	--	--	--	SP
Marina	SP	--	--	--	SP	SP	SP	SP	--
Mining	SP	SP	SP	SP	SP	SP	SP	SP	SP
Manufactured Home	Z	Z	Z	Z	Z	Z	--	Z	--
Manufactured Home Park	--	SP	SP	SP	SP*	--	--	--	--
Manufacturing Use, Large		SP	SP					SP	
Manufacturing Use, Small	SP	SP	SP	SP			SP	SP	
Motorized Vehicle Park	SP	SP	SP	SP	--	--	--	SP	SP
Office Building, Large	--	--	--	--	--	--	SP	SP	--

ZONE:	WR	RR-3	RR-2	RR-1	SR	HR	HC	C	I
Office Building, Small	SP	SP	SP	SP	SP	--	SP	SP	SP
Outdoor Recreation and Entertainment Facility	SP	SP	SP	SP	--	--	--	SP	SP
Private Roof-mounted Wind Turbine	As required by Section 1310								
Private Wind Turbine Tower	As required by Section 1320								
Public and Semi-Public Facility	SP	SP	SP	SP	SP	SP	SP	SP	--
Religious Institution	SP	SP	SP	SP	SP	SP	SP	SP	SP
Retail Sales and Service, Large	SP	--	SP	SP	SP	--	SP	SP	--
Retail Sales and Service, Small	SP	SP	SP	SP	SP	--	SP	SP	--
Sawmill	--	SP	SP	--	--	--	--	--	SP
Signs, Non-Exempt	Z	Z	Z	Z	Z	Z	Z	Z	Z
Small Manufacturing Use	SP	SP	SP	SP	--	--	SP	SP	SP
Solar Electric Energy Collection System, Tier 1	Allowed in all zones								
Solar Electric Energy Collection System, Tier 2	Z	Z	Z	Z	SP	SP	SP	SP	SP
Solar Electric Energy Collection System, Tier 3	SP	SP	SP	SP	-	-	-	-	-
Solar Thermal Energy Collection System, Micro	Allowed in all zones								
Solar Thermal Energy Collection System, Small Scale Building Mounted	Allowed in all zones								
Solar Thermal Energy Collection System, Small Scale Ground Mounted	Z	Z	Z	Z	SP	SP	SP	SP	SP
Solar Thermal Energy Collection System, Large Scale	SP	SP	SP	SP	--	--	--	--	SP
Solid/Hazardous Waste Facility	--	--	--	--	--	--	--	--	SP
Telecommunications Tower	SP	SP	SP	SP	--	--	--	SP	SP
Tourist Home	SP	SP	SP	SP	SP	SP	SP	SP	--
Townhouse	SP	SP	SP	SP	SP	SP	SP	SP	--
Warehousing	--	--	--	--	--	--	--	SP	SP
Wholesale Trade	--	--	--	--	--	--	--	SP	SP

Z = Permitted use with zoning permit required from Zoning Officer.
 SP = Permitted use with special use permit required from Planning Board.
 SP* = Permitted use with special use permit required from Planning Board if public water and sewer are available.

Zones:

WR	= Water Resources
RR-3	= Low-Density Rural Residential
RR-2	= Moderate-Density Rural Residential
RR-1	= High-Density Rural Residential
SR	= Shore Residential
HR	= Hamlet Residential
HC	= Hamlet Center
C	= Commercial
I	= Industrial

Section 440. Industrial (I) Zone

- A. An Industrial (I) zone may be established within an existing RR-2, RR-3, or C zone upon amendment of the zoning map as referred to in Section 320 of this law. Industrial zones shall be a minimum of five acres in size, and development therein shall meet the following criteria:
1. Front yards shall be free of all fencing, parking areas, and structures of any kind. Front yards shall contain only vegetation and access drives.
 2. All uses shall be housed in fully enclosed buildings unless adequately screened from public view.
 3. All vehicular storage areas and other open storage areas shall be located in either side or rear yards, and shall be adequately screened from public view.
 4. The impervious surface area of any lot shall be minimized and shall in no case exceed 75 per cent of the lot area.
 5. Exterior lighting proposed for any site shall be planned, erected and maintained so that the light is confined to the property and will not cast direct light or glare upon properties in adjacent properties or upon public roads. Under no circumstances shall light levels at lot lines adjacent to residential zones or at public road lines exceed 0.6 foot-candles, measure at ground level. No light source shall be higher than 20 feet.
 6. The exteriors of all buildings and structures shall be subdued colors, or may be unpainted masonry or natural materials.
 7. Emissions of smoke, dust and other particulate matter, and of toxic and noxious gases shall meet or exceed all New York State and federal standards.
 8. No development or use shall create off-site vibration impacts, discernible without instruments at the property line of the affected use.
 9. Heat, glare and/or steam produced by any activity shall not intrude beyond the boundary lines of the district within which the use is located. Building materials with high light-reflective qualities shall not be used in construction of buildings so that reflected sunlight will not throw intense glare on areas surrounding the industrial zone.
 10. Noise and sound levels within industrial zones shall not exceed levels established by noise control regulations of New York State.

11. All utilities necessary to adequately support the development or use, including water and sewage, and their associated costs shall be borne by the applicant or developer.
- B. The following are the procedural steps that shall be followed when applying for an Industrial zone:
1. A party considering making an application for the creation of an Industrial Zone shall first meet with the Town Board to present their preliminary proposal for the location and development of the zone. Based on the results of this meeting, the applicant will decide whether to proceed with a formal application or not.
 2. Application for establishment of an Industrial zone shall be made to the Zoning Enforcement Officer along with the appropriate filing fee paid to the town clerk. The Zoning Enforcement Officer shall forward the application to the planning board within five days of receipt.
 3. Within 62 days of the acceptance of a completed application by the planning board, the planning board shall report its recommendations to the town board. The recommendations shall address the following findings:
 - a. The zone proposed will not be detrimental to present and potential surrounding uses.
 - b. Land surrounding the proposed development is compatible in use and can be planned in coordination with the proposed zone.
 - c. The proposed change is in conformance with the general intent of the comprehensive plan for the community.
 - d. Existing and proposed roads are suitable and adequate to carry anticipated traffic within and around the proposed zone.
 - e. Existing and proposed utility services are adequate for the proposed zone.
 4. Within 62 days of the planning board report, the town board shall hold a public hearing on the proposal to rezone.
 5. Within 62 days of the public hearing, the town board shall take action to approve or disapprove the rezoning proposal.

ARTICLE 5. GENERAL REGULATIONS

Section 505. Home Based Businesses

- A. Home based businesses require a zoning permit if they exceed any of the following criteria:
1. one non-property resident is employed;
 2. total floor area devoted to the business exceeds 1,000 square feet;
 3. two customers or clients are present on the site at one time.
- B. Home-based businesses (exceeding the thresholds in Section 505.a) which require a zoning permit shall be subject to the following standards:
1. Businesses shall only be operated in single family dwellings.

2. Operation shall be limited to the interior of a building.
3. The exterior of a building containing a home-based business shall not be altered to accommodate the business.
4. One on-premises sign not to exceed six square feet shall be allowed.
5. Excessive noise, glare, vibrations, and/or electronic and microwave interference with radios, TVs and other household appliances shall not be produced.
6. Hours of operation shall be limited to 6 a.m. - 9 p.m. Monday through Saturday, and 7a.m. - 8 p.m. on Sundays.
7. All parking shall be provided on-site in accordance with Article 17, and there shall be no on-street parking.
8. The business shall employ a maximum of three people.
- C. Motor vehicle repair operations shall not be conducted as home based businesses.
- D. Businesses that exceed the thresholds established in Section 505.b shall require special use permits in accordance with Section 430.

Section 509. Multiple Uses on a Single Lot or Parcel

- A. Only one single-family dwelling is allowed per lot. Two or more single-family dwellings may be allowed on a single lot after receipt of a special use permit where each dwelling is supported by land of size and configuration allowing for subdivision so that each dwelling may have its own conforming lot.
- B. Only one two-family dwelling is allowed per lot on lots of minimum size for the zone where located and must additionally have at least 7,500 square feet of outside area for each dwelling unit.
- C. Multifamily dwellings are allowed with only one principal structure or use per lot. Lots must be of minimum size for the zone where located and must additionally have at least 2,000 to 4,000 square feet (as mandated by the planning board) per each dwelling unit after the first two. Any parking in front of buildings shall be screened from the road.
- D. Mixed uses using a single structure on a single lot are allowed provided that appropriate permits are obtained for each use.
- E. Mixed uses on a single lot requiring separate structures are allowed provided that appropriate permits are obtained for each use. If the lot is intended to be subdivided in the future, the lot shall have ample area and structures shall be located to allow creation of lots that comply with this law.

Section 510. Manufactured Homes

- A. All manufactured homes shall be in compliance with standards equal to or more stringent than the U.S. Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards and the New York Uniform Fire Prevention and Building Code. The

applicant is responsible for providing adequate evidence that these standards have been complied with. The presence of a permanent certification label affixed to the manufactured home by the manufacturer shall be presumptive evidence that the construction of a manufactured home is in compliance with such standards.

- B. Manufactured homes shall not be used for nonresidential purposes.
- C. All manufactured homes shall meet U.S. H.U.D. requirements.

Manufactured homes located within Town licensed manufactured home parks (Article 11) and temporary manufactured homes approved pursuant to Section 2010 of this law shall not be subject to above requirements B and C.

Section 515. Accessory Apartments

- A. No more than one accessory apartment shall be allowed for each dwelling unit.
- B. Each accessory apartment shall be a maximum of 35% of the total floor area of the principal dwelling unit or 1,000 square feet, whichever is less.
- C. If separate entrance to the accessory apartment is provided, such separate entrance shall be to the side or rear of the building.
- D. Lot size and dimensions shall conform to the zone in which the dwelling is situated.

Section 517. Fences

- A. All fences must be kept in good condition and appearance, free from graffiti, refuse, and debris.
- B. The finished side of all fences shall face neighboring properties.
- C. All fences must be setback a minimum one and one half feet from lot lines, except in HC, HR, SR, and C zones, where they may be placed on lot lines by a zoning permit. Such permit shall be renewed every ten years. Location of fences in no way indicates legal property boundaries.
- D. All gates and moveable fence parts shall open into the owner's property.
- E. No fence shall exceed six feet in height measured from the ground in HC, HR zones and eight feet in height measured from the ground in all other zones, except as authorized by special use permit.
- F. No fence shall be constructed out of hazardous materials, concertina wire, or razor wire, except as authorized by special use permit.
- G. No electric fences shall be allowed, except commercially available electric fences installed in accordance with the manufacturer's specifications and used for agricultural purposes.
- H. Fences designed for temporary use, such as orange plastic fence, snow fence, or construction/safety fence shall be removed after its purpose ceases. Snow fences shall not be erected before October 15 and shall be removed by April 30.

Section 520. Line of Sight for Traffic Safety

No accessory structure, fence, wall, stockpiled snow, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering or exiting highways.

Section 525. Sewage Disposal

- A. On-site sewage disposal systems shall require approval of the town code enforcement officer and comply with the specifications and standards set forth in Title 10 NYCRR Part 75, Appendix 75-A, entitled "Wastewater Treatment Standards -- Individual Household Systems."
- B. On-site sewage disposal system components shall have a 100-foot setback, minimum, from the mean high water line of any lake, stream, pond, wetland, or other body of water.
- C. Alternative on-site systems may be permitted upon approval of the Oneida County Health Department, or, if applicable, the Department of Environmental Conservation.
- D. Sewage disposal systems shall comply with the watershed rules and regulations of local water companies and districts.

Section 530. Flood Hazard Areas

All land use and development activities in areas of special flood hazard as indicated on the Flood Insurance Rate Map of the Town of Vienna, published by the Federal Emergency Management Agency, shall comply with the provisions of the current Town of Vienna Flood Damage Prevention Law and all applicable FEMA and NYSDEC regulations.

Section 535. Antennae and Towers

- A. All ground dish antennae not attached to a building shall be installed in accordance with the manufacturer's installation instructions and located a minimum distance of [same as accessory structures] feet from any building, and [same as accessory structures] feet from any property line or road right-of-way line.
- B. In HC, HR, and SR zones, ground dish antennae should be located in rear yards.
- C. All transmission and reception towers, masts, or antennas, if ground supported, shall be set back from all lot lines a distance equal to 1-1/2 times the height of the tower. Setbacks shall apply to all tower parts, including guy wire anchors and to any accessory facilities.
- D. Shared use of existing towers is preferred over the construction of new towers in the Town. Applicants for use of tower facilities shall present evidence to the Planning Board that shared use with previous tower owners has been explored. If shared use cannot be accomplished, applicant shall have the burden of proof to show why a new tower must be erected within the Town areas.
- E. Any new tower erected in the Town of Vienna will have the provision that the owner must share tower facilities with future applicants.

- F. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment and local residents. Towers shall not be artificially lighted except to assure human safety or comply with present FAA regulations.
- G. Existing vegetation on-site shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet from the ground) shall take place in anticipation of approval of a permit. Clear cutting of trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. Vegetation planting (evergreen or deciduous) may be required to screen portions of the tower from nearby residential or public properties.
- H. Access and Parking: A road and parking area will be provided to assure emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with present standards for private roads, and shall minimize ground disturbance and/or vegetation cutting. Road grades shall follow natural contours to assure minimal visual disturbance and soil erosion potential. Public road standards may be waived in meeting the objective of this subsection of the tower requirements.

Section 540. Recreational Camping Vehicles

- A. In HC, HR, and SR zones, one recreational camping vehicle may be occupied on a lot for up to 120 days in a calendar year. In all other zones, no more than four recreational camping vehicles may be occupied on a lot for up to 120 days in a calendar year. Five or more recreational camping vehicles or camping units on a lot are only permitted in campgrounds complying with the provisions of Article 11 of this law.
- B. In all zones other than HC and HR zones, one recreational camping vehicle may be continuously occupied on a lot provided that the lot includes an approved well and septic system or public water and sewer service. The location of the recreational camping vehicles shall comply with the principal structure setbacks of this law for each zone.
- C. Installation of utilities such as water, septic, electric, or connection to any public utilities shall require a building permit.
- D. In RR-1, RR-2, RR-3, WR, and C zones, a minimum of one acre is required for each recreational camping vehicle (maximum of four) located on a parcel. This requirement shall not apply to recreational camping vehicles in permitted campgrounds.
- E. Recreational camping vehicles temporarily located in a Special Flood Hazard Area shall be capable of being removed within 15 minutes. Any development within a Special Flood Hazard Area must comply with the Town of Vienna Floodplain Development Law.

Section 542. Airstrips

- A.
 - A. This section shall not apply to model airplanes and drone launch and recovery facilities for the purpose of launching and recovering model airplanes and drones weighing less than 55 pounds.
 - B. In zones where allowed, airstrips may be located on lots of sufficient size to allow safe siting of facilities and structures. The applicant shall contact local emergency response agencies and

provide for, in their plan, safe access and passage for all emergency vehicles and equipment along the full length of the airstrip on both sides and in clear zones.

- C. A 200-foot minimum clear zone at each end of a runway plus a landing surface of adequate length and width for the aircraft is required to include a 350-foot setback along the entire length of and on both sides of the runway center line, inclusive of clear zones, with an additional 500-foot setback extending beyond the ends of each clear zone.
- D. Airstrips must be established in accordance with NYS General Business Law, Section 249 and applicable local, state, and federal laws and regulations. It is intended that airstrips and helipads meet the requirements of 17 CRR-NY 75, entitled Official Compilation of Codes, Rules and Regulations of the State of New York, Title 17. Department of Transportation, Chapter III. Airports, Part 75. Approval of Privately Owned Airports, latest version, as established under the provisions of NYS General Business Law, Section 249. Exceptions to certain criteria contained in this Compilation of Codes, Rules and Regulations may be approved as part of the Special Use Permit process, however, the granting of exceptions by the Planning Board is not required.
- E. Materials submitted to support an application for a Special Use Permit as contained in Section 640 of this law shall bear the signature and seal of a New York State Licensed Engineer. Such signature and seal shall appear on the cover sheet for submitted material and shall be located below the name of the project, the date, and the following certification: "To the best of my knowledge, information and belief the information contained in this submittal is true, correct and contains no misrepresentations of any kind."
- F. Noise and sound levels created within or because of airstrip activity shall not exceed, at the property boundary, the levels established by noise control regulations of New York State and that of local Town and County noise abatement laws and regulations.
- G. Individual dimensional or design standards required under this section shall not be more restrictive than standards for the same design parameter included in provisions or recommendations that are part of a decision or determination of the NYS Department of Transportation under NYS General Business Law, Section 249, as they pertain to a specific airstrip in the Town of Vienna.

Section 545. Junk

No junk, with the exception of that in a Town of Vienna licensed junkyard or regulated under NYS Agriculture and Markets Law Section 305-a, shall be located so as to be visible from public roads or from neighboring properties.

Section 555. Contracting Storage

- A. All storage areas shall be screened according to the requirements of Section 720 of this law, so as to totally screen all materials stored on-site.
- B. All storage areas shall be fenced so as to prohibit children and others from entering the area.

Section 560. Height Exceptions

The height limitations of Section 420 of this law shall not apply to farm structures, belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, transmission towers and cables, wind power turbines, radio and television antennae or towers and similar structures.

Section 565. Storage Vehicle

Storage vehicles shall be prohibited except upon approval of a temporary zoning permit as provided for in Section 2010 of this law.

Section 570. Sawmills

When allowed in residential zones, sawmills shall be permitted only on lots of 20 acres in area. In Industrial zones, sawmills may be located on lots of minimum lot size for the zone.

Section 575. Major Excavations

- A. No major excavation shall be located within:
 - 1. 100 feet of any adjoining lot line, except where the adjoining lot has been approved for use as a major excavation;
 - 2. 500 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
 - 3. 200 feet of any lake, stream, pond, wetland, or other body of water;
 - 4. 200 feet of any public road line.
 - 5. 500 feet of a residential dwelling unit.
- B. All major excavations shall be screened as provided in Section 720 of this law.
- C. No major excavation shall be designed in such a way so as to cause excessive dust, noise, traffic, or other conditions inappropriate for the neighborhood in which it is located, or so as to endanger the stability of adjacent land or structures.

Section 580. Adult Entertainment Uses

Adult entertainment uses are allowed only in commercial zones not closer than 1000 feet to residences, churches, schools, municipal buildings or any other adult entertainment use.

Section 585. Large Animals

Keeping of large animals requires a minimum area of one acre per animal except as part of a farming operation meeting the Department of Agriculture and Markets definition of farming operations where this law does not apply.

Section 590. Flag Lots

In order to allow the efficient use of otherwise land-locked areas, while maintaining rural character, minimizing development costs and limiting creation of additional streets, flag lots (not subject to minimum frontage requirements) are allowed in all zones, at the discretion of the planning board, subject to the following conditions:

- a) Minimum side, front and rear yard requirements for the district where located must be maintained exclusive of the driveway access strip connecting it to a public roadway.
- b) The driveway access strip must have a width of at least 30 feet.
- c) If two to four driveway access strips are immediately adjacent to each other, each must have a width of at least 15 feet.
- d) There shall be no more than four driveway access strips immediately adjacent to each other.
- e) The driveway access strip must be a part of the rear lot it provides access for.
- f) No more than one flag lot may be approved for each driveway access strip.

Section 595. Accessory Uses and Structures

Accessory uses and structures with 145 square feet or greater ground area shall comply with the setback standards for principle uses and structures set forth in Section 420 of this law. Accessory uses and structures with less than 145 square feet of ground area shall be setback a minimum of five feet from any lot line, regardless of whether or not they require a permit pursuant to this law.

Section 597. Motorized Vehicle Parks

Motorized vehicle parks shall be subject to the following standards:

- a) Minimum lot size shall be 50 acres;
- b) Trails shall avoid unstable soils, wet areas, and steep areas;
- c) Trails shall avoid significant habitats;
- d) Maximum decibel level measured at property lines shall not exceed 50;
- e) No trail shall be closer than 1,000 feet to any neighboring residential use.
- f) One parking space shall be provided for every two motorized vehicles on the property at any given time.

ARTICLE 6. SPECIAL USE PERMITS

Section 610. Authority

The Town of Vienna Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove special use permits within the Town of Vienna as designated in accordance with the standards and procedures set forth in this law and all applicable sections of the Town Law.

Section 620. Applicability

All uses that meet one or more of the following conditions shall have a special use permit and site plan approved by the planning board prior to the issuance of a building permit, zoning permit or a certificate of compliance by the zoning officer.

1. the use requires a special use permit pursuant to Section 430 of this law;

2. the use is a Type I SEQR action and is determined by the planning board to have environmental significance;
3. the use is over 10,000 square feet in floor or ground area (excluding agricultural uses);
4. the use is a nonresidential principle use within 100' of a DEC designated wetland area, within 50' of a DEC classified stream or water body, or in a FEMA special flood hazard area;
5. the use results in the development of three or more acres (excluding customary agricultural and forestry uses); or
6. the use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements.

Section 630. Objectives

In considering and acting on special use permits, the Planning Board shall consider the public health, safety, welfare, and 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 may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:

- A. **COMPATIBILITY:** That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive plan for the community.
- B. **VEHICULAR ACCESS:** That proposed access points are not excessive in number, but adequate in width, grade, alignment, and visibility; not located too close to intersections or places of public assembly; and other similar safety considerations.
- C. **CIRCULATION AND PARKING:** That adequate off-road parking, queuing and loading spaces are provided to prevent the parking or standing of vehicles on public roads by any person connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that adequate separation of pedestrian and vehicular movements are provided.
- D. **LANDSCAPING AND SCREENING:** That all parking, storage, loading, and service areas are reasonably screened at all seasons of the year from the view of adjacent residential areas and that the general landscaping of the site is in character with the surrounding areas.
- E. **NATURAL FEATURES:** That the proposed use is compatible with geologic, hydrologic, and soil conditions of the site and adjacent areas and that existing natural scenic features are preserved to the extent possible.
- F. **PUBLIC FACILITIES:** That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, roads and road facilities, and parks and open space are adequate for the intended level of use.

Section 640. Application for Special Use Permit

The Zoning Enforcement Officer shall refer any application for a zoning permit which requires a special use permit review from the planning board. An application for a special use permit shall be filed with the

planning board, and the appropriate fee as determined by the fee schedule adopted by town board resolution shall be paid to the town clerk. Six copies of the application and site plans shall be provided which shall include the following:

- A. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
- B. Date, north point, written and graphic scale;
- C. Boundaries of the site plotted to scale, including distances, bearings, and areas;
- D. Locator map showing the site in relationship to the town;
- E. Location and ownership of all adjacent lands as shown on the latest tax records;
- F. Location of all zone district boundaries;
- G. Location, name, and existing width of adjacent roads;
- H. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
- I. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
- J. Existing and proposed contours at a maximum of five foot intervals;
- K. Existing natural features such as waterways, water bodies, wetlands, aquifers, and existing vegetation. Features to be removed and to be preserved should be indicated;
- L. Storm water management plan showing measures for attenuation of peak discharge, surface water quality protection, and groundwater quality protection during and following construction;
- M. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the planning board;
- N. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
- O. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;
- P. Provision for pedestrian access, including public and private sidewalks;
- Q. Location of outdoor storage, and the intended use of storage areas;
- R. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;

- S. Description of the method of securing public water supply and disposing of sewage, and the location and design of such facilities;
- T. Location and design of all energy distribution and storage facilities, including oil, gas, electrical, and solar energy;
- U. Location, size and design of all proposed signs;
- V. Location and design of outdoor lighting facilities;
- W. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
- X. Spill prevention plan including: a complete description of the proposed use and operations; a list of toxic or hazardous chemicals to be used, handled, and/or stored; a description of how these chemicals will be used, handled, stored and disposed of; and procedures for containing or cleaning up spills and notifying appropriate local and state officials;
- Y. An agricultural data statement pursuant to Town Law Section 283-a, when applicable;
- Z. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable;
- AA. An Environmental Assessment Form (EAF) and, where required, a draft Environmental Impact Statement (EIS);
- BB. Other elements integral to the proposed development as considered necessary by the Planning Board.

Section 645. Waiver of Submission Requirements

The Planning Board may waive any of the submission requirements listed above where it deems that the information is either not applicable or is unnecessary to a particular special use review.

Section 650. Environmental Impact Review

The planning board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any special use. SEQRA review shall be completed prior to planning board action on the special use.

Section 655. County Planning Board Review

At least 10 days before the hearing, the planning board shall refer all applications that fall within those areas specified under General Municipal Law Section 239-l and -m to the Oneida County Department of Planning prior to final action. This shall include any use that falls within 500 feet of the following: the boundary of the town or any village within the town; a State or County park or recreation area; a State or County highway or expressway; a State or County owned drainage channel; State or County land where a public building or institution is located; or a farm operation in an agricultural district. If the County Planning Department does not respond within 30 days from the time it received a full statement on the referral matter, then the planning board may act without such report.

Section 660. Review

Upon a determination by the Planning Board that the application is complete, the Planning Board shall review the special use taking into consideration the objectives as outlined in Section 630 above, the general standards for all special uses as designated in Article 7 of this law, and any other special requirements for the particular use as may be designated in this law.

Section 665. Area Variance

During the course of the review, should the Planning Board determine that a special use may not be feasible without the granting of an area variance as defined by Town Law Section 267-a, the planning board may refer the application to the Zoning Board of Appeals for the consideration of such variance.

Section 670. Public Hearing

The Planning Board shall conduct a public hearing. Such public hearing shall be conducted within 62 days of the receipt of the completed application and shall be advertised at least five days before the hearing in a newspaper in general circulation in the Town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

Section 680. Planning Board Action on Special Use

- A. Within 62 days of the public hearing, the Planning Board shall take action. The time within which the Planning Board must render its decision may be extended upon mutual consent of the applicant and the Planning Board. The action of the Planning Board shall be in the form of a written statement to the applicant stating whether or not the special use is approved, approved with modifications, or disapproved. In its approval, the Planning Board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a special use permit for the application as are directly related to and incidental to a proposed special use. All conditions and restrictions placed on a special use permit should be reviewed by the Codes/Zoning Enforcement Officer prior to final approval by the Planning Board. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy mailed to the applicant.
- B. If the special use is approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the application.
- C. If the special use is approved with modifications, the Planning Board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due the town, and upon approval of the modified application and site plans, the planning board shall endorse its approval on a copy of the application.
- D. If the special use is disapproved, the statement shall contain the reasons for such findings. In such case, the Planning Board may recommend further study of the special use and resubmission after it has been revised or redesigned.

Section 685. Report to County Planning Board

Within 30 days of final action on any matter referred to the County Planning Board pursuant to Section 655 above, the Planning Board shall file a report of the final action it has taken with the County Planning Board.

Section 690. Expiration of Special Use Permit

Zoning permits requiring special use permit review shall expire one year from the date of issue, after which new permits shall be required.

ARTICLE 7. STANDARDS

Section 710. General

All special uses reviewed by the Planning Board, Zoning Board of Appeals and the Zoning Enforcement Officer pursuant to Article 6 of this law shall conform to the standards of this article.

Section 720. General Screening

- A. Open storage areas, exposed machinery, and outdoor areas used for the storage and collection of solid waste, shall be visually screened from roads and surrounding land uses. Suitable types of screening include opaque and semi-opaque wood fences (such as board on board) and dense, mixed evergreen and deciduous hedges of a height necessary to screen the intended use. Where planted hedges are proposed, plant species, size and layout should be developed to provide an effective screen within three years of the time of installation. Native and naturalized trees and shrubs shall be planted wherever possible. Species may include: Arborvitae, Syringa species (lilac), Viburnum species, Cornus species, Forsythia species, Lonicera species, Quercus species, Acer species, Sycamore, Tilia species, Crataegus species, Betula species, Amelanchier, etc.
- B. In locations where potential health or safety hazards may arise, such as solid waste storage/ collection areas, a solid wooden fence, a minimum of six feet in height may be required to deter children and animals from entering the premises.
- C. Where new fencing would create a continuous surface greater than ten feet in length, the visual expanse of bare fence shall be alleviated by plant groupings, consisting of mixed evergreen and deciduous shrubs and trees.

Section 730. Site Lighting

Exterior lighting proposed for the site shall be planned, erected, and maintained so the light is confined to the property and will not cast direct light or glare upon adjacent properties or public roads. Under no circumstances shall light level at lot lines or road lines adjoining residentially developed land exceed 0.6 foot-candles, measured at ground level. The light source shall not be higher than 20 feet and shall not be directed onto adjacent properties or public roads. High intensity lighting shall not be permitted.

Section 740. Architectural Lighting

All lighting should be shielded and developed as necessary to adequately promote business operation and public safety. Flood lighting and dramatic landscape lighting should be minimized and used only for specific effects, public safety and reasonable business promotion as noted by the developer as noted by the developer on the lighting plan.

Section 750. Drainage

- A. Surface water run-off shall be minimized and detained on-site as long as possible and practicable to facilitate ground water recharge. When available, municipal storm water sewers may be employed to handle excess run-off. Stormwater management design should comply with the standards outlined in the New York State Stormwater Management Design Manual.
- B. If the channeling of storm water into municipal storm water sewers is not feasible, storm water run-off shall be detained on-site. In no case shall increased run-off due to development activity be directed onto adjacent property. Techniques for retarding surface storm water run-off should be developed to affect no additional run-off rate as a result of storms with a twenty-year or less recurrence frequency.
- C. The natural state of watercourses, swales, or rights-of-way shall be maintained as nearly as possible. All drainage facilities shall be designed for a 20-year storm, minimum. The Planning Board may require facilities sized for more intensive storms should development conditions in the vicinity of the site warrant a greater degree of protection.

Section 760. Erosion and Sediment Control

Where significant soil erosion or sediment deposition may occur as a result of the disturbance of the land, the Planning Board, Zoning Board of Appeals and the Zoning Enforcement Officer may require that applications for special permits be accompanied by an erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (ESM) and the New York State Standards and Specifications for Erosion and Sediment Control, or other erosion and sediment control manual recognized by the Planning Board, Zoning Board of Appeals and the Zoning Enforcement Officer. Erosion and sediment control measures shall be such that the off-site impacts of erosion and sedimentation must not be greater during and following land disturbance activities than under preexisting conditions.

Section 770. Hazardous and Toxic Materials

Procedures and facilities for the handling, storage and disposing of hazardous and toxic materials shall be adequate to protect surface water and groundwater resources.

ARTICLE 8. FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS

Section 810. Required Public Improvements

- A. All public improvements required pursuant to the approval of subdivision plats or special uses shall be constructed and completed to the standards required by state and local laws, rules, and regulations.
- B. The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Article shall be completed within one (1) year from the date of the approval of the subdivision plat or special use. Road improvements shall be completed within two (2) years from the date of approval of the subdivision plat or special use.
- C. The applicant may request an extension of time to perform required public improvements provided he can show reasonable cause for inability to construct and install said improvements within the

required time. Such extension of time shall not exceed six (6) months. At the end of such extension of time, if the required public improvements are not completed and accepted by the Town, the Town may use as much of the financial security required by this Article to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.

- D. At least five (5) days prior to commencing construction of required public improvements the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board.
- E. The Town reserves the right to employ the services of outside consultants for inspections, and all charges shall be reimbursed to the Town by the applicant.

Section 820. Required Financial Security

Applicants for subdivision plat or special use approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks, and other public improvements commonly required of applicants for subdivision plat or special use approvals.

Acceptable financial security shall be provided to the Town in one of the following ways:

- A. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.
- B. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.
- C. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.

Section 830. Review of Proposed Financial Security

For each of the above options, the required public improvements shall be shown on subdivision plats or special use drawings, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warrantee period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

Section 840. Schedule of Improvements

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction

and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

Section 850. Staged Refunding of Financial Guarantees

At such times as the applicant wishes, but no more frequently than bi-monthly, to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements.

The applicant, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the town, by the appropriate municipal inspectors, and by the Town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct in writing to the surety company or financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

Section 860. Acceptance of Required Public Improvements

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

Section 870. Required Maintenance Guarantee

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten percent (10%) of the financial guarantee originally required of the applicant.

The applicant may provide a maintenance guarantee by one of the methods provided for in Section 820 above, but no maintenance bond shall be for less than five thousand dollars (\$5,000) (face value). All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two (2) years there from or for two (2) years from the June first next succeeding the acceptance of the required public improvements, whichever period is longer.

ARTICLE 9. GROUNDWATER PROTECTION OVERLAY ZONES

Section 910. Purpose

The purpose and intent of establishing groundwater protection overlay zones is to assist in the preservation of public health, general welfare, and safety of the residents of the Town of Vienna and to facilitate the adequate provision of water through the elimination or prevention of groundwater contamination in the vicinity of the springs and wells which supply public drinking water.

Section 920. Scope and Applicability

The groundwater protection overlay zones shall be considered as overlaying other existing zones as shown on the zoning map. Any uses not permitted in the underlying zone shall not be permitted in the groundwater protection overlay zone. Any uses permitted in the underlying zone shall be permitted in the groundwater protection overlay zone, except where the groundwater protection overlay zone prohibits or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

Section 930. Definitions

Specifically defined words as used in this Article are as follows:

Aquifer: A saturated, permeable geologic material capable of yielding amounts of water sufficient for private and public use.

Cone of Depression: The usually inverted, cone-shaped depression in the water table that occurs due to the pumping of a public supply well(s). The outermost limits of the cone of depression are defined by the point(s) where the elevation of the water table is no longer affected by the pumping of such well(s).

Contamination: The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

Deicing Chloride Salt: Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of chloride compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

Development: Any manmade changes to improved or unimproved real estate, including but not limited to, the construction of building, reconstruction of buildings, dredging, filling, mining, grading, construction of tanks or other storage facilities, pumps, pumping stations, creation of impervious surfaces such as for parking areas, waste treatment or disposal facilities or commercial excavation.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking, or release by any other means of a substance to the surface or subsurface of the ground, surface waters, or groundwater.

Fertilizers: Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients from plants.

Hazardous Material: Any substance found listed in either 40 CFR Part 261, 40 CFR Part 302, or 6 NYCRR Part 371, alone or in combination, including but limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or EP toxicity.

Hazardous Waste: A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous waste, infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed.

Herbicides: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed, and those substances defined pursuant to Environmental Conservation Law Section 33-0101.

Human Excreta: Shall mean human feces and urine.

Manure: Shall mean animal feces and urine.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use a plant regulator, defoliant, or desiccant, and those substances defined pursuant to Environmental Conservation Law Section 17-0105.

Petroleum: Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: (1) being burned to produce heat or energy; (2) as a motor fuel or lubricant; or (3) in the operation of hydraulic equipment.

Radioactive Material: Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

Secondary Containment: A structure which prevents any materials that have spilled or leaked from primary containment structures such as piping, tanks, or other containers, from reaching the land surface or subsurface soils.

Septage: The contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.

Sludge: The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Spill: Any escape of a substance from the containers employed in storage, transfer, processing, or use.

Toxic Material: Any compound or material which is, or may be, harmful to human health as defined by Section 4801 - Subdivision 2 of the New York State Public Health Law.

Water Table: The surface below which all pores in the soil are saturated and fully filled with water.

Section 940: Establishment and Delineation of Groundwater Protection Overlay Zones

There are hereby established within the Town of Vienna, two groundwater protection overlay zones. These zones are delineated on the zoning map and are described as follows:

- A. Source Protection Overlay Zone (WA Overlay): For the McConnellsville Water District and the North Bay Water District, the Source Protection Overlay Zone shall comprise a circular area of 200-foot radius around the spring sources and dug wells for these two public water supply systems. For the Village of Cleveland drilled wells located within the Town of Vienna, the Source Protection Overlay Zone shall be extended to the extent of these public supply wells' cone of depression.

- B. Recharge Protection Overlay Zone (WB Overlay): As delineated, the Recharge Protection Overlay Zone shall include the land area which is tributary to the Source Protection Overlay Zone and which contributes groundwater and surface water recharge to the public supply springs and wells.

Section 950: Permitted Uses—WA and WB Overlay Zones

All uses currently permitted in Article 4 of this law are permitted in the WA and WB overlay zones subject to the provisions of this article.

Section 960: Prohibited Uses and Activities--WA and WB Overlay Zones

Within WA and WB overlay zones, the following uses and activities are specifically prohibited:

- A. Outdoor uncovered stockpiling or bulk storage of unlicensed vehicles, salvage metals, manure, coal, or deicing chloride salts;
- B. Construction or operation of facilities for the underground storage of petroleum products, hazardous, or toxic materials or waste, except where secondary containment and leak monitoring systems are installed;
- C. Construction or operation of facilities for the underground storage of petroleum products, hazardous, or toxic materials or waste, except where secondary containment structures are installed and fluid level gauges are installed;
- D. Spreading, discharge, burial, or disposal of any septage, sewage, sludge, animal remains, human excreta, refuse, radioactive materials, petroleum products, toxic materials, or hazardous materials or waste on or below the ground surface except that discharges of domestic septic effluent from on-site septic systems certified by a registered professional engineer and designed in accordance with NYS Department of Health regulations contained in Appendix 75A of Part 75 NYCRR may be allowed when approved by the Zoning Enforcement Officer;
- E. Establishment of any radiological materials storage, use, and disposal facility;
- F. Establishment of any raw waste landfill, sanitary landfill, solid waste landfill, ash landfill, construction/demolition landfill, junkyard, salvage yard, or dump;
- G. Introduction into an on-site sewage disposal system of any material that is potentially hazardous to groundwater quality, including but not limited to petroleum products, solvents, other hazardous materials, or brines;
- H. Dumping or disposal of snow or ice collected offsite from roadways or parking areas into or within 100 feet of any waterbody;
- I. Storage and application of pesticides, herbicides, fungicides, and fertilizers for commercial agricultural purposes without authorization from the New York State Department of Environmental Conservation;
- J. Construction of pipelines that carry toxic or hazardous liquids;

- K. Excavations which intersect the water table at its seasonal high level and which remain open for a period of time exceeding six months over any two year period.

Section 970. Additional Prohibited Uses and Activities--WA Overlay Zone.

The following uses and activities are also prohibited within the WA overlay zone:

- A. Construction of on-site sewage disposal systems.
- B. Underground storage or outdoor, above ground storage of petroleum products.
- C. Underground storage or outdoor, above-ground storage of pesticides, herbicides, fertilizers, and other hazardous and toxic material and waste.
- D. Dumping, disposal, and stockpiling of snow or ice collected from roadways or parking areas.
- E. Bulk storage of deicing materials or coal.
- F. Commercial excavation and extraction of soils, sands and gravels.

ARTICLE 10. CLUSTER DEVELOPMENT

Section 1010. Authority

The Planning Board of the Town of Vienna is hereby authorized to modify applicable provisions of this zoning law pursuant to Section 278 of the Town Law simultaneously with the approval of any plat within the Town subject to the conditions set forth in this Article.

Section 1020. Purpose

The purpose of cluster development is to permit a procedure for development which will result in improved living and working environments; which will promote more economic subdivision layout; which will encourage a variety of types of residential dwellings; which will encourage ingenuity and originality in total subdivision and individual site design; and which can preserve open space to serve recreational, scenic, and public service purposes, and other purposes related thereto within the densities established for the gross tract.

Section 1030. Density Transfer

In each zone allowing cluster development, the lot size may be reduced from the lot size established in Article 4 of this law to a lesser lot size acceptable to the Planning Board. All such lot reductions shall be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, recreation or conservation purposes.

In the approval of a cluster subdivision, in no case shall the maximum density specified for the applicable zone be increased, nor shall the other applicable regulations or use limitations for the zone be changed or modified.

Section 1040. Review Criteria

Cluster development shall be allowed only if evidence is presented to the Planning Board which establishes:

- A. That the proposed development will be in harmony with the general purpose, goals, objectives, and standards of the master plan, this law, and the Town of Vienna Subdivision Regulations.
- B. That the proposed building or use complies with all applicable regulations of this law except as modified pursuant to the authority of this Article.
- C. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare.
- D. That the proposed development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property.
- E. That the proposed development will be served adequately by essential public facilities and services such as highways, roads, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
- F. That the proposed development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

Section 1050. Open Space Requirements

- A. Depending on the size and design of the development, it may be necessary that a common open space, permanently reserved and maintained as landscaped park or recreational space is provided. The area, configuration, and location of such open spaces shall be subject to review and approval of the Planning Board.
- B. The land so set aside shall be provided in such a manner that it is usable for recreation or other activities and is accessible to all residents of the subdivision or, where the land has been dedicated to the Town, to the general public.
- C. Cluster open space shall be made available for the use of the general public unless the Planning Board finds that the size, location, type of development, or cost of development or maintenance of such cluster open space, or the availability of public open space, would make public use undesirable or unnecessary.
- D. If cluster open space is not dedicated to the Town, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any specifications deemed necessary by the Planning Board.
- E. All open space shall be considered taxable unless deeded to a municipality.

ARTICLE 11. MANUFACTURED HOME PARKS AND CAMPGROUNDS

Section 1105. Manufactured Home Park and Campground Operating License

- A. No person shall operate a manufactured home park or campground within the Town of Vienna unless a license to operate has first been issued pursuant to this law. Such operating license shall be applied for coincident with an application for a special use permit, and shall be granted coincident to the final approval of a special use permit.
- B. All **manufactured home park and campground operating licenses** shall be issued for a period of one year, after which time renewal shall be required. The operating license shall be displayed conspicuously at all times at the site. No recreational camping vehicle in any campground may be occupied more than 180 days per calendar year. Any use and occupancy restrictions promulgated by the Federal Emergency Management Agency (FEMA) for particular campgrounds in the Town of Vienna shall override the restrictions of this section.
- C. Prior to operating license renewal, all parks and campgrounds shall be inspected by the Zoning Officer. Such operating license shall not be renewed until certified by the Zoning Officer as operating in compliance with this law.
- D. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to operating license issuance or renewal. Refusal to allow the Zoning Officer to enter the premises for the purpose of inspection shall be cause for the denial of an operating license, or if an operating license has been issued, for the revocation of such operating license by the Town Board.

Section 1110. License Revocation or Failure to Renew

- A. The Town Board may revoke such operating license upon reasonable cause should the applicant fail to comply with any provision of this law. Before the operating license may be revoked, a public hearing shall be held by the Town Board. Notice of the hearing shall be made in the official newspaper at least five days prior to the date thereof. The license holder shall be notified of the hearing by certified mail at least five days prior to the hearing. At the hearing the Town Board shall hear the operating license holder and all other persons wishing to be heard on the revocation of the license. Should the Town Board decide to revoke an operating license, the reasons for such revocation shall be stated in the Town Board minutes. The license holder shall be immediately notified of the revocation by certified and regular mail.
- B. Should any manufactured home park or campground operating license be revoked or fail to be renewed, the operator shall cease and desist from operating a mobile home park or campground and shall remove all mobile homes, residential camping vehicles, tents, etc., and appurtenant structures from the premises within 90 days.

Section 1115. Manufactured Home Park Location, Conditions and Size

- A. Manufactured home parks shall be located where orderly development can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-road parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering.

- B. Manufactured home parks shall have generally level to gently rolling topography over an area of sufficient size to allow development without significant alteration or disturbance of existing natural features such as stands of mature trees, stream courses, shorelines, wetlands or bedrock outcroppings.
- C. Manufactured home parks shall be free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.
- D. Manufactured home parks shall be three acres in size, minimum.

Section 1120. Manufactured Home Sites

- A. Manufactured home parks shall be divided (exclusive of internal roads, open space or common areas) and marked off into sites numbered consecutively, the number being conspicuously posted on each site with such number to correspond to the site shown on the site plan submitted. Each site shall be defined by permanent markers set at the corners thereof.
- B. Sites shall be a minimum of 7,500 square feet.
- C. Sites shall have a minimum width of 60 feet and a minimum depth of 100 feet.
- D. All manufactured homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures shall satisfy the following setback requirements:
 - 1. Minimum of 100 feet from the road line of any State road and 50 feet from the road line of any County or Town road.
 - 2. Minimum of 15 feet from any internal road.
 - 3. Minimum of 8 feet from all site lines.
- E. No site, internal road, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within 20 feet of external boundaries of the manufactured home park.

Section 1125. Manufactured Home Park Entrances

- A. Entrances shall be located directly opposite or at least 200 feet from the nearest intersection of public roads, if any, and at least 150 feet from any other entrances to the manufactured home park, if any.
- B. Entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles.
- C. Entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road.

Section 1130. Manufactured Home Park Access Roads

- A. Access roads connecting public roads with internal roads shall be required to serve any manufactured home park having three or more manufactured homes, and at least two independent access roads shall be required to serve any manufactured home park having 20 or more manufactured homes.

- B. Access roads shall intersect public roads at right angles and at compatible grades and shall meet the Town of Vienna Road Standards.

Section 1135. Manufactured Home Park Internal Roads

- A. Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without manufactured homes attached.
- B. All sites shall face on and be serviced by internal roads.
- C. All internal roads shall be designed, graded and leveled so as to permit the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
- D. Cul-de-sacs with a minimum turning radius of 35 feet shall be provided in lieu of closed end roads.
- E. All internal roads shall have a minimum 20 foot right-of-way, 16 feet of which shall be of gravel with dust inhibiting material, or of other more durable construction.

Section 1140. Manufactured Home Park Design Standards

- A. Easily accessible and usable open spaces shall be provided in all manufactured home parks. Such open space shall have a total area equal to at least 15% of the gross land area of the manufactured home park and shall be fully maintained by the manufactured home park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.
- B. A hard surfaced pedestrian walkway of at least four feet in width shall be provided along and at least five feet from each access road between the entrance to the public highway and either the first unit or such location within the manufactured home park as may be required by the Planning Board to assure pedestrian safety.
- C. Water supply and sewage disposal systems shall be designed and constructed in compliance with all Oneida County and New York State Health Department and Environmental Conservation Department requirements.
- D. Storage facilities shall be provided which shall provide 125 cubic feet of secure storage space for each manufactured home. Such facilities may be located either on each site or be a permanent structure within the park which is easily accessible to the park residents at all times.
- E. Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances, codes, and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- F. The entire park shall be screened from the view of adjacent properties and roadways by the planting of shrubbery. Such shrubbery shall be of a species suitable to the Planning Board and shall mature to at least an eight foot height.
- G. Internal roads, storage areas, and service buildings shall be adequately lighted.
- H. All site setback areas shall be seeded.
- I. All parking areas shall be located off of the internal road system.

Section 1145. Campground Design Standards

- A. Easily accessible and usable recreational spaces shall be provided in all campgrounds. Such recreational space shall have a total area equal to at least 5% of the gross land area of the campground and shall be fully maintained by the campground operator.

Section 1150. Manufactured Home Park and Campground Operations

- A. The following shall apply to both manufactured home parks and campgrounds:
1. The operator shall maintain an office or information kiosk in the immediate vicinity of the manufactured home park or campground.
 2. The operator shall operate the manufactured home park or campground in compliance with the standards set forth in this law and all applicable state and federal codes, rules or regulations
 3. A list of operator and occupant responsibilities shall be posted in the manufactured home park or campground office or made available upon request.
 4. All receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times. It shall be the responsibility of the operator to ensure that garbage and rubbish shall be collected and properly disposed of outside of the park or campground. All areas of the park or campground shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
- B. The following shall apply to manufactured home parks, in addition to the standards in subsection A above:
1. The operator shall be responsible to assure that all manufactured homes installed new or relocated shall be installed or relocated in accordance with the NYS Uniform Fire Prevention and Building Code and/or 19 NYCRR Part 1210.
 2. Occupants shall be responsible for the maintenance of personal manufactured homes and any appurtenances thereto, and shall keep all personal yard space in a neat and sanitary condition.
 3. Recreational camping vehicles shall not be used for residential purposes, whether permanently or temporarily, in any manufactured home park.
 4. The operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each manufactured home. Such register shall be available to any authorized person inspecting the mobile home park.
- C. The following shall apply to campgrounds, in addition to the standards in subsection A above:
1. No tent or recreational camping vehicle shall be occupied on an overnight basis for more than 180 days in any one year.
 2. The operator shall maintain a register containing the names of all occupants, their home addresses, the make and license number of their motor vehicle, and a description of the tent or recreational camping vehicle occupied. Such register shall be available to any authorized person inspecting the campground.

ARTICLE 12. JUNKYARDS

Section 1205. Junkyard License

- A. No person shall operate a junkyard within the Town of Vienna unless licensed prior to February 1, 2002 with a current, valid license issued pursuant to this zoning law. No additional junkyards or the expansion of existing junkyards shall be allowed as of February 1, 2002.
- B. All licenses shall be issued for a period of one year, after which time renewal shall be required. All licenses shall expire on April 1, annually. The license shall be displayed conspicuously at all times on the premises of the junkyard.
- C. Prior to license renewal, all junkyards shall be inspected by the Zoning Officer. Such license shall not be renewed until certified by the Zoning Officer as operating in compliance with this law.
- D. The Zoning Officer shall not enter the premises of any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to license issuance or renewal. Refusal to allow the Zoning Officer to enter the premises for the purpose of inspection shall be cause for the denial of an unapproved license, or if a license has been issued, for the revocation of such license by the Town Board.

Section 1210. License Revocation or Failure to Renew

- A. The Town Board may revoke such license upon reasonable cause should the applicant fail to comply with any provision of this law. Before the license may be revoked, a public hearing shall be held by the Town Board. Notice of the hearing shall be made in the official newspaper at least five days prior to the date thereof. The license holder shall be notified of the hearing by certified mail at least five days prior to the hearing. At the hearing the Town Board shall hear the license holder and all other persons wishing to be heard on the revocation of the license. Should the Town Board decide to revoke a license, the reasons for such revocation shall be stated in the Town Board minutes. The license holder shall be immediately notified of the revocation by certified mail.
- B. Should any junkyard license be revoked or fail to be renewed, the operator shall cease and desist from operating a junkyard. All junk shall be removed from the premises within 60 days. If after 60 days the junk is not removed, the Town reserves the right to have the junk removed and disposed of and all costs of such removal and disposal shall be borne by the landowner.

Section 1215. Junkyard Location

- A. No existing junkyards shall be located within:
 - 1. 100 feet of any adjoining lot line;
 - 2. 100 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
 - 3. 200 feet of any lake, stream, pond, wetland, or other body of water;
 - 4. 200 feet of any public road line.

Section 1220. Junkyard Fencing and Screening

- A. All junk storage areas shall be enclosed within an eight foot high fence, minimum, constructed of wood or other materials as approved by the Planning Board. Such fence shall be adequate to

prohibit children and others from entering the area of the activity of business and to fully enclose and totally screen all materials stored on-site from public view.

Section 1225. Junkyard Operations

- A. A junkyard licensee shall personally own the land or be personally responsible for the operation of the junkyard.
- B. No materials shall be burned or buried in a junkyard except in compliance with the New York State Outdoor Burning Law (see 6 NYCRR Part 215) or the New York State Solid Waste Disposal Law (see 6 NYCRR Part 360).
- C. All the materials dealt with by the operator of the junkyard and all junkyard operations shall be kept within the fenced area of the junkyard at all times. Whenever the junkyard is not open for business, or temporarily not supervised, the fenced area, and any gate thereto, shall be secured or locked to prevent entry.
- D. No junkyard items shall be stored in any junk storage area other than those items specified on a junkyard license and special use permit approved by the Planning Board pursuant to this law.
- E. The licensee shall assure the proper and safe conduct of junkyard operations to minimize the fire hazard there from and to prevent trespass thereon.
- F. The Zoning Officer and Town Board, or any of its representatives, shall be granted access to the junkyard at all reasonable hours to inspect the same for compliance herewith.

ARTICLE 13. WIND TURBINES AND TOWERS

Section 1310. Requirements for Private Roof-mounted Wind Turbines

- 1. Private Roof-mounted Wind Turbines shall not require a zoning permit.
- 2. All Private Roof-mounted Wind Turbines shall be no higher than ten feet from the roof surface they are mounted on.

Section 1320. Requirements for Private Wind Turbine Towers

- 1. Private Wind Turbine Towers up to 35 feet in height shall not require a zoning permit.
- 2. The minimum required setback for any tower from property lines shall be equal to 1.5 times the sum of the tower height plus the rotor radius.
- 3. experimental, homebuilt, or prototype wind turbines with a tower over 35 feet shall require site plan review. No such wind turbine shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the planning board of appropriate setback distances on the basis of that documentation.

Section 1330. Requirements for Commercial Wind Power Generating Facilities

- A. Permit applications shall include:

1. a project visibility map, based on a digital elevation model, showing the impact of topography upon visibility of the project from other locations, to a radius of three miles from the center of the project. The scale used shall depict the three mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing man-made features, such as roads and buildings.
 2. No fewer than four, and no more than the number of proposed individual wind turbines plus three color photos, no smaller than 3" by 5", taken from locations within a three mile radius from the site and to be selected by the Planning Board, and computer enhanced to simulate the appearance of the as-built site facilities as they would appear from these locations.
- B. The minimum required setback for any tower from property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, meteorological towers, nonresidential structures, and public roads shall be equal to 1.5 times the sum of the structure height plus the rotor radius. Where an applicant proposes to locate one or more towers on a site consisting of multiple contiguous parcels owned or leased by the applicant, the term "property lines" shall mean the exterior boundaries of the contiguous parcels, which adjoin parcels not owned or leased by the applicant. The minimum setback for any tower from any existing residential structure shall be 1,500 feet.
- C. Design standards shall include the following:
1. The minimum distance between the ground and any part of the rotor blade system shall be 30 feet.
 2. Wind turbine towers shall not be climbable up to 15 feet above ground level.
 3. All access doors to wind turbine towers and electrical equipment shall be lockable.
 4. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment and wind energy facility entrances.
 5. Towers shall be equipped with air traffic warning lights where the total height of the tower exceeds 175 feet.
 6. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
- D. Performance standards shall include the following:
1. Individual wind turbine towers shall be located so that the level of noise produced by wind turbine operation shall not exceed 55 dBA, measured at the site property line.
 2. No individual tower facility shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.
- E. Prior to issuance of a building permit, the applicant shall provide the town proof of a level of insurance to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.
- F. Any component of a commercial wind power generating facility found to be unsafe by the Zoning Enforcement Officer shall be repaired by the owner to meet federal, state and local safety

standards or be removed within six months. If any wind energy system is not operated for a continuous period of 12 months, the Town will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Town deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of notice from the Town.

ARTICLE 14. SOLAR ELECTRIC ENERGY COLLECTION SYSTEMS

Section 1410. Purpose.

This solar article is adopted to advance and protect the public health, safety, and welfare of the Town of Vienna by creating regulations for the installation and use of solar electric energy generating systems and equipment.

Section 1420. Definitions.

As used in this article, the following terms shall have the meanings indicated:

Building-Integrated Solar Electric Energy System: A combination of 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 statewide 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 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.

New York State Unified Solar Permit: A permit for a roof mounted and grid tied solar electric system, consistent in format, specifications and general process, as modified and adopted, with those of other municipalities that have adopted the New York State expedited solar permit process.

Prime Farmland: Land designed 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.

Minor Solar Electric Device: Small consumer grade solar electric panels used individually for charging batteries and powering small equipment or devices with a cumulative collector surface area equal to or less than 145 square feet and not connected to the electric service.

Roof-Mounted Solar Electric 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 or passive solar energy systems on individual properties.

Solar Electric Energy Equipment: Electrical equipment, hardware, inverters, conduit, storage devices, or other electric or photovoltaic equipment associated with the production of electricity.

Solar Electric 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 electric energy system includes all the land inside the perimeter of the solar electric energy system, which extends to any interconnected equipment. A solar electric energy system is classified as a Tier 1, Tier 2, or Tier 3 solar electric energy system as follows:

- A. Tier 1 solar electric energy systems include the following:
 - (1) Roof mounted solar electric energy systems.
 - (2) Building integrated solar electric energy systems.
- B. Tier 2 Solar electric energy systems including ground-mounted solar electric energy systems with system capacity up to 25 kW AC.
- C. Tier 3 solar electric energy systems are systems that are not included in the list for Tier 1 and Tier 2 solar electric energy systems.

Solar Electric 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 electric form.

Section 1430. Applicability.

- A. Minor Solar Electric Devices as defined in this law shall be exempt from this article.
- B. The requirements of this article shall apply to all solar electric energy systems, as defined in this article and permitted, installed, or modified in the Town of Vienna, excluding general maintenance and repair.

- C. Solar electric energy systems constructed or installed prior to the effective date of this article shall not be required to meet the requirements of this article.
- D. Modifications to an existing solar electric energy system that increases the solar energy system by more than 5% of the original solar energy system (exclusive of moving fences) shall be subject to this article.
- E. All solar electric 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 and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Vienna Law.

Section 1435. General requirements.

- A. A zoning permit or special use permit and a building permit shall be required for the installation of all solar electric energy systems under this article.
- B. Approval of proposed developments on sites adjacent to solar energy systems may be conditioned so as to protect their access to sufficient sunlight to remain economically feasible over time.
- C. The Unified Solar Permit shall be required to be filled out before any building or zoning permit will be issued.
- D. If storage batteries are included as part of the Solar Electric Energy System they shall be located and stored in compliance with the manufacturer's instructions and the New York State Fire Prevention and Building Code Uniform Code) when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Town of Vienna and the State of New York.
- E. The permitting fees for all Solar Electric Energy Systems shall be set by the Town Board and are subject to review and modification on a periodic basis. Applicant is also responsible for the actual cost of outside consulting fees and expenses, including without limitation, engineering, surveying and legal.

Section 1440. Permitting requirements for Tier 1 solar electric energy systems.

All Tier 1 solar energy systems shall require a building permit and are subject to the following conditions for each type solar system:

- A. Roof-mounted solar electric energy systems.
 - (1) Roof mounted solar electric energy systems, when feasible, the following design requirements:
 - (a) Solar electric panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
 - (b) Solar electric panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - (c) Solar electric 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 electric panels of flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the flat roof, whichever is greater.
 - (2) Glare: All solar panels shall have anti-reflective coating(s).
 - (3) Height: All roof-mounted solar electric energy systems shall be subject to the maximum height regulations specified for principle structures within the underlying zone.

- (4) Safety: No roof-mounted solar electric energy system shall be installed until certified by the installer and codes officer or a licensed professional engineer or architect that the structure is capable of supporting the solar energy system.
- B. Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.

Section 1445. Permitting requirements for Tier 2 solar electric energy systems.

All tier 2 solar electric energy systems shall require a permit in accordance with Section 430. Schedule B, and are subject to the following conditions:

- A. Glare: All solar electric panels shall have anti-reflective coatings.
- B. Setbacks: Tier 2 solar electric energy systems shall be subject to setback regulations specified for principle structures within the underlying zoning district. All Tier 2 ground mounted solar electric energy systems located in zones HC, HR and SR shall be installed no closer to the front lot line than the principal structure.
- C. Height: Tier 2 solar electric energy systems shall not exceed a height of fifteen (15) feet.
- D. Screening and visibility.
 - (1) All Tier 2 solar electric energy systems shall have views minimized from adjacent properties to the extent reasonably practicable.
 - (2) Solar electric 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.
- E. Lot size: Tier 2 solar systems shall comply with the existing lot size requirement within the underlying zone.

Section 1450. Permitting requirements for Tier 3 solar electric energy systems.

Tier 3 solar electric energy systems are conditionally permitted through the issuance of a special use permit in accordance with this law. Special use permit requirements in addition to those in Article 6, are as follows:

- A. Underground requirements: All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with 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.
- B. Vehicular paths: Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- C. Signage.
 - (1) No signage or graphic content shall be displayed on the solar electric energy system except the manufacturer's name, equipment specification information, and twenty-four-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.
 - (2) 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.
- D. Glare: All solar panels shall have anti-reflective coating(s).

- E. Lighting: Lighting of the solar energy system shall be limited to that minimally required for safety and operational purposes and shall be reasonably shaded and downcast from abutting properties.
- F. Tree cutting: Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.
- G. Decommissioning.
- (1) Solar electric energy systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner's and/or operator's expense., which at the Town's option may come from any security made with the Town as set forth in Section I (2) herein.
 - (2) A decommissioning plan signed by the owner and/or operator of the solar electric energy system shall be submitted by the applicant, addressing the following:
 - (a) The cost of removing the solar electric energy system.
 - (b) The time required to decommission and remove the solar electric energy system and any ancillary structures.
 - (c) The time required to repair any damage caused to the property by the installation and removal of the solar system.
 - (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 site must be returned to pre-construction condition. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 solar electric energy system and restoration of the property with an escalator of 2% annually for the life of the solar electric energy system.
 - (b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in force and effect until restoration of the property as set forth in the decommissioning plan is complete.
 - (c) In the event of default or abandonment of the solar electric energy system, the system shall be decommissioned as set forth in Section 1465.B. and 1465.C. herein.
- H. Site plan application. For any solar energy system requiring a special use permit, site plan approval shall be required. Any site plan application shall include the following information and that required under Article 6:
- (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 structure.
 - (3) A one line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electric 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/or operator of the solar electric 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 their property for the solar electric energy system.
 - (7) Zoning district designation for the parcel(s) of land comprising the project site.
 - (8) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - (9) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
 - (10) Prior to the issuance of the building permit or final approval by the Planning Board, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer.
- I. Special use permit standards include, but are not limited to the following:
- (1) Lot size.
 - (a) The property on which the solar electric energy system is placed shall be no less than three acres.
 - (2) Setbacks.
 - (a) Tier three solar electric energy systems shall set back 300 feet from the front property line, and 100 feet from the rear and side property lines unless abutting an occupied residence, in which case the setback shall be 300 feet from the occupied residence.
 - (3) Height.
 - (a) The Tier 3 solar electric energy system shall comply with a height not to exceed 20 ft.
 - (4) Lot coverage.
 - (a) The following components shall be considered included in the calculations for lot coverage requirements:
 - (1) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - (2) All mechanical equipment of the solar electric energy system, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - (3) Paved access roads servicing the solar electric energy system.
 - (b) Total lot coverage shall not exceed 80% of the total parcel area. Lot coverage maximum requirements listed in Section 420 of this law shall not apply to Tier 3 solar electric energy systems.
 - (5) Fencing requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a seven-foot high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
 - (6) Screening and visibility.
 - (a) Solar electric energy systems smaller than five acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
 - (b) Solar electric energy systems 5 acres or larger shall:
 - (1) Conduct a visual assessment of the visual impacts of the solar electric energy on public roadways and adjacent properties. At minimum, a line-of-sight profile analysis shall be provided. Depending on 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.

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

(7) Agricultural resources. For projects located on agricultural lands:

(a) To the maximum extent practicable, Tier 3 solar electric energy systems located on Prime Farmland shall be constructed in accordance with the requirements of the New York State Department of Agriculture and markets.

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

Section 1460. Safety.

- (A) Solar electric energy systems and solar energy equipment shall be certified under applicable electrical and/or building codes as required.
- (B) Solar electric 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 electric energy system is located in an ambulance district, the local ambulance corps.
- (C) If storage batteries are included as part of the solar electric 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.

Section 1465. Permit time frame and abandonment.

(A) The special use permit and site plan approval for a solar electric energy system shall be valid for a period of 12 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as it may have been amended and approved, as required by the Planning Board, within 12 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 18 months, the approvals shall expire.

(B) Upon cessation of electricity generation by a solar electric energy system on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator to implement the decommissioning plan. The 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 electric energy system and restoration of the site in accordance with the decommissioning plan. Further, the Town may perform the decommissioning itself, and recover all costs of such decommissioning, including reasonable attorneys' fees. If necessary, the Town's costs will be recoverable against the owner of the land (including tax lien) and operator of the solar array, on a joint and severable liability basis.

(D) If the owner or operator of the Solar Electric Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Electric Energy System shall notify the Town of such change in ownership or operator thirty [30] days prior to any ownership change.

ARTICLE 15. SOLAR THERMAL ENERGY COLLECTION SYSTEMS

Section 1510. Solar energy collectors exempt

The following shall be exempt from the requirements of this Article. Passive solar thermal energy collection systems, according to definition, which would include, but not be limited to, greenhouses, cold frames, windows, glass walls, thermal absorbing walls, ponds, fences, driveways or parking surfaces, solar thermal shingles, or under roof or roof cap absorbers.

Section 1520. Requirements for micro solar thermal collector systems

1. Micro systems shall not require a zoning permit.
2. Micro systems shall be subject to the setback requirements for accessory structures in Section 595, however in HC, HR, and SR zones, they shall be constructed no closer to the front lot line than the principle structure.
3. Solar thermal collector systems may not utilize liquids or gases that are explosive, flammable or toxic to humans or animals.

Section 1530. Requirements for small scale solar thermal systems

1. Roof and wall mounted solar thermal systems require a building permit application to be completed and approved by the code enforcement officer. Approval of the system requires that it comply with New York State Residential Building Code, Chapter 23 – Solar Systems.
2. Ground mounted systems shall require a permit in accordance with Section 430. Schedule B.
3. Ground mounted systems are subject to the set back requirements for principal structures, however in HC, HR, and SR zones, they shall be constructed no closer to the front lot line than the principle structure.
4. Ground mounted systems shall not exceed a maximum height of fifteen (15) feet.
5. All solar collectors and related equipment shall be surfaced, designed and sited to minimize glare on adjacent properties and roadways.
6. Solar thermal collector systems may not utilize liquids or gases that are explosive, flammable or toxic to humans or animals.

Section 1540. Requirements for large scale solar thermal systems

1. All large scale systems shall require a special use permit.

2. Applicant shall provide all required special use permit information including, but not limited to:
 - A. A site plan showing property lines and physical features, including roads; proposed changes to the landscaping of the site, grading, vegetation clearing and planting, exterior lighting, screening, vegetation or structures; the proposed layout of the system; electrical diagram detailing the solar installation, associated components; and documentation of the major system components to be used. All plans and maps shall be prepared and stamped by a Professional Engineer licensed in the State of New York.
 - B. Name and address of the proposed installer.
 - C. An operation and maintenance plan.
 - D. Proof of liability insurance or the ability to secure same in an amount adequate for the size, scope, and other details of the proposed project.
 - E. A decommissioning plan.
 - F. The planning board may waive certain documentary requirements as it deems appropriate.
3. Large scale solar thermal systems shall be on parcels of not less than three acres.
4. The total surface area of all ground mounted and freestanding solar collectors, including solar panels and arrays, shall not exceed 80% of the total parcel area. Lot coverage maximum requirements listed in Section 420 of this law do not apply to large scale solar systems.
5. Solar thermal energy system components shall have 300 foot front and 100 foot side and rear setbacks, unless abutting residential uses. If abutting a residential use, the minimum setback shall be 300 feet from any occupied residence.
6. Construction of on-site access roadways shall be minimized.
7. Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.
8. To the maximum extent practicable, Large Scale Solar Energy Systems located on prime farmland shall be constructed in accordance with the current version of the Guidelines for Agricultural Mitigation for Solar Energy Projects published by the New York State Department of Agriculture and Markets.
9. All ground mounted solar collectors shall not exceed twenty feet in height.
10. All mechanical equipment shall be completely enclosed by an seven foot high fence with a self-locking gate.
11. A vegetated perimeter buffer to provide year round screening of the system from adjacent residential properties shall be installed and maintained.
12. All solar thermal energy system components shall be designed and located in order to prevent reflective glare toward any residential properties.
13. All onsite utility and transmission lines shall be, to the extent feasible, placed underground.

14. Solar thermal collector systems may not utilize liquids or gases that are explosive, flammable or toxic to humans or animals.

15. Lighting shall be consistent with state and federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar collectors shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

16. A sign that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis is required. There shall be no other signs except announcement signs, such as "no trespassing" signs or any signs required to warn of danger.

17. There shall be a minimum of one parking space to be used in connection with the maintenance of the solar collection facility and the site. However, it shall not be used for the permanent storage of vehicles.

18. Monitoring and Maintenance. The system owner or operator shall maintain all facilities in good condition. Maintenance shall include but not be limited to painting, structural repairs, and integrity of security measures. Site access shall be maintained in an acceptable manner to local fire and emergency services departments.

19. Decommissioning Plan. To ensure the proper removal of a Large Scale Solar Thermal System, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of special use permit approval under this Section. The decommissioning plan must specify that after the Large Scale Solar Thermal System can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and proper manner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall take inflation into account. Decommissioning plans shall contain funding guarantees such as security bonds, escrow accounts, or other financial securities acceptable to the town to assure that abandonment or decommissioning costs are fully funded and readily available if needed.

20. Abandonment or decommissioning. Any system which has been abandoned or ceases operation shall be removed within 180 days. Decommissioning shall consist of removal of all installations, structures, equipment, security barriers and transmission lines from the site. All solid and hazardous waste will be disposed of according to applicable law. Stabilization or revegetation of the site will be done as necessary to minimize erosion. If the system is not decommissioned within the 180 day time frame by the owner/operator after being deemed abandoned, the town reserves the right to initiate the decommissioning utilizing the financial securities as agreed in the decommissioning plan to fund the decommissioning efforts.

Section 1550. Solar concentrating devices.

1. Devices with a footprint of 150 sq. ft. or less and a focal distance of 36 inches or less from its reflecting or concentrating surfaces, shall not require a zoning permit. These devices are subject to the set back requirements for accessory structures.

2. Devices with a footprint greater than 150 sq. ft., but less than 2,000 sq. ft. and a focal distance of 36 inches or less from its reflecting or concentrating surfaces, shall require a zoning permit. These devices are subject to the set back requirements for principal uses.
3. Devices with a footprint of 2,000 sq. ft. or greater and a focal distance of greater than 36 inches from its reflecting or concentrating surfaces, require a special use permit.
4. Devices may not be mounted on or within 15 ft. of a building.

ARTICLE 16. PROHIBITION AGAINST THE EXPLORATION FOR OR EXTRACTION OF NATURAL GAS AND/OR PETROLEUM.

Section 1610. Prohibitions

No use or operation on any land, parcel, lot, or other area located within the Town of Vienna, including but not limited to within any Planned Development Zone, shall be proposed, allowed, or permitted where such use or operation involves: (i) any Natural Gas and/or Petroleum Exploration activities; (ii) storage or staging, for any length of time and whether above or below ground, any Natural Gas and/or Petroleum Exploration and Production Materials or any Natural Gas Exploration and/or Petroleum Production Wastes; or (iii) any Natural Gas and/or Petroleum Extraction activities or any Natural Gas and/or Petroleum Support Activities; or (iv) any drilling, construction, or excavating of any well to find or produce any Natural Gas or other hydrocarbons, or (v) any storage, staging, processing, or treatment areas, structures, or improvements relating to Natural Gas, petroleum, or any related hydrocarbons, Natural Gas and/or Petroleum Exploration and Production Materials, or Natural Gas Exploration and/or Petroleum Production Wastes, or (vi) any disposal of Natural Gas Exploration and/or Petroleum Production Wastes, or (vii) the erection or construction of any derrick, building, or other structure, or placement or use of any machinery or equipment, for any such purposes.

The above restrictions shall not be construed to:

- (a) prevent or prohibit the transmission of Natural Gas or related hydrocarbons through utility pipes, lines, or related appurtenances for the limited purpose of supplying utility services to residents of the Town of Vienna;
- (b) prevent or prohibit the location or permitting of a Gasoline Service Station or an Automotive and Other Motorized Vehicle Repair Facility where otherwise allowed under this Zoning Law; or
- (c) prevent or prohibit the incidental and normal storage or use of reasonable and customary amounts of Natural Gas and other hydrocarbons in relation to any other use that is lawful under this Zoning Law, such as home heating storage facilities (e.g., propane tanks), gasoline pumps and storage tanks, and similar uses that are normally associated with allowed residential, business, commercial, and other uses permitted pursuant to and under this Zoning Law; or
- d) prevent the drilling or operation of a single vertically bored natural gas well, created without the use of hydraulic fracturing processes, chemicals, or wastes, where the gas is actually used in its entirety on the property, if the well will be located in Zone RR-1, RR-2 or RR-3, upon obtaining a Special Use Permit and subject to any other applicable restrictions of the Zoning Law.
- e) prevent the production, use or sale of biofuels with on site storage not to exceed 250 gallons for liquid biofuels or 250 cubic feet for gaseous biofuels, subject to any other applicable restrictions of the Zoning Law.

f) prevent the production, use or sale of biofuels with on site storage not exceeding 1000 gallons for liquid biofuels or 500 cubic feet for gaseous biofuels, provided the facilities for production and storage are located in Zone RR-1, RR-2 or RR-3, upon obtaining a Special Use Permit and subject to any other applicable restrictions of the Zoning Law. Setbacks for such facilities must meet the maximums for the respective zone. Facilities must adhere to the standards for Small Manufacturing Use, as defined elsewhere in the Zoning Law. Facilities in excess of these size limitations will be considered a Large Manufacturing Use and subject to those requirements and standards.

ARTICLE 17. PARKING, LOADING AND CIRCULATION

Section 1710. General Parking Requirements

- A. All uses shall be provided with off-street parking for all vehicles during typical peak use periods.
- B. All uses with nonconforming parking situations shall comply with the parking requirements of this law if one or more of the following conditions occurs:
 - 1. The use changes.
 - 2. The use expands its gross floor area by 20% or more.
 - 3. The use is destroyed and seeks to be reestablished.
 - 4. The use is discontinued for a period of six months or longer and seeks to be reestablished.
- C. A parking space shall not be less than 9 feet by 20 feet exclusive of access ways and driveways.
- D. Off-street parking may be located off-site but must be within 500 feet of the site.
- E. No nonresidential or multi-family residential parking area shall be located within ten feet of a side lot line.
- F. To the greatest extent possible all parking areas shall be located behind the facility served and out of roadside view. Where parking areas must be located to the side or in front of a facility adjacent to a public road, appropriate landscaping or visual barriers shall be provided.
- G. All parking areas for nonresidential and multi-family residential uses shall be designed to allow vehicles to exit front first onto roads.

Section 1720. Number of Parking Spaces Required

- A. To the greatest extent possible the size of all parking areas for commercial facilities shall be based on gross leasable area (GLA). Where gross leasable area figures are unavailable, gross floor area (GFA) figures shall be used.
- B. All fractional proportions of parking spaces as calculated shall be rounded to the next higher whole number.

- C. Minimum parking spaces shall be required as follows:

Use	Parking Spaces Required
Dwelling unit or manufactured home	2 spaces per unit
Home based business	1 additional space per 200 square feet GFA
Accessory apartment	2 additional spaces
Manufactured home park	1 additional space per 3 units
Multi-family dwelling	1 space per unit
Offices	1 space per 200 square feet GLA
Small retail sales and service	1 space per 200 square feet GLA
Large retail sales and service	1 space per 200 square feet GLA
Commercial sales and service	1 space per 400 square feet GLA
Public and semi-public facilities	1 space per 4 seats or one space per 60 square feet seating area
Industrial facilities	1 space per 1000 square feet GLA
Warehousing facilities	1 space per 2000 square feet GLA
Other uses	As determined necessary by the Planning board

- D. Where the applicant has provided to the Planning Board evidence of the necessity for a lesser number of parking spaces than are required in the above chart, the Planning Board may waive the above requirements and allow the number of spaces deemed necessary by the Board.

Section 1730. Off-Street Loading Areas

- A. All commercial and industrial uses shall be provided with off-street loading areas and facilities adequate to accommodate all loading activities on-site.
- B. Loading areas may not be established within front, side or rear yard setbacks.
- C. Parking areas as required by this law may not be designated as loading areas.

Section 1740. Parking and Loading Area Screening and Planting

- A. All parking and loading areas for nonresidential and multi-family residential uses shall be effectively screened from public view with a mixed evergreen and deciduous shrub planting, three to six feet high or as necessary to fully screen the area. The width of planting screens varies with plant sizes, but a general plan for screen plantings would include a double row, staggered layout of

shrubs, with a minimum width of six feet. Native and naturalized trees and shrubs shall be planted wherever possible as indicated in Section 720 of this law.

- B. Nonresidential and multi-family residential buildings may serve as parking and loading area screens and should be located at the front edge of parking and loading areas.
- C. Parking areas containing more than ten spaces shall be planted with at least one shade tree per eight parking spaces. Trees shall be a minimum of two inch caliper DBH, and located in a planting bed with a minimum of 40 square feet of growing area per tree. Plantings should be located within parking areas as well as to enclose parking areas in an effort to screen views and reduce noise, glare, and heat accumulation in the parking areas.

Section 1750. Site Entrances

Access to all nonresidential and multi-family residential uses shall be consistent with the standards set forth in "Policy and Standards for Entrances to State Highways," as revised, published by the New York State Department of Transportation.

Section 1760. Drive-Up Service Lanes

Facilities with drive-up service lanes shall have a minimum of five waiting spaces for each drive-up lane. Each waiting space shall be at least 20 feet in length. Where multiple drive-up lanes exist, there shall be at least one additional waiting space which shall be in a common lane.

ARTICLE 18. SIGNS

Section 1810. Exempt Signs

A permit shall not be required for the following signs:

- A. Temporary Signs
 - 1. Announcing Signs. One sign per road frontage of a building which is under construction or structural alteration or repair announcing the character of the building enterprise or the purpose for which the building is intended, one sign per other construction project, including names of architects, engineers, contractors, developers, financiers, and others, provided the area of such sign shall not exceed 20 square feet. Placement shall not exceed 30 days following completion of the project.
 - 2. Real Estate Signs. One sign per road frontage not exceeding 16 square feet advertising the sale, rental, or lease of the premises on which displayed. Placement shall not exceed 30 days following the sale, rental or lease of the property. All such signs shall be set back at least 15 feet from any property line.
 - 3. Subdivision Signs. One sign per road entrance to the subdivision and located on the property to be subdivided, provided such sign shall not exceed 32 square feet in area. Such sign may not be erected until the subdivision has been approved by the appropriate officials. Placement shall not exceed one year from the date of subdivision approval. The display period may be extended upon approval of the Planning Board for a reasonable period of time, not to exceed one year at any given time.

4. Sale Ad and Political Campaign Signs. Posters, banners, promotional devices, and similar signs no greater than four square feet in area in HC or HR zones and 16 square feet in all other zones advertising special sales of goods or merchandise, special events or political campaigns. Political campaign signs placed on public land or rights of way and all other non-political signs regulated under this Section 1810.4 are permitted to be displayed up to 30 days before the event advertised and must be removed not later than 30 days after the event occurs. All signs must be placed such that they do not create a safety hazard.
 5. Window Posters. Non-illuminated window signs and posters not exceeding seventy-five percent of the window surface. Placement shall not exceed 30 days.
 6. Roadside Stand Signs. One sign for roadside stands selling agricultural produce grown on the premises in season, not to exceed 24 square feet, located no closer to the road than the stand itself. Such signs shall be removed within 30 days following termination of the sale.
- B. Institutional Signs. One sign per road-front, setting forth or denoting the name of any public, non-commercial, charitable, or religious institution when located on the premises of such institution, provided such sign shall not exceed 32 square feet in sign area.
 - C. Public Signs. Signs of a public or non-commercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, no-trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, and all signs erected by a public officer in the performance of a public duty.
 - D. Manufactured Home Park, or Subdivision Name Signs. One non-illuminated sign not to exceed 32 square feet in area per exclusive entrance to a subdivision or park; such signs are restricted to the subdivision or park name.
 - E. Multiple Dwelling Signs. One sign, building or ground mounted, indicating the name of the dwelling. Such sign shall not exceed ten square feet in area or per side if double-faced.
 - F. Gasoline Station Signs. Integral graphics or attached price signs on gasoline pumps. Two auxiliary signs per station, each not exceeding four square feet.
 - G. Flags. Official flags of government jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premises religious, charitable, public, and nonprofit organizations.
 - H. Plaques. Commemorative plaques placed by historical agencies recognized by the town, the county or state.
 - I. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
 - J. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
 - K. Signs ten square feet or less in area and bearing only property numbers, post box numbers, or names of occupants of premises.

- L. Signs made exclusively of vegetative material.

Section 1815. Off Premises Signs

No more than six off premises signs shall be allowed per business. Off premises signs shall comply with the provisions of Section 1820 of this law.

Section 1820. Sign Standards

All signs shall be subject to the following standards:

- A. Wall signs shall be no larger (in square feet) than the width of the building (in feet) multiplied by three.
- B. Projecting signs shall be no larger than eight square feet per face, with a maximum of two faces.
- C. Free-standing signs shall be no larger than 32 square feet per face, with a maximum of two faces.
- D. The number of free-standing signs allowed shall conform to the following table:

Road Frontage	Number of Signs Allowed
Less than 500 feet	1
500-1000 feet	2
Over 1000 feet	4

- E. Signs shall be set back at least two feet from any road line unless attached flush to a building and protruding not more than 12 inches from the wall of such building.
- F. Free-standing signs shall not exceed 20 feet in height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.
- G. Signs advertising farm and home based businesses in residential zones shall not exceed sixteen square feet in area.
- H. Signs shall not project into the public right-of-way.
- I. Signs shall not project above the roof line or parapet of a building.
- J. Wording and graphics of signs shall be limited to the name of the establishment and its principal service or purpose.
- K. Luminous signs, indirectly illuminated signs, and lighting devices shall not be placed or directed so as to cause glaring or non-diffuse beams of light to be cast upon any public road, or adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance.
- L. Signs shall not be placed, painted or drawn upon trees, works or natural features on the site, or on utility poles, bridges, culverts, towers or similar structures.

- M. Signs shall be kept in good repair and display surfaces shall be kept neatly painted at all times.

ARTICLE 19. NONCONFORMITIES

Section 1910. Intent

The intent of this article is to recognize certain uses, lots of record and structures which legally existed at the time of enactment or amendment of this law and which would be prohibited or unreasonably restricted by the provisions, regulations, or standards herein. All rights of nonconformity shall continue regardless of the transfer of ownership of nonconforming uses, lots, or structures.

Section 1920. Nonconforming Uses

Any use of land or structures which by the enactment of this law is made nonconforming may be continued on the premises and to the extent pre-existing provided that:

- A. No nonconforming use shall be expanded, extended, or otherwise increased so as to occupy a greater area of land than was committed to the nonconforming use at the time of such enactment;
- B. No nonconforming use shall be extended so as to displace a conforming use;
- C. Any nonconforming use which has, for any reason, been abandoned for a period of one year, shall not be reestablished and only conforming uses shall be thereafter permitted;
- D. A nonconforming use once changed to a conforming use shall not be permitted to change back to a nonconforming use.

Section 1930. Nonconforming Lots of Record

Any lot of record held under separate ownership prior to the enactment of this law and having lot width, depth, or size less than the minimum area requirements set forth in this law may be developed for single-family residential use provided that such lot has sufficient width, depth, and size to undertake development which will:

- A. Maintain the required minimum front yard;
- B. Meet or exceed at least two-thirds (2/3) of the required minimum side and rear yards; and
- C. Not exceed the maximum permitted lot coverage.

Section 1940. Nonconforming Structures

- A. No structure which by the enactment or amendment of this law is made nonconforming or placed in a nonconforming situation with regard to yard sizes, lot coverage, height or any requirement of this law, other than the use to which it is put, shall be changed so as to increase its nonconformity. If a structure is nonconforming as to use, see Section 1920 above.
- B. Any such nonconforming structure may be used for any compatible use listed for the zone in which it is located as designated on Schedule B of this law.

Section 1950. Nonconforming Structures Damaged or Destroyed

Any structure which is nonconforming as to use, yard sizes, lot coverage, height or any other requirement of this law, which is damaged or destroyed by fire or other hazard, may be repaired, restored or reconstructed provided that such work is undertaken within one year of the date on which the damage or destruction occurred. No such work shall increase the nonconformity of the structure.

ARTICLE 20. ADMINISTRATION AND ENFORCEMENT

Section 2005. Zoning Permits

- A. No land-use activities as listed below shall be carried out until a zoning permit has been issued by the Zoning Enforcement Officer stating that the proposed building, structure, use of land, or development activity complies with the provisions of this law:
 - 1. Erection, re-erection or movement of a building or structure;
 - 2. Change of the exterior structural dimensions of a building or structure;
 - 3. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
 - 4. The resumption of any use which has been discontinued for a period of twelve months or longer;
 - 5. Construction, replacement or major modification of any on-site sewage disposal system;
 - 6. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential uses;
 - 7. Placement of a sign as regulated in Article 18 of this law.
- B. A zoning permit shall not be required for:
 - 1. Accessory buildings with less than 145 square feet of ground coverage; complying with Section 595 of this law;
 - 2. Exempt signs listed in Article 18 of this law;
 - 3. Fences or walls complying with Sections 517 and 520 of this law;
 - 4. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
 - 5. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.
 - 6. Agricultural uses,
 - 7. Minor Solar Electric Device,
 - 8. Tier 1 Solar Energy System,
 - 9. Micro Solar Thermal System,
 - 10. Small Scale Building Mounted Solar Thermal System.
- C. Special use permit review shall be required for uses listed in Section 430 and elsewhere in this law.

Section 2010. Temporary Zoning Permits

Temporary zoning permits may be issued upon approval of the Planning Board for temporary uses and structures incidental to a construction project. Such permit shall not exceed 12 months, and may be renewed one time upon approval of the Planning Board. Such temporary permits shall be conditioned upon agreement by the applicant to remove any nonconforming structures or equipment upon expiration of the permit, or to bring the use into compliance by a specified time.

Section 2015. Application Procedure for Zoning Permits

- A. Applications for zoning permits, including those for uses requiring special use permit review, shall be submitted to the Zoning Enforcement Officer or Town Clerk and shall include two copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road lines, mean high water lines of lakes, streams, ponds and wetlands, and any other features of the lot; sewage disposal system plans prepared in accordance with Appendix 75A, Part 75, Public Health Law and applicable sections of this law. This information, and other relevant application data, shall be provided on forms issued by the Town Clerk.
- B. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, road line, or nearest mean high water line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
- C. The Zoning Enforcement Officer shall take action to approve or disapprove the application within fifteen days of the receipt of a completed application by the Town Clerk or Zoning Enforcement Officer and the payment of all fees.
- D. Zoning permits, including those for uses requiring special use permit review, shall expire one year from the date of issue, after which new permits shall be required.
- E. Plans and specifications bearing the seal and signature of a registered architect or licensed engineer shall be provided for all plans submitted for any construction of or alteration to any commercial buildings and buildings of public assembly and for all other buildings except agricultural buildings, outbuildings, accessory structures and residential buildings under 1,500 gross square feet of floor space.

Section 2020. Permit Fees

A fee as determined by Town Board resolution shall be paid for each application for a zoning permit or special permit. No permit shall be issued until full payment has been received by the Town Clerk.

Section 2025. Certificate of Compliance

- A. No use or structure requiring a zoning permit in Section 2005.A of this law, including one for a use requiring special permit review, shall be occupied, used, or changed in use until a certificate of compliance has been issued by the Zoning Enforcement Officer stating that the use or structure complies with the provisions of this law.

- B. All certificates of compliance shall be applied for coincidentally with the application for a zoning permit and shall be issued within ten days after the use has been approved as complying with the provisions of this law.
- C. A temporary certificate of compliance for not more than ninety days for a part of a building or lot may be issued upon approval of the Zoning Board of Appeals. Such temporary certificate may be renewed upon request for an additional ninety days.
- D. The Zoning Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property affected.

Section 2030. Unapproved Lots

No zoning permit or certificate of compliance shall be issued for any use or structure on any lot which has been filed in the Office of the County Clerk after the effective date of the Town of Vienna Subdivision Regulations, unless such lot is included in a plat which has been approved by the Planning Board and filed with the Office of the County Clerk, or was exempt from said regulations at the time of filing.

Section 2035. Zoning Enforcement Officer

- A. This law shall be enforced by the Zoning Enforcement Officer, who shall be appointed by the Town Board.
- B. The duties of the Zoning Enforcement Officer shall be to:
 - 1. Approve and disapprove zoning permits and certificates of compliance;
 - 2. Scale and interpret zone boundaries on the zoning map;
 - 3. Refer appropriate matters to the Board of Appeals, Planning Board, or Town Board;
 - 4. Revoke zoning permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;
 - 5. Investigate violations, issue stop work orders and appearance tickets, and refer violations to the Town Justice or the Town Board;
 - 6. Report at regular Town Board meetings the number of zoning permits and certificates of occupancy issued.

Section 2040. Zoning Board of Appeals

- A. Creation: A Zoning Board of Appeals is hereby created pursuant to Section 267 of Town Law. The Board shall prescribe rules for the conduct of its affairs.
- B. Powers and duties: The Board of Appeals shall have all the power and duties prescribed by Section 267 of Town Law and by this law, which are more particularly specified as follows:
 - 1. Interpretations: Upon appeal from a decision by the Zoning Enforcement Officer, to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zone boundary.
 - 2. Variances: To vary or adapt the strict application of any of the requirements of this law in the case of exceptionally irregular, narrow, shallow, or steep lots, and other exceptional physical conditions; or undue use hardships; whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable

use of the land or building. In granting any variance, the Board shall prescribe any conditions that it deems to be necessary or desirable.

- C. Procedure: All applications made to the Board shall be in writing and on a form prescribed by the Town. Every application shall refer to the specific provisions of the law being appealed and shall exactly set forth the interpretation that is claimed, the use for which the permit is sought, or the details of the appeal that is applied for and the grounds on which it is claimed that the appeal should be granted, as the case may be. A hearing shall be held for all actions in conformance with the requirements of Town Law. Every decision of the Board shall contain a full description of reasons for granting or denying the appeal. The reasons for the action shall be set forth in the minutes of the Board meeting at which the action was taken. Each member's vote shall be recorded.

Section 2045. Planning Board

- A. Powers and duties: The Planning Board shall have the following powers and duties with respect to this law:
 - 1. Approval of special uses, site plans, and subdivisions;
 - 2. Submittal of an advisory opinion to the Town Board for proposed amendments to this law.
- B. Procedure: All applications made shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case.

Section 2050. Violations and Penalties

- A. Whenever a violation of this law occurs any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Enforcement Officer who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Zoning Enforcement Officer shall take necessary enforcement actions including a violation notice order to remedy or a stop work order as deemed necessary requiring all work to cease until the violation is corrected.
- B. Pursuant to Section 150.20 (3) of the Criminal Procedure Law, the Zoning Enforcement Officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the Town Justice.
- C. Pursuant to Section 10 of Municipal Home Rule Law and Section 268 of Town Law, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and shall be punishable by a fine of not more than \$1,000 per day of violation, or imprisonment not exceeding one year or both.
- D. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

Section 2055. Amendments

- A. The Town Board may amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. All proposed changes subject to General Municipal Law Section 239-m shall be referred to the County Planning Board for a recommendation and report thereon

prior to final action. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

1. By publishing a notice at least ten days prior to the time of such hearing in the official newspaper of the Town,
2. By referring the proposed amendments to the Clerk of the County Legislature and the clerks of neighboring towns and villages, and to any housing authority or state park commission whose property might be affected, at least ten days prior to the public hearing.

- B. In case of a protest against such change signed by the owners of twenty per cent or more of the area of land included in such proposed change or of an adverse recommendation by the County Planning Board, the Town Board must have a majority plus one vote in favor of the change to adopt the amendments.

Section 2060. Interpretation and Separability

- A. Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
- B. Should any sections or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 2065. Effective Date

This local law will take effect immediately upon filing in the Office of the Secretary of State.

Motion By: Wendy Herbst

Seconded By: Gail Whitman

Motion Carried.

Voting Record:

Supervisor Michael Davis - aye

Councilman Jason Lamb - aye

Councilwoman Wendy Herbst - aye

Councilman Jason Spellicy - aye

Councilwoman Gail Whitman - aye

Dated: 2 November 2022

Beth Bunce, Assistant Town Clerk