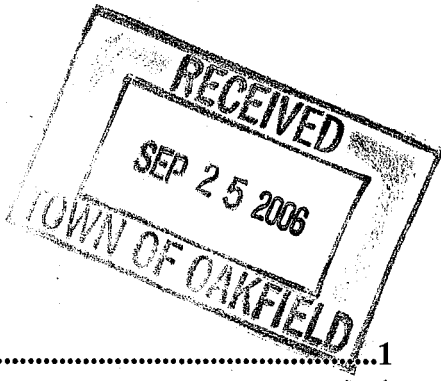


TOWN OF OAKFIELD ZONING ORDINANCE

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TOWN OF OAKFIELD ZONING ORDINANCE

ARTICLE I PURPOSES

SECTION 100 PURPOSES

This plan is adopted for the protection and promotion of the public health, safety, morals and general welfare of the community, as follows:

101. To guide the future growth and development of the Town in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, non-residential and public areas within the Town, considering the suitability of each area for such uses, as indicated by existing conditions; trends in population and mode of living, and having regard for the use of land, building development and economic activity, considering such conditions and trends both within the Town and with respect to the relation of the Town to areas outside thereof.

102. To provide adequate light, air and privacy; to promote safety from fire, flood and other danger, and to prevent over-crowding of the land and undue congestion of the population.

103. To protect the character and the social and economic stability of all parts of the Town, and to encourage the orderly and beneficial development of all parts of the Town.

104. To protect and conserve the value of land throughout the Town and the value of buildings appropriate to the various districts established by this Ordinance.

105. To bring about the gradual conformity of the uses of land and buildings through the comprehensive zoning plan set forth in this Ordinance, and to minimize the conflicts among the uses of land and buildings.

106. To promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient vehicular and pedestrian traffic movement appropriate to the various uses of land and buildings throughout the Town.

107. To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment, and other economic activity relating to uses of land and buildings throughout the Town.

108. To limit development to an amount equal to the availability and capacity of public facilities and services.

109. To prevent the pollution of streams and ponds; to safeguard the water table; and to encourage the wise use and sound management of the natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.

110. Short Title - This Ordinance shall be known as and may be cited as the Zoning Ordinance of the Town of Oakfield.

ARTICLE II **DEFINITIONS**

SECTION 200 **USE OF WORDS AND TERMS**

For the purpose of this Ordinance, certain words and terms used herein and defined as follows:

SECTION 210 **GENERAL CONSTRUCTION OF LANGUAGE**

All words used in the present tense include the future tense; all words in the singular number include the plural number, and vice-versa; the word "person" includes corporations and all other legal entities; the words "lot", "plot", and "tract of land" shall one include the other; the word "premises" shall include land and buildings thereon; the word "building" shall include structure and vice-versa; "occupied" or "uses" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied", unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory. Unless otherwise specified, all distances shall be measured horizontally.

SECTION 220 **DEFINITIONS**

Accessory Use: A use which is customarily incidental and subordinate to the principal use on a lot, and located on the same lot therewith.

Alter: To change or rearrange the structural parts or the exit facilities of a structure, or to move a building from one location to another.

Area, Building: Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings including carports and covered porches but exclusive of uncovered porches, parapet, steps and terraces.

Basement: That portion of a building wholly or partly underground, which extends no more than four feet above the adjoining finished grade. The word "basement" includes the word "cellar".

Board of Zoning Appeals: That Board appointed by the governing body, specifically to hear all appeals as provided by these regulations.

Boarding House: A dwelling occupied by one family with no more than two 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. The term "boarding house" shall include "rooming house" for the purposes of this ordinance.

Buffer Strip: A continuous strip of trees and/or shrubs not less than ten (10) feet in depth and not less than six (6) feet in height densely planted to provide a physical screen preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, smoke, noise or other noxious or objectionable elements.

Building: Any structure having a roof supported by columns or poles or walls, and intended for the shelter, housing or enclosure of persons, animals, machinery, equipment or other material. A tent or canopy is a structure and is subject to this ordinance and a zoning permit is required except as provided under section 580 temporary tents and canopies.

Building Accessory: A subordinate building, subordinate to the main building on the lot and used for purposes customarily incidental to that of said main building.

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

Building Length: The least horizontal distance between the furthestmost walls of a building, including any carport and covered porches.

Building, Main: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building, Temporary: A "temporary building" or "temporary structure" is one erected, constructed or placed upon the premises, to exist there for a brief or temporary duration of time, not exceeding nine months. All other buildings or structures shall be deemed and considered as permanent for the purposes of this ordinance.

Camp: Any one or more of the following, other than a hospital, place of detention or school offering general instruction:

Type 1: Any area of land or water on which are located two or more cabins, tents, trailers, shelters, households, or other accommodations of a design or character suitable for seasonal

or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise; or

Type 2: Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes, and any of the foregoing establishments whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families or groups.

Campsite: Any land on which are located two or more recreational vehicles or other accommodations, excluding mobile homes, suitable for transient or temporary living purposes for overnight, weekend or longer periods of camping.

Certificate of Compliance: A certificate issued by the Zoning Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Ordinance only and such adjustments thereto granted by the Board of Appeals.

Club Membership: A group of persons organized in accordance with the Not-For-Profit Corporation Law (example - fish and game clubs).

Convalescent Home or Nursing Home: Any establishment where three or more persons suffering from or afflicted within or convalescing from any infirmity, disease or ailment, are habitually kept or boarded or housed for remuneration, other than municipal or incorporated hospitals, or establishments for the care of the mentally ill.

Coverage: That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

Dwelling: A detached building or immobile house trailer, designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include automobile court, motel, boarding or rooming house, mobile house trailer, tourist home, or tent.

Dwelling, One Family: A dwelling containing one dwelling unit only.

Dwelling, Two Family: A dwelling containing two dwelling units only.

Dwelling, Multi-Family - A dwelling containing three or more dwelling units.

Dwelling Unit: A building, or portion thereof, providing complete housekeeping facilities for one family.

Earth-Sheltered House: A structure which utilizes earth to shelter the structure from extreme fluctuations in temperature, wind, and air infiltration. The structure may be completely below the original grade, totally above the original grade with earth bermed around the exterior walls, or

partially above and partially below the original grade such as with placement in the side of a hill. An earth sheltered house must provide at least two distinct means of egress.

An earth-sheltered house is distinguishable from a basement being used as a house chiefly in terms of design function. An earth-sheltered house is designed, and appears to be designed, as the final structure just as it stands. A basement is designed, and appears to be designed, as a foundation for a superstructure placed upon it. These distinctions are most noticeable by comparing: (a) The position of the structure with respect to final grade; (b) The manner in which lighting and ventilation are provided; (c) The design strength of the walls and roofs; (d) The means of access.

Educational Institution, Private: Any non-public school or other organization or institution conducting a regularly scheduled curriculum of study similar to that of the public schools and operated under the Education Law of New York State.

Family: One or more persons who live together in one dwelling unit and maintain a common household. May consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and gratuitous guests.

Farm: Any parcel of land consisting of at least five acres which is used for the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

Filed Map: Any map, survey or plat filed in the County Clerk's Office of Genesee County.

Fence: A barrier constructed of wood, masonry, stone, metal or other manufactured material or combination of materials, which materials are used in a manner in which such materials are commonly used in fencing, other than temporary fences, such as snow fences or rabbit fences. (Amended 9/16/97)

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

Floor Area of a Building: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Garage, Private: An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.

Garage, Public: Any garage, other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, adjusting or equipping of automobiles or other motor vehicles.

Gasoline Station: Any area of land, including structures thereon, that is used for the storage and sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories or facilities for lubricating, washing or otherwise servicing motor vehicles.

Gasoline Station-Market: A gasoline station which provides a second commercial service such as a restaurant, dairy bar, beverage market, or food market or such a commercial use which provides for gasoline sales. For the purpose of this definition, sales from vending machines are not considered commercial service.

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

Home Occupation: An occupation or a profession which: (A) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and (B) Is carried on by a member of the immediate family residing in the dwelling unit, and (C) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and (D) Which conforms to the following additional conditions:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
2. No more than two persons outside the immediate family shall be employed in the home occupation.
3. There shall be no exterior display, no exterior sign (except as permitted under Section 560), no exterior storage of materials and no exterior indication of the home occupation or variation from the residential character of the principal building.
4. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced, nor shall any home occupation be allowed which will result in:
 - a. Dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes, or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted.
 - b. Hazard or fire or explosion or other physical hazard to any person, building or vegetation.
 - c. Radiation or interferences with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or the testing of

material or instruments in such a manner as to constitute a public nuisance.

In particular, a home occupation includes, but is not limited to, the following: Art studio, Dressmaking, Barber shops and beauty parlors (when limited to one work station), Day nursery, Professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same Teaching or tutoring, Real estate offices.

However, a home occupation shall not be interpreted to include the following: Motor vehicle repair shop, machine shop, welding and fabrication shop, Commercial stables and kennels, Restaurants.

Hospital: Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

Hospital, Animal: An establishment for the medical and/or surgical care of sick or injured animals.

Hotel: A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the buildings or in an accessory building.

Junkyard: Land or building used for collecting, storage or sale of waste paper, rags, scrap metal or discarded pallets, tires (other than tires used for agricultural purposes ie: bunker silos) or other discarded materials; or for collecting, wrecking, dismantling, storage, salvaging or sale of machinery, parts or vehicles not in running condition. (Amended 6/28/88)

Junkyard, Automobile: Any place of storage or deposit whether in connection with another business or not, where more than one motor vehicle is held (other than enclosed in a building) which is not bearing both a valid registration plate and a valid inspection certificate. If it is not readily discernible from the highway that a motor vehicle is bearing a valid registration plate it shall be presumed that such motor vehicle is not bearing registration plate. If it is not readily discernible from the highway that a motor vehicle is bearing a valid inspection certificate it shall be presumed that such motor vehicle is not bearing a valid inspection certificate. Such presumption shall continue until substantial evidence to the contrary is presented. (Amended 7/12/94)

Kennel: A "kennel" shall mean the keeping of five (5) or more dogs over the ages of five (5) months.

Lake, Artificial: A body of water created through construction or other similar method, having a surface area in excess of one acre.

Landfill, Sanitary: The depositing of refuse in a natural or man-made depression or trench, or dumping it at ground level, compacting to the smallest practical volume, and covering with earth or other material in a systematic and sanitary manner.

Launderette: A business premises equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

Lot: A parcel of land, not divided by streets, devoted to or to be devoted to a particular use, or occupied or to be occupied by a building or buildings, together with such open spaces as are required under the provisions of this ordinance, and having its principal frontage on a street as defined in this ordinance.

Lot, Corner: A lot located at the junction of and fronting on two or more intersecting streets.

Lot, Area: The total horizontal area included within lot boundaries.

Lot, Depth: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot, Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth.

Lot Lines: The property lines bounding a lot as defined herein.

Lot Line, Front: In the case of a lot abutting upon only one street, the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this ordinance, have the privilege of electing any street lot line as the front lot line, except that where the majority of lots in any block are developed, the owner shall select the same front line as used by such other lots. In subdivision approved by the Planning Board, said Board may designate front lot line on any lot having frontage on more than one street.

Lot Line, Rear: The lot line which is generally opposite the front lot line, if the rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than ten (10) feet long, lying wholly within the lot farthest from the front lot line.

Lot Line, Side: The property line or lines extending from the front lot line to the rear lot line.

Mobile Home: A portable unit, designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed without a permanent foundation for year round living. A unit may contain parts that may be folded, collapsed or telescoped when

being towed and expanded later to provide additional cubic components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. Mobile units arrive at the site where they are to be occupied as dwellings completed, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to utilities, and the like.

Mobile Home Park: A parcel of land under single ownership which has been improved for the rental or lease of two or more lots and the provision of services for mobile homes for nontransient residential use.

Mobile Home Subdivision: A parcel of land under single ownership in which a single lot or lots are developed and eventually sold by the landowner to persons for the placement of a mobile home.

Non-Conforming Use: A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful under the preceding ordinance at the time the use was established.

Nursery: Any place used as a garden for the open cultivation and growing of trees, shrubs and other plants, including the replanting of said plants grown at places other than the nursery.

Nursing Home or Convalescent Home: Any establishment where three or more persons suffering from or afflicted with, or convalescing from, any infirmity, disease or ailment, are habitually kept or boarded or housed for remuneration, other than municipal or incorporated hospitals, or establishments for the care of the mentally ill.

Official Map: A map adopted by the Town Board, showing streets, highways and parks already laid out, adopted and established by law. Drainage systems may also be shown in this map.

Parking Area: An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of three hundred fifty (350) square feet of parking area per parking space.

Parking Space: An off-street space available for the parking of one motor vehicle on a transient basis and having a width of ten (10) feet, and an area of not less than two hundred (200) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street.

Quarry, Sand Pit, Gravel Pit, Top Soil Stripping: A lot or land or part thereof used for the purposes of extracting stone, sand, gravel, or top soil for sale, as an individual operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

Sign: Any structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. A sign includes any billboard, but does not include the flag, pennant, or insignia of any nation, or group of nations, or of any state, city or other political unit or of any political education, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. However, a sign as designed herein shall not include a similar structure or device located within a building.

A "business sign" is a sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed a "business sign".

An "advertising sign" is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.

An "illuminated sign" is any sign designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection. A "flashing sign" is an "illuminated sign" on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

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

Special Use: A specifically designed use that would not be appropriate generally or without restrictions throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

Street: A public or private way which affords the principal means of access to abutting properties.

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

Utility, Public: Any person, firm, corporation or municipal agency, duly authorized to furnish to the public, under public regulation, electricity, gas, water, steam, telephone or telegraph.

Yard: An open space on the same lot with a building or group of buildings which open space lies between the buildings or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically authorized in this ordinance. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line

parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building as defined herein to the nearest lot line.

Front, Yard: A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

Yard, Rear: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

Yard, Side: A yard between the side line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of such yards, to the front and rear lot line, as the case may be.

ARTICLE III ESTABLISHMENT OF DISTRICTS

SECTION 300 DISTRICT CLASSIFICATION

The Town of Oakfield is hereby divided into the following districts:

LC	Land Conservation
R&A	Residential Agriculture
R	General Residential
C	Commercial
I	Industrial

SECTION 310 ZONING MAP ESTABLISHED

Said districts are bounded and defined as shown in a map entitled "Zoning Map" of the Town of Oakfield, N.Y.", a copy of which is located at the end of this text and which, with all explanatory matter thereon, is hereby made a part of this Ordinance. (The FP Flood Plain Overlay Zone "A" shown on said map is for informational purposes. Flood regulations and the controlling map for flood purposes are set forth in a Local Law for Flood Damage Prevention). (Amended 4/14/87)

SECTION 320 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the location of any boundaries shown on the zoning map, the following rules shall apply:

320.1 District boundary lines are intended to follow streets, right-of-way, water courses or

lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions, as shown on the zoning map.

320.2 Where district boundaries are indicated as following approximate streets, rights-of-way, or water courses, the center lines thereof shall be construed to be such boundaries.

320.3 Where district boundaries are so indicated that they follow the edge of lakes, ponds, reservoirs or other bodies of water, the mean high water lines thereof shall be construed to be the district boundaries.

320.4 Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.

320.5 If the district classification of any land is in question, it shall be deemed to be in the most restrictive adjoining district.

SECTION 330 **ORDER OF RESTRICTIVENESS**

Where districts are referred to as "more restrictive" or "less restrictive", the designation shall refer to the order in which the districts are named in Section 300, the first named being the most restrictive (exclusive of the Flood Plain Overlay Zone).

SECTION 340 **LOTS IN TWO OR MORE DISTRICTS**

Where a zoning district boundary line divides a lot in single ownership at the effective date of this Ordinance, leaving part subject to permissive regulations and part subject to prohibitive regulations, the Zoning Board of Appeals after public hearing may permit an extension of the use of that lot into the district where it is prohibited provided the extension does not extend more than fifty (50) feet into that district. Furthermore, the Board may impose conditions on that extension as protection to neighboring property.

SECTION 350 **EXISTING LOTS-OF-RECORD**

A single family dwelling and customary accessory buildings may be erected on any existing lot-of-record with a minimum of 100 feet in width and 20,000 sq. ft. in area (recorded with the County Clerk at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance). This provision shall apply even though such lot fails to meet the requirements for area or width or yard size provided that requirements other than those applying to area, width, or yard size, of the lot shall conform to the regulations for the district in which such lot is located. The single-family dwelling minimum yard requirements for

existing lots-of-record within the R&A and R districts shall be as follows:

MINIMUM YARD REQUIREMENTS (Existing Lots-of-Record)

- A. Front 50 feet
- B. Side-one 8 feet
- C. Side total 23 feet
- D. Rear 30 feet

Existing lots-of-record in C and I districts shall conform to the provisions of this Ordinance.

ARTICLE IV REGULATIONS FOR DISTRICTS

SECTION 400 APPLICATION OF REGULATIONS

No building shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this ordinance. No building, structure, hotel or premises shall be used, and no building or other structure shall be erected which is intended, arranged, or designed to be used for any trade, industry, business or purpose of any kind, that is noxious or offensive by reason of the emission of odor, dust, refuse matter, garbage, smoke, fumes, gas, noise or vibration, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community, or tending to its disturbance, inconvenience, discomfort or annoyance.

In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, convenience and general welfare. This Ordinance shall not be deemed to affect in any manner whatsoever any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the creation, erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, or covenants, or agreements, the provisions of this Ordinance shall prevail.

SECTION 410 **GENERAL REGULATIONS**

SECTION 411 **BUILDINGS, USES AND LOTS**

The provisions of this ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations.

411.1 One Principal Building and Use Per Lot - There shall not be more than one principal structure and one principal use on any one lot in the following districts:

Land Conservation (LC)
Residential-Agriculture (R&A)
General Residential (R)
Commercial (C)

411.2 Yard and Open Space for Every Building - No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

411.3 Subdivision of a Lot - Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Ordinance with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this ordinance.

411.4 Irregularly Shaped Lots - Where a question exists as to the proper application of any of the requirements of this Ordinance to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of the Ordinance shall be applied.

411.5 Lots Under Water - No more than 25 percent of the minimum area requirements of a lot may be fulfilled by land which is under water continuously or periodically. Land which is under water that is open to use by persons other than the owner of the lot shall be excluded entirely from the computation of the minimum area of that lot. For the purposes of this section, land in the bed of a stream not exceeding five feet in width at mean water level, and land in any pond not exceeding 150 square feet in area shall not be considered as under water. Where any area is separated from the main body by water, such separated land shall not be included in computing lot area. (Amended 4/14/87)

411.6 Required Street Frontage - No building permit shall be issued for any structure unless the lot upon which that structure is to be built has the required frontage on a street or highway, as defined herein, which street frontage provides the actual access to such structure, and which street or

highway shall have been suitably improved to Town Board standards or a bond posted therefor to the satisfaction of the Town Board or Planning Board, as provided in Section 280a of the Town Law.

411.7 Parts of Lot Not Counted Toward Area Requirements - For any lot created by subdivision subsequent to the effective date of this ordinance, no part of such lot less in width than one-half of the minimum requirement for the district in which it is located shall be counted as part of the minimum required lot area.

411.8 Lot Width Required - Within any residential district, no part of any dwelling or other structure housing a main use, and within any business district, no part of any residence structure, shall be erected on any part of the lot which has a width of less than the minimum requirements for the district in which it is located.

SECTION 412 YARDS, YARD REQUIREMENTS, BUILDING PROJECTIONS, SETBACKS, OTHER FEATURES

412.1 Porches - No porch may project into any required yard. Any two-story or any enclosed porch, or one having a roof and capable of being enclosed, shall be considered a part of the building in determining the yard requirements or amount of lot coverage.

412.2 Projecting Horizontal Architectural Features - Architectural features, such as window sills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than three feet into any required yard, but not nearer than eight feet from the lot line in any case. The sum of any bay window projections on any wall shall not exceed one-fourth the length of any said wall.

412.3 Fire Escapes - Open fire escapes may extend into any required yard.

412.4 Walls and Fences - The yard requirements of this Ordinance shall not be deemed to prohibit any necessary retaining wall, nor to prohibit any fence or wall, provided that such fence or wall does not exceed six (6) feet in height, unless that part above such height is not less than three-fourths (3/4) open construction.

412.5 Visibility at Intersections - On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three feet in height, shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are thirty (30) feet distant from the point of intersection, measured along said street lines. The height of three feet shall be measured above the road surface at the nearest edge of road traveled-way. This paragraph shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

412.6 Corner Lots - On a corner lot in any residential district or C district, there shall be provided a side yard on the side street equal in depth to the required front yard on said lot. In such

instances where there are two front yards, one of the remaining yards shall be considered a side yard and the other shall be considered a rear yard for the purposes of this ordinance.

412.7 Swimming Pools - All swimming pools whose capacity is 5,000 gallons or more, shall be considered accessory structures and shall set back from lot lines at least the minimum distance required for other buildings and structures.

412.8 Buffer Areas - Wherever a buffer strip is required by this Ordinance, it shall meet the following standards:

A. Be at least ten feet in width along any lot line abutting a lot in a residence district.

B. Be of evergreen planting of such type, height and spacing as, in the judgement of the Planning Board, will screen the activities on the lot from view of a person standing at street level on the adjoining residential lot. The plan and specifications for such planting shall be filed with the approved plan for the use of the lot.

C. A wall or fence, of location, height, and design approved by the Planning Board, may be substituted for the required planting.

412.9 Exterior Lighting - All exterior lighting in commercial and industrial districts, including the lighting of signs, shall be of such type and location and shall have such shading as will prevent the source of the light from being seen from any adjacent residential property or from the street.

412.10 Accessory Structures - Accessory structures and uses, including swimming pools and satellite dishes (Amended 7/9/85), when located in a side yard shall meet the same side yard requirements as the principal building. Accessory structures entirely within a rear yard shall not be less than five feet from any side or rear line. (Amended 4/13/82) A satellite dish one meter or less in diameter may be erected without a permit on the roof of any building. It may also be erected without a permit in any other location which is not closer than five feet to a property line and which is not closer to a highway than either the minimum front yard requirements set forth in Section 900 or, if closer than the minimum front yard requirement, is not closer than the principal building to a highway. (Amended 1/9/96)

412.11 Level of Front Yard - The surface of the front yard at the front wall of any dwelling shall not be less than one foot above the elevation of the center-line of the street, measured at the mid-point between the side lines of the lot (Amended 4/13/82). However, this section shall not apply if no wall of the dwelling is closer than 200 feet to the highway right-of-way (Amended 7/9/85).

SECTION 413

NONCONFORMING USES, STRUCTURES AND LOTS

Except as hereinafter provided, the lawful use of any buildings or land existing at the time of the enactment or amendment of this ordinance may be continued although such use does not conform with this Ordinance.

413.1 Nonconforming Lots - A nonconforming lot shall not be further reduced.

413.2 Nonconforming Structures - A nonconforming structure or part thereof may be restored to a safe condition only to the extent of its prior nonconformity. A nonconforming structure may be enlarged provided the enlargement does not increase the nonconformity of the structure. For example, a structure nonconforming by reason of its nearness to a side lot line may be extended rearward provided the extension does not further reduce the side yard to extend into the required yard. This section shall not apply to nonconforming signs (see Section 560.4).

413.3 Nonconforming Uses

A. A nonconforming use may be converted to a conforming use as a matter of right.

B. A nonconforming use may be enlarged by special permit only (see Section 510) as long as:

1. The enlargement is in connection with the same business.
2. The enlargement is upon the same lot occupied by the use at the effective date of the Ordinance.
3. The enlargement does not create a greater deviation from the standards contained in this ordinance.
4. Such other conditions as may be deemed appropriate by the Town Board.

C. The right to continue a nonconforming use, once established and not abandoned, runs with the land, and this right is not confined to any one individual or corporation.

D. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 50 percent of the assessed value of the building unless said building is changed to a conforming use.

E. A non-conforming use discontinued for a period of one year or more shall be considered abandoned and shall not be re-established or revived except by grant of a special use

permit by the Town Board. (Amended 8/12/94)

F. In a mobile home park which is a non-conforming use, a mobile home unit may be replaced with a different mobile home unit of equal or smaller size without a special permit, but a special permit shall be required for replacement with a larger mobile home unit.

SECTION 414 **FENCES** (Amended 9/16/97)

A. Any fence erected in the Town shall adhere to the following:

1. Before a fence shall be erected, a zoning permit must be obtained from the Zoning Enforcement Officer. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings, and in relation to all streets, lot property lines and yards. These restrictions shall not be applied so as to require a permit for, nor restrict, the erection, alteration, or reconstruction of fences for agricultural uses on farms or temporary fences.

2. Fences may be erected, altered or reconstructed to a height not to exceed three (3) feet above ground level when located within twenty (20) feet of the street right-of-way.

3. Fences may be erected, altered or reconstructed to a height not to exceed eight (8) feet above ground level when located more than twenty (20) feet from the street right-of-way line.

4. Fences shall be erected with the "good" or "finished" side facing towards neighboring properties. The Zoning Enforcement Officer will determine what side of a fence shall be considered the good or finished side subject to the applicant's appeal of such determination to the Zoning Board of Appeals as set forth in Section 620.

5. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

6. Temporary fences shall not exceed four (4) feet in height and shall be at least fifty (50) percent open construction. The use of such fencing shall be limited to time periods not to exceed six (6) months at a time.

7. Where fencing is erected on ground that is sloping and it is desired that the top line of fence sections shall be horizontal, the fence may be erected so lineal portions of the fence up to 10 feet in length may be at the maximum allowed height measured from the ground level at the highest point of ground level under the up-to-10 foot portion.

SECTION 420

SCHEDULE OF REGULATIONS FOR DISTRICTS

SECTION 421

RESIDENTIAL AGRICULTURAL DISTRICTS - R&A

A. Permitted Uses

1. Single family detached dwellings with a minimum floor area of seven hundred (700) square feet.
2. Mobile homes, minimum floor area of six hundred (600) square feet.
3. Farms and related farming activities provided that no off-premise manure shall be stored within one hundred (100) feet of a property boundary.
4. Farm water supply, conservancy and fire protection ponds, located not less than one hundred (100) feet from any street or property line.
5. Municipal parks, playgrounds, and buildings deemed appropriate by the Town Board.
6. Home occupation.
7. Churches and other similar places of worship, parish houses, convents, and other facilities of recognized religious groups.
8. Accessory uses and buildings incidental to and on the same lot as the principal use, as follows:
 - a. Private garages and carports.
 - b. Swimming pools, tennis courts and other recreational facilities for private, noncommercial use.
 - c. Customary farm buildings for the storage of products or equipment located on the same parcel as the primary use.
 - d. Customary farm buildings for housing farm animals shall not be located less than one hundred (100) feet from an adjoining zone.
 - e. Dwellings for domestic, household employees or farm workers employed on the same property as the permitted primary use.
 - f. Roadside farm stands for the sale of farm products produced thereon. There shall be a limit of one (1) stand per farm. Such stands shall be

set back a minimum of thirty (30) feet from the edge of the pavement.

- g. Signs, fences, and off-street parking subject to the provisions of this Ordinance.

9. Two-family dwellings with a minimum floor area of six hundred fifty (650) square feet per unit.

B. Uses Permitted With A Special Use Permit in Accordance With Section 500

1. Public utility uses exclusive of office buildings, maintenance buildings and yards and equipment storage yards.
2. Non-commercial landing strip.
3. Industrial agricultural and commercial agricultural operations.
4. Mobile home parks and mobile home subdivisions.
5. Stripping of topsoil and sod. At least three inches of topsoil shall remain or shall be replaced on the surface.
6. Campsites.
7. Artificial lakes.
8. Cemeteries.
9. Excavation for specified purposes.
10. Dog kennels. (Amended 7/9/85)
11. Model shop, pattern shop, machine shop or welding. (Amended 6/28/88)
12. Auto body repair shop, small engine and small machines repair shop (including lawn and garden machines). (Amended 8/13/97)
13. Sporting club, limited to trap shooting, skeet shooting, sporting clay shooting, and archery and fishing. All operations must be set back not less than 500 feet from all property lines and from edge of highway. Days and hours of operation may be regulated by the special use permit not to exceed from 9:00 a.m. to 8:00 p.m. but not to exceed legal sunset. Natural or man-made berms will be required to protect the public welfare and provide for normal and/or

acceptable noise abatement and control projectiles. An acceptable site plan for location, size and make-up of berms will be required.

14. Golf courses, golf driving ranges, golf retail and/or pro shops, restaurants and other entities or accessories associated with golfing.
15. Temporary wind data gathering towers for a period not to exceed two years from issuance of permit, which permit may be renewed for one additional two year period for good cause shown.

SECTION 422 **GENERAL RESIDENTIAL DISTRICT - R**

A. Permitted Uses

1. Single family detached dwellings with a minimum floor area of seven hundred (700) square feet.
2. Churches and other similar places of worship, parish houses, convents, and other such facilities of recognized religious groups.
3. Public parks, playgrounds and buildings deemed appropriate by the Town Board.
4. Home occupations.
5. Farms and related farming activities provided that no off-premise manure or farm ponds shall be within one hundred (100) feet of an adjoining property line, except the keeping of farm animals. (Amended 7/9/85)
6. Home and farm gardens.
7. Two-family dwellings with a minimum floor area of six hundred fifty (650) square feet per unit.
8. Accessory uses and buildings incidental to and on the same lot as the principal use, as follows:
 - a. Agricultural buildings and structures.
 - b. Private garages and carports.
 - c. Swimming pools, tennis courts and other recreational facilities for private, noncommercial use.

B. Uses Permitted With a Special Use Permit in Accordance With Section 500

1. Cemeteries.
2. Excavations for specific purposes, as follows:
 - a. Artificial lakes
 - b. Gravel pits
 - c. Topsoil removal
3. Public utility structures.
4. Educational and cultural institutions.
5. Mobile home parks and mobile home subdivisions.
6. Single mobile homes for a period of one year while constructing a residential dwelling on the same lot. This special permit may be renewed for one additional year by the Zoning Enforcement Officer.
7. Dog kennels. (Amended 7/9/85)
8. The keeping of farm animals. (Amended 7/9/85)
9. On a lot which is adjacent to a commercially zoned lot (as of June 1, 1988) located in the Village of Oakfield, a used car lot. (Amended 6/28/88)

SECTION 423 **COMMERCIAL DISTRICT - C**

A. Permitted Uses

1. Motor vehicle sales, services and parking.
2. Stores and shops for conducting of wholesale or retail trade and business.
3. Offices, banks.

B. Uses Permitted With Special Permit

1. Drive through banks, restaurants, drive-in restaurants, bowling alleys and similar community services and places of entertainment.
2. Gasoline stations, gasoline station-markets, or public garages.
3. Motels and auto courts.
4. Dog kennels. (Amended 7/9/85)
5. Food warehousing and distribution centers. (Amended 8/9/88)

SECTION 424 **INDUSTRIAL USES - I**

A. Uses permitted in the Industrial District are subject to the following conditions:

1. Dwelling units and lodging rooms, other than watchmen's quarters, are not permitted.
2. All business, servicing or processing, except for off-street parking and off-street loading, shall be conducted within completely enclosed buildings, unless otherwise indicated hereinafter.
3. All storage, except of motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened by a wall, fence or barrier including entrance and exit gates and approved by the Planning Board.

B. The following uses are permitted in the I District:

1. Manufacturing, warehousing, the fabrication and assembly of industrial parts and materials in metal, plastic, glass, wood, paper or similar materials, the mining, processing and storage of minerals.
2. Industrial and scientific research and development facilities.
3. Commercial greenhouses.
4. Home farm and market gardens operations.
5. Accessory structures and uses necessary and customarily a part of a

permitted use, and all business uses.

6. Wholesale trades and businesses.
7. Transportation yards and terminals.
8. Liquid fuels in underground storage.
9. The warehousing, distribution and sales of bulk solid and gaseous fuels, building materials and supplies and equipment.

C. Uses permitted with special permit:

1. Sanitary landfills
2. Car wash
3. Motor vehicle service stations
4. Public garages for storage, repair and servicing of motor vehicles, including body repair, painting and engine rebuilding.
5. Stripping of top soil and of sod. At least three inches of topsoil shall remain or shall be replaced on the surface.
6. Other manufacturing, processing or storage uses determined by the Town Planning Board and Town Board to be of the same general character as the uses permitted in Subsection B above and found not to be obnoxious, unhealthful or offensive by reasons of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matters, glare or heat.
7. Planned unit development.
8. Dog kennels. (Amended 7/9/85)

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SECTION 425 **LAND CONSERVATION - LC**

A. Permitted Uses

1. Farms and related farming activities provided that no off-premise manure shall be stored within one hundred (100) feet of a property boundary.

2. Farm water supply, conservancy and fire protection ponds located not less than one hundred (100) feet from any street or property line.

3. Accessory uses and buildings incidental to and on the same lot as the principal use, as follows:

- a. Customary farm buildings for the storage of products or equipment located on the same parcel as the primary use.
- b. Customary farm buildings for housing farm animals shall not be located less than one hundred (100) feet from an adjoining zone.

B. Uses Permitted with Special Use Permit:

- 1. Dog Kennels. (Amended 7/9/85)

ARTICLE V GENERAL REGULATIONS

SECTION 500

SECTION 510 APPLICATION FOR A SPECIAL PERMIT

Application for required special permit shall be made to the Town Board. Each such application shall be referred to the Planning Board for a report, which report shall be rendered prior to the date of public hearing on the application. The Town Board, after public hearing with the same notice required by law for zoning amendments, and with notice mailed to owners of record of property within 250 feet of the property included in the application, may authorize the issuance of a permit provided that it shall find all of the following conditions and standards have been met. Special permits may be subject to County Planning Board review according to General Municipal Law, Section 239-n.

510.1 The location and size of the use, the nature and intensity of the operations involved in, or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

510.2 The location, nature and height of buildings, walls, fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

510.3 Operations in connection with any special use will not be more objectionable to

nearby properties by reason of noise, fumes, vibration, or other characteristics, than would be the operations of any permitted use not requiring a special permit.

510.4 Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

SECTION 511 **REQUIRED PLAN**

A plan for the proposed development of a lot for a permitted special use shall be submitted with an application for a special permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, special features and any other pertinent information, including such information about neighboring properties as may be necessary to determine and provide for the enforcement of this Ordinance.

SECTION 512 **CONDITIONS AND SAFEGUARDS**

The Town Board shall attach such conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.

SECTION 513 **EXPIRATION OF SPECIAL PERMITS**

A special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if said use or uses shall cease for more than six months for any reason, or if all required improvements are not made within one year from the date of issue.

SECTION 514 **EXISTING VIOLATIONS**

No permit shall be issued for a special use for a property where there is an existing violation of this Ordinance.

SECTION 515 **REVIEW**

Special permits shall be reviewed at least once a year by the Zoning Enforcement Officer for possible violations. Such violations shall be reported to the Town Board.

SECTION 520 **GENERAL OFF-STREET PARKING PROVISIONS AND REGULATIONS**

For every building or structure erected, altered or extended after the enactment of this Ordinance, there shall be provided parking facilities or vehicle storage as set forth below. As defined in this ordinance, an off-street parking space shall measure no less than ten (10) feet in width and twenty (20) feet in depth and include sufficient space for aisles and maneuverability.

All parking areas, passageways, and driveways (except when provided in connection with one

and two family residential uses and farm residences) shall be surfaced with a dustless, durable, all-weather pavement clearly marked for car spaces and shall be adequately drained, all subject to the approval of the Planning Board.

520.1 A site plan shall be filed with the permit application where off-street parking facilities are required or permitted, under the provisions of this Ordinance in connection with the use or uses for which application is being made.

520.2 Off-street parking in commercial and industrial zones may be provided in any yard space, but shall not be closer than ten (10) feet to any district boundary line.

The term vehicle as used in this section shall include, but not be limited to, automobiles, motorcycles, trucks, motor homes, campers and trailers, including recreational and boat trailers.

520.3 The collective provision of off-street parking areas by two or more commercial or industrial buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.

520.4 No driveway providing access to an off-street parking area shall be located closer than fifty feet to the intersection of public streets.

520.5 All parking areas and appurtenant passageways and driveways serving commercial and industrial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by business uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.

SECTION 521 **REQUIRED OFF-STREET PARKING SPACE**

521.1 One family detached dwellings - Two parking spaces per dwelling unit.

521.2 Two, three and four family dwellings - One and one-half parking spaces per dwelling unit.

521.3 Rooming houses - One and one-half parking spaces per roomer.

521.4 Garden apartments - One and one-half parking spaces per unit.

521.5 Motels - One parking space for every sleeping or dwelling unit plus ½ parking space per employee exclusive of parking required for a restaurant or lounge.

521.6 Barber and Beauty Shops - Two parking spaces per beauty chair or barber chair, plus one parking space for each employee.

521.7 Business Offices and Professional Offices - Four parking spaces for every 1000 square feet of building area or major fraction thereof, plus one parking space for each employee.

521.8 Stores For Retail of Furniture, Appliances, or Hardware - One parking space for every 300 square feet of building area or major fraction thereof, plus one parking space for each employee.

521.9 Retail and Service Shops, Except When Otherwise Specifically Covered Herein - Four parking spaces for every 1000 square feet of building area or major fraction thereof, plus one parking space for each employee.

521.10 Supermarkets - Self-Service Food Stores - 5.5 parking spaces for every 1000 square feet of building area or major fraction thereof, plus one parking space for each employee.

521.11 Laundromats - One parking space for every two washing machines.

521.12 Home Occupations - Two spaces for client use plus one space for each non-resident employee exclusive of spaces required for residential purposes.

521.13 Auditorium, Churches, Theaters, Assembly Halls and Similar Places of Public and Quasi-Public Assembly Having Fixed Seating Facilities - One parking space for every four seats in the main assembly unit.

521.14 Auditorium, Exhibition Halls, Assembly Halls, Community Centers, and Similar Places of Public and Quasi-Public Assembly Not Having Fixed Seating Facilities - One parking space for every four persons who may legally be admitted therein at one time under the State Fire Prevention Laws.

521.15 Motor Vehicles Sales - One parking space for every 300 square feet of building area or fraction thereof.

521.16 Motor Vehicle Service Stations - One parking space for every 100 square feet of building area or fraction thereof.

521.17 Bowling Alleys - Eight parking spaces for each bowling lane.

521.18 Restaurants, Cafeterias, Taverns, Bars (indoor service only) - One parking space for every four seats for customers, plus one space for each employee.

521.19 Drive-In Restaurants - Four parking spaces for every 100 square feet of building area or fraction thereof plus one space for each employee.

521.20 Industrial Establishments - 3/4 parking space for each employee, plus one space for each 1,000 square feet of gross floor area in the buildings for use by visitors to the building or buildings. The employee ratio shall be applied to that shift of work activity that has the greatest number of employees.

521.21 Hospitals, Nursing and Convalescent Homes - 1 1/2 parking spaces for each bed, plus 3/4 space for each employee in the largest working shift.

SECTION 522 **OFF-STREET LOADING AND UNLOADING PROVISION FOR COMMERCIAL AND INDUSTRIAL DISTRICTS**

For every building, structure or part thereof having over 5,000 square feet of gross building area erected and occupied for commerce, hospital, laundry, dry cleaning, places of public assembly, industry, and other similar uses involved in the receipt and distribution of vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading and unloading services in order to avoid undue interference with the public use of streets or alleys.

SECTION 530 **MOBILE HOMES**

SECTION 531 **REGULATIONS PERTAINING TO SINGLE MOBILE HOMES (NOT LOCATED IN MOBILE HOME PARKS)**

A. The minimum usable floor space of the mobile home shall not be less than 600 square feet, which shall be measured by the outside dimensions of the mobile home without consideration of any exterior structural additions, hitch, or A-frame.

B. The area of the lot upon which mobile home is placed shall conform to the lot requirements for single family residences in R-A and R Districts as set forth in this Ordinance.

C. No mobile home shall be located within 50 feet of the right-of-way line of any highway or road.

D. No mobile home or attached structure shall be located nearer than 100 feet from any existing residence and shall be located no closer to either side lot line than 25 feet and no closer to the rear lot line than 35 feet.

E. All mobile homes allowed under the provisions of Section 530 of this Ordinance shall have the wheels or skids removed and shall be set upon a solid foundation within sixty (60) days of placement on the site. The entire perimeter of the mobile home shall have non-combustible, solid skirting extension of the sidewalls to below the level of the surrounding ground so as to enclose the

area between the floor of said mobile home and the ground. The area so enclosed shall be adequately vented according to the New York State Building Code as it applies to residences.

F. All mobile homes must be anchored at all corners to at least four (4) anchors or tie-downs, such as cast-in-place concrete "dead man" or eyelets embedded in the ground to a depth of not less than four (4) feet and fastened by a steel cable or strap of such gauge as to sustain a minimum load of 4800 pounds.

G. Any addition to any mobile home shall require the issuance of a building permit by the Zoning Enforcement Officer. Said permit shall only be issued for additions which will be used for purposes other than enclosed living, sleeping, or eating quarters (i.e. permits issued for patios, porches, storage areas, etc.)

H. All water supply systems shall be approved by the Genesee County Health Department.

I. All sewerage disposal systems shall be approved by the Genesee County Health Department.

J. Nothing in these sections shall be so interpreted as to prevent any person or persons presently residing in a mobile home from continuing to use that mobile home as a residence. However, if any mobile home now located in the Town of Oakfield is moved from its present location, it must meet all the requirements of this Ordinance.

K. Existing mobile homes may be replaced only by mobile homes having a minimum useable floor space of 600 S.F., measured by outside dimensions without consideration of any exterior structural additions, hitch, or A-frame, provided:

1. That no mobile home may be installed on a lot where no mobile home has existed for a period of 30 days.

2. That permission is obtained from the Genesee County Health Department.

3. That the new mobile home has non-combustible extension of the side walls of the mobile home extending from the side walls to below the level of the surrounding ground, and that the new mobile home be securely anchored at all corners to at least four (4) anchors or tie-downs and fastened by a steel cable or strap of such gauge as to sustain a minimum load of 4800 pounds.

4. Mobile homes shall comply with Section 400-dd(2) and 400-dd(3) of Article 19AA of the Executive Law of the State of New York.

SECTION 532

STANDARDS AND REQUIREMENTS FOR THE CONSTRUCTION OF MOBILE HOME PARKS

Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the mobile home park occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors or other adverse influences, and no portion subject to predictable sudden flooding, or erosion and shall not be used for any purpose which would expose persons or property to hazards.

532.1 Site, Size, Density and Setback Requirements

- A. The minimum site for a mobile home park shall be five (5) acres.
- B. The maximum number of mobile home spaces shall not exceed five (5) per gross acre.
- C. Each mobile home park shall set aside ten (10) percent of the total acreage of the site as open space and recreation area.
- D. A setback of sixty (60) feet shall be observed from the centerline of any public road bordering the site to any mobile home in the park.
- E. A setback of thirty (30) feet shall be observed from any property line excluding a street line or street centerline to any mobile home in the park.
- F. The site shall be located and laid out so that no mobile home shall be closer than one hundred (100) feet to any existing single family or two family dwelling.

532.2 Lot Size, Density and Setback Requirements

- A. (a) The minimum lot in a mobile home park shall be eight thousand (8,000) S.F., with a minimum width of eighty (80) feet and a minimum depth of one hundred (100) feet.
 - (b) Mobile homes having a width of 24 ft. or more shall be located on lot meeting the requirements set forth for residential lots in R districts as defined in this Ordinance.
- B. No mobile home shall be closer than fifteen (15) feet to another mobile home or other structure in the park.
- C. Each mobile home located in a mobile home park shall have a front yard, a rear yard and two side yards. No side yard or rear yard space shall be less than ten (10) feet in depth

and no front yard shall be less than twenty-five (25) feet in depth.

D. There shall be a minimum setback of twenty-five (25) feet observed from an abutting park street to any mobile home stand in the park.

E. Maximum heights for buildings shall be thirty-five (35) feet.

532.3 Site Layout and Design Requirements

The layout and design of the mobile home park shall conform to the following:

A. Streets:

1. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.

2. All mobile home courts containing twenty (20) or more mobile home lots shall have access from two points along a single public street or highway, or bordering on two streets, access can be one for each street, such access points being separated by at least one hundred (100) feet.

3. Entrances to mobile home parks shall have direct connections to a public street and shall be designed to allow free movements of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of one hundred (100) feet from its point of beginning.

4. The street system should provide convenient circulation by means of minor streets and property located collector streets. Dead-end streets shall be limited in length to five hundred (500) feet and their closed end shall be provided with an adequate turn around sixty-five (65) feet diameter cul-de-sac.

5. Each mobile home space in a park shall have direct access to a roadway, the surface of which shall be constructed of bituminous concrete or portland concrete cement and shall have a minimum width of twenty (20) feet. Bituminous concrete road surfaces shall consist of 12" R-O-B gravel laid in two lifts as a base course for 3" bituminous concrete, applied in two lifts. All other requirements shall be set by the Town of Oakfield.

6. Grades of all streets shall be sufficient to insure adequate surface drainage, but should not be more than eight (8) percent. Short runs with a maximum grade of ten (10) percent may be permitted, provided traffic safety is insured.

7. Street intersections should generally be at right angles and in no case

shall any angle or intersection be less than seventy-five (75) degrees.

8. Entrances and exits shall be so located to provide a minimum sight distance on the adjacent public road in both directions from the interior road at the point of intersection of not less than three hundred (300) feet.

B. Parking

1. Two (2) car parking spaces shall be provided for each mobile home to meet the needs of the occupants of the mobile home park and their guests without interference with normal movement of traffic.

2. At least one parking space shall be situated on each unit, and the remainder may be located in adjacent parking bays along the park streets.

3. Parking may be in tandem.

4. Each parking space shall have dimensions of at least ten (10) feet by twenty (20) feet and shall have all weather surfacing.

C. Storm Water Drainage

1. All mobile home parks shall be well-drained and constructed so as to eliminate the accumulation of standing surface water for extended periods of time. The drainage system shall consist of:

Buried corrugated steel pipe to carry storm water only;

OR

A series of well-constructed and properly maintained open ditches to carry surface runoff to off-site drainage channels.

2. The drainage system shall be designed to adequately handle at least that storm water generated by the site during a ten (10) year storm as determined by the U.S. Army Corps of Engineers. It must be certified by the Genesee County Soil and Water Conservation District Office that the off-site downstream drainage system is capable of handling the runoff generated by the park during a ten (10) year storm.

532.4 Lot Requirements

A. Each lot shall front on an approved interior street.

- B. Interior lots shall not be permitted to front on more than one street.
- C. No more than one (1) mobile home may be placed on any lot.
- D. No mobile home shall be located within a park except in an authorized space, and no mobile home shall be permitted to occupy any such space unless it is equipped with a properly functioning lavatory, a bathroom or shower, and one (1) five (5) pound fire extinguisher.
- E. No mobile home shall be permitted in a mobile home park with less than six hundred (600) square feet of permanent, enclosed living area.
- F. No addition shall be made to a mobile home except a canopy and/or porch open on three sides, or an addition made by a mobile home manufacturer.
- G. Each mobile home lot shall contain a mobile home stand to provide adequate support for the placement and tiedown of the mobile home. The stand shall have not heave, shift, or settle unevenly under the weight of the mobile home as a result of any front action, inadequate drainage, vibration or other such forces. The material used in constructing the stand should be durable and capable of supporting the expected load regardless of the weather.
- H. Mobile homes must be anchored at all four corners. Anchors or tie-downs, such as cast-in-place concrete "dead man" eyelets embedded in concrete screw anchors or arrowhead anchors shall be placed at least at each corner of the mobile home stand and each device shall be able to sustain a minimum load of four thousand eight hundred (4,800) pounds.
- I. All occupied mobile homes shall be set on a stand and skirted with a non-combustible material, which shall be on all sides of the mobile home and constructed from the said side walls to the level of the surrounding ground, so as to enclose the area between the floor of the mobile home and the said surrounding ground. Such skirting is to be properly ventilated and be completed within thirty (30) days after arrival in the park.
- J. One (1) accessory building, not to exceed one hundred (100) s.f. in dimension may be located on each lot.
- K. Each lot shall be provided with approved connections for water and sewer in accordance with the regulations of the Genesee County and New York State Departments of Health.
- L. All utilities shall be underground.
- M. No front or side yard shall be used for storage.

532.5 Required Site Improvements

A. Water Supply System

All water supply systems shall be approved by the Genesee County Health Department.

B. Sewerage Disposal and Treatment

All sewerage disposal systems shall be approved by the Genesee County Health Department.

532.6 Electrical Systems

A. Except as otherwise permitted or required by this standard, all electrical installations in mobile home parks shall be underground, residential distribution designed and constructed in accordance with local utility and the New York State Board of Fire Underwriters. Where the state or other political subdivision does not assume jurisdiction, such electrical installations shall be designed and constructed in accordance with the appropriate provisions of the current edition of the National Electrical Code. The point of the electrical connection for the mobile home will be within the area of the mobile home stand.

B. The mobile home park secondary electrical distribution system to mobile home lots shall be single phase 120/240 nominal.

C. 1. For the purpose of this section, where the park service exceeds 240 volts, transformers and secondary distribution panel boards shall be treated as services.

2. Mobile home lot feeder circuit conductors shall have adequate capacity for the load supplied, and shall be rated at not less than one hundred (100) amperes at 12-/240 volts.

D. 1. Provision may be made for connecting a mobile home power supply assembly by a permanent wiring method and the mobile home service equipment may provide for installation of at least one fifty (50) ampere receptacle.

2. Mobile home service equipment may also be provided with a means for connecting a mobile home accessory building or structure or additional electrical equipment located outside a mobile home by a permanent wiring method.

532.7 Gas Distribution System

A. Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes adopted by the local utility. Where the state

or other political subdivision does not assume jurisdiction, such installations shall be designed and constructed in accordance with the appropriate provisions of the current edition of the American National Standard-National Fuel Gas Code.

532.8 Service Buildings

A. Service buildings shall be located in such a way as to prohibit primary access directly adjacent to a mobile home lot.

B. Service buildings housing sanitation and laundry facilities or any other facilities shall be permanent structures complying with the New York State Building Code and the New York State Sanitary Code and/or all other applicable ordinances and statutes regulating buildings, electrical installations, and plumbing and sanitation systems.

532.9 Refuse Disposal

No refuse or other organic material shall be placed, stored, or dumped in other than refuse containers anywhere in the park. The existence of any refuse or rubbish outside a container for more than twenty-four (24) hours shall be a violation of this ordinance.

SECTION 540 CAMPSITES

541. Any campsite shall be located and maintained only in those districts as permitted in this Ordinance and in accord with the standards set forth in this Ordinance.

542. All existing campsites of record shall be exempt from this Ordinance, except that they shall comply with this section whenever they are sold or any addition, expansion or alteration of the use or operation is proposed. Within six (6) months after the adoption of this Ordinance, the Zoning Officer shall notify existing campsites of this provision.

543. Before a permit for a campsite is issued, the Town Board shall determine that the proposed use is designed and arranged in accordance with the requirements of Section 510, "Special Use Permits", and in accordance with the following standards:

A. Site

The campsite shall be located on a well-drained site which is properly graded to insure rapid drainage and be free at all times from stagnant pools of water.

B. Lots

Each campsite shall be marked off into lots. The total number of lots in such

campsite shall not exceed twelve (12) per gross acre. Each lot shall have a total area of not less than 2,500 s.f. with a minimum dimension of thirty (30) feet. Only one trailer shall be permitted to occupy any one lot.

C. Setbacks

All travel trailers, tents and the like shall not be located nearer than a distance of:

- At least twenty-five (25) feet from an adjacent property line, except residential property.
- At least one hundred (100) feet from any adjacent residential property line.
- At least one hundred (100) feet from the right-of-way of a public street or highway.
- At least ten (10) feet from the nearest edge of any roadway location within the park or camp.

D. Travel Trailer Stand

Each travel trailer lot shall have a stand of sufficient size and durability to provide for the placement and removal of travel trailers and for the retention of each travel trailer in a stable condition. The stand shall be suitably graded to permit rapid surface drainage.

E. Accessibility

Each campsite shall be easily accessible from an existing public highway or street with entrances and exits designed and strategically located for the safe and convenient movement into and out of the campsite, and with minimum conflicts with the movement of traffic on a public highway or street. All entrances and exits shall be at right angles to existing public highways or streets and all entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with travel trailers attached.

F. Street System

Each campsite shall have improved streets to provide convenient access to all lots and other important facilities within the campsite or camp.

The street system shall be so designated to permit safe and convenient vehicular circulation within the campsite or camp. All streets shall intersect at right angles.

All streets shall have the following minimum widths:

1. One way traffic movement - 12 feet
2. Two way traffic movement - 20 feet

Except in cases of emergency, no parking shall be allowed on such streets.

An improved driveway shall be provided for each lot. This driveway shall have a minimum width of nine (9) feet.

G. Utilities

All sewer and water facilities provided in each campsite shall be in accordance with the regulations of the New York State Department of Health and the New York State Department of Environmental Conservation.

H. Open Space

Each campsite designed for twenty (20) or more sites shall provide a common open space suitable for recreation and play purposes. Such open space shall be conveniently located. The open space area shall be ten (10) percent of the gross land area of the campsite but not less than one (1) acre.

I. Improvements

Lighting, landscaping and buffer areas may be required by the Board and shall be in keeping with surrounding development, the unique features of the site and the health and safety of occupants of the campsite and adjacent property owners.

J. Management

Every campsite shall be managed from an office located on the premises. The manager shall maintain the campsite in such a manner so as to protect the health, safety and comfort of all persons accommodated in the campsite and so as to preserve the campsite in a clean and attractive manner.

K. Removal of Wheels

Unless special consent be given by the Town Board, it shall be unlawful to remove wheels from any travel trailer or otherwise permanently affix such travel trailer to the ground. Such removal shall be grounds for the revocation of the permit for such campsite.

SECTION 550

RECREATION VEHICLES

551. Recreational vehicles may be occupied as a dwelling only as follows:

- A. As provided in Section 550, or
- B. For not more than two separate periods, per year, not exceeding two weeks, as temporary lodging while parked on the same lot with a residence, or,
- C. On a temporary permit issued by the Town Board on recommendation of the Planning Board for periods of six months each and subject to the following conditions:
 - 1. Approval shall be granted by the Genesee County Health Department.
 - 2. Any connections must be removed and vehicle moved to approved parking location on expiration of permit.

552. Recreational vehicle may be stored in any location on a lot other than within the required front yard. When stored, no connection shall be permitted.

SECTION 560

SIGNS

561. General Standards

- A. A sign shall not be higher than the height limitations in the district where such sign is located, nor shall any sign attached to a building be located above the roof line except that a farm name may appear on a silo.
- B. A sign shall not be erected nor shall a sign project into a public right-of-way.
- C. Flashing, oscillating and revolving signs are not permitted.
- D. No sign may be illuminated in such a manner as to shine directly on adjoining properties or be hazardous to traffic safety.
- E. No off-premise advertising sign shall be permitted in any district.

562. Standards for Commercial Signs

- A. All signs permitted as accessory uses for residential uses in commercial district.

B. One sign for the purposes of identification of banks or monetary institutions, business or professional offices or mortuaries in the C District shall be permitted and shall not exceed six (6) square feet in area. Such sign shall not be permitted within any required yard area.

C. In commercial and industrial districts, two signs, one of which may be free-standing, shall be allowed for each permitted use. If attached to the front or rear wall, such signs shall not exceed an area equal to 10% of the front or rear wall area of the building or portion thereof devoted to such use or activity. If attached to the side wall of the building devoted to such use or activity, such sign shall not exceed twenty-five (25) square feet in area. No sign shall project more than one foot from the facade of the building.

D. Free-standing business sign shall be permitted but only if erected on the same premises on which the business to which they refer is conducted. Such signs shall conform to the following provisions relating to their number and size.

(1) Each business or industrial use may have one free-standing sign. Such free-standing sign shall have an area of not more than twenty-five (25) S.F. nor be more than twenty-five (25) feet in height, located not less than ten (10) feet from property lines.

(2) In a shopping center or industrial park there may be one directory sign at any location thereon which shall not exceed five (5) square feet in area for each acre of land in the shopping center or industrial park provided that no such sign shall exceed thirty (30) square feet in area. No individual free standing sign shall be allowed in a shopping center.

563. Standards for Other Signs

A. A business sign directing attention to a permitted "Home Occupation" shall not contain a gross surface area exceeding six (6) square feet.

B. The sale or rental of a premises may be advertised by not more than one (1) non-illuminated business sign with a gross surface area not exceeding six (6) square feet and provided that such sign is promptly removed after the premises has been sold or rented.

C. Farm product signs not exceeding twenty (20) square feet in area may be displayed on the property, but only when such products are on sale.

D. The sale or development of a premises by a contractor, builder, developer or other persons interested in such sale or development may be advertised by not more than two (2) business signs.

E. Signs of mechanics, painters and other artisans may be maintained on a premises where such persons are performing work provided such signs do not exceed twelve (12) square feet in gross surface area and are promptly removed upon completion of the work.

F. Two-off premises directional signs not over eight (8) square feet in area and showing only the name of and direction to a legal, conforming use may be placed at a highway location.

564. Standards for Existing Signs

Signs existing on the adoption date of this ordinance which do not comply with any of the provision of this ordinance are hereby declared to be generally in conflict with the development objectives of the community and are, therefore, to be discouraged from continuance.

A. Whenever such nonconforming sign is (1) damaged by fire or other cause, or (2) is to be replaced, altered or reconstructed, no permit shall be granted for such repair, replacement, alteration or reconstruction unless done in a manner so that such nonconforming sign will thereafter be fully conforming with this Ordinance.

B. A nonconforming sign which cannot be made conforming with this Ordinance and which is declared unsafe by the Zoning Officer or other proper authority, shall be immediately removed.

565. Signs Allowed In All Districts Without A Zoning Permit (Amended 8/8/95)

1. One (1) number and/or name plate identifying residents, mounted on house, apartment or mailbox, not exceeding one (1) square foot in area.

2. One (1) lawn sign identifying residents, not exceeding one (1) square foot per side and located not less than ten (10) feet from any lot line. Such signs are to be non-illuminated except by alight which is an integral part of a lamp post if used as a support, with no advertising message thereon.

3. One (1) sign identifying the name of the farm owner or name of the farm not exceeding twenty-four (24) square feet per side in area and located not less than ten (10) feet from any lot line.

4. A sign used on a temporary basis to identify or announce an activity or function such as a construction project and the specialists concerned, elections, sporting events, carnivals, garage sales, meetings, etc. Such signs shall not exceed sixteen (16) square feet and shall not be located less than five (5) feet from any lot line. Temporary signs shall be removed within ten (10) days after the activity of function ends. Garage sales signs may not be displayed more than 10 days in any one year.

5. Sign for posting of property pursuant to Environmental Conservation Law Section 11-2111. However individual signs with an area in excess of two (2) square feet are not allowed.

SECTION 570

MOTOR VEHICLE JUNK YARD OR SANITARY LANDFILL

571. No motor vehicle junk yard or sanitary landfill shall be established or expanded hereafter until a special use permit shall have been granted by the Town Board for such use.

572. No motor vehicle junk yard shall be operated or established hereafter except in accordance with Section 136 of the General Municipal Law regulating automobile junk yards and those applicable regulations which follow.

573. Before a permit for a motor vehicle junk yard or sanitary landfill is issued, the Town Board shall find that such automobile junk yard or sanitary landfill will not constitute a detriment to the public health, safety, welfare, convenience, and property values by reason of dust, smoke, fumes, noise, traffic, odors, vermin or other condition. The Town Board may specify any reasonable requirements to safeguard the public health, welfare, safety, convenience and property values in granting such permit.

A. No motor vehicle junk yard shall be located within 200 feet from any highway, street or property line or within 500 feet from any existing dwelling, church, school, public building or place of public assembly.

B. No sanitary landfill shall be located within 200 feet from any highway, 500 feet from any stream or property line or within 1,000 feet from any existing dwelling, church, school, public building or place of public assembly.

C. Any motor vehicle junk yard or sanitary landfill shall be completely surrounded with a fence which substantially screens said area and having a suitable gate which shall be closed and locked except during the working hours of said automobile junk yard or sanitary landfill.

Where the topography, natural growth of timber or other considerations accomplish the purposes of this section in whole or in part, the fencing requirements hereunder may be reduced or waived by the Town Board provided, however, that such natural barrier conforms with the purposes of this section and is maintained.

SECTION 580

TEMPORARY TENTS AND CANOPIES

581. Temporary tents and canopies may be erected without a building permit for a period or periods not to exceed in total 180 days in any calendar year.

582. Such tents and canopies may be located without regard to yard requirements except that the requirements of Section 412.5 visibility at intersections shall apply.

583. For the purpose of this section a tent or canopy is defined as a structure with walls

and/or roof fabric with no rigid walls or roof. Erection of a tent or canopy shall not be itself disqualify the tent or canopy from being a temporary tent or canopy under this section.

Art I Sec 585 Wind Energy System

ARTICLE VI ADMINISTRATION

SECTION 600

SECTION 610 **BUILDING PERMITS**

610.1 No building or structure shall be constructed, enlarged or moved, or excavation made therefore, or work begun thereon, until a permit therefore has been issued. This section shall apply to the construction or replacement of chimneys. (Amended 7/9/85)

610.2 Applications for building permits, except those for signs, shall be accompanied by a layout or plot plan, drawn to scale, showing the shape and dimensions of the lot to be built upon, the size and location of the lot of all buildings proposed, and of any existing buildings or structures that shall remain, the existing and intended use of each building or part of the building, the number of families that the building is designed to accommodate, the nature of the improvement, and the intended use or purpose to be made of the improvement and premises, and such other information with regard to the lot and the neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance. Applications, together with layout or plot plat, shall be submitted in triplicate. When the building permit is issued or denied, the issuance or denial shall be noted on the application in triplicate by the person issuing or denying said permit, and one copy returned to the application, one copy filed with the Town Clerk, and one copy kept with the Town Clerk, and one copy kept with the Zoning Enforcement Officer records.

610.3 Upon being notified that the site is prepared for installation of the foundation of a structure, the Zoning Officer shall inspect the site to check the location of the structure.

610.4 A building permit shall be void if rough construction is not completed within a period of one year from the date of said permit. The Zoning Officer may issue a one-year extension of a permit. One said extension of a permit will be allowed.

610.5 If the Town Board shall by resolution authorize a public hearing on a proposed amendment of this Ordinance, then for a period of sixty (60) days following the date of such resolution, no building or structure shall be erected, enlarged or altered, and no permit shall be issued for the erection, enlargement or alteration of any building or structure, or for the occupancy or use of any land or building, in any manner that would be contrary to the provisions of the proposed amendment.

SECTION 620 **BOARD OF APPEALS**

620.1 A Board of Appeals is hereby continued, to consist of five members appointed by the Town Board. The Board shall have a chairman appointed by the Town Board. The Board shall appoint its own secretary and shall prescribe rules for the conduct of its affairs.

620.2 Powers and Duties

The Board of Appeals shall have all the power and duties prescribed by Town Law and by this Ordinance, which are more particularly specified as follows.

A. Interpretation

Upon appeal from a decision by the Zoning Officer, to decide any questions involving the interpretation of this Ordinance, including determination of the exact location of any district boundary.

B. Variances

To vary the strict application of this Ordinance in cases of irregular, narrow, shallow, or steep lots, or other physical conditions, where strict application will result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance shall be granted by the Board of Appeals unless it finds:

1. Special circumstances or conditions, fully described in the findings of the Board, applying to such lands or buildings and not applying generally to land or buildings in the neighborhood, such that strict application of this Ordinance would deprive the owner of the reasonable use of such land or buildings.

2. The variance as granted is the minimum variance that would accomplish such purpose.

3. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be detrimental to the neighborhood or the public welfare.

620.3 Procedure

A. How Appeals and Applications Are Made

All appeals and applications made to the Board of Appeals should be in writing and shall refer to the specific provision of the Ordinance involved, and shall set forth the interpretation that is claimed, or the details of the variance that is requested and the grounds on which it is claimed the variance should be granted, as the case may be. Such appeals or applications shall be filed with the Town Clerk, and the Town Clerk shall promptly inform the Secretary of the Board of Appeals.

B. Public Hearing and Notice Thereof

1. Newspaper Publication - At least ten (10) days prior to said hearing, notice of any hearing shall be published in a newspaper of general circulation in the Town of Oakfield.

2. Referral to Town Planning Board

At least ten (10) days prior to said hearing, the Secretary of the Board of Appeals shall transmit to the Town Planning Board a copy of said appeal or application together with notice of the public hearing.

The Town Planning Board may make a report or recommendation to the Board of Appeals. However, if the Town Planning Board does not timely make a report or recommendation, the Board of Appeals may nevertheless proceed to hear and to determine the matter.

3. Referral to County Planning Board of Certain Application for Special Permit or Variance

- The Board of Appeals may not act on an application for a special permit or variance applying to real property within 500 feet of a municipal boundary, county or state park, existing or proposed county or state road, or the boundary of any county or state owned land on which a public building or institution is situated, until 30 days after the County Planning Board shall have received a copy of the application. The Board of Appeals may not act contrary to a report or recommendation of the County Planning Board except by a resolution fully setting forth the reasons for such contrary action adopted by a vote of a majority plus one of all the members of the Board of Appeals. If the County Planning Board fails to report or recommend to the Board of Appeals within such 30 day period, or such longer time as may have been agreed upon the Board of Appeals, then the Board of Appeals may act without such report or recommendation from the County Planning Board.

4. Notice to Applicant and to Zoning Officer and to Owners of Nearby Property

- At least ten (10) days prior to said hearing, notice of the hearing shall be sent by first class mail (Amended 9/13/83) to the applicant and the Zoning Officer and to all owners of property within a distance of 250 feet of the property line on both sides of the street on which the property fronts, and to all owners of property adjoining to the rear of the property effected.

C. Making and Filing of Decisions

- Each decision of the Board of Appeals shall set forth the findings on which the decision is based, and shall state the vote of the members of the Board of Appeals on the matter. A copy of the decision shall be promptly filed with the Town Clerk, together with all supporting documents, and a copy of said decision should be promptly provided to the applicant. If the decision of the Board of Appeals is that a building permit or variance shall be granted, then such may be issued over the signature of the Chairman of the Board of Appeals or the Secretary of the Board of Appeals.

SECTION 630 VIOLATIONS

630.1 Penalties

Violation of this Ordinance shall be punishable by a fine and/or imprisonment as set forth in New York State Town Law. (Amended 6/28/88)

630.2 Enforcement

The Zoning Officer may on his own motion institute court action to enforce the provisions of this Ordinance, or may refer the matter to the Town Board for action to be authorized by the Town Board.

630.3 Additional Fee for Building Permit

If the Zoning Officer shall have laid a charge before court of failure to obtain a building permit, and if such charge is thereafter withdrawn upon agreement of the Zoning Officer and the person charged, then the fee for issuing a building permit within the next two years for the construction involved shall be \$25.00 more than the regular fee for said permit.

ARTICLE VII AMENDMENTS

SECTION 700 AMENDMENTS

The Town Board may from time to time, on its own motion, on petition, on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provision of this ordinance in the manner provided for by law.

701. Amendment Procedures

Upon presentation to the Town Board of a petition requesting an amendment, supplement, change, modification or repeal of the regulations and/or restrictions prescribed for any such district or part thereof, or for a change or modification in such district's boundaries as shown on the zoning map, duly signed and acknowledged by the owners of at least fifty (50) percent of the area included in such proposed amendment or in the zoning district affected by such proposed amendment, it shall be the duty of the Town Board to hold a public hearing thereon within sixty (60) days thereafter.

702. Referral to Town Planning Board

Every such proposed amendment or change shall be referred to the Planning Board for

report thereon before the public hearing required by law. In recommending the adoption of any such proposed amendment, the Planning Board shall state, in writing, its reasons for such recommendation, describing any conditions that it believes makes the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the comprehensive plan of land use for the Town, and be in furtherance of the purposes set forth in Article 1 of this Ordinance. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons. Failure on the part of the Planning Board to report to the Town Board its recommendation with respect to any proposed amendment within thirty (30) days after the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.

703. Referral to County Planning Board

Prior to adoption by the Town Board, a proposed amendment may have to be referred to the County Planning Board pursuant to Section 239m of the General Municipal Law of the State of New York as noted in Section 620.3 B-3 of this Ordinance.

ARTICLE VIII **INTERPRETATION**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare, and more particularly for the purposes set forth in Section 100. It is not intended by this Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties, provided, however, that when this Ordinance imposes a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or makes any other greater requirements than are imposed or required by any other ordinance, rules, regulations or by easements, covenants, or agreements, the provisions of this Ordinance shall control.

SECTION 810 **SEVERABILITY**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other portion of this Ordinance. The Town Board hereby declares that it would have adopted every section, subsection, paragraph, sentence, clause and phrase of this Ordinance regardless of the fact that any other section, subsection, paragraph, sentence, clause or phrase be declared invalid.

SECTION 820

SHORT TITLE

This Ordinance shall be known and may be cited as the "Town of Oakfield Zoning Ordinance".

SECTION 830

REPEALER

The Ordinance, Zoning Ordinance - Town of Oakfield, adopted on December 9, 1963, together with all changes and amendments thereto, is hereby repealed and declared to be of no effect, except that should any section, clause, etc. of this Ordinance be declared invalid, the corresponding section of that Ordinance shall not be deemed to have been repealed.

**AN ORDINANCE TO AMEND THE TOWN OF OAKFIELD
ZONING ORDINANCE TO ADD CRITERIA FOR WIND ENERGY SYSTEMS**

BE IT ORDAINED by the Town Board of the Town of Oakfield, New York, as follows:

**ARTICLE I. AMENDMENT OF ZONING ORDINANCE TO ADD A NEW SECTION
585**

The Town of Oakfield Zoning Ordinance is hereby amended to add a new Section 585 to read as follows:

SECTION 585 WIND ENERGY SYSTEMS

585.1 Purposes

The purpose of this Section is to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system and to allow for the orderly development of land, protect property values, and aesthetic conditions. This Section does not repeal, annul, impair, or interfere with any existing ordinance or local law.

585.2 Definitions

Non-commercial Wind Energy System - A wind energy system that is operated primarily (51% or more) for on-site (may be more than one parcel) consumption, and has a nameplate capacity of 50 kW or less, and a total height of 175 feet or less, and a blade length of 30 feet or less.

Commercial Wind Energy System - A wind energy system that is operated primarily (51% or more) to put energy into the electric grid, and/or has a nameplate capacity of more than 50 kilowatts (kW), and/or a total height of more than 175 feet, and/or a blade length of more than 30 feet.

Electromagnetic Interference (EMI) - The interference to communication systems created by the scattering of electromagnetic signals.

Shadow Flicker - The alternating pattern of sun and shade caused by wind tower blades casting a shadow.

Total Height - The vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

Wind Energy System - Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, substation, maintenance or control facilities, or other component used in the system. A wind energy system can consist of one or more wind towers.

Wind Tower - The monopole, freestanding, or guyed structure that supports a wind

turbine generator.

585.3 Compliance

It is unlawful for any person to construct, install, maintain, modify, or operate a wind energy system that is not in compliance with this Section or with any condition contained in a Special Use or Zoning Permit issued pursuant to this Zoning Ordinance.

585.4 Commercial Wind Energy Systems Prohibited

Commercial Wind Energy Systems shall not be allowed in any area or zone within the Town of Oakfield.

585.5 Permit Requirements

1. Special Use Permit. A Special Use Permit is required for Non-commercial Wind Energy Systems and for any wind energy system, or a component thereof, except for Non-commercial Wind Energy Systems located in County-adopted, State-certified Agricultural Districts for primary on-farm use.

2. Zoning Permit. A Zoning Permit and Site Plan Review are required for the installation of any wind tower that is part of a wind energy system.

3. Expiration. A permit issued pursuant to this Zoning Ordinance expires if:

a. the wind energy system is not installed and functioning within 2 years from the date the permit is issued; or

b. the wind energy system is out of service or otherwise unused for a continuous 12-month period.

4. Fees.

a. The application for a Special Use Permit for a Non-commercial Wind Energy System, except for Non-commercial Wind Energy Systems located in County-adopted, State-certified Agricultural Districts must be accompanied by the fee required for a Special Use Permit.

b. The application for a Zoning Permit for each tower in a Non-commercial Wind Energy System must be accompanied by the fee required for a zoning permit for an accessory use.

585.6 Restoration Requirement (see also Restoration section under Agricultural Mitigation)

1. A wind energy system that is out of service for a continuous 12-month period or any wind energy system found to be unsafe by the Building Code Enforcement Officer and not repaired by the owner to meet federal, state and local safety standards within six months will be deemed to have been abandoned. The Zoning Enforcement Officer may issue a Notice of

Abandonment in form of a letter to the owner of a wind energy system that is deemed to have been abandoned. The Zoning Enforcement Officer will withdraw the Notice of Abandonment if the owner provides information within 30 days from the date of the Notice that causes the Zoning Enforcement Officer to determine that the wind energy system has not been abandoned.

2. The owner of a wind energy system must provide the Zoning Enforcement Officer with a written Notice of Termination of Operations if the operation of a wind energy system is terminated.

3. Within 3 months of receipt of Notice of Abandonment or within 6 months of providing Notice of Termination of Operations, the owner of a wind energy system must:

a. remove all wind turbines, aboveground improvements, and outdoor storage;

b. remove all foundations, pads, and underground electrical wires to a depth of 4 feet below the surface of the ground; and

c. remove all hazardous material as defined by NYSDEC from the property and dispose of the hazardous material in accordance with federal and state law.

d. all disturbed areas will be decompacted and the topsoil will be replaced to original depth reestablishing original contours where possible.

585.7 Special Use Permit or Zoning Permit Requirements.

In addition to those criteria set forth under other Sections of this Zoning Ordinance, the Town shall consider the following factors when setting conditions upon Special Use Permits or site plans issued for all wind energy systems and may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense:

1. Proposed ingress and egress.
2. Proximity to transmission lines to link the system to the electric power grid.
3. Number of wind towers and their location.
4. Nature of land use on adjacent and nearby properties.
5. Location of other wind energy systems in the surrounding area.
6. Surrounding topography.
7. Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
8. Design characteristics that may reduce or eliminate visual obtrusiveness.
9. Possible adverse effects on migratory birds, and other animals and wildlife.

10. Possible adverse effects of stray voltage, interference with broadcast signals, shadow flicker, and noise.

11. Impact on the orderly development, property values, and aesthetic conditions.

12. Possible adverse effects on groundwater quality or quantity.

13. Recommendations of the Town Board.

14. Any other factors that are relevant to the proposed system.

585.8 Standards.

1. Location.

a. A wind energy system may only be located in areas that are zoned Residential- Agricultural (R & A) and Industrial (I).

2. Set Backs. Each wind tower in a wind energy system must be set back twice the height of each wind tower (as measured from the center of the base of the tower):

a. from any State Forest, public park, or any other area that has been set aside for the sole purpose of preserving a unique wildlife habitat or natural formation recognized by a State, Federal or local government.

b. from important bird areas.

c. from the property line of the parcel on which the wind tower is located.

d. from any residence or building that is on any parcel.

e. from any public building that is on any parcel.

f. from the right-of-way of any public road.

585.9 Spacing and Density.

A wind tower must be separated from any other wind tower by a minimum distance equal to twice the height of the wind tower and by a sufficient distance so that the wind tower does not interfere with the other wind tower.

585.10 Structure.

A wind tower must be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

585.11 Height.

The total height of a wind energy system shall not exceed 175 feet. Other maximum building/ structure height restrictions within other sections of this Zoning Ordinance are not applicable.

585.12 Clearance.

The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 30 feet.

585.13 Access And Safety.

1. Security. A wind tower, including any climbing aids, must be secured against unauthorized access by means of a locked barrier. A security fence may be required.

2. Climbing Aids. Monopole wind towers shall have all climbing aids and any platforms locked and wholly inside the tower.

3. Operational Safety. Wind towers shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

4. Lightning. All wind towers shall provide a continuous electrical path to the ground to protect the tower from lightning.

5. Access Roads. All wind energy systems shall use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.

585.14 Electrical Wires.

1. Location. All electrical wires associated with a wind energy system must be located underground and must be located in a manner that does not interfere with reasonably expected farm practices (see also Construction section under Agricultural Mitigation).

2. Transmission Lines. All wind energy systems shall combine transmission lines and points of connection to local distribution lines.

3. Substations. All wind energy systems shall connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.

585.15 Lighting. A wind tower and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA), other governmental agency, recognized safety guidelines (i.e. Mercy Flight), or the Planning Board. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed. If more than one lighting alternative is available, the Town reserves the right to choose the least obtrusive lighting option available.

585.16 Buildings and Outdoor Storage. Any ancillary buildings and any outside storage associated with a wind energy system must, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural

setting and existing environment (i.e. in an agricultural setting accessory buildings could be designed to look like barns). Appropriate landscaping or architecture shall be provided to screen accessory structures from roads and adjacent residences.

585.17 Aesthetics.

1. Appearance, Color, and Finish. The exterior surface of any visible components of a wind energy system must be a nonreflective, neutral color.

2. Visual Impact Assessment. The applicant shall complete a Visual Environmental Assessment Form (Visual EAF - SEQR), as well as a visual impact assessment of any proposed wind energy systems or any proposed modifications to existing wind energy systems. The visual impact assessment shall include assessment of visual impact from abutting properties and streets of the tower base, guy wires, accessory buildings and any other element of the wind energy system identified by the Planning Board.

585.18 Signs. No wind tower, turbine, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. A weather resistant sign plate no greater than 2 sq. ft. in size containing the current owner or operator, emergency phone number, and current address of such owner/operator shall be located on the exterior surface of the tower or of the fence surrounding each tower and viewable by a Zoning Enforcement Officer. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

585.19 Agricultural Mitigation. The following shall apply to construction areas for wind energy systems located in County-adopted, State-certified Agricultural Districts. The applicant is required to coordinate with the New York State Department of Agriculture and Markets (Ag. and Markets) to develop an appropriate schedule for milestone inspections to assure that the goals are being met. When required by the town, the applicant shall hire an Environmental Monitor to oversee the construction and restoration in agricultural fields. The person or company hired as an Environmental Monitor shall be approved by the Town and paid by the applicant.

1. Siting.

a. Minimize impacts to normal farming operations by locating structures along field edges where possible.

b. Locate access roads, which cross agricultural fields, along ridge tops where possible to eliminate the need for cut and fill and reduce the risk of creating drainage problems.

c. Avoid dividing larger fields into smaller fields, which are more difficult to farm, by locating access roads along the edge of agricultural fields where possible.

d. All existing drainage and erosion control structures such as diversions, ditches, and tile lines shall be avoided or appropriate measures taken to maintain the design and effectiveness of the existing structures. Any structures disturbed during construction shall be

repaired to as close to original condition as possible, as soon as possible, unless such structures are to be eliminated based on a new design.

2. Construction.

a. The surface of access roads constructed through agricultural fields shall be level with the adjacent field surface.

b. Where necessary, culverts and waterbars shall be installed to maintain natural drainage patterns.

c. All topsoil must be stripped from agricultural areas used for vehicle and equipment traffic and parking. All vehicle and equipment traffic and parking shall be limited to the access road and/or designated work areas such as tower sites and laydown areas. No vehicles or equipment will be allowed outside the work area without prior approval from the landowner and, when applicable, the Environmental Monitor.

d. Topsoil from work areas (tower sites, parking areas, "open-cut" electric cable trenches, along access roads) shall be stockpiled separate from other excavated material (rock and/or subsoil). At least 50 feet of temporary workspace is needed along "open-cut" electric cable trenches for proper topsoil segregation. Topsoil stockpile areas shall be clearly designated in the field and on the on-site "working set" of construction drawings. Stockpiles will be located far enough from access roads and work areas to eliminate the possibility of vehicles inadvertently compacting this soil.

e. In cropland, hayland and improved pasture a minimum depth of 48 inches of cover will be required for all buried electric wires. In unimproved grazing areas and land permanently devoted to pasture, a minimum depth of thirty-six inches of cover will be required. In areas where the depth of soil over bedrock ranges from zero to forty-eight inches 48, the electric wires shall be buried entirely below the top of the bedrock or at the depth specified for the particular land use whichever is less. At no time will the depth of cover be less than 24 inches below the soil surface.

f. All excess subsoil and rock shall be removed from the site. On site disposal of such material may be allowed if approved by the landowner and, when applicable, the Environmental Monitor, with appropriate consideration given to any possible agricultural or environmental impacts.*

g. In pasture areas, work areas will be fenced to prevent livestock access, consistent with landowner agreements.

h. All pieces of wire, bolts, and other unused metal objects will be picked up and properly disposed of as soon as practical after the unloading and packing of turbine components so that these objects will not be mixed with any topsoil.*

i. Travel of all heavy equipment (including concrete trucks and erection cranes) will be limited to designated access roads and gravel crane pads at all times.

j. Excess concrete will not be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.*

*Any permits necessary for disposal under local, State and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.

3. Restoration.

a. Restoration scheduling will be consistent with the seasonal limitations identified by Ag. and Markets and will be incorporated into the project's Agricultural District Notice of Intent (if applicable) as well as the Stormwater Management Plan (General Permit).

b. Following construction, all disturbed agricultural areas will be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement. Following decompaction, all rocks four (4) inches and larger in size will be removed from the surface of the subsoil prior to replacement of the topsoil. The topsoil will be replaced to original depth and the original contours will be reestablished where possible. All rocks four (4) inches and larger shall be removed from the surface of the topsoil. Subsoil decompaction and topsoil replacement should be avoided after October 1st, unless approved on a site-specific basis by the landowner in consultation with Ag. and Markets. All parties involved should be cognizant that areas restored after October 1st may not obtain sufficient growth to prevent erosion over the winter months. If areas are to be restored after October 1st, some provision should be made to restore any eroded areas in the springtime, to establish proper growth.

c. All access roads will be regraded to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the design.

d. All restored agricultural areas shall be seeded with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.

e. All surface or subsurface drainage structures damaged during construction shall be repaired to as close to preconstruction conditions as possible, unless said structures are to be removed as part of the project design.

f. Following restoration, all construction debris will be removed from the site.

3. Two Year Monitoring and Remediation.

a. The applicant will provide a monitoring and remediation period of no less than two years immediately following the completion of initial restoration. The two year period allows for the effects of climatic cycles such as frost action, precipitation and growing seasons to occur, from which various monitoring determinations can be made. The monitoring and remediation phase will be used to identify any remaining agricultural impacts associated

with construction that are in need of mitigation and to implement the follow-up restoration. The Applicant will provide to the Town all testing, data and reports necessary to document compliance with subsections (a) through (e) herein.

b. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed fences, etc. Impacts will be identified through on site monitoring of all agricultural areas impacted by construction and through contact with respective farmland operators and Ag. and Markets.

c. Topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the affected site. Excessive amounts of rock and oversized stone material will be determined by a visual inspection of disturbed areas as compared to portions of the same field located outside the construction area. All excess rocks and large stones will be removed and disposed of by the applicant.

d. When the subsequent crop productivity within affected areas is less than that of the adjacent unaffected agricultural land, the applicant as well as other appropriate parties, will help to determine the appropriate rehabilitation measures to be implemented. Because conditions which require remediation may not be noticeable at, or shortly after, the completion of construction, the signing of a release form prior to the end of the remediation period will not obviate the applicant's responsibility to fully redress all project impacts.

e. Subsoil compaction shall be tested using an appropriate soil penetrometer or other soil compaction measuring device. Compaction tests will be made for each soil type identified on the affected agricultural fields. The subsoil compaction test results within the affected area will be compared with those of the adjacent unaffected portion of the farm field/soil unit. Where representative subsoil density of the affected area exceeds the representative subsoil density of the unaffected areas, additional shattering of the soil profile will be performed using the appropriate equipment. Deep shattering will be applied during periods of relatively low soil moisture to ensure the desired mitigation and to prevent additional subsoil compaction. Oversized stone/rock material which is uplifted to the surface as a result of the deep shattering will be removed.

585.20 Noise. Audible noise due to the operation of any part of a wind energy system shall not exceed 50 decibels (dBA) for any period of time, when measured at any residence, school, hospital, church, public park, public library or place of public assembly.

585.21 Insurance. Prior to issuance of a building permit, the applicant shall provide the Town proof of a level of insurance to be determined by the Town Board in consultation with the Town's insurer and Attorney, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.

585.22 Severability. The provisions of this section are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Zoning Ordinance shall not affect the validity or effectiveness of the remainder of the Zoning Ordinance.

ARTICLE II. AMENDMENT OF SECTION 421

The Town of Oakfield Zoning Ordinance is hereby amended to add a new Subsection (C) to Section 421, to read as follows:

C. Uses with Permit or Special Use Permit

1. Non-commercial Wind Energy Systems with either a permit or a special use permit as respectively required in Section 585.5.

ARTICLE III. AMENDMENT OF SECTION 424

The Town of Oakfield Zoning Ordinance is hereby amended to add a new Subsection (D) to Section 424, to read as follows:

D. Uses with Permit or Special Use Permit

1. Non-commercial Wind Energy Systems with either a permit or a special use permit as respectively required in Section 585.5.

ARTICLE IV. EFFECTIVE DATE

This Ordinance shall take effect ten (10) days after publication of a Notice of Enactment of the same in accordance with Law.

Solar Energy Facilities – Recommended Zoning

I. Purpose and Intent

The purpose of this chapter is to facilitate the development and operation of renewable energy systems based on sunlight, because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this chapter, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare.

II. Definitions

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS – A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

COLLECTIVE SOLAR – Solar installations owned collectively through subdivision homeowner association, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM – A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

MAJOR SOLAR COLLECTION SYSTEM OR MAJOR SYSTEM – An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Facility consists of one or more ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Major solar collection systems are defined as systems with a total surface area greater than 2000 square feet.

MINOR SOLAR COLLECTION SYSTEM OR MINOR SYSTEM – A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat, accessory to the use of the premises for other lawful purposes. Minor solar collection systems are defined as roof- or building-mounted solar collectors greater than 60 square feet on any code-compliant structure, and ground-mounted solar collectors with the total surface area greater than 60 square feet and less than 2000 square feet.

NET-METERING – A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

PERMIT GRANTING AUTHORITY – The Town authority charged with granting permits for the operation of solar energy systems.

PHOTOVOLTAIC (PV) SYSTEMS – A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity whenever light strikes them.

INSTALLER – A person who performs installations in accordance with applicable electrical and building codes, the manufacturer's installation instruction, and prior to operation, the electrical connections must be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SOLAR ACCESS – Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual proprietaries.

SOLAR COLLECTOR – A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT - An easement recorded pursuant to NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT / SYSTEM – Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other material, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and then distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL – A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY – A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS – Solar thermal systems which directly heat water or other fluid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

III. Standards for Minor Solar Collection Systems

A. APPLICABILITY

1. The requirements of this Section shall apply to all Minor solar energy systems (residential, commercial, multi-family and condominium) modified or installed after the effective date of this Section.
2. Solar energy systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of this section except in accordance with PERMITTING and SAFETY paragraphs:
3. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards.
4. Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit "collective solar" installation or the sale of excess power through a "net billing" or "net-metering" arrangement in accordance with New York Public Service law § 66-j or similar state or federal statute.

B. PERMITTING

1. Rooftop and Building-Mounted Solar Collectors: Rooftop and building mounted solar collectors are permitted in all zoning districts in the Town subject to the following:
 - a. Building permits shall be required for installation of all rooftop and building-mounted solar collectors.
 - b. Any height limitations of the Town Code shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - c. Placement of solar collectors on flat roofs shall be allowed as of right in non-historic districts, provided that panels do not extend horizontally past the roof line.
2. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted outright in all zoning districts.
3. Ground-Mounted and Free Standing Solar Collectors: Ground-mounted and free standing solar collectors are permitted as accessory structures in all zoning districts of the Town, subject to the following conditions:

- a. Building permits are required for the installation of all ground-mounted solar collectors.
- b. The location of the solar collector meets all applicable setback requirements for accessory structures in the zoning district in which it is located.
- c. The height of the solar collector and any mounts shall not exceed [20] feet when oriented at maximum tilt.
- d. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
- e. Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
- f. The total surface area of all solar collectors on the lot shall not exceed 2000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed the maximum lot coverage for the zoning district plus ten (10) percent.

4. Solar-Thermal Systems: Solar-thermal systems are permitted in all zoning districts subject to the following condition: Building permits are required for the installation of all solar-thermal systems.

5. Solar energy systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:

- a. Weight load
- b. Wind resistance
- c. Ingress or egress in the event of fire or other emergency.

6. Installations in designated historic districts shall require a certificate of appropriateness from the Town's Historical Society unless such installations are not visible from the street.

C. SAFETY

1. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
2. Solar energy systems shall be maintained in good working order.
3. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
4. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State

Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.

5. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.

IV. Standards for Major Solar Collection Systems

A. Where applicable, and unless more restrictive regulations apply, the standards for minor systems shall apply to solar collectors and installation for major systems.

B. A major system may be permitted in the areas which are Industrial Zoned only. All major systems require a special use permit from the Planning Board subject to the terms and conditions listed below.

1. Height and setback restrictions

- a. The maximum height for ground-mounted solar panels located on the ground or attached to a framework located on the ground shall not exceed 20 feet in height above the ground.
- b. The minimum side yard and rear setback shall be 25 feet; the minimum front yard setback shall be 50 feet. The minimum setback to an inhabited structure on an adjacent lot shall be 50 feet.
- c. Based on site specific conditions, including topography, adjacent structures, and roadways, a landscaped buffer may, at the discretion of the Planning Board and/or Zoning Enforcement Officer, be required around all equipment and solar collectors to provide screening from adjacent residential properties and road but shall not result in shading solar collectors.

2. Design standards

- a. Removal of trees and other existing vegetation shall be minimized, and offset with planting elsewhere on the property if the proposed vegetation does not shade solar collectors.
- b. Roadways within the site shall be constructed to Town standards and of materials appropriate to the site and shall be designed to minimize the extent of roadways constructed and soil compaction.
- c. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- d. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
- e. All electrical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high perimeter fence topped with an additional outward-facing fencing section at the top. Enclosure shall include a self-locking gate and be provided with landscape screening.

- f. A major solar collection system to be connected to the utility grid shall provide documentation from the utility company acknowledging the major solar collection system will be connected to the utility grid in order to sell electricity to the public utility.

3. Signs

- a. A sign not to exceed eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
- b. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- c. Solar collection systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system.

4. Areas of Potential Sensitivity shall be shown on site plans and shall be given special consideration. Those areas consist of the following.

- a. One-hundred-year flood hazard zones considered an A or AE Zone on the FEMA Flood Maps.
- b. Historic and/or culturally significant resources in an historic district or historic district transition zone.
- c. Within 100 feet landward of a freshwater wetland.
- d. Adjacent to, or within, the control zone of any airport.
- e. State owned lands.
- f. Unique Natural Areas
- g. Properties with Conservation Easements or owned by a land conservation organization.
- h. Public trails
- i. Productive farmland and/or Prime Soils and Soils of Statewide Importance, as defined by United States Department of Agriculture.

5. Property Operation and Maintenance Plan. A property operation and maintenance plan is required, describing continuing solar collection system maintenance and property upkeep, such as mowing and trimming.

6. Abandonment

- a. All applications for a major solar collection system shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.
- b. In the event the facility is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fail to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.

c. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

- i. Removal of aboveground and below-ground equipment, structures and foundations.
- ii. Restoration of the surface grade and soil after removal of equipment.
- iii. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- iv. The plan shall include a time frame for the completion of site restoration work.

Plans shall include an estimated cost schedule and a decommissioning security in the form of bonds to guarantee the availability of funds for the system removal. The bond amount equals the decommissioning and reclamation costs for the entire system. The bond must remain valid until the decommissioning obligations have been met. Therefore, the bond must be renewed or replaced if necessary to account for any changes in the total decommissioning cost. A licensed professional engineer, shall estimate decommissioning cost of the system. The cost schedule shall take into account a reasonable rate of inflation.

d. Upon cessation of activity of a constructed facility for a period of one year, the owner and/or operator shall implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the decommissioning plan.

