

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Solvay \_\_\_\_\_

Local Law No. 3 of the year 2024

A local law Local Law amending the Village of Solvay Code Chapter 165 by adding thereto a  
(Insert Title)  
Section 165-44 entitled Business Certificate of Use regulating operations of businesses  
within the Village of Solvay  
\_\_\_\_\_

Be it enacted by the Village of Solvay Board of Trustees of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Solvay \_\_\_\_\_ as follows:

LOCAL LAW NO.: 3 of 2024  
LOCAL LAW AMENDING THE VILLAGE OF SOLVAY VILLAGE CODE CHAPTER 165 BY ADDING THERETO A  
SECTION 165-44 ENTITLED BUSINESS CERTIFICATE OF USE REGULATING OPERATIONS OF BUSINESSES  
WITHIN THE VILLAGE OF SOLVAY

(See attached)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2024 of the (County)(City)(Town)(Village) of Solvay was duly passed by the Village of Solvay Board of Trustees on May 28 2024, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

 *Harry DeCarlo, Clerk-Treasurer.*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 3, 2024

(Seal)

**LOCAL LAW NO.: 3 of 2024**

LOCAL LAW AMENDING THE VILLAGE OF SOLVAY VILLAGE CODE CHAPTER 165 BY ADDING THERETO A SECTION 165-44 ENTITLED BUSINESS CERTIFICATE OF USE REGULATING OPERATIONS OF BUSINESSES WITHIN THE VILLAGE OF SOLVAY

BE IT ENACTED BY THE VILLAGE BOARD OF THE VILLAGE OF SOLVAY AS  
FOLLOWS:

**Section 1:** The Village of Solvay Village Code, being Local Law No.4 of 1991, as has previously been amended, is hereby further amended at Chapter 165 by adding thereto new provisions for regulation of business operations within the Village of Solvay entitled §165-44 Business Certificate of Use, to read as follows:

“§165-44 BUSINESS CERTIFICATE OF USE

§165-44.1 – Purpose.

The purpose of this article is to establish regulatory controls to ensure that certain businesses are operated in accordance with law, do not have a negative impact upon surrounding residential neighborhoods, or do not endanger the health, safety or welfare of persons in the Village of Solvay.

§165-44.2 – Definitions.

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

*Bar* shall mean one or more of the following:

- (1) A building or portion thereof where alcoholic beverages are sold for consumption on the premises;
- (2) A building or portion thereof operated for profit or pecuniary gain or as a place of assembly where alcoholic beverages are provided by the operator of the premises, his or her agents, servants or employees, or are brought onto said premises by persons assembling there.

*Business* and *businesses* shall mean a bar, food store, drugstore, or smoking establishment as defined herein.



*Drugstore* shall mean a building or portion thereof where prescription drugs are sold at retail, together with dry goods or beverages.

*Food store* means a building or portion thereof with a total floor space less than twenty thousand (20,000) square feet which is devoted, in whole or part, to the sale of dry goods and food and beverages to be consumed off the premises.

*Owner* means and includes the owner or owners of the freehold of the premises or lesser estate therein who appears as the owner of record with the Onondaga County Clerk's Office, as well as any person, agent, firm, entity or corporation having any legal or equitable interest in the property at the time a notice, order or other document is issued by the office of Code Enforcement.

*Proprietor* means an owner and/or operator or future owner and/or operator of the business specified on a particular certificate of use for a particular business location.

*Premises* shall mean the building in which the business is located, as well as accessory structures and uses, including parking lots, and the land on which the building is located.

*Restaurant* shall mean a building or portion thereof where food is sold to be consumed on or off the premises. This definition shall not include a building or portion thereof where a non-alcoholic beverage or snack is available but is incidental to the conduct of the business at the premises or a college or university's dining halls.

*Smoking establishment* shall mean a building or portion thereof where tobacco products and paraphernalia, which includes but shall not be limited to cigarettes, cigars, pipes, Kreteks (clove cigarettes), hookahs, and Shisha, are used and /or consumed on the premises.

§165-44.3 – Certificate of use required.

- (a) No proprietor shall operate or maintain a business within the Village of Solvay without first having obtained a certificate of use or conditional certificate of use authorizing the operation of said business by said proprietor at the specific business location.

- (b) No owner shall allow a business to be operated or maintained at the premises without requiring proprietor to obtain a certificate of use or conditional certificate of use authorizing the operation of said business by said proprietor at the specific business location.
- (c) Any business operating without a valid certificate of use shall be considered “unlawful” pursuant to the provisions of section 107.1.4 of the 2010 Property Maintenance Code of New York State and may be subject to immediate closure by the Office of Code Enforcement.

§165-44.4 – Application.

- (a) An application for a certificate of use shall be made by the owner or the proprietor to the Office of Code Enforcement on forms prescribed by the Code Enforcement Officer. The application shall request relevant information relating to the owner, proprietor and the business to be conducted at the premises, including the existence of necessary licenses and permits for the business.
- (b) Applications for a certificate of use are to be submitted by the owner or proprietor, including a proprietor who does not yet own and/or operate the subject business, but will own and/or operate the subject business within the next ninety (90) days.
- (c) In the event the application is not approved, the owner and proprietor shall be advised as to the specific requirements which must be met to qualify for a certificate of use and of the right to a hearing on such determination.
- (d) In the event the Code Enforcement Officer determines after the Village of Solvay’s review of the application pursuant to section 1-5 of this article that the business is not qualified for a certificate of use based upon any requirement which the Code Enforcement Officer determines cannot be complied with by means of an extension of time under section 1-13(b) of this article, the Code Enforcement Officer shall notify the owner and proprietor in writing of the reasons the application cannot be approved and provide notice to the owner and proprietor of the right to a hearing on such determination. Any such hearing shall be requested in writing to the Code Enforcement Officer within fifteen (15) days of the date of such notice of determination that the application cannot be approved.
- (e) A hearing, when requested, shall:

- (1) Be held before a Village Justice who shall not be an employee of the Office of Code Enforcement;
  - (2) Be recorded by a stenographer;
  - (3) Take place no later than fifteen (15) business days after the Code Enforcement Officer receives the written request from the owner or Proprietor for the hearing. The Code Enforcement Officer may adjourn the date only upon the owner or proprietor presenting compelling reason(s) in writing that an adjournment of the hearing date is warranted;
  - (4) The owner and proprietor shall be allowed to be represented by counsel and shall be allowed to call witnesses on their behalf and conduct cross-examination of all witnesses.
- (f) Upon receipt of the transcript of the hearing, the Village Legal Counsel or his/her designee shall have the transcript and all exhibits from the hearing forwarded to the Village Justice. The Village Justice shall review the transcript and exhibits and within thirty (30) days from receipt of the transcript and exhibits, render a written recommendation to the Code Enforcement Officer as to whether the application for a certificate of use should be approved.
- (g) Thirty (30) days after receiving from the Village Justice a transcript of the suspension/revocation hearing, all exhibits submitted at the hearing and the Village Justice's written recommendation, the Code Enforcement Officer, shall conduct a de novo review of the transcript, all exhibits submitted at the hearing and the Village Justice's written recommendation. The Code Enforcement Officer shall determine whether the application for a certificate of use should be approved. If the determination of the Code Enforcement Officer is that the application be denied, The Officer shall issue a written order containing his/her determination. The order shall be drafted within thirty (30) days by the Village legal Counsel or his/her designee and then signed by the Code Enforcement Officer.
- (h) Any such order issued pursuant to subsection (g) above shall be served on the owner and proprietor pursuant to the provisions of Article 3 of the New York Civil Practice Law and Rules.



§165-44.5 – Inspections and investigations.

- (a) Upon receipt of an application for a certificate of use, the Code Enforcement Officer or his/her designee, and the chief of fire and his/her designee, shall inspect the premise to determine whether the proprietor and owner are complying with the laws and ordinances which they are charged with enforcing. The chief of police or his/her designee shall also conduct a criminal background check on the applicant. The chief of police, the Code Enforcement Officer, and the chief of fire along with members of their staff shall have the right to enter upon any premises for which a certificate of use is sought for the purpose of making such an inspection during normal business hours, and shall also have the authority to seek warrants where necessary.
- (b) Upon receipt of an application for a certificate of use, the Village of Solvay Zoning Board of Appeals/Planning Board shall review the location to ensure that the operation of the business at that location will be compliance with the zoning ordinance.
- (c) The Code Enforcement Officer or his/her designee shall determine that the owner and proprietor do not have an expired conditional certificate of use, is not serving a period of suspension, has not had a previous certificate of use or conditional certificate of use revoked, is not the subject of pending charges brought for violations of the terms and conditions of a certificate of use or conditional certificate of use, and that the owner and proprietor has procured all necessary licenses and permits for the business.

§165-44.6 – Issuance of certificates of use and conditional certificates of use.

- (a) A certificate of use shall be issued when the following conditions have been satisfied:
  - (1) All fees required by section 1-8 of this article have been paid;
  - (2) The application form has been completed and accepted by the Office of Code Enforcement;
  - (3) The owner and proprietor have all necessary licenses and permits for the business;
  - (4) The proprietor does not have an expired conditional certificate of use, a certificate of use or conditional certificate of use that is under suspension, a previous certificate of use or conditional certificate of use revoked, and/or does not have charges pending for violations of the terms and conditions of a certificate of use or conditional certificate of use;



- (5) The owner and the proprietor do not owe the village any money for delinquent taxes, civil penalties, parking tickets or other duly incurred charges, fines or penalties; and
- (6) Due to the interaction between proprietors and the general public, the Village has an interest in protecting the health, safety and welfare of the public. Accordingly, the Village will conduct a criminal background check on each applicant in accordance with section 296(16) of the New York State Executive Law. The Code Enforcement Officer makes a determination in accordance with Article 23-A of the New York State Correction Law. Specifically:
- a. The criminal background check shall initially be reviewed by an individual who is not directly involved in the final determination. For purposes of this paragraph, the individual shall be called a “screener.”
  - b. The screener shall review the criminal background check and determine if the applicant has been convicted of:
    - i. Any felony in the five (5) years preceding the date of the application for a crime involving:
      - A. Theft;
      - B. Fraud;
      - C. The sale of marijuana; or
      - D. The sale of controlled substances.
    - ii. Any misdemeanor in the two (2) years preceding the date of the application for a crime involving:
      - A. Theft;
      - B. Fraud;
      - C. The sale of marijuana;
      - D. The sale of controlled substances;
      - E. Selling stolen goods;
      - F. Unlawfully dealing with a child; or
      - G. Violations of the Alcoholic Beverage Control Law,
  - c. In the event that the background check is free from convictions for any of the offenses enumerated above, the screener shall communicate to the Code Enforcement Officer that the applicant’s background is clear, even if there are other convictions contained within the background check. A background check with convictions for offenses other than the ones set

forth above shall have the same effect as a background check with no convictions.

- d. In the event that the applicant's background check does contain one of the above enumerated offenses, the screener shall deliver to the Code Enforcement Officer the background report, along with a notation of which offense or offenses, of the above enumerated offenses, necessitate further review.
- e. The Code Enforcement Officer shall communicate to the applicant, via certified letter, that the background check revealed one of the above enumerated offenses. The Code Enforcement Officer shall include a copy of the full background check with this correspondence. The letter shall inform the applicant of the opportunity to provide any information to the Code Enforcement Officer regarding rehabilitation and/or good conduct. The applicant shall furnish such information, if any, in writing to the Code Enforcement Officer within ten (10) days of the date of the certified letter sent from the Code Enforcement Officer.
- f. After the ten (10) days has lapsed, the Code Enforcement Officer shall then review the background check in accordance with Article 23-A of the Correction Law of New York State, even if the applicant has not submitted any information regarding rehabilitation and/or good conduct.

(7) All applicable Village officials in section 1-5 of this article have inspected and investigated the business, the business's premises and the business location and have approved the owner's application for a certificate of use.

(b) A conditional certificate of use may be issued where the Code Enforcement Officer or his/her designee has decided to issue a conditional certificate of use where the following conditions have been satisfied:

- (1) All fees required by section 1-8 of this article have been paid;
- (2) The application form has been completed and accepted by the Office of Code Enforcement;
- (3) The owner and proprietor have all necessary licenses and permits for the business;
- (4) The proprietor does not have an expired conditional certificate of use, a certificate of use or conditional certificate of use that is under suspension, a previous certificate of use or conditional certificate of use revoked, and/or has charges pending for violations of the terms and conditions of a certificate of use or

- conditional certificate of use revoked, and/or has charges pending for violations of the terms and conditions of a certificate of use or conditional certificate of use;
- (5) The owner and proprietor do not owe the Village any money for delinquent taxes, civil penalties, parking tickets or other duly incurred charges, fines or penalties; and
- (6) Due to the interaction between proprietors and the general public, the Village has an interest in protecting the health, safety and welfare of the public. Accordingly, the Village will conduct a criminal background check on each applicant in accordance with Section 296(16) of the New York State Executive Law and the Code Enforcement Officer makes a determination in accordance with Article 23-A of the New York State Correction Law. Specifically:
- a. The criminal background check shall initially be reviewed by an individual who is not directly involved in the final determination. For purposes of this paragraph, this individual shall be called a “screener.”
  - b. The screener shall review the criminal background check and determine if the applicant has been convicted of:
    - i. Any felony in the five (5) years preceding the date of the application for a crime involving:
      - A. Theft;
      - B. Fraud;
      - C. The sale of marijuana; or
      - D. The sale of controlled substances.
    - ii. Any misdemeanor in the two (2) years preceding the date of the application for a crime involving:
      - A. Theft;
      - B. Fraud;
      - C. The sale of marijuana;
      - D. The sale of controlled substances;
      - E. Selling stolen goods;
      - F. Unlawfully dealing with a child; or
      - G. Violations of the Alcoholic Beverage Control Law.
  - c. In the event that the background check is free from convictions for any of the offenses enumerated above, the screener shall communicate to the Code Enforcement Officer that the applicant’s background is clear, even if



there are other convictions contained within the background check. A background check with convictions for offenses other than the ones set forth above shall have the same effect as a background check with no convictions.

- d. In the event that the applicant's background check does contain one of the above enumerated offenses, the screener shall deliver to the Code Enforcement Officer the background report, along with a notation of which offense or offenses, of the above enumerated offenses, necessitate further review.
  - e. The Code Enforcement Officer shall communicate to the applicant, via certified letter, that the background check revealed one of the above enumerated offenses. The Code Enforcement Officer shall include a copy of the full background check with his correspondence. The letter shall inform the applicant of the opportunity to provide any information to the Code Enforcement Officer regarding rehabilitation and/or good conduct. The applicant shall furnish such information, if any, in writing to the Code Enforcement Officer within ten (10) days of the date of the certified letter sent from the Code Enforcement Officer.
  - f. After the period of ten (10) days has lapsed, the Code Enforcement Officer shall then review the background check in accordance with Article 23-A of the Correction Law of New York State, even if the applicant has not submitted any information regarding rehabilitation and/or good conduct.
- (8) The owner or proprietor indicates a signed, notarized writing on a form provided by the Code Enforcement Officer, their intention to take the necessary action to comply with the requirements given them by the applicable Village officials in section 1-5 for the approval of their application for a certificate of use.
- (c) A conditional certificate of use shall contain a date by which the owner or proprietor who signed the notarized writing submitted to the Code Enforcement Officer must comply with the requirements for approval by the applicable Village officials in section 1-5 of this article. A conditional certificate of use shall not be extended for any reason.
  - (d) Upon completion of the requirement set forth in the conditional certificate of use and the approval of the owner's application by said Village officials, the Code



Enforcement Officer shall issue a certificate of use to the proprietor for the business in accordance with the terms of this section.

- (e) Both certificates of use and conditional certificates of use shall include the date on which the certificate of use or conditional certificate of use will expire.
- (f) Certificates of use and conditional certificates of use shall be conspicuously posted in a window or door so that they are visible from the closest public right-of-way.
- (g) Certificates shall be issued or denied within ninety (90) days after an application is completed. Nothing herein shall require the Code Enforcement Officer to issue or deny a certificate of use within such period if the necessary reviews and approvals by the Village officials in sections 1-5 and 1-6 have not been completed.

#### §165-44.7 – Operation of Businesses

- (a) The proprietor of any business shall comply with all provisions of federal and state statutes and rules and regulations and all Village of Solvay local laws, ordinances and rules and regulations relating to the conduct of businesses and the occupation, use and maintenance of the premises in which the business is located. Moreover, owners and proprietors shall comply with any and all notices, orders, decisions and determinations made by any village official which governs the occupation and use of the business.
- (b) The proprietor of any business shall cause the certificate of use to be posted in a conspicuous place visible to the public on the premises of the business.
- (c) The proprietor of any business shall not permit at any time a greater number of persons on the premises than the capacity approved by the Village of Solvay.
- (d) The proprietor of any business shall maintain good order on and about the premises at all times. The proprietor of any business shall also be responsible for removing refuse from the premises and obstructions from the sidewalk adjacent to the premises as well as for operating the business in accordance with the requirements of all state statutes, rules and regulations and all Village of Solvay local laws, ordinances and rules and regulations, and for operating the business so that neither the business nor its patrons become a source of disruption to other building tenants or a source of disruptions on the sidewalks, streets or other private property in the vicinity of the business. The term “failure to maintain good order” shall include, but not be limited to the following:

- 1) Allowing or permitting the premises to become disorderly, including allowing or permitting offenses against public order in violation of chapter 120, article 3 of the General Legislation Code of the Village of Solvay, as amended.
- 2) Gambling in violation of chapter 93, article 1 of the General Legislation Code of the Village of Solvay, as amended.
- 3) Prostitution.
- 4) Illegal possession, use, gift, sale, or offer for sale of alcoholic beverages.
- 5) Illegal possession, use, gift, sale or offer for sale of cigarettes or tobacco products.
- 6) Food stamp or welfare fraud or criminal diversion of prescription medications and prescriptions.
- 7) Littering in violation of chapter 96 of the General Legislation Code of the Village of Solvay, as amended.
- 8) Possession, use, gift, sale, or offer for sale of illegal drugs.
- 9) Noise Control Ordinance violations in contravention of chapter 126, section 7 of the General Legislation Code of the Village of Solvay, as amended.
- 10) Possession of stolen property.
- 11) Operating beyond the legal hours of operation.
- 12) Illegal possession, use, gift, sale or offer for sale of dangerous weapons.
- 13) Violations of New York State Uniform Fire Prevention and Building Code and the Village of Solvay's Zoning Ordinance, Fire Prevention and Building Construction Code, Flood Damage Prevention Code, Unsafe Buildings Code, Electrical Standards Code, Utilities Code, Illicit Connections, Activities and Discharges to Storm Sewer System Code and Stormwater management Code.
- 14) Loitering in violation of chapter 111 of the General Legislation Code of the Village of Solvay, as amended.

§165-44.8 – Fees.

The fee for a certificate of use, both for initial applications for a certificate of use and for renewals of a certificate of use shall be one hundred dollars (\$100.00) every two (2) years.

§165-44.9 – Expiration of the certificate.

Certificates of use shall be valid for a period of two (2) years from the date of issuance, unless the certificate is suspended or revoked pursuant to this article. The date of expiration shall be printed on the certificate.

§165-44.10 – Renewal of the certificate.

- (a) No later than sixty (60) days prior to the expirations date of the certificate of use, the owner of the applicable business shall apply for the renewal of the business's certificate of use with the Office of Code Enforcement on a form provided by the Code Enforcement Officer. The period of renewal shall be listed on the certificate of use when it is issued.
- (b) The issuance or denial of renewals of certificates of use shall follow the requirements set forth in section 1-6.
- (c) Failure to apply for and obtain a renewal of a certificate of use may result in the business being closed as unlawful, pursuant to Section 107.1.4 of the 2010 New York State Property Maintenance Code, until the renewal certificate of use is issued. Failure of the Code Enforcement Officer to provide such form shall not relieve the owner from the obligation to comply with this section.

§165-44.11 – Transfer of the certificate.

- (a) Certificates of use shall not be transferred or assigned in the event of any change involving that proprietor, the type of business, or the business location. A new certificate of use shall be required if the certificate holder changes the type of business at the location or relocates the business, or if another person wishes to operate the same business or a new business at the location.
- (b) The proprietor of any business that has a certificate of use shall notify the Code Enforcement Officer within 5 (5) business days following the date when such owner transfers, signs, sells, closes or moves the business. Upon being notified, the Code Enforcement Officer shall cancel the certificate of use for the business.



§165-44.12 – Failure to apply for certificate of use.

- (a) In the event the owner or the proprietor shall fail to apply for a certificate of use as required herein, the Code Enforcement Officer shall notify the owner in writing of such violation pursuant to the procedure set forth in section 27-114 of this chapter. The Code Enforcement Officer may, but is not required to, also provide such notice of violation to the proprietor if the proprietor's information is known.
- (b) In the event the owner or the proprietor is provided with notice pursuant to section 1-12(a) and neither submits the required application within the time set for the correction of the violation, the Code Enforcement Officer and/or his/her designee may treat the failure to apply for the certificate of use the same as any other violation of this chapter shall be treated. Additionally, the business may be deemed unlawful pursuant to Section 107.1.4 of the 2010 New York State Property Maintenance Code and subject to immediate closure by the Office of Code Enforcement.

§165-44.13– Operation of business.

The proprietor of a business subject of the provisions of this article must obtain a certificate of use or conditional certificate of use prior to the commencement of any business operations. In the event an application is approved, the Code Enforcement Officer shall issue the proprietor a certificate of use in accordance with the terms of this article. In the event the application is denied, the provisions of section 27-165 shall be followed.

§165-44.14 – Suspension or revocation of certificate of use.

- (a) Any certificate of use or conditional certificate of use is pursuant to this article may be suspended or revoked by the Code Enforcement Officer in accordance with the provisions of this article based on:
  - (1) Findings after a suspension or revocation hearing on notice conducted in accordance with the procedure detailed in subsection (b) below; or
  - (2) A closing of the business location pursuant to chapter 120 of the General Legislation Code of the Village of Solvay, as amended; or
  - (3) Failure to comply with the provisions of section 1-15 and the proprietor has been convicted of a felony or misdemeanor involving theft or fraud since the certificate of use was issued as detailed in section 1-14(c) below.
- (b) In the event a proprietor issued a certificate of use has failed to maintain good order at the subject business as required by section 1-15, the Code Enforcement Officer is



authorized to conduct a suspension or revocation hearing on notice to the owner and proprietor to determine whether the certificate of use should be suspended or revoked based on the violations as set forth in the notice. Notice shall be served pursuant to the service rules set forth in Article 3 of the New York State Civil Practice Law and Rules.

- (1) A copy of the hearing notice shall be sent to the district councilor in whose district the subject business is located.
  - a. It shall be the responsibility of the district councilor to provide notice of the hearing to his/her constituents.
  - b. In the event the district councilor and/or his/her constituents wish to provide testimony to be considered by the Village Justice, and ultimately the Code Enforcement Officer, they shall be allowed to submit written statements made under penalty of perjury before a notary public. Such statements shall be forwarded to the Code Enforcement Officer no less than fifteen (15) days prior to the day of the hearing. The Code Enforcement Officer shall send, via certified mail, copies of the written statements to the owner and proprietor at the address to where service of the notice of hearing was made no less than ten (10) days prior to the day of the hearing. The original written statements shall be delivered by the Code Enforcement Officer to the Village Justice prior to the day of the hearing.
- (2) The suspension or revocation hearing shall be scheduled for a date no fewer than thirty (30) days no more than sixty (60) business days after the date upon which the owner and proprietor are served with the notice of the hearing. The Code Enforcement Officer may adjourn the date only upon the owner or proprietor presenting compelling reasons(s) in writing that an adjournment of the hearing is warranted. Such an adjournment shall in no circumstances be later than twenty (20) business days from the originally scheduled date for the suspension or revocation hearing.
- (3) The suspension or revocation hearing shall be held before the Village Justice, who shall not be an employee of the Office of Code Enforcement. The Village Justice shall consider as evidence any written testimony that was provided pursuant to section 1-14(b)(1)c. above. Oral testimony from members of the

public shall not be heard. Strict adherence to the New York Rules of Evidence shall not be necessary.

- (4) The suspension or revocation hearing shall be recorded by a stenographer.
  - (5) The owner and proprietor shall be allowed to be represented by counsel and shall be allowed to call witnesses on their behalf and conduct cross-examination of all witnesses. Additionally, the owner and/or proprietor shall be allowed to testify and/or submit evidence to respond to any written testimony previously submitted pursuant to section 1-14(b)(1)c. above.
  - (6) Upon receipt of the transcript of the hearing, the Village Legal Counsel or his/her designee shall have the transcript and all exhibits from the hearing forwarded to the Village Justice. The Village Justice shall review the transcript and exhibits and within thirty (30) days from receipt of the transcript and exhibits, render a written recommendation to the Code Enforcement Officer as to whether the certificate of use should be revoked, suspended or remain valid.
  - (7) Thirty (30) days after receiving from the Village Justice a transcript of the suspension/revocation hearing, all exhibits submitted at the hearing and the Village Justice's written recommendation, the Code Enforcement Officer, shall conduct a de novo review of the transcript, all exhibits submitted at the hearing and the Village Justice's written recommendation. The Code Enforcement Officer shall determine whether the certificate of use shall be revoked, suspended or remain valid. If the determination of the Code Enforcement Officer is that the certificate should be revoked or suspended, the Officer shall determine the length of time for which the certificate shall be revoked or suspended. The Officer shall issue a written order containing his/her determination. The order shall be drafted within thirty (30) days by the Village Legal Counsel or his/her designee and then signed by the Code Enforcement Officer.
  - (8) Any such order issued pursuant to subsection (6) above shall be served on the owner and proprietor pursuant to the provisions of Article 3 of the New York Civil Practice Law and Rules. A copy of the order shall also be posted to the business location.
- (c) Notwithstanding the provisions above, the Code Enforcement Officer shall be authorized to temporarily suspend a certificate of use prior to a suspension or

revocation hearing in the event that the owner or proprietor has failed to maintain good order at the subject business as required by section 1-15, and the proprietor has been convicted of a felony or misdemeanor involving theft or fraud since the time the certificate of use was issued.

- (d) In the event the Chief of Police of the Village of Solvay has commenced enforcement proceedings against a property owner to abate a nuisance in accordance with chapter 120 of the General Legislation Code of the Village of Solvay, as amended, relative to a premises containing a business subject to the certificate of use requirements of this article, a copy of the notice of hearing shall be given to the business at the address provided for notice in connection with a certificate of use, along with a written notice that in the event the business location is closed as a result of the nuisance abatement proceeding, the certificate of use shall be revoked for the period of such closing and the business shall remain closed for the period provided in such nuisance abatement order.
- (e) The action of the Code Enforcement Officer in granting or refusing to grant or to renew a license under this article or in revoking or suspending or refusing to revoke or suspend such a license or imposing any fine or reprimand shall be subject to review by a proceeding instituted under article seventy-eight of the civil practice law and rules at the instance of the applicant for such license, the holder of a license so revoked, suspended, fined or reprimanded or the person aggrieved.

§165-44.15 – Failure to maintain good order at the business location.

- (a) For the purpose of this chapter, the owner of a business holding a certificate of use or conditional certificate of use shall be deemed to have failed to maintain good order at the business location in the event a sufficient number of violations are found to have occurred relative to separate incidents at the subject premises, resulting in the accumulation of twelve (12) or more points within a period of twelve (12) months or eighteen (18) or more points within a period of twenty-four (24) months in accordance with the following point system:
  - (1) Violations of the following State statutes and rules and regulations and Village of Solvay local laws, ordinances and rules and regulations, which have not resulted in a conviction or judgment, shall be assigned a point value of four (4) points:
    - a. Article 220 of the Penal Law – Controlled Substances Offences;
    - b. Article 222 of the Penal Law – Cannabis;



- c. Article 225 of the Penal Law- Gambling Offenses;
- d. Article 230 of the Penal Law – Prostitution Offenses;
- e. Article 120 of the Penal Law – Assault and Related Offenses;
- f. Article 155 of the Penal Law – Larceny Offenses;
- g. Sections 165.40, 165.45, 165.50, 165.52 and 165.54 of the Penal Law – Criminal Possession of Stolen Property;
- h. The Alcoholic Beverage Control Law;
- i. Chapter 7-A of the Consolidated Laws, known as the Cannabis Law;
- j. Article 265 of the Penal Law – Firearms and other Dangerous Weapons;
- k. Section 270.00 of the Penal Law – Unlawfully Dealing with Fireworks and Dangerous Fireworks;
- l. Section 415-a of the Vehicle and Traffic Law – Vehicle Dismantlers;
- m. Section 175.10 of the Penal Law – Falsifying Business Records;
- n. Sections 170.65 and 170.70 of the Penal Law – Forgery of and Illegal Possession of a Vehicle Identification Number;
- o. Possession, use, sale or offer for sale of any alcoholic beverage in violation of Article 18 of the Tax Law and/or Section 260.20 of the Penal Law, or of any cigarette or tobacco products in violation of Article 20 of the Tax Law and/or Section 260.21 of the Penal Law;
- p. Article 158 of the Penal Law – Welfare Fraud;
- q. Article 178 of the Penal Law – Criminal Diversion of Prescription Medications and Prescriptions;
- r. Section 147 of the Social Services Law – Food Stamp Program Fraud;
- s. Any violation of the New York State Uniform Fire Prevention and Building Code and the Village of Solvay’s Zoning Ordinance, Fire Prevention and Building Construction Code, Flood Damage Prevention Code, Unsafe Building Code, Electrical Standards Code, Utilities Code, Illicit Connections, Activities and Discharges to Storm Sewer System Code and Stormwater Management Code which is life threatening and/or necessitates the declaring of the Premises as “unfit for habitation.”

(2) Violations of the following State statutes and rules and regulations and Village of Solvay local laws, ordinances and rules and regulations, which have not



resulted in a conviction or judgment, shall be assigned a point value of three (3) points:

- a. The New York State Uniform Fire Prevention and Building Code and the Village of Solvay's Zoning Ordinance, Fire Prevention and Building Construction Code, Flood Damage Prevention Code, Unsafe Buildings Code, Electrical Standards Code, Utilities Code, Illicit Connections, Activities and Discharges to Storm Sewer System Code and Stormwater Management Code;
- b. Operating a business during hours which the business is required to be closed pursuant to the State of New York's statutes and rules and regulations and/or the Village of Solvay's local laws, ordinances and rules and regulations;
- c. Allowing persons on the premises in excess of occupancy limits;
- d. Chapter 96, Article 1 of the General Legislation Code of the Village of Solvay, Garbage, Rubbish and Refuse – General Regulations; specifically to include but to limited to the following offenses:
  - i. Chapter 96-1, Depositing debris or other waste on streets or private premises;
  - ii. Chapter 96-2, Compliance required;
  - iii. Chapter 96-3, Disposal or garbage in proper containers only;
  - iv. Chapter 96-4, Disposal of building debris;
  - v. Chapter 96-10.1, Disposal of waste originating from outside of Village prohibited;
- e. Village of Solvay Peace and Good Order Ordinance, chapter 126 of the General Legislation Code of the Village of Solvay; specifically to include but not limited to the following offenses:
  - i. Chapter 126, Article 1, Throwing stones or missiles;
  - ii. Chapter 126-3, Indecent exposure;
  - iii. Chapter 126-4, Damage to utility poles and fixtures;
  - iv. Chapter 126-5, Damage to and tampering with lampposts;
  - v. Chapter 126-6, Riots and disturbances;
  - vi. Chapter 126-7, Noise;
  - vii. Chapter 126-8, Parades, demonstrations and public gatherings;

- f. Chapter 120 of the General Legislation Code of the Village of Solvay, Nuisances; Specifically to include but not limited to the following offenses as stipulated in Chapter 120—3, Definitions, Part D, Miscellaneous:
- i. Suffering or permitting the premises to become disorderly, including suffering or permitting fighting or lewdness;
  - ii. Operating a business at the premises in a manner which causes it to be a source of disruption for the neighborhood and/or a focal point of police attention;
  - iii. Activities which result in numerous police investigations within a six-month period of time;
  - iv. Permitting situations or conditions which allow rodents, insects and other vermin to live on or in real property and/or failing to take reasonable actions to abate, eliminate and/or exterminate rodents, insects, and other vermin when the landowner, occupant or user of such real property becomes aware or should have known of the existence of such rodent, insect and vermin infestation. It is the intention of this section to declare rodent, insect, and vermin infestation as a public nuisance and to take whatever actions are permitted to declare those persons responsible for the infestation, including, but not limited to, occupants, owners, or any other entity occupying said real property;
- g. Failure to have an entertainment and/or amusement license where the Business's current operation so requires.
- h. Allowing or permitting the premises to become disorderly, including allowing or permitting offenses against public order by patrons or employees of the Business, both on and off the premises, specifically to include but not limited to the following offenses:
- i. Excessive noise and lewdness;
  - ii. Assault and riots;
  - iii. Unlawful gatherings and loitering;
  - iv. Vandalism;
  - v. Illegal gambling and prostitution;

- vi. Manufacture, use, sale or distribution of controlled substances;
  - vii. Open container violations;
  - viii. Obstruction of free use of a public street;
  - ix. Other public disturbances such as pollution, smoke, excessive light, illegal pollution or dumping, and foul odors;
- (b) For purposes of this chapter, in addition to the point system set forth in section 1-15(a), two (2) additional points shall be added to any of the violations specified in section 1-15(a) which have resulted in a conviction and/or judgment in favor of the prosecuting party.
- (c) For purposes of this chapter, where more than one (1) violation of the State statutes and rules and regulations and Village of Solvay local laws, ordinances and rules and regulations set for above in section 1-15(a) occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation.
- (d) Business that have a conditional certificate of use shall be subject to this section and any points they accumulate prior to the issuance of the certificate of use shall be carried forward to such certificate of use.

§165-44.16 – Notice to owners relative to accumulated points.

- (a) In the event that it shall come to the attention of the Code Enforcement Officer or his/her designee that a business issued a certificate of use prior to this article has accumulated as provided by section 1-15 hereof, eight (8) or more points in any six (6) month period or twelve (12) or more points in any eighteen (18) month period, the Code Enforcement Officer or his/her designee shall transmit to the owner or the proprietor, where applicable, by certified mail at the address specified in the application for said certificate of use, a letter advising the owner or the proprietor of the number of points accumulated and warning the owner or the proprietor, where applicable, of the possibility of suspension or revocation of the subject certificate of use upon accumulation of the twelve (12) or more points in a twelve (12) month period or eighteen (18) or more points in a twenty-four (24) month period.
- (b) The failure of the Code Enforcement Officer or his/her designee to transmit a warning letter pursuant to section 1-16(a) hereof or the failure of the owner or his/her/their designee, or proprietor, where applicable, to receive a warning letter shall in no event be a defense to suspension or revocation of the certificate of use or criminal or civil penalties or an injunction as provided for in this chapter.



§165-44.17 – Promulgation of policies and procedures.

A committee comprised of the Code Enforcement Officer or his/her designee, the chief of police or his/her designee, the commissioner of finance or his/her designee, and the chairperson of the Zoning Board of Appeals/Planning Board or his/her designee may promulgate administrative policies and procedures to carry out and give full effect to the provisions of this article. A copy of the policies and procedures promulgated by this committee shall be filed with the Solvay Village Clerk's Office.

§165-44.18 – Severability.

In the event any clause, sentence, paragraph, section or part of this chapter shall be finally adjudged by a court of competent jurisdiction to be invalid, unlawful and/or constitutional, such determination shall not affect, impair or invalidate the remainder thereof but shall be limited to the portion directly involved in the determination and the remainder of this chapter shall remain in full force and effect.

§165-44.19 – Access to the premises for inspections.

In addition to the requirements set forth in section 1-5, officers and employees of any Village departments with responsibility to enforce or assist the Code Enforcement Officer in enforcing this article shall have the right of access to any business subject to any business subject to the terms of this article for the purpose of making an inspections during normal business hours and the village of Sovay shall also have the authority to seek inspection warrants where necessary to properly administer this article.

§165-44.20 – Annual report to the Village Board of Trustees.

Every year the Code Enforcement Officer or his/her designee shall prepare and submit to the Village of Solvay Board of Trustees an annual report detailing the number of businesses that have a certificate of use and the number and names of businesses that have had their certificate of use suspended and/or revoked pursuant to this article. The annual report should be transmitted to the Village Board no later than April 1<sup>st</sup> in the year in which the annual report is due with the first annual report being due no later than April 1, 2025.

§165-44.21 – Penalties – Criminal and civil.

- (a) Criminal penalties: Any owner of proprietor who having been served with a notice or order to correct or remove any violations of this chapter who fails to comply with such notice or order within the time period fixed by the Code Enforcement Officer shall be guilty of an offense and upon conviction shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than one hundred fifty dollars (\$150.00) or imprisonment for not more than fifteen (15) days or both, for each offense.
- (b) Civil penalty – Imposition of cumulative civil penalty: Any owner or proprietor who having been served with a notice or order to correct or remove any violation of this article shall be subject to a cumulative civil penalty of one hundred dollars (\$100.00) per day for each separate violation for the date set for correction in the notice or order until the violation is corrected. The penalty may be corrected by the Village Legal Counsel by action or special proceeding against the owner or proprietor.
- (c) Enforcement of civil penalty.
  - (1) The Village Legal Counsel may maintain an action or special proceeding in a court of competent jurisdiction for the recovery of civil penalties, together with costs and disbursement.
  - (2) In addition to any action or special proceeding for civil penalty as provided in subsection one (1) above, the village attorney may, where the owner or proprietor has failed to correct the violation(s) set forth in any notice or order issued pursuant to this chapter, bring such action or special proceeding as necessary to enjoin the owner from continuing to operate or maintain any business in violation of the terms of this article.

§165-44.22 – Enforcement.

The enforcement by the Village of Solvay of this article in the manner provided herein shall not be deemed to limit in any manner the Village of Solvay’s authority to enforce the provisions of other federal, state and local laws, ordinances, rules and regulations against businesses covered by this article.”

**Section 2:** Local law No.: 4 of 1991, as amended, remains in full force and effect except as hereinabove amended.

**Section 3:** This local law shall take effect immediately upon posting and publication as required by law and filing with the Secretary of State