

TOWN OF ALFRED (NY) LOCAL LAW NO. 1 of the YEAR 2019,

known as:

A local law to amend and supplement Local Law No. 3 of 1990

TOWN OF ALFRED ZONING LAW  
TABLE OF CONTENTS

ARTICLE I	ZONING DISTRICTS	
Section 101	Establishment of Districts	3
Section 102	Adoption of Zoning Map	4
Section 103	Interpretation of District Boundaries	4
ARTICLE II	DISTRICT REGULATIONS	
Section 201	R-1 Single-Family Residential District	4
	Permitted Uses	4
	Permitted Accessory Uses	4
	Special Permit Uses	5
Section 202	AG Agricultural District	5
	Permitted Uses	5
	Permitted Accessory Uses	5
	Special Permit Uses	5
Section 203	B-1 Business District	5
	Permitted Uses	5
	Permitted Accessory Uses	5
	Special Permit Uses	5
Section 204	I-1 Industrial District	5
Section 205	LI-1 Light Industrial District	5
ARTICLE III	PROVISIONS, MODIFICATIONS AND NONCONFORMANCE	
Section 301	General Provisions	7
Section 302	Modifications	8
	Height Modifications	8
	Yard Modifications	8
Section 303	Nonconformance	8
	Continuance	8
	Discontinuance	8
	Nonconforming Buildings	8
	Nonconforming Uses	9
ARTICLE IV	SPECIAL CLASSIFICATIONS	
Section 401	Prohibited Uses	9
Section 402	Fencing Requirements	9
Section 403	Swimming Pool Requirements	9
Section 404	Automotive Service Station Requirements	10

Section 405	Bar and Restaurant Requirements	11
Section 406	Excavation Requirements	11
	Rehabilitation Standards	11
Section 407	Cluster Residential Development Requirements	11
Section 408	Parking and Loading Space Requirements	12
Section 409	Flood Plain Zone	14
	Permitted Uses in the Flood Plain Zone	15

ARTICLE V	SIGNAGE	
Section 501	General Sign Regulations	15
	Design Guidelines for Approval of Signage	16
Section 502	Permanent Signs Requiring Permit	16
	R-1 Single-Family Residential District	16
	AG Agricultural District	16
	B-1 Business District	16
	I-1 Industrial District and Light Industrial	16
Section 503	Exempt Permanent Signs	17
Section 504	Temporary Signs	17
Section 505	Exempt Temporary Signs	17
Section 506	Prohibited Signs	18
Section 507	Nonconforming Signs	18
Section 508	Removal of Signs	18
ARTICLE VI	ADMINISTRATION AND ENFORCEMENT	
Section 601	Zoning Inspector	18
Section 602	<i>Planning Board</i>	19
Section 603	Zoning Permits	21
Section 604	Zoning Board of Appeals	21
	Duties	21
	Interpretations	21
	Variances	21
	Special Use Permits	21
	Procedures	22
	Notice of Board of Appeals Hearings	23
Section 605	Violations and Penalties	23
Section 606	Application Fees	23
ARTICLE VII	INTERPRETATIONS AND AMENDMENTS	
Section 701	Word Tense and Intention	23
Section 702	Interpretation	24
Section 703	Conflict with Other Laws	24
Section 704	Validity and Severability	24
Section 705	Amendments	24

ARTICLE VIII	SCHEDULE OF ZONING REGULATIONS	25
ARTICLE IX	DEFINITIONS	25

**General Provisions**

**Authority for Adoption**

The Town Board hereby adopts this Local Law pursuant to the authority described at Section 1 of Appendix A attached hereto, which Appendix A is hereby incorporated and made a part of this Local Law for all purposes by this reference.

**Finding of Fact**

The Town Board has heretofore made certain findings, determinations, and declarations relative to the matters set forth in this Local Law and a copy of the text of such findings, determinations, and declarations is set forth at Section 2 of Appendix A attached hereto.

**Purpose and Intent**

The purpose and Legislative Intent underlying the Town Board’s passage of this Local Law are set forth at Section 3 of Appendix 3 attached hereto.

**Definition of “Existing Zoning Law”, this “Local Law”, and this “Law”**

As used in this Local Law, the term “Existing Zoning Law” shall mean and be the Town of Alfred Zoning Law adopted July 18, 1990 (Local Law No. 3 of 1990) as amended by Local Law No. 4 of 1990 dated December 12, 1990, Local Law No. 2 of the Year 1996 dated December 13, 1996, Local Law No. 1 of 1997 dated February 13, 199, and Local Law No. 1 of 2014 dated December 29, 2014.

As used herein, the term this “Local Law” shall mean and be this Local Law No. 1 of 2019.

As used in Article II of this Local Law, the term “this Law”, “this Chapter”, and “herein” shall mean, be, and refer to the existing Zoning Law as amended by this Local Law.

**Interpretation**

The statements of purpose, intent and findings are legislatively adopted along with the formal text of the amendments to the existing Zoning Law effected by this Local Law. They are intended as a legal guide to the administration and interpretation of this Local Law and shall be treated as legislative history.

This Local Law is intended to supersede any provision of the New York State Town Law that is inconsistent herewith.

ARTICLE I ZONING DISTRICTS

SECTION 101 ESTABLISHMENT OF DISTRICTS

101.01 For the purpose of encouraging the most appropriate use of land and conserving the value of property, the Town of Alfred is hereby divided into the following districts:

- R-1 Single-Family Residential District
- AG Agricultural District
- B-1 Business District
- I-1 Industrial District
- LI-1 Light Industrial

101.02 The boundaries of the zoning districts in the Town of Alfred are respectively set forth as Sections 101.02-A, 101.02-B, 101.02-C, 101.02-D, and 101.02-E hereof:

SCHEDULE A DISTRICT BOUNDARY DESCRIPTIONS

101.02 A R-1 DISTRICT BOUNDARY

Beginning on the westerly side of Allegany County Route 12 at the intersection of Kenyon Road and Allegany County Route 12 and thence in a northerly direction to the Village of Alfred line and extending from County Route 12 a distance of 300 feet on the westerly side. Also beginning at a point on the easterly side along County Route 12 at a point 1,080 feet in a northerly direction of the intersection of Kenyon Road and thence in a northerly direction along Allegany County Route 12 to the Village of Alfred line and extending from County Route 12 a distance of 300 feet on the easterly side.

101.02-B Beginning at the intersection of County Route 12 and Randolph and thence in a westerly direction 2,160 feet to a point and extending from Randolph Road a distance of 300 feet both sides of the road north and south.

101.02-C Beginning at the intersection of County Route 12 and Snyder Road and thence in a northerly direction 1,700 feet to a point and extending from Snyder Road on both sides running westerly and easterly a distance of 300 feet.

101.02-D Beginning at the intersection of Snyder Road and Tolins Drive a/k/a Maplecrest and thence in a westerly direction 500 feet to a point and extending from Maplecrest a distance of 300 feet both sides of the road north and south.

- 101.02-E Beginning at the intersection of Waterwells Road and the Village of Alfred line, thence westerly to a point 1800 feet east of the intersection of Lake Road and extending from Waterwells Road a distance of 300 feet both sides of the road north and south.
  
- 101.02 B B-1 BUSINESS DISTRICT BOUNDARY
  - A. Beginning at the intersection of State Route 244 and the northeast Alfred Village line thence easterly along Route 244 to the "Y" in the road thence easterly along Hamilton Hill spur to Route 21 and extending from Route 244 and the Hamilton Hill spur a distance of 300 feet both sides of the roads north and south and also in a northerly direction from the Route 244 "Y" to the intersection of Route 21 with and extending from Route 244 a distance of 300 feet both sides of the road east and west.
  
- 101.02 C I-1 INDUSTRIAL DISTRICT BOUNDARY
  - A. Beginning at a point on Shaw Road 300 feet north of the southerly intersection with State Route 244 and thence northerly to the northerly intersection with Route 244 thence south along Route 21 to the northern boundary of the business zone comprising all the land within said boundaries.
  - B. All those tracts and parcels of the following tax map numbers: 152.-1-20.11, 152.-1-27.1, 152.-1-2.1, 152.-1-2.22, 152.-1-2.23, 152.-1-33.1, 152.-1-1-35, 152.-1-25, 152.-1-26, 152.14-1-20, and 152.10-1-4 that are contiguous to either State Route 21 or County Route 42 or the railroad tracks.
  
- 101.02 D LI-1 LIGHT INDUSTRIAL DISTRICT BOUNDARY
  - I. Beginning at a point at the junction of Route 244 and Sugar Hill Road, and Including all those tracts and parcels of the following tax map numbers: 151.-1-27.23, 151.-1-12.2, 151.-1-17.24, 151.-1-27.22, 151.-1-27.21.
  
- 101.02 E AG AGRICULTURAL DISTRICT BOUNDARY
  - A. All property within the Town of Alfred not located within an R---1, B---1, I--1, or LI---1 zoning district.

## SECTION 102 ADOPTION OF ZONING MAP

The boundaries of the zoning districts are shown on the map entitled "Zoning Map of the Town of Alfred," which is hereby declared to be a part of this Law. The official Zoning Map shall be kept on file in the office of the Town Clerk.

Unofficial reductions of this map shall be for reference purposes only. Changes may be made in district boundaries only by a zoning amendment adopted by the Town Board. Any such changes shall be noted by the Town Clerk on the official Zoning Map promptly after the Town Board adopts such an amendment. In the event of a conflict between the Zoning Map in the Town Clerk's office and the specific local law adopting a Zoning Map amendment, the specific local law shall be the controlling authority as to the current zoning status of lands, structures and uses in the Town.

## SECTION 103 INTERPRETATION OF DISTRICT BOUNDARIES

103.01 Where district boundaries are indicated as approximately following the centerlines of streets or highways, or highway right-of-way lines, these lines shall be interpreted as district boundary lines.

103.02 Where district boundaries are indicated as approximately following lot lines, these lines shall be interpreted as district boundary lines.

103.03 Where district boundaries are indicated as being approximately parallel to centerlines of streets, or center or right-of-way lines of highways, these lines shall be interpreted as being parallel and at a distance indicated on the zoning map. If no distance is given, the dimension shall be determined by the use of the scale on the zoning map.

103.04 Where district boundaries follow railroad lines, the boundary shall be interpreted as located in the middle of the main tracks of the railroad line.

103.05 Boundaries indicated as following shorelines of ponds and lakes shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as following centerlines of streams shall be construed to follow such centerlines and, in the event of change in the centerline, shall be construed as moving with the actual centerline.

103.06 Where a question arises as to exact boundaries of a district, the Town Board shall be resolution determine the location of the boundary, giving due consideration, among other

factors, to the indicated location of the boundary on the Zoning Map, the scale of the Zoning Map, and the expressed intent and purposes of this Law.

## ARTICLE II DISTRICT REGULATIONS

The following provisions of this Article II set forth those property uses which are allowed in the respective districts of the Town of Alfred. Any use not specifically set forth as a permitted use (whether principal, accessory, or upon issuance of a special use permit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as permitted use in said other district.

Without limiting the generality of the foregoing, natural Gas and/or Petroleum Extraction Activities, and Natural Gas and/or Petroleum support activities (as those terms are respectively defined herein), wind turbines and wind energy facilities (other than small scale wind energy facilities permitted pursuant to the Wind Energy Facilities Local Law of the Town of Alfred), and other herein defined Explicitly Prohibited uses are prohibited in each and every district within the Town.

### SECTION 201 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

#### 201.01 Permitted Principal Uses

- 201.01-A Single Family Residences, excluding mobile homes
- 201.01-B Churches or similar places of worship and parish houses
- 201.01-C Neighborhood parks, playgrounds and related buildings
- 201.01-D Home occupations: *All home occupations that comply with the*

*following requirements and meet the definition of Home Occupations Section 901.25 are allowed pursuant to a Zoning Permit issued by the Code Enforcement Officer:*

- a) *The off premises impact on noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall be no greater than that produced by a typical single-family residence in the neighborhood.*
- b) *No outside storage of equipment, vehicles, or materials used in the business other than a vehicle for personal transportation.*
- c) *No additional traffic to the site other than normal deliveries and that which would be normal for the neighborhood and client/customer visits.*

#### 201.02 Permitted Accessory Uses

- 201.02-A Private automobile garages
- 201.02-B Private recreational facilities
- 201.02-C Residential storage structures
- 201.02-D Private domestic pet shelters
- 201.02-E Private swimming pools, hot tubs and saunas

#### 201.03 Special Use Permits

- 201.03-A Two-family residences
- 201.03-B Multi-family residences
- 201.03-C Professional offices and studios
- 201.03-D Schools and daycare centers

SECTION 202 AG AGRICULTURAL DISTRICT

202.01 Permitted Principal Uses

- 202.01-A Any permitted principal use in a R-1 District
- 202.01-B Agriculture and general farming, including any customary agricultural structures or buildings, nurseries and greenhouses provided the land area of such use is at least 10 acres and the use is intended for an agriculturally profitable use.
- 202.01-C Single-family residences as a part of a farm or as a non-farm residence
- 202.01-D Mobile homes

202.02 Permitted Accessory Uses

- 202.02-A Any permitted accessory use in a R-1 District

202.03 Special Use Permits

- 202.03-A Any Special Use Permit allowable in a R-1 District
- 202.03-B Public recreational use
- 202.03-C Mining Activities
- 202.03-D *Any permitted use in B-1 Business District Sections 203.01, 203.02, 203.03*
- 202.03-E *Any permitted use in L1 Light Industrial Sections 205-B – 205-H*

SECTION 203 B-1 BUSINESS DISTRICT

203.01 Permitted Principal Uses

- 203.01-A Any use permitted in a R-1 District
- 203.01-B Retail and personal service businesses including automotive service stations, bars and restaurants.
- 203.01-C Professional and business offices
- 203.01-D Private clubs and lodges
- 203.01-E Offices of business or industrial firms, not including the manufacture or storage of goods on the premises
- 203.01-F Temporary structures, excluding tents or canvas enclosures, shall be permitted for a period not exceeding 30 days on a permit issued by the inspector. At the end of the 30-day period, such structure shall either be removed or reinstalled as a conforming use.

203.02 Permitted Accessory Uses

- 203.02-A Any permitted accessory use in a R-1 District



203.03 Special Use Permits

203.03-A Any Special Use Permit allowable in a R-1 District

SECTION 204 I-1 INDUSTRIAL DISTRICT

204.01 Permitted Principal Uses

204.01-A Manufacturing, compounding, processing, packing, treatment and/or assembly of materials or products

204.01-B Laboratories: research, experimental and testing

204.01-C Offices of business, manufacturing or professional enterprises

204.01-D Mining Activity

SECTION 205 L-1 LIGHT INDUSTRIAL DISTRICT

A. Purpose. The Light Industrial (LI) District is designed to accommodate such light manufacturing and related uses as are consistent with the needs and welfare of the community. Uses in this district shall be grouped according to compatibility and performance in order not to create a nuisance to the community or to the adjacent users.

B. No building or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any use, except the following:

(1) Business and Professional offices, showrooms and research, design and development laboratories.

(2) Light manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products.

(3) Subject to the issuance of a special permit therefore by the Town Board of Alfred, the following uses:

(A) Occasional retail sales incidental to the conduct of any of the uses permitted under this subsection and subject to such frequency and other conditions as may imposed by the Town Board of Alfred.

C. General accessory uses. In connection with the uses permitted by Subsection B, There can be included in any building so authorized general accessory uses as follows:

(1) Storage of goods or equipment accessory to permitted uses.

(2) Utility facilities.

(3) Maintenance and service facilities

- (4) Cafeterias, Clinics, lunchrooms, recreation facilities not open to public participation.
- (5) Parking as regulated by this zoning law and this chapter.
- (6) All and any other similar accessory uses not inconsistent with the permitted uses.
- (7) Required accessory off-street loading berths. Accessory off-street loading berths shall be constructed in such number, manner and location as may be required by the Town of Alfred Board.

D. Additional use regulations.

- (1) All offices, laboratories, light - manufacturing uses, accessory storage and such other uses shall be within completely enclosed buildings.
- (2) All areas not used for building or for accessory off-street parking shall be suitably landscaped and maintained in good condition subject to the requirements of the Town Board of Alfred.

E. Required minimum buffer areas.

- (1) Along any lot line, a permanent landscaped buffer of fifty feet shall be required.
- (2) Such buffer area shall either be maintained in their natural state, if adequate ground cover is present, or landscaped in accordance with the requirements of the Town Board. No parking shall be permitted within any required buffer.

F. Minimum lot size shall be five (5) acres. Minimum lot frontage 200 feet. Principal building setback, Front, 100 feet from center of road: Rear, 50 feet from lot line: Side, 50 feet from lot line: Accessory buildings setback, Front, 100 feet from center of road, Rear, 50 feet from lot line: Side, 50 feet from lot line.

G. Parking will be in accordance with section 408 and section 205-E-{2}.

H. PROHIBITED USES IN THE LIGHT INDUSTRIAL DISTRICT

- (1) Any use which violates the local noise law or any other local, state or federal law.
- (2) Manufacture of explosives, poisonous gases or toxic substances.
- (3) Illumination which is not shaded or concealed so the light will not interfere with the vision of motor vehicle operators or shine directly on any other property.
- (4) Any Radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution or glare that may become a nuisance beyond the boundary lines upon which the facilities located.
- (5) Any use under section 401

ARTICLE III PROVISIONS, MODIFICATIONS AND NONCONFORMANCE

## SECTION 301 GENERAL PROVISIONS

301.01 No building, structure or land may be used or occupied and no building or structure or part thereof may be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the regulations of this law.

301.02 Existing natural features such as trees, brooks, drainage channels and views shall be retained unless such features interfere with the proposed use of the property, in which case maximum retention of these features consistent with the use of the property shall be required.

301.03 No open space contiguous to any building may be encroached upon or reduced in any manner except in conformity to the area and bulk requirements, off-street parking requirements and all other regulations designated in the Schedule of Zoning Regulations (Article VIII) of this law.

301.04 No part of a yard or other open space around any building required for the purpose of complying with the provisions of this law may be included as a part of a yard or open space similarly required for another building.

301.05 No yard or lot existing as of the effective date of this law may be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this law must meet or exceed the minimum requirements established herein.

301.06 An accessory building attached to a principal building shall comply in all respects with the yard requirements for a principal building. Detached accessory buildings shall conform to the front yard requirements of the principal building as well as the yard requirements for an accessory building.

301.07 No structure may be erected and no plant foliage may be permitted or maintained between the heights of 15 feet and 10 feet above ground level in the triangle formed by intersection streets and a line joining points on such street lines 25 feet distant from their point of intersection.

301.08 Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard depth shall be measured from such proposed right-of-way line.

301.09 All yards, open space, off street parking and required landscaping must be contained within the district in which the use is permitted.

301.10 No business or industrial use, including parking, shall occupy any part of the lot within 50 feet of an R-District except under Cluster Residential Development which shall conform to the requirements of the Schedule of Zoning Regulations.

301.11 No accessory structure may exceed 15 feet in height except farm structures.

301.12 No zoning permit is required except within the Flood Plain Zone (Section

409) for the construction of one accessory structure 64 square feet or less in floor area located on the same lot with a principal building providing all other provisions of this law are met.

## SECTION 302 MODIFICATIONS

### 302.01 Height Modifications

302.01-A Height Exceptions The height limitations of this law shall not apply to belfries, bulkheads, chimneys, church spires, cupolas, domes, skylights, ventilators, water tanks, solar heating equipment and other necessary mechanical appurtenances usually carried above the roof level. Such features, however, may be erected only to the height necessary to accomplish the purpose they are required to serve and shall not occupy in the aggregate more than 25% of the roof area of the main building.

302.01-B Height and Open Spaces In any district any principal building may be erected to a height in excess of that specified for the district provided such front, side and rear yards are increased one foot for each foot of such additional height.

### 302.02 Yard Modifications

302.02-A Side Yards Where the side wall of a building is not parallel with the side lot line, the average width of the side yard may be interpreted as the side yard width, provided that at no point is the actual side yard width less than 5 feet.

## SECTION 303 NONCONFORMANCE

### 303.01 Continuance

303.01-A Except as otherwise provided in this law, the lawful use of land or buildings existing at the date of the adoption of this law may be continued although such use of land or building does not conform to the regulations specified by this law for the district in which the land or building is located, provided:

1. A nonconforming lot shall not be further reduced in size.
2. If the boundaries of a district are changed so as to transfer an area from one district to another district of a different classification, or if the text of this law is changed with respect to the uses permitted in a district, this section shall apply to any nonconforming uses existing at the time.

303.01-B Notwithstanding any provision of this Law to the contrary, any Natural Gas and/or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law shall be subject to the following:

1. If, as of the effective date of this Local Law, substantive Natural Gas and/or Petroleum Extraction Activities are occurring in the Town, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation the possession of valid, non-revoked permits for all matters for which permits are required, and including compliance with each, any, and all permits conditions as are or may be required by the New York State Department of Environmental Conservation ("DEC") and/or all other regulating local, state, and federal governments, bureaus, or agencies, then and only then such activity shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of subsections 2 and 3 of this Section 303.01-B.

2. Natural Gas and/or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law and which do not qualify for treatment under the preceding subsection 1 of this Section 303.01-B shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses), and shall in all respects be prohibited as contemplated by Section 401 hereof.

3. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of subsection 1 of the Section 303.01-B or upon any other substantive cessation of Natural Gas and/or Petroleum Extraction Activities (otherwise grandfathered by virtue of subsection 1 of this Section 303.01-B) for a period of more than twelve (12) months, then and in either of such events the pre-existing and/or non-conforming use status (and any related 'grandfathering' rights) of such activity shall terminate, and thereafter such Natural Gas and/or Petroleum Extraction Activities shall in all respects be prohibited as contemplated by Section 401 hereof.

4. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by subsection 1 of this Section 303.01-B is not intended, and shall not be construed to authorize or grandfather any Natural Gas and/or Petroleum Extraction Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion of such well, whether as to its production, depth, horizon(s) or otherwise, shall not be grandfathered under subsection 1 of this Section 303.01-B and instead shall in all respects be prohibited as contemplated by Section 401 hereof.

### 303.02 Discontinuance

303.02-A In any district, when a nonconforming use of land, premises, or structures, or any portion thereof, has been discontinued for a period of one year,

such nonconforming use shall terminate and all future uses shall be in conformity with the provisions of this law. Such discontinuance shall be considered an abandonment of such nonconforming use.

303.03 Nonconforming Buildings

303.03-A No building damaged by fire or other causes to the extent of more than 75% of its assessed value shall be repaired or rebuilt except in conformity with the regulations of this law.

303-03-B A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 50% of the assessed value of the building unless the building is changed to conform to the requirements of this law.

303.03-C Any structure or portion thereof that is declared to be unsafe by a legally competent authority, but not ordered demolished, may be restored to a safe condition.

303.03-D A nonconforming building shall not be enlarged, extended or increased unless such enlargement would reduce the degree of nonconformance.

303.4 Nonconforming Uses

303.04-A A nonconforming use may not be extended.

303.04-B Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

ARTICLE IV EXPLICITLY PROHIBITED USES; REQUIREMENTS APPLICABLE TO CERTAIN USES; PARKING AND LOADING REQUIREMENTS; FLOOD PLAIN ZONE

- A. Explicitly Prohibited Uses: The following uses and activities are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered, or erected, and no body of water, land or building thereon shall be used, for any such uses or activities:

SECTION 401 PROHIBITED USES IN THE TOWN OF ALFRED

401.01 Any use which violates the local noise law or any other local, state or federal law.

401.02 Manufacture of explosives, poisonous gases or toxic substances.

401.03 Illumination which is not shaded or concealed so that the light will not interfere with the vision of motor vehicle operators or shine directly on residential property in any district. Illumination which flashes, moves or simulates movement.

401.04 Outdoor open storage of disabled or unlicensed motor vehicles for more than thirty 30 days in any calendar year. After thirty 30 days, written authorization shall be obtained from the inspector specifying a time period for continued storage. If the storage

of disabled or unlicensed motor vehicles is part of a business, an exemption shall be granted by the Town Board.

401.05 Junk yards, landfills, incinerators or other facilities for the disposal of garbage, trash, junk, refuse, toxic or hazardous waste or radioactive materials.

401.06 Access to or from any B-District or I-District through any private land of any R-District.

401.07 Wind Turbines and wind energy facilities (other than small-scale wind energy facilities permitted pursuant to the Wind Energy Facilities Law of the Town of Alfred;

401.08 Land Application Facility;

401.09 Natural Gas And/Or Petroleum Exploration Activities;

401.10 Natural Gas And/Or Petroleum Extraction Activities;

401.11 Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility;

401.12 Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump;

401.13 Natural Gas Compression Facility;

401.14 Natural Gas Processing Facility;

401.15 Non---regulated pipelines;

401.16 Underground Injection; and

401.17 Underground Natural Gas Storage.

A. Any condition caused or permitted to exist in violation of this Section 401 is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. Collectively the above expressly prohibited uses may be referred to in this law as "Explicitly Prohibited Uses," any one of the above expressly prohibited uses may be referred to in this law as an "Explicitly Prohibited Use," and any combination of more than one such use may also be referred to as "Explicitly Prohibited Uses."

B. Prohibition against Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes. The Town of Alfred hereby exercises its authority and right under NY ECL § 27---0711 to adopt a local law that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Local Law complies "with at least the minimum applicable requirements" set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

It shall be unlawful for any person to produce, store, inject, discard, discharge, dispose release, or maintain, or to suffer, cause or permit to be produced, stored, injected, discarded, discharged, disposed, released, or maintained, anywhere within the Town, any Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes.

C. No Application to Customary Local Distribution Lines, Etc. The

prohibitions set forth above in this Section 401 are not intended, and shall not be construed, to (x) prevent or prohibit the right to use roadways in commerce or otherwise for travel; (y) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town; or (z) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Town.”

D. Defined terms. For purposes hereof, and in addition to the terms defined in Section 901 of this Law, the following terms shall have the meanings respectively set forth below:

AGRICULTURE USE- Land used for the production of crops and/or livestock and livestock products (as those terms are defined at Section § 301 of the New York State Agriculture and Markets Law).

BELOW---REGULATORY CONCERN -Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Town.

GATHERING LINE, or PRODUCTION LINE - Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), used to move oil, gas, or liquids from a point of production, treatment facility or storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, and which does not meet the definition of a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).

INJECTION WELL - A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semi---solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.



LAND APPLICATION FACILITY - A site where any Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes are applied to the soil surface or injected into the upper layers of the soil.

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

NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES ---

Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise make any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES - The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum, or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES - Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from any statutory or regulatory definition(s) of "industrial waste," "hazardous," or "toxic," and whether or not such substances are generally characterized as waste: (a) below--- regulatory concern radioactive material, or any radioactive material which is not below---regulatory concern, but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Town, whether naturally occurring or otherwise, and in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback,

sediment and/or any other liquid or semi---liquid material); (e) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (f) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (g) drill cuttings from natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as “solid wastes which are not hazardous wastes” under 40 C.F.R. § 261.4(b). For purposes of this Law, Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes shall not mean or include (i) recognizable or non---recognizable food wastes, or (ii) waste generated by Agriculture Use, or (iii) or produced water or brine from vertical gas wells which is being used with the knowledge and approval of the Town Board for de-icing, stabilization, or dust control on roads within the Town.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY - Any of the following:

(a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR

PRODUCTION WASTES DUMP - Land upon which Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES -- Any one of more of the following: (a) Natural Gas Compression Facility; (b) Natural Gas Processing Facility; (c) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility; (d) Natural Gas

And/Or Petroleum Extraction, Exploration Or Production Wastes Dump; (e) Land Application Facility; (f) Underground Injection; or (g) Underground Natural Gas Storage.

**NATURAL GAS COMPRESSION FACILITY** - A facility constructed or operated to raise the pressure of natural gas in connection with its extraction, processing, or storage, or its delivery into or out of the transmission pipeline system; the term shall not include the transmission pipeline itself: the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

**NATURAL GAS PROCESSING FACILITY** - Those facilities that separate and recover natural gas liquids (NGLs) and/or other non---methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO<sub>2</sub> separated from natural gas streams.

**NON-REGULATED PIPELINES** - Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.

**PERSON** - Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

**PIPELINE** - All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move in transportation (including pipes, valves and other equipment and appurtenances attached to pipes and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), whether or not laid in public or private easement or private right of way within the Town. This includes, without limitation, gathering lines, production lines, and transmission lines.

**RADIOACTIVE MATERIAL** - Material in any form that emits radiation. This

definition specifically includes NORM (naturally occurring radiation), but only if such naturally occurring material has been moved from its naturally occurring location through an industrial process. All such material is “radioactive material” for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.

**RADIATION** - The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

**SUBSURFACE** - Below the surface of the earth, or of a body of water, as the context may require.

**TRANSMISSION LINE** - A pipeline that transports oil, gas, or water to end users as a public utility and which is subject to regulation either by: (a) the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, or (b) as a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).

**UNDERGROUND INJECTION** - Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, including emplacement by or into an Injection Well.

**UNDERGROUND NATURAL GAS STORAGE** - Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Includes compression and dehydration facilities, and pipelines.”

## SECTION 402 FENCING REQUIREMENTS

No permit is required for any fence or wall erected in the Town of Alfred that complies with the following restriction:

402.01 A wall or fence, not to exceed 6 feet high, may be erected outside the highway right-of-way provided it does not unduly shut out light or air to neighboring properties, or cause a nuisance, fire hazard or dangerous condition. This restriction shall not be applied

to walls erected for the purpose of retaining earth, nor to the erection, alteration or reconstruction of fences on farms unless they affect public safety.

#### SECTION 403 SWIMMING POOL REQUIREMENTS

No private swimming pool shall be allowed in any district except as an accessory use and shall comply with the following requirements:

403.01 The pool is intended for and used primarily by the occupants of the primary use of the property on which it is located.

403.02 The pool shall not be located closer than 10 feet to any lot line.

403.03 When enclosed within a structure which is attached to the principal building, the pool shall be considered a part thereof and shall comply with the zoning requirements for a principal structure.

403.04 Whether open or enclosed and not attached to the principal structure, the pool shall be considered an accessory structure and shall comply with the zoning requirements for an accessory structure. All facilities and fencing serving the swimming pool shall be a part thereof.

403.05 All in-ground swimming pools shall be enclosed within a fence enclosure at least 4 feet high. The fence shall be equipped and maintained with self-closing, latching gates equal in height to the fence. Every gate or other exterior opening in the fence enclosing the pool shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at the pool or has not authorized the use of the pool by other persons.

403.06 All aboveground swimming pools shall have access limited by removal of stairs or other restrictive apparatus when the owner of the pool or occupant of the premises is not present at the pool or has not authorized the use of the pool by other persons.

#### SECTION 404 AUTOMOTIVE SERVICE STATION REQUIREMENTS

Motor vehicle service stations may be permitted in the B-1 District and subject to site plan review and to the following requirements:

404.01 The site plan submitted shall show the number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the number and location of pumps to be installed and the type of building and any accessory structures to be constructed. A copy of the approval from DEC shall be attached to the site plan.

404.02 Lot and yard specifications shall be as stipulated in the Schedule of Zoning Regulations. All garage and filling station pumps, lubricating or other automobile service

devices shall be located at least 20 feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least 20 feet distant from any street or lot line.

404.03 The entire area of the site traveled by motor vehicles shall be hard surfaced.

404.04 Any repair of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on the site. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside an enclosed building.

404.05 No vehicle shall be permitted to be standing or parked on the premises of a motor vehicle station other than those used by the employees in the indirect or direct operation of the establishment or those of customers having a service performed.

404.06 No motor vehicle service station shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. Such distance shall be measured in a straight line from the nearest point of the service station to the said public entrance along public thoroughfares.

404.07 When abutting residential properties or the R-1 zone, service stations shall be screened by a buffer area no less than 10 feet in depth, composed of densely planted evergreen shrubs, solid fencing or a combination of both which will be adequate to prevent the transmission of headlight glare across boundary lines. The buffer screen shall have a minimum height of 6 feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent area. If the shrubbery becomes decayed and fails to provide adequate screen, the inspector may direct the property owner to replace the shrubs.

404.08 The site plan submitted shall show all access and egress routes, lighting, storm drainage and include the topography of the site. The development plan shall conform to all requirements of this law and to any additional requirements imposed by the Town Board.

## SECTION 405 BARS AND RESTAURANT REQUIREMENTS

Bars and restaurants shall be permitted in the B-1 District, subject to site plan review and to the following requirements:

405.01 When abutting residential properties or the R-1 zone, the bar/ restaurant use shall be screened by a buffer area as described in Section 404.07.

405.02 In addition to complying with all applicable site plan review requirements, any such use shall comply with all other requirements of this Law, including without limitation Section 408.

## SECTION 406 MINING ACTIVITY REQUIREMENTS

Mining Activities, including the extraction of sand and gravel and processing or other operations for the preparation of sand and gravel, may be permitted in the AG-District and I-1 District provided the following conditions and standards are met:

406.01 The minimum lot area for any such use shall be 10 acres. No building or excavation operation shall be located or occur within 50 feet from any street or property line. Fencing or similarly effective barriers 6 feet in height shall be required where excavations exceed a depth of 4 feet.

406.02 All buildings and structures used in the operation shall be dismantled and removed within 12 months following the termination of operations. The dismantling and removal shall be at the expense of the operator and shall be a condition of approval for a zoning permit.

406.03 All buildings and structures used for the processing of excavated materials shall be maintained to assure they shall not become a nuisance under law.

406.04 All excavation equipment shall be constructed, maintained and operated in a manner complying with all local, state and federal laws. All operations shall be conducted between the hours of 7:00 am and 6:00 pm with no Sunday operation, except in the case of public or private emergency or when reasonable or necessary repairs to equipment are required.

406.05 All land which has been excavated must be rehabilitated in accordance with standards set herein within one year after the termination of operations at the expense of the operator/owner. This shall be a condition of approval of the zoning permit and the operator/owner or user thereof shall deliver to the Town of Alfred surety by means of bonds or insurance that funds necessary to rehabilitate the excavated property will be available.

406.06 Rehabilitation Standards:

406.06-A Excavations made below a water-producing depth shall be properly sloped to the water line, with banks sodded or surfaced with soil of equal quality to adjacent land area topsoil. This topsoil shall be planted with trees, shrubs, legumes or grasses wherever revegetation is possible.

406.06-B Excavations not made to a water-producing depth must be graded or filled with DEC approved material conforming in topographic character to adjacent lands. The grading or filling shall be designed to minimize erosion and shall be surfaced with soil of equal quality to adjacent land areas and planted with trees, shrubs, legumes or grasses wherever revegetation is possible.

406.07 Notwithstanding any provision hereof to the contrary, for all purposes of this Law in no event shall "Excavation", "excavation", or "excavation operations" (or any of them) be construed to mean, be, or include Natural Gas and/or Petroleum Extraction Activities, Natural Gas and/or Petroleum Support Activities, or any other Explicitly Prohibited use.

## SECTION 407 CLUSTER RESIDENTIAL DEVELOPMENT REQUIREMENTS

Cluster residential developments of single-family residences may be permitted in an AG District only after a public hearing conducted by the Planning Board, provided the following conditions and requirements are met:

407.01 The project shall encompass a minimum land area of 10 acres.

407.02 The lot area difference between the minimum lot size shown on the Schedule of Zoning Regulations and the minimum lot size permitted in a cluster development shall be set aside as open space as provided hereinafter.

407.03 The developer shall show all unsubdivided land as permanent open space. In no case shall this land be less than 25% of the total project area. The Town Board shall determine if all land so specified is suitable for the intended use. This land may be offered for dedication to the Town of Alfred.

407.04 The development plan submission shall show the topography of the tract, all internal drives, home sites, lighting and utility line locations and sizes, and the storm drainage system.

407.05 The requirements of this law, in regard to minimum lot area, minimum width, minimum side and rear yard areas and maximum lot coverage are specified in the Schedule of Zoning Regulations. The final development plan shall conform to all requirements of this law, to state subdivision requirements if applicable and any additional requirements imposed by the Town Board.

## SECTION 408 PARKING AND LOADING SPACE REQUIREMENTS

In all districts, off street parking and loading spaces for motor vehicles must be provided in accordance with the following requirements:

408.01 The size of off-street parking spaces shall be 10 feet wide by 20 feet long for all side by side parking or 8 feet wide by 23 feet long for all parallel parking, exclusive of passageways and driveways providing access to the parking and subject to any contrary requirements of the Americans with Disabilities Act.

408.02 All parking areas, passageways and driveways (single-family residences exempt) shall be surfaced with a dustless, durable coating, clearly marked for vehicle spaces and shall be adequately drained, subject to the approval of the inspector.

408.03 As specified below, distance shall be measured along public thoroughfares from the nearest point of the parking facility to the nearest point of the building or use it serves. Off street parking spaces shall be allowed in required yards except where specifically prohibited by this law.



408.03-A For multi-unit dwellings, not more than 200 feet from the building they are required to serve.

408.03-B For uses located in the B-1 District and for hospitals, convalescent homes, nursing and rest homes; homes for the aged, retirement homes, private clubs, lodges and offices, not more than 100 feet from the building they are required to serve.

408.03-C For uses other than those specified above, not more than 300 feet from the building they are intended to serve.

408.4 In stadiums, churches and other places of assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of seating shall be counted as one seat for the purpose of parking spaces.

408.5 Whenever there is a change in use or an increase in floor area or other unit of measurement, and this change or increase creates a need for an increase of more than 10% in the number of required off street parking spaces, as determined by the requirements of this section, additional off-street parking spaces shall be provided in accordance with this section for that addition or change in use.

408.06 The number of off-street parking facilities required shall be:

Auditoriums	1 for each 5 seats
Automobile Sales and Service	1 for each 300 square feet of floor area
Banks, Business and Professional Offices	1 for each 200 square feet of floor area
Boarding, Rooming Houses	1 for each bedroom
Bowling Alleys	5 for each alley plus the necessary space set forth for affiliated uses such as bars, restaurants or other commercial uses.
Churches	1 for each 5 seats in places of worship
Convalescent Homes, Homes For the Aged, Children's Homes	1 for each 3 beds
Dance Halls and Assembly Halls without fixed seats, Exhibition Halls	1 for each 100 square feet of floor used for assembly or dancing
Hospitals	1 for each 3 beds
Funeral Homes or Mortuaries	6 for each reposing room or parlor
Hospitals	
Libraries, Museums, Galleries	1 for each 600 square feet of floor space
Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	1 for each 300 square feet of floor area
Medical and Dental Clinics or Offices	1 for each 200 square feet of floor area
Motels and Hotels	1 for each living or sleeping unit
Residences	2 for each family or dwelling unit
Restaurants, Cafes and Night Clubs	1 for each 200 square feet of floor area

Retail Stores	1 for each 200 square feet of floor area
Schools	1 for each 5 seats in an auditorium or 1 for each 12 classroom seats, whichever is greater
Shopping Centers	1 for each 600 square feet of floor area
Theaters, Assembly Halls, Other than schools	1 for each 5 seats
Wholesale Establishments or Warehouses	1 for each 3,000 square feet of floor area

408.07 For uses which are legal within the Town but not otherwise specified above at Section 408.06, the inspector shall determine the required number of parking spaces, based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic, and scenic resources.

408.08 Loading spaces shall be provided and maintained on the same premises where material or merchandise by vehicles is received or distributed. Loading or unloading space shall not be occupied or considered as a part of required off street parking.

#### SECTION 409 FLOOD PLAIN ZONE

A Flood Plain Zone has been established to allow certain creeks to carry abnormal flows of water in time of flood; to prevent the encroachment into the flood plains of these waterways which will unduly increase flood heights and damage to property as well as a potential threat to health and safety in the areas of greatest flood hazard. The Flood Plain Zone is not restricted to any particular zoning district but is superimposed over designated creeks.

409.01 For the purposes of this law, land subject to flooding shall be as follows:

409.01-A Between the Village of Alfred line and a point 400 feet N.E. of Sherman Road, an area 100 feet wide on each side or 200 feet wide (measured south from Route 244) along the Canacadea Creek.

409.01-B From a point 400 feet N.E. of Sherman Road to Route 21 at Hamilton Hill Road, an area 300 feet wide along the Canacadea Creek.

409.01-C From the Erie Railroad underpass, 1,800 feet from the intersection of Hamilton Hill Road and Route 21 north to the Town of Almond line, an area 400 feet wide along Railroad Brook.

409.02 Exact boundaries are subject to definition by the Department of Housing and Urban Development in their formal study.

409.03 In an effort to minimize flood damage, any use to be implemented in the designated flood plain area shall be reviewed by the Planning Board before granting a permit.

409.04 In an effort to minimize flood damage, any use to be implemented in the designated flood plain area shall be reviewed by the Town Board before granting a permit.

409.05 Permitted Uses in the Flood Plain:

409.05-A Open Areas: Raising of agricultural crops; roads, railways, electronic and other utility transmission lines; public or private recreational facilities such as public parks, golf courses, golf driving ranges, drive-in theaters, and boating or fishing lakes; temporary or transient uses such as carnival or similar amusement enterprises; storage yards for equipment and material not subject to movement by flood, provided such use is accessory to uses legally permitted in an adjoining area, but not including the storage of flammables such as gasoline.

409.05-B Buildings: No zoning permit shall be issued within the area designated as the Flood Plain Zone unless approved by the Town Board. The Town board, in its review, shall be guided by the following standards:

1. Any structure shall be designed, constructed and placed on the lot to offer minimum obstruction of the flow of water.
2. Any structure shall be firmly anchored to prevent the structure from floating away and thus threatening to further restrict bridge openings or other restricted sections of the stream.
3. Any structure must not be subject to appreciable damage by floodwaters.
4. The Town Board may require the applicant to submit detailed technical data concerning the effects of loading on a proposed structure and/or the effects of the structure on the flow of water.
5. Granting approval for any use or structure shall not constitute a guarantee of any kind by the municipality, or by any officer or employee, of the practicality or safety of any use or structure proposed and shall create no liability upon or cause of action against any public body, officer or employee for any damage that may result from the approval of a zoning permit.

ARTICLE V SIGNAGE

SECTION 501 GENERAL SIGN REGULATIONS

The provisions of this article shall govern all outdoor signs and display structures with respect to location, size and maintenance.

501.01 Except as otherwise provided, no sign shall be erected, altered or relocated without first obtaining a sign permit. No permit shall be required for a sign to be repainted, repaired or have its message changed.

501.02 Upon completed filing of an application for a sign permit and payment of the required fee, the inspector shall examine the plans, specifications, other data submitted and the premises on which the sign is to be erected or now exists. If the sign complies with all requirements of this local law, the inspector shall issue a permit for the erection of the proposed sign. If the erection of the permitted sign has not commenced within 6 months from the date of issuance, the permit shall become void. The permit may be renewed within 30 days prior to expiration, for an additional 6 months.

501.03 Design Guidelines for Approval of Signage:

1. Signs should be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings on which they are placed. Sign panels and graphics should relate to and not cover architectural features and should be in proportion to them.
2. Signs should be appropriate to the types of activities they represent.
3. No more than two typefaces should be used on any one sign or group of signs indicating one message.
4. The number of colors used should be the minimum consistent with the design.
5. Illumination should be appropriate to the character of the sign and surroundings.
6. Groups of related signs should express uniformity and create a sense of harmonious appearance.

501.04 The computed area of all signs shall be measured by the smallest rectangle which will contain the entire area of the sign exclusive of the structural supports but inclusive of architectural features.

## SECTION 502 PERMANENT SIGNS REQUIRING A PERMIT

502.01 All signs over 2 square feet per side and not exempted in the following regulations shall require a sign permit.

502.02 R-1 Single-Family Residential District

502.02-A One unlighted sign not over 2 square feet in area and not exceeding 3 feet in its largest dimension for home and professional occupations.

502.02-B One illuminated bulletin board or identification sign not exceeding 40 square feet for any school, church or public use.

502.03 AG Agricultural District

502.03-A Any sign permitted in the R-1 District.

502.03-B Farms shall be permitted a sign area of not over 20 square feet to identify the farm and an additional sign area of not over 20 square feet for advertising products raised on the farm and sold from a stand located on the farm.

- 502.04 B-1 Business District
  - 502.04-A One sign, either freestanding or attached to a building, not exceeding 40 square feet per side.
- 502.05 I-1 Industrial District
  - 502.05-A Any sign permitted in the B-1 District.
  - 502.05-B One sign 40 square feet per side for each use or industry in a building.

#### SECTION 503 EXEMPT PERMANENT SIGNS

The following signs, free standing or attached, not exceeding 2 square feet per side, may be placed in any district without a sign permit, provided they comply with the general requirements of this law and other conditions specifically imposed by these regulations:

- 503.01-A Personal or home identification. (Limited to one)
- 503.01-B Farm names or breed identification. (Limited to one)
- 503.01-C Home occupation or professional office identification. (Limited to one)
- 503.01-D Religious or non-profit organization identification. (Limited to one)
- 503.01-E Historical or memorial markers. (Limited to one)
- 503.01-F Entrance, exit or directional traffic signs.
- 503.01-G "No trespassing" or "Posted" signs, as needed.
- 503.01-H Federal or state mandated graphics or price signage, as needed.
- 503.01-I Signs, painted or affixed to the inside surfaces of windows or doors which pertain to the business conducted therein, not to exceed 25% of the total window space facing the highway.

#### SECTION 504 TEMPORARY SIGNS

Temporary signs, including cloth, banner and other similar signs, shall conform to the provisions of this section. Special zoning permits shall be issued by the inspector, valid for a period not exceeding 30 days for any one sign, to announce special events, sales or circumstances where a permanent display would involve undue expense, providing such signs meet the following requirements:

- 504.01 The area of the sign must first be permitted in the zoning district where such use is desired.
- 504.02 No temporary sign shall be erected as a roof sign.
- 504.03 No more than one temporary sign shall be erected on any lot at the same time and no more than 2 permits shall be issued for any lot or use in any calendar year.
- 504.04 No temporary sign shall be erected or maintained in place without a valid temporary sign permit.

## SECTION 505 EXEMPT TEMPORARY SIGNS

One sign, freestanding or attached, is permitted in any district without a sign permit, with the following restrictions:

505.01-A Private owner merchandise sale signs for garage and lawn sales and auctions, not exceeding 4 square feet per side for a period not exceeding 7 days.

505.01-B Real Estate sign and signs of a similar nature concerning the premises upon which the sign is located not exceeding 6 square feet per side. In the business and industrial districts they must be set back at least 10 feet from all property lines. All such signs shall be removed within 7 days after the sale, lease or rental of the property.

505.01-C Roadside signs for selling agricultural produce grown on the premises in season, not exceeding 25 square feet per side and set back at least 10 feet from the public right-of-way. Signs shall be removed at the end of the selling season.

505.01-E Holiday decorations.

505.01-F Signs where construction, renovation or repair is in progress, identifying the architect, engineer, contractor or other related services, not exceeding 8 square feet per side in residential and agricultural in districts nor 25 square feet per side in business or industrial districts, and set back at least 15 feet from all property lines.

505.01-G Political posters, not exceeding 8 square feet per side, must be set back 10 feet from public right-of-way and removed 7 days after an election.

505.01-H Signs or displays authorized by municipal authorities.

## SECTION 506 PROHIBITED SIGNS

The following signs are prohibited in the Town of Alfred:

506.01-A Off-premises signs.

506.01-B Signs illuminated by or containing flashing, intermittent, rotating or moving lights except to show time and temperature.

506.01-C Signs illuminated by light that will cause glare or reflection constituting a nuisance or a traffic hazard on sidewalks, streets, public places or adjacent premises.

506.01-D Signs impairing or causing confusion of vehicular or pedestrian traffic in their design, color or placement. No sign shall impair visibility for the motorist by placement and/or location.

506.01-E Sign or sign supports placed on the roof of any building which exceeds the maximum height of the structure.

506.01-F Signs consisting of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.

506.01-G Illuminated bulletin boards or identification signs exceeding 40 square feet per side for any school, hospital or any public use.

#### SECTION 507 NONCONFORMING SIGNS

507.01A Nonconforming sign shall not be enlarged or replaced by another nonconforming sign.

#### SECTION 508 REMOVAL OF SIGNS

508.01 Any sign which no longer advertises an existing business or product sold on the premises upon which such sign is located shall be removed.

508.02 If the inspector finds that any sign regulated in this local law is not used, is abandoned, unsafe or insecure, or is a menace to the public, the inspector shall give written notice to the owner of the property upon which the sign is located. The owner shall remove or repair the sign within 30 days from the date of notice. If the sign is not removed or repaired within this time period, the inspector shall revoke the permit issued for the sign and may commence court action for the sign to be removed or repaired and assess the owner for all costs incurred for court action.

508.03 Where any sign is a source of immediate peril to persons or property, the inspector may apply for court relief to remedy the situation.

#### ARTICLE VI ADMINISTRATION AND ENFORCEMENT

##### SECTION 601 ZONING INSPECTOR

The Town Board shall appoint a zoning inspector and may appoint an authorized assistant for the purpose of administering and enforcing this law. Compensation for these services shall be determined by the Town Board and the inspector shall serve under the board's direction.

601.01 The Zoning Inspector shall review applications for permits under s. 601.01 and inspect buildings or premises in the Town for compliance with this law.

601.02 When the proposed use is for a single-family residential use in a R-1 District or the AG District or for agricultural structures or buildings in the AG District, the inspector shall consider the application and supporting documents for compliance with this law and either issue or deny a zoning permit within 30 days of receipt by the town clerk.

601.03 When the application for a zoning permit is for any other use in any

district, other than set forth in s. 601.02, the Town Clerk shall deliver five copies to the Town Board.

601.04 If the inspector, in the course of duty, finds that any uses are in violation of the provisions of this law, the inspector shall notify the violator in writing, indicating the nature of the violation and order the action necessary to correct the violating conditions. The inspector shall include the time permitted for remedial action, the penalties that may be invoked by the Town and the violator's rights of appeal, as provided for in Section 604 of this law.

601.05 The inspector is hereby empowered to order the discontinuance of any illegal uses, the removal of illegal uses or to take any other action authorized by this law to insure compliance with or to prevent violation of its provisions.

601.06 The inspector shall maintain a permanent record of all zoning matters considered and all actions taken. These records shall form a part of the records of the inspector's office and shall be available for use by the Town Board and other officials of the town as well as be available for public inspection at the Town Building.

**SECTION 602 PLANNING BOARD**

The Planning Board shall consist of five (5) members. Members shall be appointed by the Town Board for terms of office lasting five (5) years. If a vacancy occurs for reasons other than expiration, the unexpired term shall be filled by an appointment by the Town Board. All existing members of the Planning Board shall complete their appointed terms of office.

602.1 The chairman of the Planning Board shall be appointed by the Town Board. Upon failure to do so, the Planning Board shall elect a chairman from its own members.

602.2 The Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction after public hearing by the Planning Board and subject to the approval of the Town Board.

602.3 The Planning Board shall have the authority to employ experts or staff persons and to pay for their services and such other expenses as may be necessary, not to exceed appropriations made for such purposes by the Town Board, unless approved in advance.

602.4 The Planning Board may perform planning work, conduct surveys, make land use studies and conduct research into business and industrial problems of the Town of Alfred.



602.5 The Town Board shall act on all applications not within the authority of the inspector when forwarded by the inspector pursuant to Section 601 of this law. The Town Board shall determine whether the application is in compliance with this law.

## SECTION 603 ZONING PERMITS

All applications for zoning permits shall consist of one original and six copies and shall be filed at the town clerk's office. The Town Clerk shall date-stamp the application and thereafter provide the zoning inspector and each Town Board a copy for all uses falling under s. 601.02 of this law. For all other uses, copies of the application shall be forwarded by the Town Clerk to the Town Board.

603.01 Each application for a zoning permit shall be accompanied by site plans and shall clearly show the conditions on the site at the time of the application. The application shall include the following information and plans for both 'before' and 'after' conditions:

603.01-A The location, use, design and dimensions of each use and building as appropriate.

603.01-B The location and arrangement of vehicular access ways and the location, size and capacity of all areas used for off-street parking.

603.01-C The location and dimensions of sidewalks, walkways and other areas for pedestrian use.

603.01-D The design and treatment of open areas, buffer areas and screening devices, including dimensions of areas devoted to lawns, trees and other landscaping devices.

603.01-E Other data and plans that the zoning inspector (for applications under s. 601.02) and the Town Board (under all other sections) may require to take action on the application.

603.02 In B-1 and I-1 and Light Industrial (LI-1) Districts, the applicant shall, at least 7 days prior to the date of review of the application by the Town Board: furnish copies of the application in writing by certified mail or by personal service with proof of service (filed with the Town Clerk) to:

1) all property owners within 200 feet of the boundaries of the property to be affected by the proposed use,

2) to Town Board members, and

3) to the Allegany County Planning Board (only if required by General Municipal Law s. 239-m).

603.03 The Town Board shall, within forty (40) days after receipt of such materials:

603.03-A Approve the application in writing with the Town Board members signatures signifying their individual votes and instruct the zoning inspector to issue the permit, with a copy to be filed for date- stamp with the Town Clerk.

603.03-B Disapprove the application with the reasons stated in writing signed by the Town Board signifying their individual votes instruct the zoning inspector to deny the permit in writing, with a copy to be filed for date-stamp with the Town Clerk.

603.03-C In the event of disapproval , the Town Board may stipulate to approval of a zoning permit by the zoning inspector only when the conditions for the disapproval have been corrected and satisfactory proof furnished to the Town Board.

603.03-D Absence of a reply from the Town Board after forty (40) days of receipt shall constitute approval of the application and the zoning inspector shall issue a signed zoning permit with a copy to be filed for date-stamp with the Town Clerk.

603.04 Following the completion of construction, reconstruction or alteration of any use, the applicant shall notify the Inspector when the work has been completed. Within 30 days of notification of completion, the inspector shall inspect the completed structure or use and issue a zoning compliance certificate.

## SECTION 604 ZONING BOARD OF APPEALS

The Board of Appeals shall consist of 5 members, appointed by the Town Board. The term of office shall be 5 years. If vacancies occur for reasons other than expiration, the unexpired term shall be filled by an appointment by the Town Board. The chairman of the Board of Appeals shall be appointed by the Town Board.

604.01 The office of the town clerk shall be the office of the Board of Appeals and every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board of Appeals shall immediately be filed in said office as required by Town Law of the State of New York.

604.02 DUTIES: The Board of Appeals shall have all the powers and duties prescribed by the Town Law of the State of New York and by this law.

604.02-A INTERPRETATIONS: If the zoning inspector or Town Board makes a decision that a person believes is a misinterpretation or erroneous application of this law, including without limitation the approval of uses, the aggrieved person or applicant may apply to the Board of Appeals for an interpretation of this law within thirty 30 days of the date stamped filing of the official action with the town clerk.

604.02-B VARIANCES: The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer or other administrative official or body charged with the enforcement of this Law, after public notice and hearing and in accordance with the requirements of law and this Law, to grant area variances and use variances as those terms are defined herein..

A. If a use variance is granted, the applicant shall obtain site plan review approval prior to commencing the use and prior to obtaining a Building permit.

1. No use variance shall be granted unless, in addition to satisfying all other applicable provision of law and this Law, the Board of Appeals finds that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship.

(i) Unnecessary Hardship In order to prove such unnecessary hardship the applicant is required to clearly demonstrate to the Board of Appeals that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each and every one of the following four criteria is satisfied: (a) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (b) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood involved; (c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (d) that the alleged hardship has not been self-created.

(ii) Reasonable Rate of Return: In evaluation whether the applicant can realize a reasonable rate of return, the Board of Appeals shall examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the applicant has clearly demonstrated, by detailed, written "dollar and cents" proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the propose project) and for each and every permitted use in the district (including those uses permitted by special use permit).

(iii) Unique Hardship: No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

(iv) Essential Character of the Neighborhood: No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the proposed project will not alter the

essential character of the neighborhood. In making its determination of whether the proposed project will alter the essential character of the neighborhood, the Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including without limitation (a) the rural residential, agricultural and historic character of the Town, (b) its irreplaceable recreation and tourism sites, (c) the extent of hazard to life, limb or property that may result from the proposed project, (d) health impacts, (e) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (f) the impact on property values, and (g) whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Town. In order to find that the proposed project does not alter the essential character of the neighborhood, the Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (1) pose a threat to the public safety, including public health, water quality or air quality, (2) cause an extraordinary public expense, or (3) create a nuisance.

(v) Self-Created Hardship: No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the alleged hardship was not self-created. The Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (a) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (b) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (c) when the applicant purchased the property, the applicant knew or should have known the property was subject to Zoning restrictions.

2. In addition to the application requirements from time to time established pursuant to law and this Law, an application for any use variance shall contain a written narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for a use variance, including:

a) Competent Financial Evidence: Competent written financial evidence containing reasonable written specification of, and back-up (confirmation) for, the nature and factual particulars of such claim, and articulating the basis for the applicant's claim, and including a minimum (as to the entire parcel of which the proposed project is a part): (1) date of acquisition; (2) the purchase price; (3) present value of the property; (4) the amount of real estate taxes; (5) the amount of mortgages or liens and other expense; (6) the asking price for the property when it had been offered for sales; (7) the costs of demolishing any existing structures on the property; (8) cost of erecting a new building(s) for each and every permitted use in the zoning district (including uses allowed by Special Use Permit); (9) efforts to market the property; and (10)

a schedule of all other property in common ownership at either the date of the enactment of this law or thereafter.

b) Competent written financial evidence must include written “dollars and cents proof” such as appraisals, economic studies, and any other written evidence supporting the applicant’s contention that the desired relief is appropriate, including appraisals relating to any alleged diminution of all or substantially all of the fair market value of property. For the purposes of this Law, common ownership means all other interests in property either located within the Town or contiguous to the Town that is held by any of the applicants (if more than one), whether such ownership is of a legal or equitable interest, in whole or in part, contiguous or not, and whether such property interest is held by any of the applicants through a legal or equitable interest in a(nother) corporation, partnership, trust, business, entity, association, fund, joint venture, or individually.

c) Unique Nature of the Property: The applicant must provide evidence demonstrating the unique nature of the parcel as a whole. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto. Exceptional topographic conditions are an example of a factor demonstrating the unique nature of the property.

d) Alteration of the Essential Character of the Neighborhood: The applicant must demonstrate that the proposed project will not adversely change the essential character of the neighborhood with regard to physical, economic, social or environmental elements. Adverse impacts to the essential character of the neighborhood include, but are not limited to, decreased quality or increased quantity of storm water runoff, increased soil erosion, increased traffic congestion, decreased road quality, impairment of the scenic or rural character of roads, increased noise, dust, odor and/or glare, reduced wildlife habitat, decreased air quality, decreased water quality, impairment of the view shed, creation of solid wasters, negative impacts on sustainability efforts, increased social costs, increased emergency response times, negative impacts to public infrastructure, decreased property values, and negative impacts of the health of residents.

e) Hardship Not Self-Created: In order to show that the hardship is not self-created, the applicant must demonstrate that either (i) when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or did not otherwise apply, or (ii) some other change has occurred since the applicant’s purchase which makes the use non-conforming, as long as that change was not caused by the applicant.

3. The Board of Appeals, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and

adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.

4. The Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of the Law, and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety, and general welfare and as may be necessary to carry out the intent of this Law. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

#### B. Area Variances

1. In making a determination whether to grant, grant conditionally, or deny an application for an area variance, the Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, and balance this benefit against the detriment to the health, safety and welfare of the neighborhood or community by making such grant. In making such determination the Board shall consider each of the following factors: (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (c) whether the requested area variance is substantial; (d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (e) whether the alleged difficulty was self-created. (In contrast to the context of a use variance, in the context of an area variance application whether or not the alleged difficulty was self-created shall be relevant to the decision of the Board of Zoning Appeals but a

finding that the difficulty was self-created shall not in and of itself preclude the granting of the area variance.)

2. The Board of Appeals, in the granting of area variances, shall grant the minimum area variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. In addition to the application requirements from time to time established pursuant to law and the Law, applications for an area variance, shall contain a written narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for an area variance.

4. The Board of Appeals, shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Law, and shall be imposed for the purpose of minimizing any adverse impact such area variance may have on the neighborhood or community. If the applicant refuses to accept such requirements and conditions, the area variance shall be denied.

#### 604.02-C SPECIAL USE PERMITS

1. All special permit uses shall require site plan review. Special permit uses are uses for which approval of the *Zoning Board of Appeals* is required and for which conformance to additional standards is required, in addition to all other requirements of this Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific case or use shall be considered as an individual case that requires consideration of the merits and details of each proposed use to assure that such proposed use is in harmony with this Law, and the Town's Comprehensive Plan and land use and similar goals and plans from time to time adopted by the Town Boards and in effect at the time in question, and that such proposed use will not adversely affect the general character of the surrounding area if the conditions of the special use permit are met.

2. In evaluating a request for a special use permit, the *Zoning Board of Appeals* shall require evidence of the satisfaction of each and every one of the following standards by findings entered into the record of the proceedings:

(a) that the special use is specifically authorized by the Law (the decision shall set forth the exact subsection of this Law containing the jurisdictional authorization);

(b) that the special use meets all of the criteria set forth in the subsection of this Law authorizing such special use: and

(c) that the granting of the special use permit will not alter the general character of the surrounding area, or impair the intent or purpose of this Law, or of the Town's Comprehensive Plan, or land use and similar goals and plans from time to time adopted by the Town Board and in effect at the time in questions. In so doing, the *Zoning Board of Appeals* shall consider factors such as:

- (i) location and size of proposed project;
  - (ii) the nature and intensity of the operations involved;
  - (iii) the size of the site in relation to the size of the proposed project;
  - (iv) the location of the site with respect to the existing or future roads giving access to it with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - (v) whether the location, nature and height of buildings, walls and fences will discourage the appropriate development and use of adjacent land and buildings and properties generally in the district or impair the value thereof;
  - (vi) whether the operations in connection with the proposed project will be more objectionable in nature to nearby properties and properties generally in the district by reason of noise, fumes, vibration, flashing lights, increased traffic or any other objectionable reasons, than would be the operations of any use permitted as of right;
  - (vii) the impact on existing and planned capacity of infrastructure systems, including but not limited to roads, water, sewer, energy and drainage;
  - (viii) whether environmentally sensitive features will be protected;
- and
- (ix) whether any authorization hereunder shall create fiscal burdens upon the community at large.

3. No special permit shall be issued for a use on a property where there is a violation of this Law or other Town Law or regulation. A special use permit shall authorize only one particular special use and shall expire if the subject use shall cease for any reason for six months or longer.

4. All applications for special use permits shall consist of an original and six copies. The application shall be made to the Board of Appeals and filed with the Town Clerk. The Town Clerk shall forward the application to the Chairman of the Board of Appeals. The Chairman of the Board of Appeals, after determining the application is in proper form, shall transmit one copy of the application and supporting documents to 1) the Allegany County Planning Board if/as required by New York State law, 2) the Town Board for review of the site plan and evaluation of the proposed use within thirty (30) days of filing of said application and 3) to each Board of Appeals member.



604.03 PROCEDURES FOR THE BOARD OF APPEALS The Board of Appeals shall act in strict accordance with procedures specified by law and by this law.

604.03-A All appeals and all other applications shall consist of one original and six copies in writing on forms prescribed by the Board of Appeals and available from the office of the town clerk.

604.03-B Every appeal or application shall cite the section of the law involved and either cite the passage for which an interpretation is sought or give details and reasons for requesting a variance or special permit.

604.03-C At least 30 days before the date of a hearing on a variance or other application other than Special permits, the Chairman of the Board of Appeals shall send a copy of the notice of the hearing to the Town board and shall request an opinion on the interpretation, appeal or application.

604.03-D The Town Board may submit a report of their advisory opinion at least one week prior to the date of the hearing.

604.03-E Failure by the Board of Appeals to act on a request for a variance or special permit within 90 days of the filing of the application with the town clerk shall constitute approval of the request.

1. The Town Board may review the application within 30 days after receipt from the Chairman of the Board of Appeals and may make a report to the Board of Appeals within ten days thereafter setting forth its findings and recommendations concerning the application. The Board of Appeals shall make the final decision concerning the disposition of the application within thirty (30) days of date of the Town Board's advisory report. Failure of the Town Board to act shall not affect the application.
2. If an application is approved by the Board of Appeals, the Chairman of the Board of Appeals shall file a copy of the approval resolution signed by each board member in the manner in which each member voted on the issue and the Board minutes with the Town Clerk for permanent file. The zoning inspector shall issue the special use permit upon the conditions imposed upon the applicant, if any, and file a copy for date-stamp with the Town Clerk.
3. The granting of the special use permit shall be in harmony with the general purpose and intent of this law and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
4. If any application is disapproved by the Board of Appeals, the Chairman of the Board of Appeals shall file a copy of the disapproval resolution signed by each board member in the manner in which each member voted on the issue and the Board minutes with the Town Clerk for

permanent file. The zoning inspector shall deny the application accordingly and file a copy for date-stamp with the Town Clerk.

604.04 NOTICE OF THE BOARD OF APPEALS HEARING The board, within 30 days of receiving an application for an appeal, shall set the date, place and time for a hearing and so inform the applicant.

604.04-A Public notice shall be by publication in the official newspaper of the town and shall briefly describe the nature of the appeal and the date, place and time of the hearing.

604.04-B The applicant shall, at least 7 days prior to the date of a hearing for a variance or special permit, give notice in writing by certified mail or by service in person with adequate proof of contact, to all property owners within 200 feet of the boundary of the property to be affected by the appeal or to all property owners to be affected and other interested property owners as may be designated by the Board of Appeals.

## SECTION 605 VIOLATIONS AND PENALTIES

Pursuant to New York Town Law §268, any person violating any provision of this law shall be deemed guilty of an offense, and upon conviction thereof shall be subject to a fine and imprisonment as provided in said §268.

605.01 Upon finding any construction, improvements, or uses to be in violation of this law, the inspector shall transmit a written Notice of Violation describing the alleged violation, by registered or certified mail, to the last known address of the owner, and to tenants of the property upon which the alleged violation occurs, with a copy to the Town Board. The Notice of Violation shall require an answer or correction of the alleged violation to the satisfaction of the inspector within fourteen (14) days. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the inspector within the time limit constitutes admission of a violation of this law.

605.02 Reserved

605.03 A fine of not less than \$250.00 and/or 15 days in jail nor more than \$500.00 and/or 30 days in jail may be imposed each week a violation exists.

605.04 Each week a violation exists shall constitute a separate offense.

605.05-A. In addition, an action or proceeding may be instituted in the name of the Town in any court or competent jurisdiction to prevent, restrain, enjoin, correct, enforce, and/or abate any violation of or non-conformance with, any provision or

requirement of the Local Law. Additionally, any action may be so commenced to declare the rights of the town and of any other persons relative to any justifiable controversy arising from, under, or in relation to this Local Law, whether pertaining to its interpretation, application, legality, or enforceability, or otherwise. No such action or proceeding shall be commenced without the appropriate authorization from the Town Board. If equitable relief is requested in the form of a temporary restraining order, a temporary injunction, or an injunction, or by any other form of prohibition or similar relief, the Town shall not be required to post any bond or undertaking as a condition or requirement for or of such relief, and the Town shall not be required to prove or show a lack of an adequate remedy at law. No right, remedy, or penalty specified in the Section 605 shall be the or an exclusive remedy of the Town, and each remedy or penalty specified in the Section 605 shall be in addition to, and not in substitution for or in limitation of any other remedies or penalties specified in this Local Law or permitted by any applicable law, rule, order, or regulation, Any remedy or penalty specified in this Local Law may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section.

605.05-B. In addition, the inspector may issue stop work orders or compliance notices relative to any violation of the Local Law. The failure of any person to comply with any such notice or order shall be and be deemed a violation of any other applicable law or ordinance, including, without limitation, the New York Executive Law, §382, and, in each case, such non-compliance or violation may also be enforced as such.

605.05 C. In the event the Town desires or is required to take legal action to enforce this Local Law the violator will be responsible for any and all necessary costs and expenses incurred by the Town relative thereto, including attorneys, engineering, consulting, and experts fees; provided, however, any responsibility or liability therefore, and the amount thereof, shall be determined by a court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

## SECTION 606 APPLICATION FEES

The Town Board shall, by resolution, establish and periodically update a schedule of application and permit fees associated with administration and enforcement of this Law (including without limitation inspection fees for subdivision, variance, site plan special permit, and other similar applications and approvals, and for building permits, certificate of occupancy and similar permits) and a true and correct copy of the most recent current such schedule shall be maintained in the office of the Town Clerk.

## ARTICLE VII INTERPRETATION & AMENDMENTS

### SECTION 701 WORD TENSE AND INTENTION

For the purpose of this law, all words used in the present tense include the future tense. All words in plural include the singular number and all words in the singular include the plural unless the natural construction of the word indicates otherwise.

**SECTION 702 INTERPRETATION**

In their interpretation and application, the provisions of this law shall be held to be the minimum requirements adopted for the promotion or public health, safety and general welfare. This law is not intended to repeal, annul or interfere with any existing provisions of the law, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises. Nor is it intended to repeal, annul or interfere with any easements, covenants or other agreements between parties provided that where this law imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by existing provisions of Law, regulations, permits, easements, covenants or agreements, the provisions of this law shall prevail.

**SECTION 703 CONFLICT WITH OTHER LAWS**

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

**SECTION 704 VALIDITY AND SEVERABILITY**

If any word, phrase, sentence, part, section, subsection, or any other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provisions of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and person or circumstances, a portion hereof is severed or declared invalid or unenforceable.

**SECTION 705 AMENDMENTS**

The Town Board may, on its own motion, on petition or on recommendation from the Planning Board, amend, supplement or repeal any of the regulations, provisions or sections of this law after proper and legal requirements have been met.

705.01 Proposed amendments may be referred to the Planning Board for comments prior to a public hearing.

705.02 The Town Board by resolution adopted at a stated meeting shall fix the date, place and time of a public hearing on the proposed amendments and cause notice to be given as follows:

705.02-A By publishing a notice at least 10 days prior to the hearing, stating the date, place and time in the official newspaper of the town.

705.02-B A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law, as it appears on the approved zoning map filed with the town clerk, shall be given to the housing authority erecting or owning the project and to the government providing financial aid assistance thereto at least 100 days prior to the date of such hearing.

705.02-C A written notice of any proposed change or amendment affecting property shall be given to the proper state and local authorities pursuant to Sections 239-l and 239-m of the General Municipal Laws.

705.02-D A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town or county shall be given to the clerk of such municipality and to the clerk of the Allegany County Legislature at least 10 days prior to the date of the hearing.

**ARTICLE VIII SCHEDULE OF ZONING REGULATIONS**

All setbacks adjacent to a street/highway shall be 85 feet from the centerline of the street/highway.

No building shall exceed 35 feet in height and no accessory building 15 feet in height in any district except as noted in Article III, Section 301.11, Section 302.01-A and Section 302.01-B. No principal building shall exceed 35% of the lot except in B-1 and I-1 where the principal building shall not exceed 40% of the lot.

No accessory building shall exceed 25% of the rear yard except in the B-1 and I-1 Districts where there are no restrictions.

Non-Business uses, including parking, may not occupy lands within 50 feet of the R-1 District.

ZONING DISTRICT	LOT SIZE	LOT FRONTAGE	PRINCIPAL BUILDING SETBACKS		ACCESSORY BUILDING SETBACKS	
			Side	Rear	Side	Rear

R-1 Single-Family Residential							
	Single-Family	1 acre	150'	25'	40'	10'	10'
	Two-Family	1 acre	200'	25'	40'	10'	10'
	Multi-Family	10,000 sq ft per unit	150' + 15'/unit	25'	50'	25'	25'
	Churches	5 acres	250'	50'	50'	25'	25'
	Schools	10 acres	300'	50'	50'	25'	25'
	Day-Care Centers	1 acre	200'	25'	50'	25'	25'
	Other Non-Residential Uses	1 acre	200'	25'	50'	25'	25'
AG Agricultural							
	Farms	10 Acres	-	-	-	-	-
	Single-Family	1 acre	150'	25'	40'	10'	10'
	Mobile Homes	1 acre	150'	25'	40'	10'	10'
B-1 Business							
	Business Uses	None	150'	50'	50'	10'	10'
	Non-Business Uses	None	50'	50'	50'	10'	10'
I-1 Industrial							
		None	200'	50'	50'	10'	10'
		None	150'	50'	50'	10'	10'
L-I Light Industrial		5 Acres	200'	50'	50'	50'	50'

ARTICLE IX DEFINITIONS

SECTION 901 Capitalized words shall have the meanings ascribed to them whenever the context thereof so admits or requires. Defined words and phrases that are not capitalized shall be deemed to be capitalized, unless the context thereof admits or requires otherwise. For purposes hereof, the following terms shall have the meanings respectively set forth below:

901.01 Accessory Building: A subordinate building located on the same lot as the principal building, occupied by or devoted to an accessory use. Where an accessory building is attached to the principal building in a substantial manner, as by a wall or roof, the accessory building shall be considered part of the main building.

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

901.03       Alteration, structural: To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan and layout, the exterior architectural features; or the exit facilities of a structure; or the moving of a building from one location to another.

901.04       Automotive Service Station: Any building or place of business where gasoline, oil and grease, batteries, tires and automotive accessories are supplied and dispensed directly to the motor vehicle trade at retail.

901.05       Board of Appeals: The Town of Alfred Zoning Board of Appeals.

901.06       Boarding or Rooming House: A dwelling occupied by one family with 3 or more boarders, roomers or lodgers in the same household who are lodged with or without meals and in which there are provided such services as are incidental to its use as a temporary residence for part of the occupants.

901.07       Buffer Area: An area bordering the zoning district boundary between a residential and a nonresidential district and designated by the Planning Board as a buffer area reserved for plantings, fencing or other similar screening devices for the purpose of creating a transition area wherein adjoining uses do not detract from one another. Such a buffer area shall be located within the required side or rear yards of the adjoining nonresidential district. Where this is impractical, a portion or the adjoining residential district may be so designated but only with the concurrence of the property owner of said residential portion.

901.08       Building: Any structure having a roof supported by columns or walls and intended for shelter, housing, protection or enclosure of persons, animals or property. Depending upon its applicability, the use of 'building' shall include the term 'structure'.

901.09       Building area: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

901.10       Building height: The vertical distance measured in the case of a building with a flat roof from the curb level to the level of the highest point of the roof beams, and in the case of a building with a pitched roof, from the curb level halfway between the top of the plate and the ridge.

901.11 Building line: A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In the case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

901.12 Building, principal: A building in which the main use of the lot is conducted on the lot where the building is situated.

901.13 Cluster Residential Development: Any development of residential lots, each containing less than the minimum lot area required for the district within which the development occurs, but containing the density limitation imposed by the minimum lot area through the provision of open space as a part of the subdivision plan.

901.14 Day Care Center: Any facility duly permitted by the New York State Department of Social Welfare for the care of 7 or more children for less than 24 hours each day.

901.15 Dwelling Unit: A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boarding house, convalescent home, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing or other similar house, or other similar structure shall not be deemed to constitute a dwelling unit.

901.16 Family: One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers.

901.17 Farm: A parcel of land containing 10 or more acres of land used for gain in raising agricultural or forest products, including crops, trees, livestock, poultry or dairy products.

901.18 Farm Building: A building used for the housing of agricultural equipment, produce, livestock or poultry, or for the incidental or customary processing of farm products and provided that such building is located on, operated in conjunction with and necessary to the operation of the farm as defined by the article.



901.19 Fence: An artificially constructed barrier of wood, masonry, stone, wire, metal or any other material or combination of materials erected for the purpose of separating or enclosing one area from another.

901.20 Floor Area, total: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for occupancy or the conduct of business. Areas shall be measured between the inside face of exterior walls or from the centerline of walls separating 2 uses. Areas shall not include roof areas, cellar areas used for utilities, incidental storage or maintenance of the building, unheated porches, breezeways or garages.

901.21 Floor Area, ratio: Numerical value obtained by dividing the total floor area within a building or buildings on a lot by the area of the lot.

901.22 Frontage: The extent of a building or a lot along a street or highway as defined herein.

901.23 Garage, private: An accessory building used in conjunction with a principal building for the storage of motor vehicles, boats and trailers and in which no occupations, businesses or services for profit are conducted.

901.24 Grade, finished: The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

901.25 Home Occupation: An accessory use, profession or trade conducted entirely within the principal structure by the residents thereof. The use shall be clearly incidental and secondary to the use of the principal structure as a dwelling place and not change the character of the surrounding area.

901.26 Industrial; Industry; Industrial uses: Notwithstanding any provision hereof to the contrary, for purposes hereof in no event shall the terms "industrial", "industry", "industrial uses", or any variation thereof, be construed to mean, be, or include Natural Gas and/or Petroleum Extraction Activities, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Disposal/Storage Facility, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Dump, a Natural Gas Compression Facility, a Natural Gas Processing Facility, or any other Explicitly Prohibited Use.

901.27 Inspector: The officially appointed zoning enforcement officer of the Town of Alfred.

901.28 Junk Yard: A lot, land or structure or part thereof used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or other scrap or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

901.29 Lot: A parcel of land considered as a unit, occupied or capable of being occupied by one principal building and/or use and the accessory buildings or uses to such building or use and having as a minimum, such open spaces are required by this law.

901.30 Lot area: An area of land determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public right-of-way shall not be included.

901.31 Lot, corner: A parcel of land abutting on 2 or more streets at their intersection.

901.32 Lot coverage: The percentage of lot area occupied by the ground area of a building and accessory buildings.

901.33 Lot depth: The horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

901.34 Lot, Interior: A lot other than a corner lot.

901.35 Lot line: The property line bounding a lot. In the case of a lot abutting more than one street, the owner may elect any street lot line as the front lot line. The rear lot line shall be the lot line most distant from the front lot line. Any lot line not a rear or a front lot line shall be a side lot line.

901.36 Lot, through: An interior lot having frontage of 2 parallel or approximately parallel streets.

901.37 Lot, width: The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

901.38 Manufacturing: In no event shall "Manufacturing" be construed to mean, be, or include any explicitly prohibited uses.

901.39 Mobile Home: A movable single-family dwelling originally equipped with or having a vehicular chassis and provided with all the following mechanical systems and

equipment: plumbing, heating, electrical, cooking and refrigeration and which is intended to be used as a stationary, continuously used dwelling place.

901.40            Mobile Home Park: An area designated for the exclusive use of mobile homes and attendant structures.

901.41            Mining/Mining Activity: The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use, exclusive of manufacturing processes at the mine location; the removal of such materials through sale or exchange or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining activity shall not include excavation, removal and disposition of minerals from construction projects, nor excavations associated with Agricultural activities. Notwithstanding any provision hereof to the contrary, in no event shall the terms “mining”, “mining activity”, or any variation thereof, be construed to mean, be, or include Natural Gas and/or Petroleum Extraction Activities, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Disposal/Storage Facility, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Dump, a Natural Gas Compression Facility, a Natural Gas Processing Facility, or any other Explicitly Prohibited Use.

901.42            Nonconforming building: A building which in its design or location upon a lot does not conform to the regulations of this law for the district in which it is located.

901.43            Nonconforming lot: A lot of record existing at the date of the passage of this law which does not have the minimum width or contain the minimum area for the district in which it is located.

901.44            Nonconforming use: A use of a building, structure or land lawfully existing at the time of the enactment of this law (1971, revised 1989) which does not conform to the use regulations of the district in which it is located.

901.45            Parking Space: An area for the temporary storage and parking of motor vehicles which is at least 10 feet wide, 20 feet long and has 7 feet of clear height together with adequate provision for maneuvering and for passage to and from streets either directly or over a private driveway.

901.46 Planning Board: The Town of Alfred Planning Board. The purpose of the Planning Board shall be for planning only. All duties of the Planning Board under this law, other than planning, are transferred to the Town Board, including without limitation those set forth herein.

901.47 Principal Use: The main use for which a building or lot is to be used.

901.48 Residence: A building designed or used exclusively as a living quarters for one or more families. The term should not be deemed to include automotive court, motel, boarding or rooming house, mobile home trailer, tourist home or tent.

901.49 Residence, single-family: A building containing one dwelling unit and designed or used exclusively for occupancy by one family.

901.50 Residence, two-family: A building designed for and occupied exclusively as a home or residence for two families.

901.51 Residence, multi-family: A building or portion thereof containing three or more families living independently of each other.

901.52 Right-of-way: The line determining the street or highway public limit or ownership, measured 25 feet from the center of the street or highway.

901.53 Setback: Of a building or of a story thereof from a particular lot line is the horizontal distance from such a lot line to the part of the building or story, respectively, which is nearest to such lot line, which shall be deemed to be the distance that such building or story is 'set back'.

901.54 Sign: Any letter, word, model, banner, pennant, insignia, trade flag or other device or representation used as an advertisement, announcement or direction, excluding any public or directional signs.

901.55 Sign area: The area defined by the frame or edge of a sign. Where there is no geometric frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most clearly outlines the said sign.

901.56 Site Plan: A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-way boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

901.57 Special Use: A use which because of its unique characteristics requires individual consideration through a procedure of review by the Zoning Board of Appeals, in order to determine whether a special use permit should be granted, conditionally granted, or denied.

901.58 Special Use Permit: A permit issued by the Zoning Inspector in accordance with procedures established in Section 604.02-C.

901.59 Street: A public thoroughfare which affords the principal means of access to abutting property.

901.60 Street Line: The line determining the limit of the highway rights of the public, existing or contemplated.

901.61 Structure: Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

901.62 Structural Alterations: Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders and exit facilities.

901.63 Swimming Pool, Private: A swimming pool operated as an accessory use to a residential dwelling unit or units and which is specifically used for swimming or bathing and located on an individual Lot.

901.64 Swimming Pool, Public: A public or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and an off-street parking area.

901.64-A Utility/Utility Facility: An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility facility is a facility which is operated by a public utility, and which provides electric, gas, steam, CATV, telephone or other communication service, water or sewerage directly to the general public. In no event shall 'Public Utility' or 'Public Utility Facility' be construed to mean, be, or include Natural gas Compression Facility or Natural Gas Processing Facility, or any other Explicitly Prohibited Use.

901.65 Temporary Use: An activity conducted for a specific limited time which may not otherwise be permitted by the provisions of this law.

901.66 Town Board: The Alfred Town Board of Councilmembers.

901.67 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.

901.68 Variance: An authorization granted by the Zoning Board of Appeals for the construction or maintenance of a building or for the establishment or maintenance of a land use which is prohibited by this zoning law.

901.69 Yard, Front: An open space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front Lot line and the front of the principal building.

901.70 Yard, Rear: An open space extending the full width of a lot between the rear-most principal building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of the principal building.

901.71 Yard, Side: An open space extending from the front yard to the rear yard between any building and the side Lot line, unoccupied and unobstructed by buildings or structures from the ground upward. The required width of the side yard shall be measured horizontally from the nearest point of the side Lot line to the nearest part of any building.

901.72 Zoning Permit: A permit issued by the inspector stating the purpose for which a building or land is to be used is in conformity with the use permitted and all other requirements under this law for the zone in which it is located or is to be located.

## 2.10 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstances, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, the, and in such event, such judgement or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances, If necessary to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even

if, as to particular provision and person or circumstances, a portion hereof is severed or declared invalid or unenforceable.

#### Effective Date of this Local Law

This Local Law shall be effective upon filing with the office of the Secretary of State, and the Town Clerk is directed to immediately file a copy of this Local Law with the New York State Secretary of State as required by law.

Adopted by the Town Board of the Town of Alfred on December 29, 2019

[Amended per 1990 Local Law #4 to read (unknown as to which section):

"Any non-conforming use in the existing B-1 District as of August 23, 1990 and continuing to the date of adoption, without a lapse of more than one (1) year and without any change in use, be considered a conforming use subject to all other applicable zoning regulations."]

Amended per 1990 Local Law #3 portions in italics and adopted by the Town Board of the Town of Alfred on May 9, 2019

This document is for informational purposes only. Although every effort is made to maintain up to date and correct information, its accuracy is not guaranteed. For use regarding legal purposes, a copy of the law should be obtained from the Town Clerk's Office, Shaw Road, Alfred Station, NY 14803

**APPENDIX A**

ATTACHED TO AND FORMING A PART OF  
TOWN OF ALFRED (NY) LOCAL LAW NO. 1, Dec 29th of the YEAR 2014,  
known as:

A local law to amend and supplement Local Law No. 3 of 1990,  
(as heretofore amended),

by:

Establishing a Severability Clause;  
Clarifying the Boundaries of Certain Zoning Districts;  
Confirming and Clarifying that any Uses not Expressly Permitted are Prohibited;  
Articulating Certain Explicitly Prohibited Uses;  
Adding Certain New Definitions, and Changing Certain Existing Definitions; and  
Modifying, Clarifying, and Adding to the Provisions Regarding Use Variances Generally, and  
Use Variances Respecting Explicitly Prohibited Uses, Specifically.

The Town of Alfred (NY) Local Law No. 1 Of The Year 2019 to which this Appendix A is attached is herein sometimes referred to as “this Local Law” or “this Law.”

This Appendix A is a part of the Local Law to which it is attached for all purposes.



**Section 1. Authority and Intent.** This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Alfred under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a), (20-b), and (23); Town Law § 130(5), (6), (7), (8), (11), (14), (15), and (23); Town Law § 135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law § 17-1101, §27-0711; and New York State Law, Public Health Law § 228 (2), and (3).

This Law is a police power and land use regulation. This Law is intended and is hereby declared to address matters of local concern. It is further declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as, and is hereby declared to exercise, the permissive “incidental control” of a land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain herein-identified land uses, such as negative impacts on roadways, traffic congestion, and other deleterious impacts upon a community. This Law is not intended to regulate the operational processes of any business. This Local Law is a law of general applicability and is intended to promote the interests of the community as a whole.

As is consistent with law (including, without limitation NY ECL § 27-0711) this Local Law intends to, and hereby does, regulate certain land uses so as to promote the health and welfare of the citizens of the Town by, among other things, regulating or prohibiting the dumping, discharging, injection and disposal of materials herein defined as “Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes” on lands and in bodies of water within the Town. Further, this Local Law is intended and declared to protect drinking water supplies and is intended and declared to supplement and enhance, but not limit or impinge upon, the Safe Drinking Water Act and the Underground Injection Control programs administered by the Environmental Protection Agency. This Local Law is also intended and declared to impose conditions and restrictions on certain uses of property that are directly related and incidental to the use of property, with such conditions and restrictions being aimed at minimizing or precluding adverse impacts in and upon the Town that could result from a certain uses of property that pose a unique risk of adverse impacts to, and effects upon, the comfort, peace, enjoyment, health and safety of residents and their property.

## **Section 2. Findings of Fact.**

1. Alfred is a community in Allegany County that takes great pride in and assigns great value to its rural residential character, small-town atmosphere, high-quality agricultural and forestry land, and scenic and other natural resources.
2. Many residents are dependent upon aquifers and wells for life-sustaining water; maintaining the quality of water resources within the Town is critical to protecting the natural environment of the Town, the general health and welfare of Town residents, and the local economy. Certain of the Explicitly Prohibited Uses defined and described in this Local Law have the potential to damage surface and groundwater resources, in the event of (by way of example) human error, power outages, flooding or other natural disasters, or engineered materials and structures experiencing stresses beyond those for which they were designed. Water pollution is hazardous to the public health. If a domestic water source is contaminated, remediation is time and cost intensive, and may not restore the water resource to a quality acceptable for domestic use.
3. Preservation of the Town's irreplaceable scenic sites, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Town and to the tourists who visit here.
4. The Town's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the agricultural, scenic, recreational, and other natural resources of the Town is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people. They also deeply affect the way people feel about a place, and affect whether businesses will want to locate within, or people will want to live in, attend school in, and visit, a place.
5. Allowing certain of the Explicitly Prohibited Uses defined and described in the Local Law could impair the existing character of the Town, because by their very nature such activities have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the areas or communities in which such activities are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of agricultural lands and soils, damage to and loss of open space, natural areas and scenic views, the fragmentation of natural communities and valuable wildlife and flora

corridors, decreased recreational opportunities, and damage to tourism industries.

6. If one or more of the Explicitly Prohibited Uses defined and described in the Local Law are conducted within the Town, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Town and could be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents. Certain of the Explicitly Prohibited Uses defined and described in this Local Law typically involve a large volume of heavy vehicles and accidents involving heavy vehicles have greater potential for death or serious injuries and property damages than those involving smaller vehicles. Further, such accidents are more likely to occur on roads (such as many roads in the Town) that have sharp corners, narrow lanes, short sight lines, and overall limited roadway geometries. Thus, an increased volume of heavy vehicular traffic may cause, contribute to, or create unsafe conditions for the traveling public and thus place a strain on emergency responders. Increased heavy vehicular traffic also tends to increase air pollution and noise levels, and decrease the quality of life and property values for those living nearby. Roads are a critical public resource and constitute a major investment of the public's money. With very limited exceptions within the Town, all Town roads are generally "highways by use" (as contemplated by Section 189 of the NY Highway Law) and, as such, many such roadways are not engineered or able to carry repeated heavy vehicular traffic, even if within legal limit loads. The Town is not in a position to bear the high costs associated with the road use impacts that typically accompany many of the Explicitly Prohibited Uses defined and described in this Local Law.
  
7. If one or more of the Explicitly Prohibited Uses defined and described in the Local Law are conducted within the Town, the air pollution, dust, noise, vibrations, and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) could be hazardous or inconvenient to the inhabitants of the Town. Air pollution is a known hazard to the public health.
  
8. If one or more of the Explicitly Prohibited Uses defined and described in the Local Law are conducted within the Town, noise, vibrations, seismic, subterranean, lateral and subjacent support impacts, and light pollution typically caused by such activities, could be hazardous or inconvenient to the inhabitants of the Town. Noise, traffic congestion, nighttime lighting, vibrations, and seismic and other impacts to subterranean surface support, can have negative effects on human health and wildlife.
  
9. The creation, generation, keeping, storage or disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in the Local Law) within the Town could have a negative impact on the public health, safety and welfare

of the inhabitants of the Town.

10. The high costs associated with the disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in the Local Law) have in other localities resulted, and could in our Town result, in persons seeking to avoid such costs by depositing such material along roadways, in vacant lots, on business sites, in the private dumpsters of others, or in other unauthorized places. Such activities could pose a hazard to the public health, safety, and welfare of the inhabitants of the Town.
11. Evaluation and determination of whether the Explicitly Prohibited Uses defined and described in this Local Law are appropriate for the Town is a legitimate goal of land use policy and laws; indeed, the exclusion of specified industrial uses is a legitimate and judicially recognized and supported goal of such laws. See the United States Supreme Court's decision in *Town of Belle Terre v. Borass*, 416 U.S. 1 (1974)

See also, *Matter of Gernatt Asphalt Products, Inc. v. Town of Sardinia*, 87 N.Y. 2d 668 (1996), where the Court of Appeals, New York State's highest court, held as follows:

***A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole.***

*87 N.Y. 2d at 683, 684. (emphasis added.)*

**Section 3. Purposes.** This Local Law is enacted so as to take proactive steps to protect and preserve the quality of the Town's air, water, historic resources, and other assets, and to protect and promote the health, safety, and welfare of the Town and its present and future residents. Without limiting the generality of the foregoing, this Local Law is intended and declared by the Town Board to:

- a. promote the purposes of planning and land use regulation by, among other things, preserving the roads and protecting limited and related fire, police, and other emergency response services in the Town;
- b. promote the health, safety and welfare of the Town, its present and future inhabitants, by preventing adverse public nuisances and/or land use impacts and effects that could result if the Explicitly Prohibited Uses defined and described in this Local Law were allowed to be conducted within the Town;

c. protect the Town's priceless and unique character, the preservation of which is of significant value to the inhabitants of the Town and the tourists who visit here, by protecting it from adverse public nuisances and/or land use impacts and effects that could result if the Explicitly Prohibited Uses defined and described in this Local Law were allowed to be conducted within the Town; and

d. protect the Town's irreplaceable historic, scenic, and natural resources, and the Town's water and air quality, by protecting each and all of the same from adverse public nuisances and/or land use impacts and effects that could result if the Explicitly Prohibited Uses defined and described in this Local Law were allowed to be conducted within the Town.

--- END ---