

**LOCAL LAW NO. 1 OF THE YEAR 1997
A LOCAL LAW TO AMEND THE TOWN OF VIENNA
ZONING LAW BY ADDING A REVISION "B" THERETO**

By COUNCILMAN: Laurence Montross :

WHEREAS, the Planning Board of the Town of Vienna has submitted to the Town of Vienna a proposed Revision "B: to the Town of Vienna Zoning Law, which revision encompasses a series of comprehensive changes and updates to the existing zoning code, to include: (1) new "USE" definitions, revisions to existing definitions, and modifications to the existing Schedule B of the Zoning Law, entitled "Permitted Uses in Zones"; (2) modifications and changes to the districting of an estimated 592 acres of an existing (WR) Zoning District; (3) the incorporation of text and map changes adding overlay zones entitled "Ground Water Protection Overlay Zones", designed to protect the public water supplies within the Town, including those areas presently serving the Village of Cleveland; the adjacent westerly edge of the Town of Vienna; and the hamlets of North Bay and McConnellsville; and (4) changes to various other articles of the existing zoning law; and

WHEREAS, a public hearing was held on the 23rd day of April, 1997, as to the adoption of a local law by the Town of Vienna concerning said revisions, at which time all interested parties were given the opportunity to be heard thereon; and

WHEREAS, it is in the best interest of the Town of Vienna to adopt legislation enacting said revisions to the Town of Vienna Zoning Law as enhancing and otherwise improving the quality of the Town's Zoning regulations for the public benefit; now, therefore,

BE IT ENACTED, by the Town Board of the Town of Vienna, New York, that it does hereby authorize the enactment of Local Law No. 1 of 1997, entitled "A Local Law to Amend the Town of Vienna Zoning Law" by adding a Revision "B" thereto, to read as follows:

**"A LOCAL LAW TO AMEND ARTICLES
OF THE TOWN OF VIENNA ZONING LAW."**

Section 1: DEFINITIONS

A. NEW DEFINITIONS

AIRSTRIP: Land or area that is used for the landing and takeoff of aircraft of any type. Also includes a runway or landing pad.

CHILD CARE FACILITY: A commercial establishment for care, supervision and other services to children and where fees, tuition or other forms of compensation are charged and where such care is provided on a regular basis by someone other than a parent, stepparent, guardian or relative within the third degree

of consanguinity of the parents of the child as regulated by New York State.

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

DWELLING UNIT: One or more rooms with provisions for cooking, sleeping and sanitary facilities within the unit for the exclusive use of a single family.

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

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

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

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

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

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

ROAD PUBLIC: Any vehicular way which; 1) is a state, county or town roadway; or 2) is shown upon a plat approved pursuant to law as a public road; or 3) is approved by other official action; or 4) is shown on a plat duly filed in the office of the County Clerk prior to the grant of plat approval authority to the Planning Board (August 1, 1973) and includes the land between road lines, whether improved or unimproved.

ROAD SIDE STANDS: Temporary retail sales facilities used primarily for selling seasonal agricultural and nonagricultural produce. (See: Town of Vienna Hawkers, Peddlers, and Solicitors Ordinance).

SOLIC OR HAZARDOUS WASTE FACILITY: A facility, of any size or capacity, such as a land fill, incinerator, transfer station, waste processing facility, composing facility, regulated medical waste facility, recyclable facility, waste tire facility or other facility similar to those regulated by NYCRR Part 360 and

Part 373, used for the storage, treatment, processing or transformation of waste materials.

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

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

B. REVISED DEFINITIONS

ACCESSORY APARTMENT: An apartment associated with a single-family dwelling that is incidental and subordinate to the primary use of the dwelling as a residence for a single family.

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

CAMPGROUND: Land on which three or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.

COMMERCIAL FACILITY: Retail sales and service including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, tree nurseries and other large items stored outdoors for retail sales; business or institutions providing overnight accommodations; institutional residences or care or confinement facilities; and storage and parking facilities. This definition shall not include Retail Sales and Service, Large, and Retail Sales and Service, Small.

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

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

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

1. Five or more junk vehicles;

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

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

JUNK VEHICLE:

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

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

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

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

ROAD, PUBLIC: Any vehicular way which; 1) is a state, county or town roadway; or 2) is shown upon a plat approved pursuant to law as a public road; or 3) is approved by other official action; or 4) is shown on a plat duly filed in the office of the County Clerk prior to the grant of plat approval authority to the planning board (August 1, 1993); and includes the land between the road lines, whether improved or unimproved.

Section 2: Article 3: ESTABLISHMENT OF ZONES

Section 320: ZONING MAP

Said zones are shown, defined and bounded in the map accompanying this law entitled "Zoning Map", dated September 18, 1991, with revisions A and B, and filed in the office of the Town Clerk, which map and all explanatory matter thereon is by this reference incorporated into this law.

Section 3: Article 4: ZONE REGULATIONS

A. Section 430: Schedule B: PERMITTED USES IN ZONES

A. REVISIONS TO EXISTING PROVISIONS

Section 520. Line of Sight for Traffic Safety

No accessory structure, fence, wall, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering or existing highways or conflict with Local Law No. 3 of 1994.

Section 535. ANTENNAE AND TOWERS.

- A. All ground dish antennae shall be located a minimum distance of five feet from any building, and five feet from any property line or road right of way line.
- B. In H zones, ground dish antennae should be located in rear yards.
- C. All ground dish antennae shall be mounted in a concrete base or slab adequate to support the dish.
- D. All transmission and reception towers, masts, or antenna if ground supported shall be set back from all property lines a distance at least equal to the height of the structure.

Section 570. SAWMILLS

When allowed in residential zones, sawmills shall be permitted only on lots of not less than 20 acres in area. In industrial zones, sawmills may be located on lots of minimum lot size for the zone.

B. NEW SECTIONS ADDED

Section 509. MULTIPLE USES ON A SINGLE LOT OR PARCEL

- A. Only one single family dwelling is allowed per lot. Two or more single family dwellings may be allowed on a single lot after receipt of a special permit where each dwelling is supported by land of size and configuration allowing for subdivision so that each dwelling may have its own conforming lot.
- B. Only one (1) two family dwelling is allowed per lot on lots of minimum size for the zone where located, plus an additional 7500 square feet of outside area for each dwelling unit and large enough to support water and sanitary service(s).
- C. Multifamily dwellings are allowed with only one principal structure or use per lot. Lots must be of minimum size for the zone where located and must additionally have at least 7500 square feet of outside area for each dwelling unit.
- D. Mixed uses using a single structure on a single lot are allowed provided that appropriate permits are obtained for each use.
- E. Mixed uses on a single lot requiring separate structures are allowed under the following conditions:
 - 1) Appropriate permits are obtained for each use.
 - 2) The lot has ample area and shape that the lot could be subdivided in order to allow each use to exist on a separate lot.

Section 542. AIRSTRIPS.

- A. In zones where allowed, airstrips may be located on lots of sufficient size to allow safe sighting of structures.
- B. A 500 foot minimum clear zone at each end of a runway plus a landing surface of adequate size for the aircraft supported is required.
- C. Airstrips must be established in accordance with General Business Law, Section 249, and applicable local, state and federal laws and guidelines.

Section 585. LARGE ANIMALS

Keeping of large animals requires a minimum area of one acre per animal except as part of a farming operation meeting

the Department of Agriculture and Markets definition of farming operation where this law does not apply.

Section 590. FLAG LOTS

In order to allow the efficient use of otherwise land-locked areas, while maintaining rural character, minimizing development costs and limiting creation of additional streets, flag lots are allowed in all zones subject to the following conditions:

- a) Minimum side, front and rear yard and area requirements for the district where located must be maintained exclusive of the driveway access strip connecting it to a public roadway.
- b) The driveway access strip must have a width at least 25 feet and a length not more than 500 feet measured from the public road line.
- c) The driveway access strip must be a part of the rear lot it provides access for.
- d) No more than one flag lot may be approved for each driveway access strip.

Section 5: Article 7 STANDARDS

A. REVISIONS

Section 710. GENERAL

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

Section 740. ARCHITECTURAL LIGHTING

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

Section 760. EROSION AND SEDIMENT CONTROL

Where significant soil erosion or sediment deposition may occur as a result of the disturbance of the land, the Planning Board, Zoning Board of Appeals and the Enforcement Officer may require that applications for special permits be accompanied by an erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (ESM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the Planning Board, Zoning Board of

Appeals and the Enforcement Officer. Erosion and sediment control measures shall be such that the off-site impacts of erosion and sedimentation must not be greater during and following land disturbance activities than under preexisting conditions.

Section 6: Article 9: GROUNDWATER PROTECTION OVERLAY ZONES

A COPY OF WHICH IS ATTACHED HERETO AS APPENDIX "B"

Section 7: Article 16: ADMINISTRATION AND ENFORCEMENT

A. REVISIONS:

Section 1615. Application Procedure for Zoning Permits

- A. Applications for zoning permits shall be submitted to the Zoning Officer or Town Clerk and shall include two copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, mean high water lines of lakes, streams, ponds and wetlands, and any other features of the lot; sewage disposal system plans prepared in accordance with Appendix 75A, Part 75, Public Health Law and applicable sections of this law. This information, and other relevant application data, shall be provided on forms issued by the Town Clerk.
- B. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, or nearest mean high water line to the furthest protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
- C. The Zoning Officer shall take action to approve or disapprove the application within fifteen days of the receipt of a completed application by the Town Clerk or Zoning Officer and the payment of all fees.
- D. A permit shall expire one year from the date of issue.
- E. Plans and specifications bearing the seal and signature of a licensed architect or engineer shall be provided for all plans submitted for any construction of or alteration to any commercial buildings and buildings of public assembly and for all other buildings except agricultural buildings, outbuildings, accessory structures and residential buildings under 2500 gross square feet of floor space.

Section 8:

If any section or provision of this local law shall be adjudged to be involved by any court of competent jurisdiction,

such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the section or provisions or part thereof directly involved in the controversy in which judgment shall there been rendered.

Section 9:

This local law shall take effect immediately upon filing with the Secretary of State.

Seconded by Councilman David Hopkins.

<u>OFFICE/NAME</u>	<u>VOTE RECORD</u>
Supervisor, Calvin C. Collins	AYE
Deputy Supervisor, Norman Leach	AYE
Councilman Laurence Montross	AYE
Councilman David Hopkins	AYE
Councilman Jack Stoltz	AYE

IN TESTIMONY HEREOF, I have hereunto set my hand and affixed the seal of Town of Vienna this April 23, 1997.

Ann B. Whitney,
Town Clerk, Town of Vienna