

TOWN OF TYRE  
ZONING LAW  
LOCAL LAW #1 OF 1991  
(July 18, 1991)

Revised 1994, 1997, 1999, 2001, 2002, 2005

Note- This compilation of the original Zoning Law and subsequent amendments represents a synthesis of all zoning laws into a single, functional document. The original laws should be referenced for the official wording of all laws.

(Edited 18 November 2011)

**TOWN OF TYRE ZONING LAW**

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## ZONING LAW

### ARTICLE I                   GENERAL PROVISIONS

#### **Sec. 1.101           SHORT TITLE**

This local law shall be known and cited as the "Town of Tyre Zoning Law".

#### **Sec. 1.102           PURPOSE**

This law is adopted to promote the health, safety, comfort, convenience, prosperity and other aspects of the general welfare. Specifically, this law provides for planned use and development of the town by action of its citizenry.

**ARTICLE II ESTABLISHMENT OF DISTRICTS**

**Sec. 2.101 ZONING MAP**

The zoning districts are shown and bounded on a map entitled "Zoning Map of the Town of Tyre", adopted as of the date of the adoption of this law and certified by the Town Clerk. This map accompanies this law and together with all explanatory matter thereon is hereby made a part of this law.

**Sec. 2.202 DESIGNATION OF DISTRICTS**

The zoning districts will be referred to in this Law and in the Zoning Map as follows:

<u>TYPE OF DISTRICT *</u>	<u>DESIGNATION</u>
Agricultural	A
Residential	R
Business	B
Industrial	I

\* See Section 13.1302 for definitions

**Sec. 2.202.1 AGRICULTURAL DISTRICT (A)**

Shall be all those lands within the Town of Tyre boundaries not included within any other zoning district of the Town.

**Sec. 2.203 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

The following rules shall govern the interpretation of boundaries indicated on the Zoning Map:

- (a) Where district boundaries are indicated as approximately following the center lines of streets or roads, right-of-way or lot lines, such center lines, right-of-way lines or lot lines shall be construed to be such boundaries.
- (b) Where district boundaries are indicated as being approximately parallel to the center lines of streets or roads, right-of-way lines or lot lines, such district boundaries shall be construed as being parallel thereto at the distance there from indicated on the Zoning Map.
- (c) Where distances between district boundary lines or from district boundary lines to lot, street, road, or other points of reference are in dispute, they shall be determined by the use of the scale on the zoning Map.

**Sec. 2.204      APPLICATION OF ZONING REGULATIONS**

Except as may otherwise be provided in this chapter, no building, structure, or land shall hereafter be used or occupied and no building, structure or part of a building shall hereafter be erected, reconstructed, altered or relocated unless in conformity with the regulations specified in this Law for the district in which it is located.

**Sec. 2.205      INTERPRETATION, CONFLICT WITH OTHER LAWS**

In their interpretation and application, the provisions of this Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Wherever the requirements of this law are in conflict with the requirements of any other lawfully adopted rules, regulations, laws, or ordinances, the most restrictive, or that imposing the higher standards shall govern.

**ARTICLE III            USE AND BULK TABLES**

**Sec. 3.301            USE TABLE**

USE	DISTRICT			
	A	R	B	I
Commercial Agriculture	O	O	O	O
Commercial Distilling of Alcohol	SP	N	SP	P
Commercial Horticulture	O	O	O	O
Commercial Poultry or Swine Operation	SP	N	N	SP
Farm Buildings (non-dwelling) & Accessory Structures	P	P	P	P
Farm Drainage & Irrigation Systems	O	O	O	O
Fences - Farm	O	O	O	O
Game Management	O	N	N	N
Grazing & Animal Husbandry	O	O	O	O
Nature Trails & Walks (including Bicycles)	O	O	O	O
Public and Commercial Trails; Pedestrian, Snowmobile, & Motorcycle Ways	P	N	SP	SP
Uses which are customarily accessory and subordinate to the above uses, except uses listed below	O	O	O	O
Adult Use and Entertainment Establishment	N	N	N	SP
Agricultural Service Establishments	SP	SP	P	P
Airports	SP	N	SP	SP
Apartments & Condominiums cf. Multifamily				
Boarding House	P	SP	P	N
Business, Limited	SP	SP	P	P

USE TABLE (cont.)

USE	DISTRICT			
	A	R	B	I
Business, Retail	SP	SP	P	P
Business, Wholesale	SP	N	P	P
Campground	SP	N	SP	N
Cemeteries	SP	N	N	N
Churches	P	SP	P	N
Commercial				
Antennas/Transmitters	SP	N	N	SP
Commercial Feed Lots	SP	N	N	N
Commercial Greenhouses	P	N	P	P
Commercial Kennels	SP	N	P	P
Day Camp	P	N	N	N
Fences - Non-farm	P	P	P	P
Group Homes	SP	SP	SP	N
Home Occupations	P	P	P	P
Junk Yards/Auto Salvage	N	N	N	SP
Landfills	N	N	N	N
Light Industry	N	N	N	P
Marina, Commercial	SP	N	N	N
Mining & Extraction				
Operations	SP	N	N	SP
Factory-built, Non-residential				
Building ≤240 sq. ft.	P	P	P	P
Factory-built, Non-residential				
Building >240 sq. ft.	P	SP	SP	SP
Manufactured Home				
on Separate Lot	P	P	N	N
Manufactured Home Development	SP	N	N	N
Motel/Hotel	SP	N	P	P
Motor Vehicle Repair Shop	SP	SP	P	P
Multifamily Dwellings	SP	SP	P	N

USE TABLE (cont.)

USE	DISTRICT			
	A	R	B	I
Petroleum Product Sales & Service Station (Gas Station)	SP	N	P	P
Private Clubs	SP	N	P	N
Professional Offices cf. Limited Business				
Public utilities and Public service structures including electric transmission lines and distribution substations, gas regulator stations, communication equipment buildings, pumping stations and reservoirs	P	SP	SP	SP
Two-family Dwellings	P	P	N	N
Telecommunication tower, height of 100' or less	SP	SP	SP	SP
Telecommunication tower, height of more than 100' and 300' or less	SP	N	SP	SP
Telecommunication tower, height of more than 300'	N	N	N	SP
Recreational/Sports Complex	SP	N	P	P
Restaurant (incl. fast food)	SP	N	P	P
Roadside Stand, Home products ≤160 sq.ft.	O	O	P	N
Roadside Stand, Home products >160 sq.ft.	P	N	SP	N
Roadside Stand, Other ≤160 sq.ft.	P	P	P	N
Roadside Stand, Other >160 sq.ft.	P	N	SP	N



USE TABLE (cont.)

USE	DISTRICT			
	A	R	B	I
Shopping Center	SP	N	SP	SP
Signs (less than or equal to 12 sq. ft.)	P	P	P	P
Signs (less than or equal to 50 sq. ft.)	P	SP	P	P
Signs (greater than 50 sq. ft. and less than 100 sq. ft.)	SP	N	SP	SP
Signs, illuminated (any size)	SP	SP	P	P
Single-family Dwellings except Mobile Homes	P	P	N	N
Tourist Home/Bed & Breakfast	P	SP	P	N
Veterinary Services	P	SP	P	P

P = Permit Required  
 SP = Special Permit Required  
 O = No Permit Required  
 N = Not Permitted

**Sec. 3.302**

**BULK TABLE (Unless Elsewhere Noted)**

	A	R	B	I
MINIMUM LOT SIZE	1.0A	1.0A	1.0A	1.0A
MINIMUM FRONTAGE	150'	150'	150'	150'
FRONT YARD SETBACKS:				
Roadside Stand, Home products ≤160 sq.ft.	-	-	50'	-
Roadside Stand, Home products >160 sq.ft.	75'	-	75'	-
Roadside Stand, Other ≤160 sq.ft.	50'	50'	50'	-
Roadside Stand, Other >160 sq.ft.	75'	-	75'	-
Dwellings	50'	50'	50'	50'
Signs (less than or equal to 50 sq. ft.)	50'	50'	50'	50'
Signs (greater than 50 sq. ft.)	75'	75'	75'	75'
Telecommunication tower, height of 100' or less	100'	100'	100'	100'
Telecommunication tower, height of more than 100' and 300' or less	300'	-	300'	300'
Telecommunication tower, height of more than 300	-	-	-	500'
Other	75'	75'	75'	75'
SIDE YARD SETBACK:				
Fences	0'	0'	0'	0'
Telecommunication tower, height of 100' or less	100'	100'	100'	100'
Telecommunication tower, height of more than 100' and 300' or less	300'	-	300'	300'

**BULK TABLE (cont.)**

	A	R	B	I
Telecommunication tower, height of more than 300	-	-	-	500'
Other	10'	10'	15'	30'
<b>REAR YARD SETBACK:</b>				
Fences	0'	0'	0'	0'
Telecommunication tower, height of 100' or less	100'	100'	100'	100'
Telecommunication tower, height of more than 100' and 300' or less	300'	-	300'	300'
Telecommunication tower, height of more than 300	-	-	-	500'
Other	40'	40'	40'	40'
<b>MAXIMUM STRUCTURE HEIGHT:</b>				
Farm Structures	Two times distance from nearest property line*			
Other	35'	35'	35'	35'
Signs (less than or equal to 50 sq. ft.)	15'	15'	15'	15'
Signs (greater than 50 sq. ft.)	35'	35'	35'	35'

A = Acre

\* Example - If a farm structure was 100 feet tall then it could be no closer than 50 feet from the nearest property line. If a farm structure was to be placed 40 feet from the nearest property line, the maximum height would be 80 feet.

**ARTICLE IV            SPECIAL PERMITS**

**Sec. 4.401            POLICY**

Recognizing that certain types of uses may be normal, desirable, or necessary in various districts, but by their nature cause certain problems or difficulties, these uses are permitted by special permit and require a review procedure to provide an opportunity to lessen these problems or difficulties and to minimize the impact of these uses upon the district or neighborhood and to preserve the character of the districts or neighborhoods. For uses requiring a Special Permit, the Planning Board may issue a Special Permit after application has been made to the Code Enforcement Officer and after due notice and public hearing as required in Article VII, Section 7.701 and as set forth below and in Article X, Section 10.1004.

**Sec. 4.402            SPECIAL FINDINGS**

Before granting a Special Permit for any use, the Planning Board shall make the following special findings.

- 1) That the lot area is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof.
- 2) That the proposed use will not prevent the orderly and reasonable use of adjacent properties.
- 3) That the site is particularly suitable for the location of the proposed use in the community.
- 4) That the characteristics of the proposed use are not such that it's proposed location would be unsuitably near to a church, school, public park or other similar use.
- 5) That access facilities are adequate for the estimated traffic from public streets or highways, so as to assure the public safety and to avoid traffic congestion, and further that vehicular entrances and exits shall be clearly visible from the street and not be within fifty (50) feet of the intersection of street lines at a street or highway intersection except under unusual circumstances.
- 6) That there are an adequate number of off-street parking and loading spaces provided for the anticipated number of occupants, both employees and patrons or visitors, and further, that the layout of the spaces and driveways is convenient and conducive to safe operation.
- 7) That adequate buffer yards and screening are provided where necessary to protect adjacent properties and land uses.

- 8) That the proposed use will comply with all other regulations and laws applicable to such use.

**Sec. 4.403 MANUFACTURED HOME DEVELOPMENT**

Manufactured home development may be permitted where applicable in this local law provided that standards and procedures are adhered to according to the Town of Tyre Mobile Home Park Law.

**Sec. 4.404 JUNK AND AUTO SALVAGE YARDS**

- 1) No junk or auto salvage yard shall be within 500 feet of a church, school, hospital, public building, place of public assembly, or neighboring dwelling.
- 2) AESTHETIC CONSIDERATIONS: At the hearing regarding location of the junk or auto salvage yard, the Planning Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Planning Board may consider collectively the type of road servicing the junk or auto salvage yard or from which the junk or auto salvage yard may be seen, the natural or artificial barriers protecting the junk or auto salvage yard from view, the proximity of the proposed junk or auto salvage yard to established residential or recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk or auto salvage yard.
- 3) FENCING: Before use, a new junk or auto salvage yard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junk or auto salvage yard or when the applicant or his agent shall be within. Such fences shall be erected not nearer than fifty (50) feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk or auto salvage yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junk or auto salvage yard shall be accomplished within the enclosure. Where the topography, natural growth of timber or other

considerations accomplish the purpose of this section in whole or in part, the fencing requirements may be reduced by the Planning Board, provided, however, that such natural barrier conforms with the purposes of this section.

**ARTICLE V            SUPPLEMENTARY REGULATIONS**

**Sec. 5.501            APPLICATION OF REGULATIONS**

All uses permitted by this Law shall be subject to such exceptions, additions, or modifications as are provided in the following supplementary regulations.

**Sec. 5.502            HEIGHT EXCEPTIONS**

The height limitations of this law shall not apply to church spires, belfries, windmills, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulk heads, solar energy collector equipment, similar features, and necessary mechanical appurtenances usually carried above roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

**Sec. 5.503            YARD EXCEPTIONS**

In computing yard depths required by this law the following rules shall be observed:

- a) PATIO: A ground level patio shall not be considered as part of a building in the determination of side or rear yard sizes or lot coverage, provided, however, that such patio is unroofed and without walls, parapets, or other forms of enclosure. Such patio, however, may have an open guard railing not over three (3) feet high, and shall not project into any yard to a point closer than four (4) feet from any lot line.
- b) PORCHES: In determining the percentage of building coverage or the size of yards for the purpose of this law, enclosed porches shall be considered a part of the building. An unenclosed porch may extend not more than eight (8) feet into a required front yard.
- c) PROJECTING ARCHITECTURAL FEATURES: The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, cornices, eaves, and other architectural features, provided, however, that such features shall not project more than two (2) feet into any required yard.

- d) EXTERIOR STAIRWAY: Exterior stairways and wheelchair ramps may extend into any required yard not more than four (4) feet, six (6) inches.

**Sec. 5.504 LOTS IN TWO DISTRICTS**

Where a district boundary line divides a preexisting lot in single or joint ownership of record at the time this law is adopted, the regulations applying to each portion of the lot shall apply respectively, except if the smaller portion is less than one (1) acre, then the regulations applying to the larger portion shall apply to the whole lot.

**Sec. 5.505 FRONT YARD DEPTH**

In all districts where the average front yards for buildings existing immediately adjacent (within 200 feet of the lot line) on either side exceeds the minimum specified, a front yard shall be provided equal to this greater average depth. Where such average front yard is less than the minimum specified, the building may be built to this lesser depth, but shall not be less than thirty (30) feet from the street line. An adjacent vacant lot shall be considered as having the minimum front yard as required in the district.

**Sec. 5.506 SIDE AND REAR YARD TRANSITION**

On every lot in a Business or Industrial district that abuts directly a Residential district, there shall be provided a landscaped yard of at least seven (7) feet on such lot along the line or lines where it abuts such districts.

**Sec. 5.507 CORNER LOTS**

On corner lots, the sides facing both streets shall be considered front yards. Of the other sides, one shall be considered a rear yard and the other a side yard at the owner's option.

**Sec. 5.508 FACTORY-BUILT BUILDINGS AND HOME ON SEPARATE LOT**

- 1) The following regulations apply to factory-built, non-residential buildings.
  - a) Factory-built buildings used for other than tool, machine storage and animal shelter shall not be permitted.



- b) A permit for the erection or installation of allowed structures shall require a permit.
  - c) Allowed structures must comply with all local and county building codes.
  - d) Field and engineering offices shall be exempt from these regulations as long as they are placed temporarily.
- 2) The following regulations apply to all manufactured homes.
- a) A permit shall be required for the erection or installation of such housing.
  - b) Such housing shall meet The Federal Manufactured Housing Construction and Safety Standards Act of 1974 (which became effective June 15, 1976) and must have an attached tag stating so.
  - c) Replacement of a manufactured home shall require notification of the local Code Enforcement Officer and will comply with current provisions set forth in this ordinance.
  - d) All sewage and waste water disposal shall meet all county health codes.
  - e) Manufactured homes shall meet all county and manufacturer recommended installation.
  - f) Manufactured homes housing shall have a minimum width of 12 feet and a minimum interior area of 650 square feet.
  - g) All wheels and tow bars are to be removed whenever possible.
  - h) All installation shall require the housing to be anchored with tie-downs or placed on a permanent foundation.
  - i) Skirting shall be installed within ninety (90) days of occupancy and shall be of a material which will provide a finished exterior appearance.
  - j) Manufactured homes are not considered modular homes, the latter being subject to local and state building codes.

**Sec. 5.509 OFF-STREET PARKING**

- a) Off-street parking shall be required for all new uses permitted by right or special permit after the effective date of this Law.
- b) For commercial and industrial property each off-street space shall consist of at least two hundred (200) square feet with a minimum width of ten (10) feet. In addition, space necessary for aisles, maneuvering, and drives shall be provided. Any parking lot designed for four (4) cars or more shall be paved with a hard or crushed stone surface

material properly drained so as to control surface runoff water. The parking area must be kept free from refuse. Ingress and egress points shall be at least fifteen (15) feet in width for one-way lanes and twenty-four (24) feet in width for two-way lanes.

- c) No parking shall be permitted that will restrict any ingress or egress or access to any loading berth.
- d) Each commercial and industrial parking lot shall be landscaped and contain necessary lighting and traffic control signs.

**Sec. 5.510 BUSINESS & INDUSTRIAL OFF-STREET LOADING BERTHS**

Each required loading berth shall be at least twelve (12) feet wide, thirty-three (33) feet long, and fourteen (14) feet high, and may be located either within a building or in open space, but not within required yards, off-street parking spaces or accessory drives thereto. Unobstructed access, at least twelve (12) feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot to which they are accessory.

**Sec. 5.511 SCREENING WALLS, FENCES, AND HEDGES**

1) Business District

A fence may be erected on business property lines provided it does not exceed eight (8) feet in height and meets the design standards in Part 3 below.

2) Industrial District

A fence may be erected on industrial property lines provided it does not exceed ten (10) feet in height and meets the design Standards in Part 3 below.

3) Design Standards

1) In any district, trees, shrubs, and other plantings are permitted in required yards, including front yards, provided they do not block a clear view or vision for vehicular traffic. Fences that are an integral part of the historic nature of any historical property are exempt from this provision.

2) A fence shall be constructed and maintained to withstand a wind load no less than 15 pounds per sq. ft. All materials shall be treated against infestation or corrosion.

- 3) No fence shall be constructed with broken glass or other similar high risk injury causing materials on any surface. Barbed wire may be used for farm fencing and at the top of industrial property fences.
- 4) All fences shall be maintained by the property owner as meets the original design specification.

**Sec. 5.512 SIGNS**

GENERAL REGULATIONS.

Signs may be erected and maintained only when in compliance with the following provisions:

- 1) The following regulations apply to all permitted sign uses:
  - a) A permit shall be required for the erection, alteration, or reconstruction of any business or advertising sign.
  - b) Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated. Free-standing signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area.
  - c) Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street or highway.
  - d) Signs shall not project beyond property lines nor over public walk ways.
  - e) Signs greater than 50 square feet are not permitted within a residential (R) district.
  - f) All signs shall conform to the minimum yard requirements of the district in which they are located, except as specified in the BULK TABLE of this law.
  - g) Signs fronting on a public way shall be no closer to one another than 200 feet.
  - h) Flags and banners are considered signs for the purposes of this law.
  - i) Except as otherwise noted in this law, a maximum of two (2) signs will be permitted per lot.

2) Business and advertising signs are permitted in business (B) and industrial (I) districts in accordance with the following regulations:

- a) No sign shall exceed 100 square feet in area.
- b) The total number of signs on a business or industrial lot shall not exceed three (3), of which only two (2) may be free-standing.
- c) Where more than one establishment or business is located on one business or industrial lot, each establishment shall be permitted to have one (1) sign, and a maximum of two (2) free-standing signs per lot.
- d) No sign shall be higher than the height limit in the district where such sign is located.
- e) No sign fronting on the same side of a public way shall be permitted within two hundred (200) feet of a public or parochial school, library, church, hospital, or similar institution.

3) Removal of signs

Any sign now or hereafter existing which is dilapidated or unsafe, or no longer advertises a bona fide business conducted, or a product available for purchase by the public on the premises, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure or land upon which sign may be found within ten (10) days after written notification from the Code Enforcement Officer, and , upon failure to comply with such notice within the time specified in such order, the Code Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure or land to which such sign is attached.

4) Prohibitions:

- a) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.
- b) No sign shall impair or cause confusion of vehicular or pedestrian traffic, in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within fifty (50) feet of the intersection of the street or highway lines.

## EXEMPT SIGN REGULATIONS

1. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection; and emblems installed by government agencies, religious or nonprofit organizations; not exceeding six (6) square feet.
2. Flags and insignia of any government, except when displayed in connection with commercial promotion.
3. On-premise directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, not exceeding four (4) square feet per face and six (6) feet in height.
4. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.
5. Number and name plates identifying residents, mounted on house or apartment or mailbox or lamp post, or as a lawn sign, not exceeding one (1) square foot in area.
6. Private-owner merchandise sale signs for garage sales and auctions, not exceeding four (4) square feet for a period not exceeding seven (7) days.
7. Temporary, non-illuminating "For Sale," "For rent," real estate signs and signs of similar nature, concerning the premises upon which the sign is located. In an agricultural or residential zoning district, one sign not exceeding four (4) square feet per side. In a business or industrial district, one sign not exceeding fifty (50) square feet. All signs shall be removed within three (3) days after the sale, lease or rental.
8. One temporary sign for a roadside stand selling agricultural products grown on the premises in season, providing that such sign not exceed twenty-four (24) square feet.
9. Temporary, non-illuminated window signs and posters not exceeding twenty-five (25) percent of the window surface.
10. Thanksgiving, Christmas, Halloween, Easter holiday and other seasonal decorations, including lighting.

11. Temporary signs for directions to meetings, conventions, and other assemblies, not to exceed four (4) square feet, and to be removed within seven (7) days after the designated event.
12. One temporary sign, not exceeding six (6) square feet in the residential district, nor sixteen (16) square feet in the agricultural, business, or industrial districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress.
13. Election posters, banners, and similar signs, not exceeding six (6) square feet in the agricultural and residential districts nor sixteen (16) square feet in the business and industrial districts, providing:
  - a: Placement shall not exceed thirty (30) days unless a winner of a primary election wishes to use the same signs for a general election, in which case signs must be removed within ten (10) days after the general election.
  - b: The names and addresses of the sponsor and the person responsible for removal are identified.
14. Temporary, single-use promotional signs (including flags and banners), not exceeding six (6) square feet in the agricultural and residential districts nor sixteen (16) square feet in the business and industrial districts, providing:
  - a: Placement shall not exceed thirty (30) days.
  - b: The date of placement is clearly marked on the sign.
  - c: The sign is not reused at a later time
15. At gasoline stations:
  - a: Integral graphics or attached price signs on gasoline pumps.
  - b: Two auxiliary signs per station, each not exceeding two (2) square feet.
  - c: One portable sign per station, not exceeding twelve (12) square feet and four (4) feet in height.
16. Signs required by state or federal law (such as vehicle inspection station signs) and signs identifying home offices of local public officials (such as Town Clerk or Justice of the Peace).

Sec. 5.513 ROADSIDE STANDS

GENERAL REGULATIONS

Section 5.513.1 Roadside Stands, Home Products

Roadside stands, home products, may be erected and maintained only when in compliance with the following provisions:

- 1) The roadside stand is owned and operated by the owners or occupant of the property on which it stands
- 2) The roadside stand is removed or securely closed at the end of the local growing season.
- 3) Larger roadside stands (>160 sq. ft.) must comply to standard building setbacks.

Section 5.513.2 Roadside Stands, Other

Roadside stands, other, may be erected and maintained only when in compliance with the following provisions:

- 1) The applicant is considered to be the person(s) or organization wishing to establish the roadside stand.
- 2) The applicant can demonstrate that permission is granted by the property owner for placement of the roadside stand and the intended duration of its operation.
- 3) Standard building setbacks shall apply to all roadside stands greater than 160 sq. ft.
- 4) Permit for placement and operation of the roadside stand is valid only for the calendar year in which the permit is issued.
- 5) The roadside stand is removed or securely closed when it is not in use.
- 6) Adequate off-road parking for customer vehicles is available.
- 7) The Town Board has the option to charge a separate Roadside Stand User Fee
- 8) In a Business District, only two roadside stands per lot will be permitted. However, a single-use permit (e.g., one or two days) may be issued for special events to allow more than two roadside stands per lot.
- 9) A road side stand used as a display for an existing business shall be considered part of the business and shall be exempt from this roadside stand regulation.

**Sec. 5.514 TELECOMMUNICATION TOWERS**

GENERAL REGULATIONS.

Section 5.514.1 Special Use Permit Required:

- A. No telecommunications tower shall hereafter be used, erected, moved, constructed, reconstructed, changed or altered except after approval of a telecommunication special use permit in conformity with these regulations. No structure shall be modified to serve as a telecommunication tower or to serve a telecommunication tower unless in conformity with these regulations. No antenna shall be constructed on an existing telecommunications tower wherein the carrier intends to share the use of the tower with another carrier unless the carrier desiring to share the use of the existing tower applies for and obtains a telecommunication special use permit from the town in conformity with section 5.514 .
- B. The regulations set forth in section 5.514 shall apply to all property within agricultural, business, and industrial districts in the town and all telecommunication towers and accessory facilities or structure shall be sited to have the least practical adverse effect on the environment.
- C. Where the provisions of section 5.514 conflict with other laws and regulations of the town, the more restrictive shall apply, except when the application of other laws and regulations of the town are preempted by the 1996 United States Telecommunications Law or other telecommunication acts or regulations.

Section 5.514.2 Exemptions:

The following are exempt from the application of this section:

- A. The repair and maintenance of existing communications towers and antennas.
- B. Antennas used solely for the residential household television and radio reception.
- C. Lawful or approved use existing prior to the effective date of this section.



Section 5.514.3 Application and Site Plan Requirements:

All applications for a special use permit shall be by written application on forms provided by the town. The applications shall include a site plan setting forth specific site data on a map in acceptable form and content, which shall be prepared to scale and in sufficient detail and accuracy. The application and site plan shall set forth the following information and documents.

- A. Documentation on the proposed intent and capacity of use.
- B. Adequate and appropriate information concerning the location, size and height of the proposed tower structure, including the number and design of the antennae proposed.
- C. Documentation showing justification for any land or vegetation clearing required.
- D. A description of all proposed auxiliary fixtures, equipment and structures including information on grade, material, color, lighting, road and parking.
- E. A completed environmental assessment form (form to be provided by the town), which shall include a visual environmental assessment.
- F. A landscaping plan that includes screening of the tower base and structures in compliance with the standards set forth herein.
- G. A copy of the applicant's Federal Communications Commission license.

The application and site plan for towers over 100' shall set forth the following additional information and documents.

- H. A certification from a professional engineer licensed by the State of New York certifying that the proposed tower structure, at a minimum, meets all applicable federal and state safety codes and all accepted industry standards for tower design and in connection therewith, the facility meets or exceeds structural requirements for loads, winds, ice and, if applicable, is designed to accommodate shared use (co-location) and/or co-sitings.
- I. The specifics with regard to technology and the technical characteristics of the proposed equipment, including information concerning frequency,

transmission and maximum effective radiated power and direction of lobes. The applicant shall also provide a report and certification from a professional engineer licensed by the State of New York showing that the proposed telecommunication tower, when operational, will comply with the standards for radio frequency exposure, including NIER levels as adopted by the Federal Communications Commission.

- J. A description of the basis for calculating capacity and design elements together with the applicant's proposed tower maintenance and inspection procedures and records system.
- K. A propagation study showing the particular site subject to the application and justifying the proposed height of the telecommunication tower to be constructed on the site, and said propagation study shall show alternative sites utilizing towers of lesser height.
- L. A detailed visual analysis based upon the results of the Visual Environmental Assessment from viewpoints within and outside of the municipality as requested by the Zoning Officer, Planning Board, or Zoning Board, a zone of visibility map from viewpoints suggested by the Zoning Officer, a pictorial representation of "before and after" view from key viewpoints both inside and outside the town selected by the Zoning Officer, Planning Board, or Zoning Board, and an assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting properties and streets.
- M. A grid or map of all of the applicant's existing telecommunication tower sites within the town and within four miles of the town's corporate boundaries outside the town with a designation of site areas proposed or projected by the applicant and the height of the tower proposed or projected for installation within two years of the date of the application and, if available, any plan of installations beyond two years.

Section 5.514.4 Permitted Location:

- A. Telecommunication towers and accessory facilities shall be, in order to comply with the 1996 United States Telecommunications Law, a special permitted use in agricultural, business, and industrial zoning districts; however, it is the town's preference that the telecommunication towers and accessory facilities be without preference to any zoning district:

- (1) Colocated on existing telecommunication towers.
- (2) Cosited with existing telecommunication towers.
- (3) Sited on compatible municipal or public properties.
- (4) Sited on other quasi-public property owned by public benefit corporations or public utilities.

Section 5.514.5 Shared Use (colocation) and Cositing:

- A. At all times, shared use (colocation) of existing telecommunication towers or cositing an additional telecommunication tower at an existing telecommunication site shall be preferred to construction of new telecommunication towers at different sites. Additionally, where such shared use (colocation) or cositing is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use (colocation) or cositing at existing facilities and use of other pre-existing structures as an alternative to a new construction or the creation of a new facility.
- B. An applicant intending to share use (colocate) on an existing structure shall be required to document intent from an existing tower owner to share use (colocate). The applicant or owner of the tower shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening and other charges, including real property acquisition or lease required to accommodate shared use (colocation). The town shall not be responsible to incur any costs whatsoever of adapting an existing tower or structure to a new shared use.
- C. An applicant intending to cosite a telecommunication tower on the property occupied by an existing telecommunication tower shall comply with this section and all the telecommunication special use permit standards in the same manner as if the applicant were constructing a telecommunication tower at a new location.

- D. In the case of new telecommunication towers, the applicant shall be required to submit documentation demonstrating good faith efforts to secure shared use (colocation) from existing towers in locations technically feasible as well as documenting capacity for future shared use (colocation) of the proposed tower. Written requests and responses, if received, for shared use (colocation) shall be provided. All new telecommunication towers shall be engineered to accommodate shared use (colocation) with other carriers.

Section 5.514.6 Setbacks:

Towers and antennae as a minimum shall comply with existing setbacks within the affected zone. Additional setbacks may be required by the Planning Board to contain on site substantially all ice-fall or debris from tower failure and/or to preserve privacy and/or aesthetics of adjoining properties or property within the neighborhood, and such setbacks shall be otherwise keyed to design of towers and engineering information available. Setbacks shall apply to all tower parts, including guy wire anchors and to any accessory facilities.

Section 5.514 .7 Visual Impacts:

- A. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. The applicant shall submit plans for adequate visibility of any guy wires from ground level to a height not less than eight feet, if the tower requires guy wires.
- B. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA) or as provided by this section or as may be required by the Planning Board. Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green or black below the surrounding treeline unless other standards are required by the FAA. In all cases, freestanding structures shall be preferable to guyed towers. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- C. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

Section 5.514.8 Tower Height:

The tower height shall be determined by the Planning Board upon the applicant's submittal of a propagation study as required in section 5.514.3 or other proof justifying the height of any telecommunication tower and/or antennae. The town generally prefers telecommunication towers of a height that will not require strobe lighting and/or specific painting as required by FAA rules and regulations.

Section 5.514.12 Access and Parking:

A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

Section 5.514.13 Removal of equipment:

If the telecommunication tower, antenna, accessory facility, fences or other appurtenances (all hereinafter referred to as equipment) constructed by the applicant are no longer used for the purpose of transmitting or receiving telecommunications, the applicant shall notify the Town Clerk of the town within 30 days of such termination that it is no longer using the equipment for telecommunication purposes, and within six months of the termination of the use of said equipment, the applicant shall remove the equipment from its site. The applicant shall post performance security in the form of a letter of credit with the Planning Board in an amount equivalent to 150% of the estimated cost of removal of the equipment as determined by the Planning Board and said letter of credit shall be on terms and conditions satisfactory to the Town Attorney. The letter of credit shall be reviewed every five years from the date of issuance of a special use permit by the Planning Board for the purpose of determining whether or not the letter of credit is at least 150% of the estimated cost of the removal of the equipment. The applicant shall increase the letter of credit to 150% of the estimated cost of removal of the equipment as determined by the Planning Board in the event that the letter of credit is deemed by the Planning Board to be less than 150% of the estimated cost of removal. If the applicant assigns its interest in the equipment or by operation of law no longer owns the equipment, the applicant's successors and/or assigns shall be obligated to post performance security with the Planning

Board as provided in this subsection as if it was the applicant at the time the special use permit was granted pursuant to this section. In the event that the applicant leases the site on which the equipment is constructed, the applicant shall obtain an irrevocable consent, to be binding upon the landowner's heirs, distributees, successors and/or assigns permitting the applicant to remove the equipment within six months of the date it ceases to be used for telecommunication purposes and permitting the town to enter onto the landowner's land for the purpose of removing the equipment in the event that the equipment is not removed by the applicant within said six-month period. The consent shall be in a form satisfactory to the Town Attorney and shall, upon approval of the Town Attorney, be recorded in the Seneca County Clerk's office. Upon removal of the equipment, the applicant is to restore the site by planting sufficient vegetation to cause the site to blend in with the surrounding area.

Section 5.514.14 Signage:

Telecommunication towers shall be signed with a sign no larger than two square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmit capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(e) as well as emergency telephone number(s). No other signage, including advertising, shall be permitted on any antenna(e), antenna(e) supporting structure, monopole or antenna tower unless required by federal or state law or regulation.

Section 5.514.15 Maintenance and inspection:

The applicant, its successors, and/or assigns, shall file annually with the town, on the anniversary date of the granting of the special use permit by the Planning Board, a written report certifying that the applicant, its successors and/or assigns are complying with maintenance and inspection procedures and records system, and that the telecommunication tower facility is not a hazard or a threat of a hazard to the health and safety of the public.

Section 5.514.16 Expiration and violation of telecommunication special use permits:

- A. A telecommunication special use permit shall be deemed to authorize only the particular use applied for and all shall expire if:

(1) The telecommunication special use shall cease for more than six months for any reason.

(2) All the improvements required by the Planning Board prior to the issuance of the telecommunication special use permit are not completed within 12 months of the Planning Board granting a telecommunication special use permit subject to its issuance upon completion of various improvements, unless prior to that time, an extension has been granted by the Planning Board.

- B. A violation of any of the terms and conditions of a telecommunication special use permit granted by the Planning Board shall be construed as a violation of this section, the town shall have the right of enforcement as set forth in this law.

Section 5.514.17 Technical consultants:

Upon the submittal by the applicant of the application and site plan, the Planning Board and/or Zoning Board of Appeals shall have the right, if it so chooses, to hire communication engineers, licensed structure engineers, or other technical consultants to assist in analyzing the application and site plan and the applicant shall reimburse for such costs.

**Section 5.515.1 Adult Entertainment**

GENERAL REGULATIONS.

Special regulations are necessary to ensure that the adverse effects of these specific uses will not contribute to the blighting or down-grading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing concentration of these uses. Uses subject to these controls and special regulations as follows:

- A. Adult use and entertainment establishments
- B. Adult arcades;
- C. Adult bookstores or adult video stores;
- D. Adult cabarets;
- E. Adult motels;
- F. Adult motion picture theaters/adult theaters;
- G. Escort agencies;
- H. Nude model studios; and

I. Sexual encounter centers.

Section 5.515.2 Locations within allowed Zoning Districts.

All regulated uses of Adult Use and Entertainment Establishments shall be permitted only in the allowed Zoning District as set forth in Section 3.301 hereof, and within such a district, the site and location shall be regulated as follows:

- A. Residential Zoning District Boundary - not allowed within five hundred (500) feet of the boundary of any residential zoning district of the Town;
- B. Residential Use - not allowed within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town;
- C. Place of Worship, School, Day Care - not allowed within five hundred (500) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, day-care facility, park, or playground within the Town;
- D. School Bus Stop - not allowed within two hundred fifty (250) feet of the property line of a school bus stop;
- E. Same Parcel - not allowed on the same parcel as another Adult Use and Entertainment Establishments; or
- F. Proximity to another Regulates use of Adult Uses and Entertainment Establishments - not allowed within one thousand (1000) feet of the property line of another regulated uses of Adult Use and Entertainment Establishments, whether or not such other establishment is located within the Town.

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

Section 5.515.3 Display Prohibited.

All regulated uses of Adult Use and Entertainment Establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit in the open air (outside of the establishment), through a window, or by means of a depiction or decoration, or to allow there to be displayed or exhibited, any specified anatomical area or specified sexual activity.

Section 5.515.4 Signage

Notwithstanding any other town ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any Adult



Use and Entertainment Establishments or any other person to erect, construct, or maintain any sign for the Adult Use and Entertainment Establishments other than one (1) primary sign and one (1) secondary sign, as provided herein.

A primary sign shall have no more than two (2) display surfaces. Each such display surface shall:

- A. Not contain any flashing lights;
- B. Be a flat plane, rectangular in shape;
- C. Not exceed seventy-five (75) square feet in area; and
- D. Not exceed ten (10) feet in height or ten (10) feet in length.

A secondary sign shall have only one (1) display surface. Such display surface shall:

- A. Not contain any flashing lights;
- B. Be a flat plane, rectangular in shape;
- C. Not exceed twenty (20) square feet in area;
- D. Not exceed five (5) feet in height or four (4) feet in width; and be affixed or attached to any wall or door of the establishment.

Primary and secondary signs shall contain no photos, silhouettes, drawing or pictorial representations in any manner, and may contain only the name of the enterprise.

Each letter forming a word on a primary or secondary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

**ARTICLE VI           NONCONFORMING USES**

**Sec. 6.601           NONCONFORMING USES**

All lawful uses existing at the time of the enactment of this law may be continued although such does not conform with the provisions of this law.

**Sec. 6.602           UNLAWFUL USES NOT TO BE CONSTRUED AS NONCONFORMING**

No unlawful use or structure or portions thereof existing at the time of the enactment of this law shall be deemed a nonconforming use or structure. Unlawful uses or structures are not entitled to any of the protections granted by this law to nonconforming uses or structures.

**Sec. 6.603           UNSAFE USES**

Any nonconforming use or portion thereof declared unsafe by a proper public authority may be restored to a safe condition.

**Sec. 6.604           EXTENSION OF NONCONFORMING USES**

No nonconforming use may be extended, expanded or enlarged into any building or lot, or portions thereof, not used for such uses on the day of the enactment of this law. However, a nonconforming use may be extended throughout the parts of a building or lot which were manifestly arranged or designed for such use at the time of the enactment of this law.

**Sec. 6.605           RESTORATION OF NONCONFORMING USES**

Any nonconforming use caused to cease because of property damage to an extent of less than 75% of the property's value by any cause other than the design or intent of the owner may be restored to its original conditions existing immediately prior to its cessation. The restoration must be commenced within 18 months after the date of its cessation. If the restoration is not commenced within 18 months, the nonconforming use may not be restored.

**Sec. 6.606           ABANDONMENT OF NONCONFORMING USES**

Whenever a nonconforming use has been discontinued, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this law. A use shall be deemed to have been discontinued under and of the following circumstances:

- a) The vacancy of a building occupied by a nonconforming use for a continuous period of one year, except that, if during

said one year period any person interested in said building as a mortgage holder, trustee in bankruptcy or similar legal interest commences or is a party to any legal proceeding involving legal title to or an interest in said building, said period of continuous vacancy shall be one year from the cessation or resolution of any legal action.

b) The vacancy of land occupied by a nonconforming use for a period of six (6) months.

c) The manifestation of a clear intent on the part of the owner to abandon the non-conforming use.

**Sec. 6.607 CHANGES IN NONCONFORMING USES**

Once changed to a conforming use, no lot or structure may be permitted to revert to a nonconforming use.

**Sec. 6.608 CONSTRUCTION APPROVED PRIOR TO LAW**

Nothing in this Law shall require any change in plans, construction or designated use of a building for which a building permit has been issued prior to the adoption of this Law and the construction of which has been started within three (3) months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within one year of the date of the permit and which entire building shall be completed according to such plans, as filed, within two (2) years from the date of the permit.

**Sec. 6.609 NONCONFORMING EXCEPTIONS**

All recorded lots existing prior to the adoption of this law which do not meet the lot size and width requirements of this law shall be considered conforming for the purposes of this law.

**ARTICLE VII      PLANNING BOARD**

**Sec. 7.701      PROCEDURE FOR SPECIAL PERMIT REVIEW**

- 1) The Code Enforcement Officer shall send the completed application to the Planning Board within ten (10) calendar days after receiving a completed application on the forms provided.
- 2) At the next regular or special meeting of the Planning Board after an appropriate application for a special permit has been made to the Code Enforcement Officer, the Planning Board shall designate a hearing date within a reasonable time not to exceed thirty (30) days. When the application must be referred to the Seneca County Planning Board in accordance with General Municipal Law Section 239, the time shall not exceed sixty (60) days.
- 3) The Planning Board shall send a notice of the Public hearing to the applicant and publish a notice of the public hearing in the official newspaper of the town.
- 4) The notice of the public hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing, and shall contain the date, time and place of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
- 5) The Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate, but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the secretary of the Planning Board or his/her designee.
- 6) The decision of the Planning Board shall contain the reasons for its decision.
- 7) The Planning Board may approve, approve with conditions, or deny an application for a special permit, but, in any event, shall render its decision within forty-five (45) days after the hearing. The time in which to render its decision may be extended for a period of thirty (30) days upon the written consent of the applicant.
- 8) The concurring vote of a majority of (four (4) of) the full membership of the Planning Board shall be necessary to decide in favor of the applicant for any special permit. In accordance with General Municipal Law 239, a concurring vote of a majority plus one, (five (5),) is necessary to override

a negative recommendation by the Seneca County Planning Board on the granting of a special permit.

**Sec. 7.702      ZONING AMENDMENTS**

The Planning Board shall review all requests for zoning amendments and forward its report to the Town Board.

**Sec. 7.703      VARIANCES**

The Planning Board shall review all requests for variances and forward its recommendations to the zoning Board of Appeals.

**ARTICLE VIII ZONING BOARD OF APPEALS**

**Sec. 8.801 APPOINTMENT OF THE BOARD**

- 1) A Zoning Board of Appeals is hereby established in accordance with the provisions of the Town Law applicable thereto. The Board of Appeals shall consist of five (5) members appointed by the Town Board. Of the members by the Board first appointed, one shall hold office for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years from and after his appointment. At the expiration of such terms, all appointments shall be made for a term of five (5) years as herein provided.
- 2) Vacancies for the unexpired term of any member shall be filled for such unexpired period only.
- 3) No person may be appointed to more than three (3) consecutive full five year terms.
- 4) When any member is absent without notice from three (3) consecutive meetings the Chairperson shall in writing notify the Town Board.

**Sec. 8.802 ORGANIZATION OF THE BOARD**

The Zoning Board of Appeals shall, at an annual meeting in January of each year, elect a Chairperson and a Vice-Chairperson to assume the duties of the Chairperson in his absence. Chairpersons and Vice-Chairpersons shall be elected for a one (1) year term.

**Sec. 8.803 MEETINGS OF THE BOARD**

- 1) The Zoning Board of Appeals shall hold meetings at the call of the Chairperson or at the request of three (3) or more members.
- 2) The presence of three (3) members shall constitute a quorum for the conducting of business before the Board.
- 3) A concurring vote of three (3) members of the board shall be necessary to decide in favor of the appellant for any variance or to decide upon any other matter brought before the board, unless otherwise stipulated in this law.
- 4) All votes of the Board of Appeals shall be taken by roll call.

- 5) In accordance with General Municipal Law 809, a member of the Zoning Board of Appeals having a conflict of interest, shall abstain from any discussion and voting on that matter.
- 6) The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the board from the Town Attorney, and request the Town Attorney to attend its meetings.
- 7) The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- 8) The Chairperson of the Zoning Board of Appeals shall have the authority to administer oaths and to compel the attendance of witnesses.
- 9) All meetings of the Zoning Board of Appeals shall be open to the public in accordance with the New York State Open Meetings Law.
- 10) The Zoning Board of Appeals shall keep minutes of all its meetings.
- 11) The Zoning Board of Appeals shall make factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the board. These factual records shall be taken by stenographic or tape recorder means and shall be accurate, but not necessarily a verbatim transcript, but may be in narrative form.
- 12) The Zoning Board of Appeals shall file a copy of its minutes with the Town Board.

**Sec. 8.804 APPEALS**

- 1) Appeals to the Zoning Board of Appeals may be made by any person, officer, department, board or bureau of the town aggrieved by the requirements, decisions, orders or determinations made by the Code Enforcement Officer.
- 2) Appeals shall be made on appropriate forms supplied by the Zoning Board of Appeals and shall include all required information.
- 3) Appeals shall be made within thirty (30) days of written notification of the final action or decision by the Code Enforcement Officer.
- 4) After receiving the completed appeals document, the board shall fix a date for the hearing within a reasonable time, but not to exceed thirty (30) days, or sixty (60) days when

the appeal must be referred to the Seneca County Planning Board for review in accordance with General Municipal Law 239.

- 5) The Zoning Board of Appeals may request advice or opinions on any matter before the Board from the Town Planning Board or Town Attorney.
- 6) The notice of the hearing shall be published in the official newspaper at least five (5) calendar days prior to the date of the hearing. The notice should include the date, time, and place of the hearing, name of the appellant and the relief sought.
- 7) The secretary of the Board, at least seven (7) calendar days prior to the date of the hearing, shall mail a notice of the hearing to the appellant.
- 8) Personal knowledge of any of the members of the Board may be used in reaching a decision, provided that such knowledge was openly stated at the hearing and became part of the record of the hearing.
- 9) On-site inspection by the board members is encouraged and can be used in making its decisions provided that the inspection is held prior to the hearing and any comments or observations shall be openly stated and included in the record of the hearing.
- 10) Every decision of the Board of Appeals shall be rendered within forty-five (45) days after the hearing and shall contain the reasons for its decision. The time in which to render its decision may be extended for a period of thirty (30) days upon the written consent of the appellant.

**Sec. 8.805      POWERS OF THE BOARD**

The Zoning Board of Appeals shall have appellate Jurisdiction after due notice and hearing for the following:

- 1) Under Town Law 279, may grant a zoning permit to a property owner aggrieved by an "Official Map" of the Town adopted under Town Law 270. In this case, a notice of public hearing must be published in a newspaper of general circulation in the Town ten (10) days prior to the public hearing. The property owner must show that the property is not yielding a fair return on its value, and demonstrate that his request is causing a minimum impact upon the intent of the "Official Map."
- 2) May grant reasonable exceptions under special circumstances to the prohibitions of Town Law 280a concerning property without access to public streets.



- 3) Under General Municipal Law 239j may grant a zoning permit to a property owner aggrieved by an "Official Map" of the County adopted under General Municipal Law 239h. In this case a two-thirds (2/3) majority vote is required. The property owner must show that the property is not yielding a fair return on its value and that the use will have a minor impact upon the intent of the "Official Map."
- 4) May vary the requirements for a curb cut permit established by the County Superintendent of Highways in accordance with General Municipal Law 239k concerning properties having frontage or access on County roads or lands on a "County Official Map." In this case a two-thirds (2/3) majority vote is required. The property owner must show practical difficulties or unnecessary hardships that would result if the County's requirements were obeyed.
- 5) Upon appeal by any aggrieved party from a decision by the Code Enforcement Officer or Planning Board, the Zoning Board of Appeals may decide any question involving the intent of any provision of this law, including the determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- 6) Review any order, requirement, decision or determination made by the Code Enforcement Officer and/or Planning Board.
- 7) May grant bulk variances subject to the applicable provisions of Article IX in this law.
- 8) May grant use variances subject to the applicable provisions of Article IX of this law.

**ARTICLE IX                      VARIANCES**

**Sec. 9.901              POLICY**

When a parcel of land in a zoning district may not be able to be used for the purposes allowed for such district or for such purposes otherwise set out in this Zoning Law or where there exists practical difficulties or unnecessary hardship in the application of the provisions of this Zoning Law, it may be necessary in particular cases to vary or modify the application of any of the provisions of this Zoning Law to achieve justice while preserving the spirit of this Zoning Law.

**Sec. 9.902              VARIANCE**

The Zoning Board of Appeals may grant the minimum necessary variance required, provided that the appellant satisfactorily demonstrates that there is an unnecessary hardship or practical difficulty, as the case may be, in obeying the strict letter of the Zoning Law.

**Sec. 9.903              CONDITIONS OF VARIANCES**

The ZBA in granting a variance may require additional conditions to mitigate any adverse affects the requested variance may have upon the neighborhood and traffic congestion and safety. These conditions may include, but are not limited to, points of egress and ingress, landscaping, lighting, buffer areas, fencing, parking and other conditions it may deem reasonable and proper to insure that the intent of the district is preserved.

**Sec. 9.904              EXPIRATION AND TRANSFERENCE**

At the time a variance is granted, the variance pertains to the subject property and not the owner, and is valid through all subsequent owners. The variance is not transferable to another site, and the variance is for a specific use and not a class of uses. However, in the case where work has not been commenced and diligently prosecuted within one year after the date granted the variance shall become null and void.

**Sec. 9.905              TEMPORARY USE VARIANCES**

The ZBA may grant temporary variances under one of the following conditions:

- 1) The appellant has requested a temporary variance.
- 2) The nature of the proposed use is temporary.
- 3) There is a compelling public interest that would render an indefinite time period objectionable.

**ARTICLE X                    CODE ENFORCEMENT OFFICER**

**Sec. 10.1001    ENFORCEMENT**

The duty of administering and enforcing the provisions of this law is hereby conferred upon the Code Enforcement Officer. He shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

**Sec. 10.1002    DUTIES AND PROCEDURES OF THE CODE ENFORCEMENT OFFICER**

A) Administer the Zoning Law:

The Code Enforcement Officer shall review all applications for zoning permits, and, if the minimum requirements of this Law are met, he shall issue a permit. If the applicant's plans do not meet the zoning requirements, he must deny the permit. The Code Enforcement Officer may not use discretionary judgment. He must enforce the "Letter of the Law".

B) Referral to the Zoning Board of Appeals:

An applicant, after he has been denied a zoning permit, may appeal the Code Enforcement Officer's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Code Enforcement Officer shall notify the Clerk of the ZBA of the request and forward all necessary supporting information.

C) Referral to Town Planning Board:

Any application for a special permit or change of zoning district shall be forwarded by the Code Enforcement Officer to the Clerk of the Town Planning Board along with all supporting information.

D) Cite Zoning Violations:

For any plans, constructions, building, use of property found in violation of this Code, the Code Enforcement Officer shall order the responsible party, in writing, to remedy the conditions. He shall have the authority to secure from the Town Justice a stop order to constrain the continuance of the violation.

E) Report to Town Board:

A monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.

F) Report to Planning Board:

A monthly report to the Planning Board describing and enumerating actions taken and permits issued shall be given.

G) Public Record:

The Code Enforcement Officer shall file all permits' actions with the Town Clerk.

**Sec. 10.1003 ZONING PERMITS**

- 1) No building or structure requiring a permit under this Law shall be erected, added to or structurally altered until a zoning permit has been issued by the Code Enforcement Officer. No permit shall be granted by the Code Enforcement Officer for any purpose except in compliance with the provisions of this law, or as may be lawfully ordered by the Planning Board or the Zoning Board of Appeals.
- 2) Zoning permits shall be valid for a period of one (1) year and for good cause the Code Enforcement Officer may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

**Sec. 10.1004 APPLICATION REQUIREMENTS FOR ZONING PERMITS**

All applications for zoning permits shall be made in writing by the owner, tenant, vender under contract or sale, or authorized agent on a form(s) supplied by the Code Enforcement Officer.

In addition to the information requested on the application form, the applicant shall also provide the following:

- 1) Include a statement as to the proposed use of the building or land.
- 2) Include a site layout, drawn to scale, showing the location, dimensions and height of proposed buildings, structures, or uses, and any existing buildings in relation to property and street lines.
- 3) Include the size, dimensions, location, construction materials, and methods of illumination for signs, if applicable.
- 4) Include any additional plans and information reasonably necessary for the Code Enforcement Officer to ascertain whether the proposed use, change in use, erection, alteration or addition complies with the provisions of this law.
- 5) No permit for any new use or construction which will involve the on site disposal of sewage or waste, and no permit for a change in use or an alteration which will result in an increase volume of sewage or waste to be disposed of on the

site shall be issued until a certificate of approval has been issued by the Seneca County Health Department.

**Sec. 10.1005 ISSUANCE OF ZONING PERMITS**

Zoning permits shall be granted or refused within fifteen (15) days after the completed written application has been filed with the Code Enforcement Officer, except as provided for special permit applications.

**Sec. 10.1006 CERTIFICATE OF ZONING COMPLIANCE**

No land shall be occupied or used, and no buildings hereafter erected, altered or extended shall be used or changed in use until a certificate of zoning compliance shall have been issued by the Code Enforcement Officer. No certificate of zoning compliance shall be issued by the Code Enforcement Officer except in strict compliance with the provisions of this law.

**Sec. 10.1007 ISSUANCE OF CERTIFICATE OF ZONING COMPLIANCE**

Upon completion of the activity authorized by the zoning permit, the holder of such permit shall notify the Code Enforcement Officer of the completion. Thereupon the Code Enforcement Officer shall inspect the site, and, if the requirements of this law have been met, shall issue a certificate of zoning compliance. All applications with accompanying plans and documents shall become, and be preserved as, a public record for such period of time as required by law.

**Sec. 10.1008 PENALTIES**

Any person who shall violate any of the provisions of this law, or fail to comply therewith, or with any requirements thereof, or who shall violate or fail to comply with any order or regulation made thereunder, or who shall continue to work upon any structure, or continue to operate or conduct any business prohibited by this law, shall be guilty of an offense and subject to a criminal penalty of two-hundred-fifty dollars (\$250.00) fine and/or six (6) months imprisonment or a civil penalty of \$500 fine for each offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited condition as provided in Sec. 10.1009 of this law, nor appropriate civil action to restrain the violation of any provision of this law, nor any civil action to collect any fines imposed.

**Sec. 10.1009 ACTIONS FOR INJUNCTION**

In addition to the rights and penalties provided in Sec. 10.1008, the Town may obtain an action to restrain by injunction any

violation of this law or any failure to comply with any of the provisions of this law.

**Sec. 10.1010 REMOVAL OF VIOLATIONS**

Any building or structure erected, or any use conducted without a zoning permit or certificate of zoning compliance, where required, or not in conformity with the provisions of this law, may be removed, closed or halted at once by the Code Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate Town Officer or employee.

**Sec. 10.1011 FEES**

The Town Board shall by resolution establish fees for permits and other actions under this law, and shall post the fee schedule at the Town Offices.

**Sec. 10.1012 REFUND OF FEES**

Fees collected under this law are not refundable.

**Sec. 10.1013 AMENDMENTS**

All amendments to this law shall be in accordance with the provisions of the Town Law applicable thereto. Any proposed amendment shall be submitted to the Town Planning Board and Town Zoning Board of Appeals and, if required by General Municipal Law 239, the County Planning Board for report and recommendation prior to any action thereon by the Town Board.

**Sec. 10.1014 SEPARABILITY**

Should any section of or provision of this law be decided by a court of competent jurisdiction 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.

**ARTICLE XI            DEFINITIONS**

**Sec. 11.1101    GENERAL**

a) Unless a contrary intention clearly appears, for the purpose of this law, terms used herein shall be interpreted as follows:

- 1) Words used in the present tense include the future.
- 2) The singular includes the plural.
- 3) The word "Person" includes a corporation, and partnership as well as the individual.
- 4) The word "lot" includes the word "plot" or "parcel".
- 5) The term "shall" is mandatory.
- 6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be occupied".

b) Any word or term not defined herein shall be used with a meaning of standard usage.

**Sec. 11.1102    DEFINITIONS**

Accessory Facility - An accessory facility serves the principal use, is subordinate in area, extent and purpose to the principal use, and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

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

ADULT USE AND ENTERTAINMENT ESTABLISHMENT - A public or private establishment, or any part thereof, which presents any of the following entertainment, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; ADULT ARCADES; ADULT BOOKSTORES OR ADULT VIDEO STORES; ADULT CABARETS; ADULT MOTELS; ADULT MOTION PICTURE THEATERS; ADULT THEATERS; ESCORT AGENCIES; NUDE MODEL STUDIOS and SEXUAL ENCOUNTER CENTERS. ADULT USE AND ENTERTAINMENT ESTABLISHMENTS customarily exclude minors by reason of age, and are those businesses defined as follows:

ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices, which are regularly used to show films, motion pictures, video cassettes, slides or other photographic reproductions, are maintained to show images to

five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment which has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business advertising to the sale or rental of any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with SPECIFIED ANATOMICAL AREAS.

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

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

ADULT CABARET means a nightclub, bar, non-alcoholic or "juice" bar, restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity or semi-nudity; or



- B. Live performances that are characterized by the exposure of SPECIFIED ANATOMICAL AREAS or by SPECIFIED SEXUAL ACTIVITIES; or
- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

ADULT MOTEL means a hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS; and which advertises the availability of sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of off-premise advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, television, or internet; or
- B. Offers sleeping rooms for rent for a period of time that is less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of SPECIFIED ANATOMICAL AREAS or by SPECIFIED SEXUAL ACTIVITIES.

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

- A. ESCORT means a person who, for a fee, tip or other consideration, agrees or offers to any of the following; act as a companion, guide, or date for

another person; or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

MASSAGE PARLOR - any place where for any form of consideration or gratuity, massage, alcohol rub, or administration of fomentations, electric or magnetic treatment, or any other treatment manipulation of the human body which occurs as a part of or in connection with SPECIFIED SEXUAL ACTIVITIES, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her SPECIFIED ANATOMICAL AREAS. The definition of ADULT USE AND ENTERTAINMENT ESTABLISHMENT shall not include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program.

NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays SPECIFIED ANATOMICAL AREAS is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

NUDITY or a STATE OF NUDITY means the appearance of: a) human bare buttocks, anus, male genitals, female genitals, areola or nipple of the female breast; or b) a state of dress which fails to opaquely and fully cover human bare buttocks, anus, male genitals, female genitals, areola or nipple of the female breast.

SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purposes of SPECIFIED SEXUAL ACTIVITIES or exposure of SPECIFIED ANATOMICAL AREAS, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity. The definition of ADULT USES shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

ESTABLISHMENT means and includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;

- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The additions of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business; or
- E. A sexually oriented business or premises on which the sexually oriented business is located.

Agricultural District: A zoning district designed to retain and promote agricultural and related uses of the land while allowing some development of scattered single family dwellings.

Agricultural Service Establishments: A business engaged in performing agricultural, animal husbandry, or horticultural services on a fee or contract basis excluding corn shelling, hay bailing, and threshing; sorting, grading and packing fruits and vegetables for the grower; horticultural services, crop dusting, fruit picking, grain cleaning, land grading, harvesting and plowing.

Alterations: As applied to a building or structure, a change, rearrangement in the structural parts or enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

Antenna - A system of electrical conductors that transmit or receive radio frequency waves.

Area:

- a) Lot Area: The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.
- b) Building Area: The total areas taken on a horizontal plane at the main grade of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.
- c) Floor Area: The sum of the gross horizontal area of the several floors of a building excluding cellar or basement floor areas not devoted to residential use. Floor area does not include cellars, unenclosed porches or accessory buildings not used for human occupancy.

Boarding House: Any dwelling in which three (3) or more persons are housed or lodged with or without meals for hire and without private cooking facilities. A rooming house or a furnished room house shall be deemed a boarding house.

Building:

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

b) Building - Accessory: A subordinate building located on the same lot as a principal building and clearly incidental or subordinate of the principal building. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

c) Building - Principal: A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.

d) Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the declivity of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

e) Building Coverage: The percentage of the lot area covered by the building area.

f) Building - Front Line Of: The line of that face of the building nearest the front line of the lot. This face includes sun parlors, enclosed porches and unenclosed porches projecting more than ten (10) feet from the front wall of the building, but does not include steps.

Bulk Regulations: Those regulations which refer to dimensional or numerical requirements in the Zoning Law such as, but not limited to, lot width and depth, yard dimensions, building height and number of parking spaces, density, and supplementary regulations which refer to dimensional or numerical requirements.

Business:

a) Business, Limited: A commercial activity generally conducted within an office and characterized by services of a clerical, administrative, technical, professional or general business nature, including data processing, computer programming and similar technology, but expressly excluding manufacturing, wholesaling or retail sales of merchandise kept on the property.

b) Business, Retail: A commercial activity designed for and primarily characterized by the direct on premise sale of goods and services to the ultimate consumer, generally involving stock in trade such as are normally associated with department stores, food markets and similar establishments, but also including financial institutions, business and professional offices and services, including on-premise manufacturing, processing, servicing, preparation and wholesale business

transactions customarily associated therewith, but clearly incidental thereto. This term shall not include restaurants, motor vehicle businesses, places of public assembly or medical centers.

c) Business, Wholesale: A commercial activity characterized by the sale of merchandise to retail, manufacturing, institutional or other wholesale establishments, including on-premise storage and distribution facilities.

Business District: A zoning district designed to promote business development at advantageous locations for the convenience of the public and to minimize interference with residential development.

Campground: Any area of land or water containing or having spaces for two or more cabins, tents, camping trailers, campers, shelters, motor homes, houseboats, or other accommodations of a seasonal or temporary nature.

Campsite: An area in a campground providing space for an individual tent or other temporary housing.

Carport: A roofed structure with two enclosing walls, one of which is the building, used for the storage of one or more automobiles.

Club: Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising, or commercial activities except as required for the membership and purposes of such club. For the purpose of this law, clubs shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

Community: Town of Tyre

Day Camp: Any land or buildings used for the assembly of persons including adults, children, individuals, families, groups, whether for profit or nonprofit, but not including sleeping accommodations.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance.

Dwelling:

a) Dwelling: A building designed or used exclusively for the living quarters for one or more families.

b) One Family Dwelling: A detached building designed for or occupied exclusively by one family.

c) Dwelling Unit: Any room or group of rooms located within a residential building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating by one family.

d) Two-family Dwelling: A building designed for or occupied exclusively by two families living independently of each other.

e) Multiple Dwelling: A building or portion thereof containing three or more dwelling units.

Factory-built, non-residential building - any structure that is wholly, or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly on a building site for the purposes of storage, workshop, business, or animal shelter.

Family: One or more persons related to each other by blood, marriage or adoption (or not more than three individuals who are not so related) living together as a single housekeeping unit.

Gasoline Station: Any area of land, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles, but not repairing automobiles.

Habitable Floor: Any floor usable for living purposes, which includes working, sleeping, cooking, or recreation or combination thereof. A floor used only for storage purposes is not "habitable".

Home Occupations: An accessory business use conducted entirely within a dwelling by the residents thereof and not occupying more than 30% of the gross floor area including garages, basements, cellars, attics, storage sheds and similar areas, and which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such use other than an identification sign of up to two square feet in area, and in connection therewith, there is not involved the keeping of a stock in trade nor on-premises sales except as clearly incidental to the home occupation and nominal, in scope, nor more than one student in the performing arts within any common period of time. Restaurants, real estate offices, mortuary establishments and stores shall not be deemed home occupations.

Hotel: See Motel.

Industrial District: A zoning district designed to promote industrial development in an area where it will have the least impact on other uses in the community.

Junk: Rags, scrap paper, scrap metal, scrap machinery or parts, salvaged or used building materials, scrap glass, discarded materials or two or more unregistered motor vehicles no longer intended or in condition for use on the public highways.

Junk Yard: Any area or place used for the storage or the deposit of junk. The term junk yard shall not include an establishment having facilities for processing iron, steel or non-ferrous scrap for recycling or remelting purposes only.

Kennel, Commercial: Any lot, building, enclosure or premises where one or more dogs are kept for commercial purposes, including boarding, breeding, sale of goods or animals, or the rendering of services for profit.

Lot:

a) Lot: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this law.

b) Corner Lot: A parcel of land at the junction of and fronting on two or more intersecting streets.

c) Through Lot: An interior lot having frontage on two parallel or approximately parallel streets.

d) Lot Depth: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

e) Lot Width: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

f) Lot Line: Any boundary line of the lot.

Marina: A facility for the docking of boats and may also include gasoline sales to boats.

Manufactured home - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards.

MINOR - a person less than eighteen (18) years of age.

Modular home - factory-built housing certified as meeting the county and state building code as applicable to modular homes. Once certified by the state, modular homes shall be subject to the same standards as site-built homes.

Manufactured home development - a parcel of land under single ownership on which three or more manufactured home are located.

Motel or Hotel: A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which generally contains accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public. The term "motel" includes buildings designated as auto cabins, auto courts, motor lodges, tourist courts and similar terms.

Motor Vehicle Repair Shop: A building or portion of a building arranged, intended, or designed to be used for making repairs to motor vehicles.

Non-Conforming Lot: A lot existing at the time of enactment of this law or any amendment thereto, and which does not conform to the area regulations of the district or zone in which it is situated.

Non-Conforming Use: Any use or structure lawfully existing at the time of the enactment of this law or any amendment thereto, and not conforming to the current law.

Open Space: Any space or area characterized by great natural beauty or whose existing open space, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources.

Person: Includes any individual or group of individuals, corporation, partnership, association or any other organized group of persons, including local government and agencies thereof.

Plan (Plot or Site): The design of a development, including a plat of subdivision, all covenants relating to use, location, and bulk of buildings and other structures, intensity of use or density of development, private streets, ways and parking facilities.



PREMISES (Adult Entertainment) means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 9 of this ordinance;

Professional Offices: The office or place of business where professional services are offered and does not involve the sale of goods or the keeping of a stock in trade. Professional offices are limited to doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists, stock brokers and chiropractors, and similar professional occupations.

PROMOTE - to manufacture, issue sell, give, provide, lend, mail, deliver, transmute, publish, distribute, circulate, disseminate, present exhibit or advertise or to offer or agree to do the same.

Quarry, Sand Pit, Gravel Pit: A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

Recreation Space: Recreation space is the sum of all open or covered areas used for recreation purposes.

Recreation Space: Recreation ace is the sum of all open or covered areas used for recreation purposes.

Residential District: A zoning district designed to promote residential development in areas of the community where they may eventually be serviced by public services and where there may be the least negative impact between residential and other uses.

Restaurant: A building or portion thereof where food and beverages whether or not alcoholic, are sold to the public for consumption on the premises.

Restaurant, Fast Food: A building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on or off the premises and may include drive thru services.

Right-Of-Way: Land set aside for use as a street, alley, or other means of travel.

Road, Local: Streets where the prime function is to give direct access to abutting property. Local roads are the internal part of the system to provide movement within residential neighborhoods or other land use areas.

Road, Collector: Streets which collect the traffic generated on local streets and serve a relatively short, convenient and direct means of access from the various development areas of the city to secondary road systems.

Road, Secondary: Streets serving to connect major roads with each other and also to handle internal movement within the city.

Roadside Stand, Home Products: a small, usually non-permanent structure for displaying and selling locally produced fruits and vegetables during the local growing season, or homemade baked goods or homemade food or craft products.

Roadside Stand, Other: A small, usually non-permanent structure for displaying and selling a variety of items, including those described in Roadside Stand, Home Products.

Sewer:

a) Public Sewer: A "public sewer" is any municipal or privately owned system in which sewage is collected from buildings and piped to an approved sewage plant or central septic disposal system. It may also be referred to as "off-lot" or "off-site" sewer.

b) Private Sewer: An "on-lot" septic tank or aerobic disposal system generally providing for disposal of effluent for only one (1) building on a single lot.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Shopping Center: A lot used for three (3) or more commercial use units, attached or detached, which relate to a common parking area and common points of ingress and egress and common circulation pattern.

Sign: Any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of, an announcement, direction or advertisement. A "sign" includes a billboard or representational sign or portable sign for the purposes mentioned above, but does not include any sign listed in the Exempt Sign Regulations

Sign, Back-to-back: Identical signs arranged back-to-back or diverging by less than thirty degrees (30°) from a common line or point.

Sign, Free-standing: Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

Sign, Illuminated: A sign designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

Sign, Off-premises: A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

Sign, Portable: A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or other sign. Signs on truck trailers and vehicles with the intent as a stationary sign is considered a portable sign.

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

Sign, Window: A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four (4) feet of the window, but not including graphics in connection with customary window display of products.

Sign Area: The area within the shortest lines that can be drawn around the outside perimeter of a sign including all decorations and lights, but excluding the supports if they are not used for advertising purposes. All faces of the sign shall be counted in computing the area unless the sign is back-to-back, in which case only one face of the sign will be counted.

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

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;

- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions.

Story: That portion of a building enclosed between the surface of any floor and the surface of the floor next above it, or if no floor above it, then the space between any floor and the ceiling next above it. One-half story pitched roof is considered a full story.

Street: A public or private way used or intended to be used for passage or travel by vehicles which effects access to abutting properties.

Streetline: Limit of street or highway right-of-way lines. For the purpose this law, streetline shall be the highway right-of-way line.

Structure: A combination of materials to form a construction, the use of which requires location on or in the ground or attached to something having a location on or in the ground and includes but is not limited to buildings, storage tanks, radio towers, satellite TV antennas, barns, storage bins, sheds and signs.

Subdivision: An area of land divided by owners or agents, whether by lots or by metes and bounds, into lots or parcels two or more in number for the purpose of conveyance, transfer, improvement or sale of one or more.

Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

Swimming Pool: Any body of water or receptacle for water having a depth at any point greater than two feet, used or intended to be used for swimming, and constructed, installed, or maintained in or above the ground. A swimming pool shall be deemed a structure for all purposes under the provisions of this law.

Telecommunication Special Use - A use which is deemed allowable within a given zoning district but which is potentially incompatible with other uses and, therefore, is subject to special standards and conditions set forth for such use subject to approval by the Planning Board.

Telecommunication Tower - A structure on which transmitting and/or receiving antennae are located (including existing buildings and water tanks).

Tourist Home: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

Use: The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

Used: The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

Variance: An authorization granted by the Zoning Board of Appeals to exempt a particular action from the strict letter of the zoning law.

a) Bulk Variance: A variance for the construction or maintenance or modification of a building or structure in violation of the bulk requirements of the zoning law.

b) Use Variance: A variance for the establishment or maintenance or modification of a use of a building, structure or land which is prohibited by the zoning law.

Yard: An open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provided herein.

a) Front Yard: The space within and extending the full width of the lot from the front lot line to the part of the principle building which is nearest to such front line. For the purpose of this law, the front yard shall be that side which abuts a public or private road or right-of-way.

b) Rear Yard: The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such rear lot line, except for accessory building or open porches.

c) Side Yard: The space on the same lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard.

## Revision History

Sign regulation revisions enacted 11/9/1994.

Zoning Permit Fee Structure enacted 5/14/1997

Factory Built Structures enacted 12/15/1999.  
and  
Roadside Stands regulations enacted 12/15/1999.

Telecommunication tower regulations and definitions  
enacted 7/13/2001





Adult entertainment regulations enacted 7/18/02

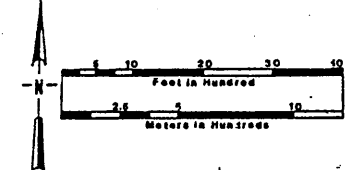
Commercial Distilling of Alcohol allowed in the  
Business Districts by Special Permit 12/29/05

APPENDIX I Zoning Map




**ZONING MAP**

-  AGRICULTURAL
-  RESIDENTIAL
-  COMMERCIAL
-  INDUSTRIAL



REVISED 10/80  
7/84  
7/86  
Q/88

TOWN OF TYRE  
SENECA COUNTY NEW YORK

 Prepared by  
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