

# Village of Oakfield Zoning Laws



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September 14<sup>th</sup>, 2015**

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**ARTICLE I**  
**ENACTING CLAUSE, TITLE, PURPOSES, APPLICATION AND DEFINITIONS**

**SECTION 101**            **ENACTING CLAUSE**

Pursuant to the authority conferred by Article 7 of the Village Law of the State of New York, the Village Board of the Village of Oakfield hereby adopts and enacts as follows.

**SECTION 102**            **TITLE**

This Local Law shall be known as the "Zoning Law of the Village of Oakfield".

**SECTION 103**            **PURPOSES**

The purposes of this Zoning Law and zoning districts as outlined on the zoning map are to provide for orderly growth and development, to lessen congestion in streets, to secure safety from fire, flood and other dangers, to provide adequate light and air, to prevent overcrowding, to avoid undue concentration of population, to conserve, enhance and perpetuate special historic sites, places and buildings, to facilitate the adequate provision of transportation, sewer, sewerage, schools, parks and other public requirements, and to promote the health, safety, morals or general welfare of the public.

The Zoning Law has been made with reasonable consideration, among other things, to the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land.

**SECTION 104**            **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 Local Law, with the exception of the performance of necessary repairs which do not involve material alteration of structural features, and/or plumbing, electrical or heating/ventilation systems. Such necessary repairs shall include, for example, the replacement of siding and roofing materials. No building, structure 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 tends to its disturbance, inconvenience, discomfort or annoyance.

In interpreting and applying this Local Law, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals and general welfare. This Local Law shall not be deemed to affect in any

manner whatsoever any easements, covenants or other agreements between parties provided, however, that where this Local Law imposes a greater restriction upon the use of buildings or land, or upon the creation, erection, construction, establishment, moving, alterations or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, or covenants, or agreements, then the provisions of this Local Law shall prevail.

This Local Law shall not apply to uses which were legal, prior, existing, nonconforming uses as defined herein.

Nothing herein contained shall require any change in plans or construction of a building for which a building permit has been issued.

All buildings under construction at the time this Local Law is adopted shall conform to the Zoning Ordinance in effect at the time construction was commenced.

### **SECTION 105**      **VALIDITY**

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court to be invalid, or void, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

### **SECTION 106**      **NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

No provision of this Local Law shall be construed to repeal, modify or constitute an alternative to the New York State Uniform Fire Prevention and Building Code (hereafter referred to as the Uniform Code). Village residents and other individuals using these zoning regulations should make sure they refer to the Uniform Code in order to determine its' applicability to their specific project.

### **SECTION 107**      **DEFINITIONS**

Except where specifically defined herein, all words used in this Zoning Law shall carry their customary meanings. Words used in the present tense shall include the future tense and the plural includes the singular; the word "lot" includes the word "plot", the word "buildings" includes the word "structure", the word "shall" is always mandatory; the words "occupied" or "used" shall be construed to mean and shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied".

The following terms are specifically defined. As used in this Zoning Law the following words shall have these meanings:

Accessory Apartment: A dwelling unit that has been added on to, or created within, an owner occupied one family dwelling.

Accessory Use: Use of buildings customarily incidental and subordinate to the principal use or buildings, and located on the same lot.

Adult Care: The provision of temporary or long term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed or operated pursuant to Article 28 of the Public Health Law or Articles 19, 23, 29, and 31 of the Mental Hygiene Law, are, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently.

Adult Care Facility: A facility other than a Family Type Home, which provides adult care. For the purposes of this Zoning Law an Adult Care Facility shall include the following: adult home, enriched housing program, residence for adults, shelter for adults, public home and private proprietary adult-care facility as defined by NYS Department of Social Services Chapter II, Subchapter D, Part 485.

Alley: Narrow supplementary thoroughfare for the public use of vehicles or pedestrians, affording access to abutting property.

Alteration: Structural change, rearrangement, change of location, addition to, or deletions from a building, other than repair and modification in building equipment systems (i.e. heating, cooling, electrical, etc.).

Animal Kennel: Building used for the housing, grooming, breeding, or training of 3 or more domestic animals, including dogs and cats, that operates for commercial purposes. This definition does not include Animal Shelters.

Arcade: Any establishment having three (3) or more video or pinball games.

Area Variance: The authorization by the Zoning Board of Appeals to grant variances from the area or dimensional requirements of this Zoning Law.

Bio Remediation: The use of a bio remediation process for the treatment of petroleum contaminated soils.

Board of Zoning Appeals: That board appointed by the Village Board, specifically to hear all appeals as provided by these regulations and other duties specifically set forth in this Local Law or as assigned to it by the Village Board.

Boarding House: Owner-occupied dwelling wherein more than two people are sheltered for profit.

Buffer Zone: A continuous strip of trees and/or shrubs not less than fifteen (15) 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. This requirement may be modified by the Planning Board through the site plan review process.

Building: A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

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

Building, Front Line Of: The line of that face of the building nearest the street line, or if there are street lines on two or more sides of the building, it is the line of that face of the building frontage on that street line where the principal entrance is located. This face includes covered porches whether enclosed or unenclosed, but does not include steps.

Building, Height Of: 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.

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 six months. All other buildings or structures shall be deemed and considered as permanent for the purposes of this Local Law.

Certificate of Compliance: A certificate issued by the zoning officer upon completion of construction, alteration or change in occupancy or use of a building or land. Said certificate shall acknowledge compliance with all the requirements of this Zoning Law only and such adjustment thereto granted by the Board of Appeals and/or the Planning Board.

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

Child Day Care: Shall mean care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, stepparent, guardian or relative within the third degree of consanguinity of the parents or stepparents of such child.

Child day care does not refer to care provided in:

- (1) A summer day camp, traveling summer day camp or children's overnight camp as defined in the State Sanitary Code;
- (2) A program for school-age children operated solely for the purpose of religious education, sports, classes, lessons or recreation;
- (3) A facility providing day services under an operating certificate issued by the department;
- (4) A facility providing day treatment under an operating certificate issued by the Office of Mental Health or by the Office of Mental Retardation and Developmental Disabilities; or
- (5) A kindergarten, pre-kindergarten or nursery school for children three years of age or older, or a program for school-age children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such kindergarten, pre-kindergarten, nursery school or program is located on the premises or campus where the elementary or secondary education is provided.

Child Day Care Center: Shall mean a program or facility in which child day care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise, except those programs operating as a group family day care home, a family day care home, or school-age child care program, as defined in this Section.

Commercial Communication Tower: A structure, including one or more antennas, that is intended for transmitting and/or receiving radio, television, telephone or microwave communications but excluding those used either for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar communications.

Commercial School: Commercially operated schools such as providing education and/or instruction (see also definition of “School”) including, but not limited to driving schools, beauty schools, dance studios, cooking lessons, music lessons, martial arts academy, pre-school programs, aerobic classes, trade schools and learning/tutorial centers.

Community Center: Any meeting hall, place of assembly, museum, art gallery or library, not operated primarily for profit.

Community Residence: A supervised community home operated in compliance with the New York State Mental Hygiene Law which houses not more than fourteen (14) individuals and provides client supervision on a 24-hour basis. For the purposes of this Local Law an approved community residence as defined herein is considered a one-family dwelling.

Contractor's Yard: Businesses engaged in construction of buildings and structures, remodeling and repairs to existing buildings and structures, electrical services, plumbing services, excavation and grading services, roofing and siding services, masonry services, paving services, well drilling, sewage disposal system installation and services, and other similar services.

Convalescent Home, Nursing Home or Extended Care Facility: See Hospital.

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

Development: Any man-made change to improve or unimproved real estate, including, but not limited to, buildings or other structures, utilities, mining, dredging, filling, grading, paving, excavation, or drilling operations, which would lead to increased flood damage, excluding normal maintenance to farm roads.

Disposal Transfer Station: A solid waste management facility, other than a recyclables handling and recovery facility exclusively handling non-putrescible recyclables, that can have a combination of structures, machinery, or devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

Domestic Animal: Animals commonly kept as household pets including, but not limited to: dogs, cats, caged birds, rabbits, guinea pigs, non-poisonous snakes, fish, turtles, frogs, mice, and ferrets. Species of animals that are considered harmful or poisonous to humans shall not be considered domestic animals for the purposes of this Zoning Law. Questions as to whether any specific animal will be considered a “domestic animal” will be decided by the Village Zoning Board of Appeals as provided for in Section 207 of this Zoning Law.

Drive-In Service: Building or use where a product is sold to, or a service performed for customers while they are in or near their motor vehicle including, but not limited to, fast food restaurants, drive-up bank tellers, film processing service booths, etc.

Dwelling: A detached building 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 home, recreation vehicle, 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.

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 and recognized by the appropriate educational authorities.

Factory - Manufactured Home (Modular Home): A factory-manufactured home incorporates structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site. Such home shall be constructed and installed in accordance with the requirements of Subchapter B of the State Fire Prevention and Building Code and shall bear an Insignia of Approval issued by the State Fire Prevention and Building Code Council. Factory-manufactured homes shall be deemed to be one or two-family or multiple dwellings.

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.

Family Day Care Home: Shall mean a family home that is a personal residence and occupied as a family residence which provides child day care on a regular basis for more than three (3) hours per day per child for three (3) to six (6) children for compensation or otherwise, as provided for and registered by the NYS Department of State. The name, description or form of the entity that operates a family day care home does not affect its status as a family day care home. For the purposes of this Zoning Law, a family day care home shall be considered an accessory use to a one (1) family dwelling and shall not require a zoning permit unless the building is being altered

Family-Type Home: Adult care operated and provided for the purpose of providing long-term residential care, room, board and personal care, and/or supervision to four (4) or fewer adult persons unrelated to the operator. For the purposes of this Zoning Law a family-type home shall be considered a home occupation.

Farm Animal: Animals other than those customarily kept as domestic household pets.

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 or cellar floor areas and not devoted to habitable use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Floor, Lowest: Lowest level including basement, cellar, crawl space, or garage of lowest enclosed area.

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

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 herein nor space therein for more than one car is leased to a nonresident 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 building or land or any part thereof used for sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing vehicles, but not including painting or body repairs.

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

Group Family Day Care Home: Shall mean a family home that is a personal residence and occupied as a family residence which provides child day care on a regular basis for more than three (3) hours per day per child for seven (7) to twelve (12) children for compensation or otherwise, as provided for and registered by the NYS Department of State. The name, description or form of the entity that operates a group family day care home does not affect its status as a group family day care home. For the purposes of this Zoning Law, a group family day care home shall be considered an accessory use to a one (1) family dwelling and shall not require a zoning permit unless the building is being altered.

Habitable Floor Area: 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 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 is carried on wholly within the principal building or within a building or other structure accessory thereto.

(2) No more than one (1) person outside the immediate family is employed in the home occupation.

(3) There is no exterior display, no freestanding sign, no attached exterior sign that is larger than two (2) square feet, no exterior storage of materials and no exterior indication of the home occupation or variations of the residential character of the principal building.

(4) No offensive noise, vibration, smoke, dust, odors, heat, or glare is produced, nor does the home occupation 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 explosion or other physical hazard to any person, building or vegetation.

c. Radiation or interference 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 manner as to constitute a public nuisance.

(5) Adequate parking is provided as set forth in Section 501.

In particular, a home occupation may include, but is not limited to, the following: art studio, barber shop and beauty parlors (when limited to two work stations), cook, day nursing, draftsman, dress maker, electrical/radio/television repair, family-type home, laundering, musician, photographer, professional office of a physician, dentist, lawyer, engineer, architect or accountant, upholsterer, teaching or tutoring or real estate offices, within a dwelling occupied by the same.

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.

Garage sales, yard sales and other similar sales conducted for cumulative total of more than 15 days, either consecutive or non-consecutive, within a calendar year, shall be considered a home occupation.

Hospital: Hospital, sanitarium, clinic, rest home, nursing home, convalescent home, home for aged, and any place for diagnosis and treatment of human ailments, except a doctor's office.

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

Hotel/Motel: 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 may be provided within the building or in an accessory building.

Junk: Shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, scrapped, ruined, dismantled or wrecked motor vehicles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material, tires, lumber, pallets and other wood debris.

Junkyard: Outside storage or deposit, whether in connection with another business or not, where one (1) or more unregistered, old, or secondhand vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts there from, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles and/or material defined as junk by this Zoning Law which, taken together equal in volume one hundred (100) cubic feet. A junkyard shall include any land or structure used for collecting, storage, sale or disposal of junk, scrap metal, or other discarded materials. Not included is a single motor vehicle intended, maintained and used on a seasonal basis (i.e., motorcycles and winter or summer cars) provided such vehicle is intact and has a NYS Motor Vehicle Inspection sticker which was issued within the previous 12 months or a recreational car (i.e., a race car), provided such vehicle is stored in other than the front yard.

Laundromat: A business premise 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.

Light Industrial: The processing, fabrication, assembly or packaging of previously prepared or refined materials and/or service, repair or refinishing applications which do not involve the use of high hazard (see NYS Uniform Code Section 703.4) materials or processes, or result in the generation of noxious or annoying fumes, odors, noise or other disturbances.

Lot: Land occupied or which may be occupied by a building and its accessory uses, together with required open space, having not less than minimum area, width and depth required for a lot in the district in which such land is situated; and having frontage on a street, or other means of access as may be determined by the Planning Board to be adequate as a condition for issuance of a zoning permit.

Lot Area: Total area within property lines.

Lot Corner: A lot located at the junction of and fronting on two or more intersecting streets (Also see definition "Lot Line Front").

Lot Depth: Mean horizontal distance from street right-of-way line of the lot to its opposite rear line measured at right angles to building line.

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 right-of-way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.

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 and 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 structure, whether occupied or not, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. For the purpose of this Local Law, an unoccupied mobile home shall be considered the same as an occupied unit.

Mobile Home Park: A parcel 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.

Motel: See "Hotel".

Motor Vehicle Repair Shop: Any building or structure used for the repair or servicing of motor vehicles or small gas-powered engines for profit or as a part of a commercial operation.

Nonconforming Use: A use of a building or of land that does not conform to the regulations as to use and area in the district in which it is situated, which was lawful under any applicable preceding ordinances or laws at the time the use was established, or if established before 1964 was lawful before such date and in either event has not been extended after becoming a nonconforming use or otherwise been rendered an illegal use pursuant to provisions of any prior law or ordinance.

Nursing Home or Convalescent Home: See "Hospital".

Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

Outdoor Solid Fuel Burning Device: A solid fuel burning device designed and intended for installation outside of the primary building on a lot, and used to produce heat for transfer to the primary or accessory building(s) on such lot.

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, and having direct usable access to a street.

Pond: A body of water (other than a swimming pool or landscaping pond) created through construction or other similar method, having a depth of two (2) or more feet. A small pond used for landscaping having a depth not exceeding 28 inches and a surface not exceeding 150 square feet, shall not require a zoning permit.

Professional Office: An office used by a duly New York State licensed/registered architect, attorney, dentist, certified counselor, certified public accountant (CPA), chiropractor, engineer, insurance broker or salesman, message therapist, optometrist, physician or surgeon, physical therapist, psychologist, real estate broker or salesperson, surveyor, teacher or veterinarian.

Recreation, Indoor: Includes, but is not limited to, bowling alley, theater, table tennis, and pool hall, skating rink, gymnasium, swimming pool, hobby workshop, arcade, and similar places of indoor recreation.

Recreation, Outdoor: Includes, but is not limited to, golf courses, golf driving range, trap, skeet, and archery range, swimming pool, skating rink, riding stable, tennis court, recreation stadium, skiing facility, hunting preserve, and similar places of outdoor recreation.

Recreation Vehicle: A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreation, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recyclables Handling and Recovery Facility: A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

Religious Institution: Church, temple, parish house, convent, seminary and retreat house.

Retail Store/Service: Enclosed store for sale of retail goods and services including, but not limited to, the following: barber, beauty, dry clean, personal service shop, department store and restaurant/tavern. Retail store/service shall not be interpreted to include the following: drive-up service, freestanding retail stand, gasoline station, gasoline station-market, motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

School: Parochial, private and public school, college, university and accessory uses operated under the Education Law of the State of New York and recognized by the appropriate educational authorities; and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishment.

School-age Child Care Program: Shall mean a program or facility providing school-age child care (care provided on a regular basis to more than six school-age children under 13 years of age or who are incapable of caring for themselves) during the school year to an enrolled group of children before and/or after the period children enrolled in such program are ordinarily in school or during school lunch periods and may also include such care during school holidays and those periods of year when school is not in session, including summer vacation.

Self-Service Storage Facility: A building or group of buildings divided into separate units or compartments used to meet the temporary storage needs of businesses and residential users. A warehouse operated for a specific commercial or industrial establishment shall not be considered a self storage facility.

Sign: Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any persons or business or cause when such is placed in view of the general public.

(1) Awning Sign: Any visual message incorporated into an awning attached to a building.

(2) Copy-Change Sign: A sign on which the visual message may be periodically changed.

(3) Directional Sign: A sign limited to providing information on the location of an activity, business or event.

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

(5) Illuminated Sign: Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

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

(7) Portable Sign: A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

(8) Projecting Sign: A sign which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

(9) Representational Sign: A three-dimensional sign built so as to physically represent the object advertised.

(10) Temporary Sign: A sign related to a single activity or event having a duration of no more than thirty (30) days.

(11) Wall Sign: A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

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

Sign Directory: A listing of two or more business enterprises, consisting of a matrix and sign components.

Sign Structure: The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any two of the sides or the projections thereof exceeds thirty (30) degrees, each side shall be considered a separate sign structure.

Sign Surface Area: The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display.

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 bearings and any other information deemed necessary by the Planning Board.

Specially Permitted Use: A specifically designated use that would not be appropriate generally without restriction in a zoning district, but which, if controlled as to number, area, location, relation to the neighborhood, or otherwise, in the opinion of the Planning Board, promotes the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity and/or the general welfare. Special Use Permits are approved by the Planning Board and then issued by the Zoning Enforcement Officer once the conditions or other requirements are met and necessary fees paid.

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: Public way for vehicular traffic which affords principal means of access to abutting properties.

Street Line: Right-of-way line of a street as dedicated by a deed of record. If no such deed exists, then by any other record establishing such right-of-way line of a street.

Structure: A combination of materials to form a construction for use, occupancy or ornamentation, including, but not limited to, buildings, mobile homes, towers, wind energy conservation systems (WECS), antennas, satellite dishes, or gas or liquid storage tanks, that are principally above ground.

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

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Swimming Pool: A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials, provided with a re-circulating and/or controlled water supply, of one thousand (1,000) gallons or more and a depth of greater than two (2) feet.

Temporary Use: An activity conducted for a specified limited period of time that may not otherwise be permitted by the provisions of this Zoning Law. Examples of such uses are buildings incidental to new construction that are removed after the completion of the construction work. Temporary Use Permits are approved by the Planning Board and then issued by the Zoning Enforcement Officer once the conditions or other requirements are met and necessary fees paid.

Tourist Home: Owner-occupied dwelling in which overnight accommodation, with or without meals, is provided for transient guests for profit. Term includes "bed and breakfast" establishments.

Trailer: Any vehicle which may be towed and used for carrying or storing goods, equipment, machinery, construction materials, snowmobiles, boats, all terrain cycles (ATC), motor vehicles or as a site office.

Use Variance: The authorization by the Zoning Board of Appeals for use of land for a purpose which otherwise would not be allowed or would be prohibited by this Zoning Law.

Utility, Public: Any person, firm, corporation or governmental subdivision, duly authorized to furnish to the public, under public regulation, electricity, gas, water, sanitary sewers, storm sewers, steam, telephone, telegraph or cable television.

Veterinary Facility: Any structure or premises in which animals are kept, boarded, bred or trained for commercial gain.

Yard: An unoccupied space, open to the sky, on the same lot with the building and structure.

Yard, Front: An open unoccupied space on the same lot with the building, situated between the front line of the building and the street line and extending the full width of the lot.

Yard, Rear: The area of the lot extending across the entire rear of the lot, bounded by the real property lot line and the rear building line and between the two side lot lines.

Yard, Side: The area between the side building line and the related side lot line and between the front yard and the rear yard.

## **ARTICLE II**

### **ADMINISTRATION**

#### **SECTION 201**      **ENFORCEMENT**

The duty of administering and enforcing the provisions of this Local Law is hereby conferred upon the Zoning Enforcement Officer, who shall have such powers as are conferred upon him by this Local Law and as reasonably may be implied there from. He shall be appointed by the Village Board and shall receive compensation as the Village Board shall determine. The Zoning Enforcement Officer shall have such other and further duties as may be assigned by the Village Board pursuant to this Local Law or otherwise.

#### **SECTION 202**      **DUTIES OF THE ZONING ENFORCEMENT OFFICER**

##### A.      Inspection and Review

It shall be the duty of the Zoning Enforcement Officer, or his duly authorized assistants, to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this Local Law.

The Zoning Enforcement Officer and all his duly authorized assistants shall be entitled to enter any building or premises (which includes the internal premises such as basement, etc.) for the purpose of inspection, observation, measurement, testing and records examination in performing his duties set forth in this Local Law, and for the further purpose of ascertaining whether the provisions of this Local Law are being met and all requirements are being complied with. Persons or occupants of premises to be entered shall allow the Zoning Enforcement Officer and/or his assistants ready access at all reasonable times to all parts of the premises to carry out the actions specified herein. Where any owner or occupant has security measures in force which would require proper identification and clearance before entry into their premises, the owner or occupant shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Village will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

The Zoning Enforcement Officer or any of his duly authorized assistants seeking to enter private property pursuant to the provisions of this Local Law may enter such property on the consent of the owner or occupant. In the event such consent is denied or if said Zoning Enforcement Officer or assistant determines that it is preferable to obtain a search warrant without first seeking such consent, said Zoning Enforcement Officer or assistant shall be entitled to obtain a search warrant pursuant to the applicable provisions of law from a court

of competent jurisdiction to compel the owner or occupant to permit immediate entry and inspection.

Notwithstanding the provisions contained in the immediately preceding paragraph, in the event an emergency situation exists, said Zoning Enforcement Officer and/or assistants shall be entitled to immediately enter upon any private property for the purposes set forth in this Local Law either with or without a search warrant.

B. Violations and Written Orders

Where the Zoning Enforcement Officer, in the course of his duties, determines that any plans, buildings or premises are in violation of the provisions of this Local Law, he shall order the responsible party in writing to remedy such conditions. Said written order shall comply with the provisions of this Local Law.

C. Revocation of Certificate of Compliance

On the serving of notice and failure to comply with the time limits specified in such notice by the Zoning Enforcement Officer to the owner of any violation of any of the provisions of this Local Law, any Certificate of Compliance previously issued for such buildings or use shall be held null and void. A new Certificate of Compliance shall be required for any further use of such building or premises.

D. Records

The Zoning Enforcement Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the Village Board and other officials of the Village. The records to be maintained shall include at least the following:

(1) Application File

An individual permanent file for each application for a permit provided for by this Local Law shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Planning Board and/or Zoning Board of Appeals in acting on the application if such action is required; and the date the permit applied for was issued or denied by the Zoning Enforcement Officer as well as a copy of any permit issued by the Zoning Enforcement Officer and any correspondence sent or received by the Zoning Enforcement Officer regarding such application.

(2) Monthly Report

The Zoning Enforcement Officer shall prepare a monthly report for the Village Board. Said report shall cite all actions taken by the Zoning Enforcement Officer, including all referrals made by him; all permits and certificates issued and denied; and all complaints of violations received and all violations found by him, and the action taken by him consequent thereto. A copy of this monthly report shall also be transmitted by the Zoning Enforcement Officer to the Tax Assessor, Planning Board and Board of Appeals at the same time it is transmitted to the Village Board.

**SECTION 203**      **CERTIFICATES AND PERMITS**

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Local Law.

A. Zoning Permit

The Zoning Enforcement Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building or structures or part of any

building, or the change in the use of any land or building or part thereof, where he shall determine that such plans are not in violation of the provisions of this Local Law.

B. Temporary Use Permit

Upon written direction of the Planning Board, the Zoning Enforcement Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period not to exceed twelve (12) months; such permit may be extended by the Zoning Enforcement Officer not more than once for an additional period not to exceed six (6) months.

C. Special Use Permit

Upon written direction of the Planning Board, the Zoning Enforcement Officer is hereby empowered to issue any special use permit provided for by this Local Law.

D. Certificate of Compliance

The Zoning Enforcement Officer is hereby empowered to issue a certificate of compliance which shall certify that all provisions of this Local Law have been complied with in respect to the location and use of the building, structure or premises in question.

**SECTION 204**      **APPLICATION PROCEDURES**

A. Application

Applications for zoning permits shall be accompanied by a layout sketch, drawn to scale, showing the shape and dimensions of the lot to be built upon, the size and location of all buildings or structures proposed as well as those that shall remain, the intended use of each building or structure, and any such other information with regard to the lot and neighboring lots, buildings and/or structures as the Zoning Enforcement Officer may in his discretion deem necessary to determine and provide for the enforcement of this Local Law. Applications, together, with a layout sketch shall be submitted in triplicate. The Zoning Enforcement Officer shall carefully consider the application and supporting documents for compliance with this Local Law and either issue or deny the zoning permit applied for. When the application is for any nonresidential use within the Village the Zoning Enforcement Officer shall, prior to the issuance of any permit, refer one (1) copy of such plans, drawings and statements to the Planning Board for site plan review (See Article IV).

B. Issuance of Zoning Permit

The Zoning Enforcement Officer shall issue a zoning permit only after the site plan, if required, has been approved by the Planning Board and all required variances and special use permits have been obtained.

C. Installation of Foundation

The Zoning Enforcement Officer shall be notified that the site is prepared for installation of the foundation of a structure, and shall inspect the site to check the location of the structure.

D. Initiation of Construction

If a zoning permit is not obtained by the applicant within ninety days after final approval, such approval shall be void.

E. Completion of Construction

A permit shall be void if construction is not substantially completed within a period of one year from the date of said permit. The Zoning Enforcement Officer may issue a six-month extension of a permit for good cause shown. Two such extensions of a permit will be allowed.

F. Location of Permit

The zoning permit shall be located in a place readily visible to the public during construction activities.

**SECTION 205**            **FEES FOR PERMITS, AMENDMENTS, VARIANCES, AND SPECIAL USE PERMITS**

Fees may be charged for permits issued, and processing of applications for amendments, variances, and special use permits. The fee shall be set by resolution of the Village Board and may be changed from time to time in the same manner.

**SECTION 206**            **CERTIFICATES OF COMPLIANCE**

No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of compliance has been issued by the Zoning Enforcement Officer in accordance with the provisions of this Local Law.

**SECTION 207**            **BOARD OF APPEALS**

A. Organization

The Village Board of Trustees shall appoint a five member Board of Appeals and shall designate the chairperson thereof. In the absence of a chairperson the Board of Appeals may designate a member to serve as acting chairperson. Membership and terms of office for the Board of Appeals shall be as set forth in Village Law.

B. Meetings, Minutes and Records

Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

C. Filing Requirements

Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in 5 business days in the office of the Village Clerk and shall be a public record.

D. Hearing Appeals

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, interpretation or determination made by the Zoning Enforcement Officer or other administrative official. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer, or to grant a use or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

E. Time of Appeal

Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer by filing with said official and with the Village Clerk a notice of appeal specifying the grounds thereof and the relief sought. Such notice of appeal shall be filed on forms available from the Zoning Enforcement Officer or Village Clerk. The cost of sending or publishing any notice relating to such appeal shall be born by the appealing party and shall be paid to the Village Clerk prior to the hearing of such appeal.

F. Hearing An Appeal

A public hearing shall be held by the Zoning Board of Appeals before deciding an appeal. Such public hearing shall be advertised by publication in a paper of general circulation within the Village of a notice of such hearing at least five days prior to the date thereof. When required by the provisions of Section 239 of the General Municipal Law, the Zoning Board of Appeals shall forward the application to the County Planning Board for its review.

When considering an application for a use variance, at least thirty (30) days before the date of the public hearing, unless such time limit is waived by the Planning Board, the secretary of the Zoning Board of Appeals shall transmit to the Planning Board a copy of the notice of hearing. The Planning Board shall inform the Zoning Board of Appeals in writing of its advisory opinion (including recommendations) prior to the hearing. Failure of the Planning Board to inform the Zoning Board of Appeals within the allotted time shall be deemed to signify a recommendation for approval of the application.

The Zoning Board of Appeals shall send, by regular mail, a copy of the notice of hearing to all owners of property situated within (200) feet of the property which is the subject of the application at least seven (7) days before the date of the hearing.

G. Time of Decision

The Zoning Board of Appeals shall decide upon an appeal within 62 days after the conduct of the public hearing.

H. Filing of Decision and Notice

The decision of the Zoning Board of Appeals on an appeal shall be filed in the office of the Village Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

I. Compliance With State Environmental Quality Review Act (SEQR)

The Zoning Board of Appeals shall comply with the provisions of SEQR under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of NYCRR. The SEQR process may extend the time limits set forth in this Article, specifically those set forth in Section 307.

J. Permitted Action by the Zoning Board of Appeals

1. Interpretations, Requirements, Decision and Determinations

The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determinations as in its opinion ought to have been made.

2. Use Variance

The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by this Zoning Law.

No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (d) That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### 3. Area Variances

The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances from the area or dimensional requirements of the Zoning Law.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (c) Whether the requested area variance is substantial;
- (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and
- (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### 4. Imposition of Conditions

The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

### K. Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reviewed may be made by any members of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

L. Solar Access

Pursuant to Chapter 74-2 of the Laws of 1979, the siting of houses to take best advantage of solar energy and/or the construction of residential solar equipment shall be considered in the application of the provisions of this Chapter. Upon appeal pursuant to this Section of this Local Law the Zoning Board of Appeals shall consider the specific conditions of the case and may make provisions for, so far as conditions permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof when hearing a request for an area variance.

**SECTION 208**            **PLANNING BOARD**

A. Organization

The Planning Board shall consist of five members including a chairman and a deputy chairman all of whom shall be appointed by the Mayor subject to the approval of the Village Board whose term shall be governed by the applicable provisions of New York Village Law. If the Mayor fails to designate a chairman, the Planning Board may then itself select one.

B. Powers and Duties

1. Site Plan Review

Review of site plans as set forth in NYS Village Law Section 7-725-a and this Zoning Law as set forth in Subsection C of this Section for any application for a zoning permit other than those for single family dwellings and their accessory uses and/or buildings, or for the installation of projecting horizontal features and signs to an existing commercial building or structure in the Commercial (C-2) District that conform to the rules and regulations set forth in this Zoning Law.

2. Special Use Permits

Granting of special use permits based upon the criteria set forth in paragraph G of this Section.

3. Review Use Variances

Review use variance applications referred to the Planning Board as set forth in Section 207 and make a recommendation to the Zoning Board of Appeals.

4. Temporary Uses and Structures

Grant permits for temporary uses and structures.

(a) The Planning Board may direct the Zoning Enforcement Officer to issue a temporary use permit for a period of time not exceeding twelve (12) months, for incidental nonconforming uses and structures as follows:

- (1) Temporary uses incidental to a construction project.
- (2) Temporary real estate sales office incidental to a subdivision.
- (3) Other similar temporary incidental uses which:

-Do not have a detrimental effect upon the lawful use of land and activities normally permitted in the district in question, and

-Contribute materially to the welfare and well-being of the Village.

- (b) Temporary use permits shall be conditioned upon an agreement by the applicant to remove the use upon expiration of the permit.
- (c) Temporary use permits may be reissued only once for an additional consecutive period not exceeding six (6) months.

C. Site Plan Review

The Planning Board, at a regular or special meeting, shall review and approve, approve with modification, or disapprove a site plan in connection with any application for a zoning permit other than those for single family dwellings and their accessory uses and/or buildings, or for the installation of projecting horizontal features and signs to an existing building or structure in the Commercial (C-2) District that conform to the rules and regulations set forth in this Zoning Law.

1. Notice and Public Hearing

The Planning Board may at its discretion hold a public hearing as part of the site plan review process. When a public hearing is held as part of the site plan review, the public hearing shall be held at a time fixed within sixty-two (62) days from the date of the application for site plan review and public notice thereof shall be published in a newspaper of general circulation in the Village at least five (5) days prior to the date of the hearing. The Planning Board shall mail a notice of the hearing to the applicant at least ten (10) days before such hearing and also send, by regular mail, a copy of the notice of hearing to all owners of property situated within two hundred (200) feet of the property affected at least ten (10) days before the date of the hearing. When necessary under Section 239 of the General Municipal Law, the Planning Board shall forward the site plan to the Genesee County Planning Board for its review prior to taking any final action.

2. Submission of Site Plan and Data

The developer shall submit to the Village Clerk ten (10) copies of a site plan and supporting data in a form satisfactory to the Planning Board, including, but not limited to, the following information presented in graphic form and accompanied by a written text.

- (a) Survey of property showing existing features, including contours, utility easements, large trees, buildings, uses, structures, streets, rights-of-way, zoning and ownership of surrounding property.
- (b) Layout sketch showing proposed lots, blocks, building locations and land use area.
- (c) Traffic circulation, parking and loading spaces, and pedestrian walks.
- (d) Landscaping plans including site grading, landscape design, open space and buffer zone.
- (e) Preliminary architectural drawings for buildings to be constructed, floor plans, exterior elevations and sections.
- (f) Preliminary engineering plans, street improvements, storm drainage, water supply and sanitary sewer facilities and fire protection.

- (g) Engineering feasibility study of any anticipated problem which may arise from the proposed development, as required by the Planning Board.
- (h) Construction sequence and time schedule for completion of each phase for buildings, parking and landscaped areas.
- (i) Description of proposed uses, anticipated hours of operation, expected number of employees, and anticipated volume of traffic generated.
- (j) Together with any other information requested by the Planning Board.

3. Site Plan Review Criteria

The Village Planning Board shall review the site plan and supporting data before approval, approval with modifications, or disapproval of such site plan, taking into consideration the following:

- (a) Harmonious relationship between proposed uses and existing adjacent uses.
- (b) Maximum safety of vehicular circulation between the site and street including emergency vehicle access.
- (c) Adequacy of interior circulation, parking and loading facilities with particular attention to pedestrian safety and emergency vehicle access.
- (d) Adequacy of landscaping and setbacks to achieve compatibility with, and protection of, adjacent residential uses.
- (e) Adequacy of municipal facilities to serve the proposal including streets, water supply and wastewater treatment systems, storm water control systems, and fire protection.

4. Area Variances

Notwithstanding any provisions of law to the contrary, where a proposed site plan contains one (1) or more features which do not comply with the zoning regulations, applications may be made to the Zoning Board of Appeals for an area variance pursuant to NYS Village Law Section 7-712-b, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

5. Modifications and Conditions

The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to insure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Planning Board, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the village.

6. Performance Bond or Letter of Credit as a Condition of Site Plan

Approval

The Planning Board may require as a condition of site plan approval that the applicant file a performance bond or Letter of Credit in such amount as the Planning Board determines to be in the public interest, to insure that proposed development will be built in compliance with

accepted plans. Any such bond must be in a form acceptable to the Village Attorney for an amount approved by the Village Board.

7. Performance Standards

In all districts, uses are not permitted which violate applicable county, state and/or federal codes and regulations pertaining to environmental issues. The Planning Board, under its powers of site plan review and approval, may in its discretion reject any uses if it determines that insufficient evidence has been submitted to show compliance with these environmental standards. However, final responsibility for compliance with all environmental laws and regulations lies with the applicant.

8. Decision

The Planning Board shall decide any matter referred to it under this Subsection within sixty-two (62) days after the first regular monthly meeting of the Planning Board at least ten (10) days prior to which the site plan and all supporting data required by this Article are submitted to the Village Clerk. Such time may be extended by mutual consent of the Planning Board and the developer. Prior to rendering its decision the Board shall first complete the SEQR process. In those instances where due to the location of the affected property, a variance request is subject to review under General Municipal Law Section 239m, a majority plus one vote of the entire Planning Board is necessary to override a County Planning Board recommendation of disapproval or approval with modification. The decision of the Planning Board shall be filed in the office of the Village Clerk within five (5) working days and a copy mailed to the applicant by regular mail.

9. Changes and Revisions

Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

D. Required Plan for Special Use Permit

Four sets of the application and site plan shall be submitted to the Zoning Enforcement Officer to portray clearly the intentions of the applicant. These documents shall become part of the record. Such site plan shall show location of all buildings, parking, access and circulation, open space, landscaping and other information necessary to determine that the proposed special use complies with the intent of this Local Law.

E. Special Use Permit

A special use permit may be issued for a use not usually and ordinarily permitted within a district when such use is listed as a use permitted with a special use permit within that specific district. Such special use permit may be issued only when authorized by the Planning Board after considering those factors set forth herein, provided that such use is not inconsistent with the public convenience and welfare. Such use shall be subject to conditions and safeguards which may be imposed by the Planning Board to protect the use of neighboring properties. Such special use permit shall not be granted if it substantially changes the characteristics of the neighborhood in which the subject property is located. The Zoning Enforcement Officer, at least yearly, shall review the use of the property to determine compliance with any conditions which have been prescribed by the Planning Board in issuing such special use permit. Violation of said conditions shall require a review

of the permit by the Planning Board which shall have the discretion to revoke said special use permit.

F. Standards Applicable for all Special Use Permits

The Planning Board may issue a special use permit only after it has found that all the following standards and conditions have been satisfied.

1. The location and size of the use and all structures, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to streets giving access, are such that the use will be in harmony with the orderly development of the district.

2. The location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.

3. The operations of any special use shall not be more objectionable to nearby properties than would be operations of any permitted use.

4. No radio or television antenna or tower, water or cooling tower, oil or gas holder, elevator bulkhead, or similar structure may be erected in excess of district height limits unless an area variance has been issued therefore.

5. No special use permit shall be issued for a use on a property where there is an existing violation of this Local Law.

**SECTION 209**      **VIOLATION AND PENALTY**

A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any land, building or structure or part thereof in a manner not permitted by an approved zoning permit or certificate of compliance.

B. Any person violating any provision of this Local Law shall be served by the Zoning Enforcement Officer with a written Notice of Violation and Correction Order stating the nature of the violation found to exist, the remedy ordered and providing a time limit for the satisfactory correction thereof. Unless a different time limit is provided by this Local Law for the correction of any violation, which alternate time limit shall prevail, said Notice of Violation and Correction Order shall provide a time limit of thirty (30) days for the satisfactory correction of the violation. The Notice of Violation shall further inform the violator of his right to appeal the Zoning Enforcement Officer's interpretation to the Zoning Board of Appeals.

Service of the Notice of Violation/Correction Order shall be sufficient if directed to the owner, operator or occupant of a residence, commercial or industrial facility, as the case may be, violating this Local Law. Service of said Notice of Violation/Correction Order shall be made personally upon the alleged violator, if said violator can be found with due diligence; otherwise, service of said Notice of Violation/Correction Order shall be sufficient if service is completed by delivering the same to a person of suitable age or discretion at the actual residence, commercial or industrial facility at which said violation is occurring and by mailing the Notice to the person to be served at his last known residence or business

address; or, where service cannot otherwise be made with due diligence, by affixing said Notice of Violation/Correction Order to the door of the residence, commercial or industrial facility at which said violation is occurring and by mailing said Notice to such person at his last known residence or place of business. It shall be unlawful for any person to fail to comply with a written Notice of Violation/Correction Order of the Zoning Enforcement Officer within the time fixed for compliance therewith.

C. It shall be unlawful for any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or for any person taking part or assisting in the construction, repair or use of any land, building or structure to violate any of the applicable provisions of this Local Law, or any lawful order, notice, directive, permit or certificates of the Zoning Enforcement Officer made hereunder.

D. Any violation of this section and/or the Zoning Local Law of the Village of Oakfield shall be punishable by a fine of not greater than three hundred and fifty (\$350) dollars. Each and every week, (7 days), such violation continues shall be deemed a separate and distinct violation.

E. The Zoning Enforcement Officer may, with permission of the Village Board, institute court action to enforce the provisions of this Local Law, or may refer the matter to the Village Board for its action.

F. Any person violating any provision of this Local Law shall be liable to the Village for any and all losses, damages and expenses incurred by the Village or for which the Village may be held liable as a result of said violation. The Village or Zoning Enforcement Officer shall have the right to obtain reimbursement for any loss, damage or expense incurred by it as a result of any violation of this Local Law including, but not limited to, attorney's fees and court costs incurred as a result of any legal proceedings brought hereunder.

Nothing contained in this Local Law shall prevent the Village or Zoning Enforcement Officer, either alone or in conjunction with the foregoing penalties from maintaining an action or proceeding in the name of the Village or Zoning Enforcement Officer in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this Local Law.

## **SECTION 210**            **COMPLAINT OF VIOLATION**

Whenever a violation of this Local Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, signed, and shall be filed with the Zoning Enforcement Officer who shall properly record such complaint and immediately investigate it. Where the Zoning Enforcement Officer finds such violation, he shall take appropriate action and/or submit the results of his investigation in writing to the Village Board if action by them is required.

## **SECTION 211**            **PROCEDURE FOR AMENDMENT**

A. The Village Board may, from time to time, on its own motion, on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this Local Law after official notice has been given and a public hearing has been held by the Village Board as required by law.

B. Each petition requesting a change of zoning regulations or district boundaries shall be typewritten, signed by the owner and filed in triplicate, accompanied by the required fee.

C. Every such proposed amendment shall be referred to the Planning Board for a report prior to any public hearing.

D. Prior to adoption by the Village Board, a proposed amendment may, in the proper case, have to be referred to the County Planning Board pursuant to law.

E. In case of a protest against such change signed by the owners of twenty per centum or more, either of the area of the land included in such proposed change, or of that immediately adjacent extending one hundred (100) feet there from or of that directly opposite thereto, extending one hundred feet, from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least three-fourths of the members of the Village Board.

**SECTION 212            REMEDIES**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is divided into lots, blocks or sites in violation of this act, or of any local law or other regulation made under authority conferred thereby, the proper local authorities of the village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. All issues in any action or proceeding for any of the purposes herein stated shall have preference over all other civil actions and proceedings.

**SECTION 213            STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)**

The State Environmental Quality Review Act (SEQR) requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and Part 617 of Title 6 of the New York Code of Rules and Regulations (8 NYCRR Part 617) sets forth the SEQR regulations in detail and should be reviewed for compliance prior to undertaking any of the above mentioned activities.

B. As set forth in 8 NYCRR Part 617, determination of lead agency status is one of the initial steps in the SEQR process. When the Village is designated lead agency for a particular zoning action, the following boards (agencies) may typically be the lead agency for the actions identified on the following page:

- Zoning text amendment .....Village Board
- Zoning district amendment .....Village Board
- Special permit.....Planning Board
- Zoning permit (if necessary) .....Planning Board
- Variance .....Zoning Board of Appeals

When a project involves two or more separate zoning actions, the board (agency) having the final (last) approval would typically be the lead agency. Nothing in this Section shall be

interpreted to override the process for designation of lead agency status as set forth in 8 NYCRR Part 617.

### **ARTICLE III**

#### **ZONING DISTRICT REGULATIONS, ZONING MAP**

##### **SECTION 301 GENERAL REGULATIONS**

The provisions of this Local Law shall be subject to such exceptions, additions, or modifications as herein provided by the following general supplementary regulations. The dimensional requirements and restrictions set forth in Schedule "A" annexed hereto are incorporated herein and made a part of this Local Law. No building or structure shall be erected and no land used in violation of those dimensional requirements and restrictions.

###### **A. Buildings, Uses and Lots**

###### **1. One Principal Building and Use Per Lot**

There shall not be more than one principal structure and one principal use on any lot in the residential districts (R-1, R-2).

###### **2. Yard and Open Space for Every Building**

No part of any yard or other open space required about any building or structure for the purpose of complying with the provisions of this Local Law shall be included as part of the yard or other open space similarly required for another structure. Also, no yard or other open space on one lot shall be considered as a yard or open space for a building or structure or any other lot.

###### **3. Subdivision of a Lot**

Where a lot is hereafter formed from part of a lot already occupied by a building, such separation shall be effected so as not to violate any of the requirements of this Local Law with respect to the existing building, including yards and other required spaces in connection therewith. No zoning permit shall be issued for the erection of a building on the new lot thus created unless there is full compliance with all the provisions of this Local Law.

###### **4. Irregularly Shaped Lots**

Where a question exists as to the proper application of any of the requirements of this Local Law to a particular lot or parcel, the matter shall be referred to the Zoning Board of Appeals and dealt with in accordance with the applicable provision of Section 207.

###### **5. Required Street Frontage**

No zoning permit shall be issued for any structure unless the lot which that structure is to be built upon has the required frontage on a street, as defined herein, which frontage provides the actual access to such structure, and which street shall have been suitably improved to Village Board standards or a bond posted therefor to the satisfaction of the Village Board and Planning Board.

6. Parts of Lot Not Counted Toward Area Requirements

No part of any lot less in width than one-half of the minimum requirements for the district in which it is located shall be counted as part of the minimum lot area.

7. Adjacent Lots

Where two or more adjacent lots are at the time of the effective date of this Local Law in the same ownership, they shall not be considered a single lot, unless they are described as one parcel in a deed recorded at the Genesee County Clerk's Office.

8. Supplementary Yard Regulations

(a) Porches

No unroofed structure shall be considered part of a building insofar as yard requirements are concerned. A porch shall be considered a part of the building in determining the yard requirements or amount of lot coverage.

(b) 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.

(c) 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 twenty (20) feet distant from the point of intersection, measured along said street lines. This paragraph shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

(d) Swimming Pools

All swimming pools as defined by this Local Law shall be considered accessory uses to principal residential uses located on the same lot and shall be located only within side and rear yard areas with a minimum set back from side or rear lot lines of at least five (5) feet. Pools shall be fenced and protected by an appropriate gate as set forth in the New York State Uniform Fire Prevention and Building Code. Temporary wading pools, those pools less than two (2) foot in height and holding less the 1,000 gallons of water, may be placed in any yard area.

(e) Buffer Strip

Wherever a buffer strip is required by this Local Law (see also Section 504) it shall meet the following standards:

- (1) Be at least ten (10) feet in width along any commercial industrial lot line abutting a lot in a residential district.
- (2) Be of evergreen planting of such type, height and spacing as, in the judgment of the Planning Board, will screen the activities on the lot from

view of a person standing at street level on the adjoining lot. The plan and specifications for such planting shall be filed with the approved plan for the use of the lot.

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

(f) Waste Containers/Dumpsters

The location of all waste containers and/or dumpsters for multifamily and nonresidential uses shall be determined by the Planning Board through the Site Plan Review process. Relocation of existing waste containers and/or dumpsters shall also be subject to review and approval by the Planning Board. The Planning Board may require screening of waste containers/dumpsters. This provision shall not apply to the temporary placement of garbage cans awaiting collection or the temporary use of dumpsters or "roll-offs" during a cleaning, moving or construction projects.

9. Open Space - Industrial Districts

Where an industrial district abuts a residential district, there shall be at least one hundred (100) feet of open space within the industrial district along such abutting line, which open space shall include a buffer strip.

10. Excavation

In any construction, open excavations shall be limited to a maximum of thirty (30) days, with appropriate fencing, barricades, or covering.

B. Location of Accessory Building, Structures, and Satellite Dishes

1. Accessory Buildings are Permitted as Follows

(a) A one story accessory building having a total floor area of one hundred fifty (150) square feet or less and a building height of not more than nine (9) feet shall not be located closer than three (3) feet of the rear and side lot lines in the rear yard areas.

(b) The location of accessory buildings having a total floor area greater than one hundred fifty (150) square feet or a building height of greater than nine (9) feet shall be located in compliance with the required yard areas of the respective district and shall not be located in front of the principal building, i.e, the front yard.

2. Accessory Structures (other than buildings) are permitted as follows:  
(for fences see Section 508)

(a) Accessory structures (other than buildings) equal to or less than fifteen (15) feet in height, including satellite dishes with a diameter of forty (40) inches to thirteen (13) feet, shall not be located closer than three (3) feet to the side and/or rear lot line and shall not be located within the minimum required front yard. Satellite dishes less than forty (40) inches in diameter may be located anywhere on a lot provided they do not project over property

lines. Zoning permits are not required for satellite dishes less than forty (40) inches in diameter.

(b) Accessory structures (other than buildings) greater than fifteen (15) feet in height, including production model Wind Energy Conservation Systems (windmills), antennas and satellite dishes greater than thirteen (13) feet in diameter, shall be located in compliance with the required side and/or rear yard area of the respective district and shall not be located in the front yard.

C. Nonconforming Uses, Structures and Lots

1. Lawful Existing Uses or Structures

Except as otherwise provided in this Section, the lawful use of land or structures existing at the effective date of this Local Law may be continued, although such use or structure does not conform to the regulations specified in this Local Law for the zone in which such land or structure is located, provided, however:

- (a) That no nonconforming lot shall be further reduced in size.
- (b) That no nonconforming building be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
- (c) That no nonconforming use may be expanded.
- (d) No existing conforming use shall be changed to a nonconforming use.

2. Abandonment

A nonconforming use shall be adjusted or abandoned when there occurs a cessation of any such use or activity and a failure on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance.

3. Restoration and Repair

Nothing in this Local Law shall prevent the restoration and repair or continuation of use of a nonconforming building destroyed or partly destroyed by a disaster, provided that restoration is commenced within six (6) months after date of destruction and is completed within twelve (12) months after date of destruction.

4. Reversion

No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.

5. Alterations

A nonconforming building may not be structurally altered during its life to an extent exceeding, in aggregate cost, fifty percent (50%) of the assessed value of the building unless said building is changed to conform to the requirements of this Local Law.

6. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein or created thereby.

D. Uses Not Permitted

Uses which are not specifically allowed by this Local Law are prohibited.

E. Minimum Enclosed Living Area

1. One (1) family dwellings shall have a minimum enclosed living area (not including garage but also not limited to only habitable floor area) of at least seven hundred and fifty (750) square feet.

2. Two (2) family dwellings shall have a enclosed living area of at least seven hundred fifty (750) square feet per unit.

3. Multiple family dwellings shall have a enclosed living area per unit as follows:

<u># of Bedrooms Per Unit</u>	<u>Minimum Square Footage</u>
Efficiency .....	300
1 bedroom .....	550
2 bedroom .....	650
3 bedroom .....	800
4 bedroom .....	1,000
5+ bedroom .....	As determined by Planning Board based upon proposed occupancy

F. Stabling Farm Animals and Storage of Fertilizer, Agricultural Chemicals and Manure

1. There shall be no stabling of farm animals or storage of manure with the Village.

2. There shall be no storage of bulk quantities of fertilizer, pesticides, and/or herbicides, or similar odor or dust producing or hazardous substances within the Residential or Commercial Districts. Bulk storage of such substances within the Industrial District is permitted only after site plan approval.

G. Minimum Dimensional Criteria

All one (1) and two (2) family dwelling units located on individual lots shall have a minimum outside width of at least 18 feet. This provision shall not prohibit the construction of smaller additions or projections from larger units (less than 18 feet wide) provided a 18 foot minimum width is clearly established for the overall unit.

H. Harboring of Animals

Only domestic animals as defined by this Zoning Law or through successful appeal to the Zoning Board of Appeals, shall be harbored within the Village.

**SECTION 302            ZONING MAP AND DISTRICT CLASSIFICATION**

The Village of Oakfield is hereby divided into the following zoning districts which are shown, defined and bounded on the zoning map accompanying this Zoning Law which map is made a part of this Zoning Law. The zoning map is hereby made a part of this Zoning Law and shall be on file in the Village Clerk's Office.

- R-1    Residential 1 District
- R-2    Residential 2 District
- C-1    Neighborhood Commercial
- C-2    Central Commercial District
- I       Industrial District
- PUD    Planned Unit Development

**SECTION 303    NEWLY ANNEXED LANDS**

In order to promote orderly development and the general welfare of the community, where land is newly annexed but before legislative action can be taken to zone said land designating said land as being in one of the districts referred to in Section 302 of this Article, such newly annexed land shall not be improved or developed in any manner, including the erection of any buildings or other structures or alteration of any existing buildings or other structures thereon or change of any use with respect thereto until such legislative action is taken; provided, however, that if such legislative action is not taken and such designation is not made within one hundred eighty (180) days of the effective date of the annexation, the restrictions contained in this Section shall no longer apply.

**SECTION 304            INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

A.        Questions concerning the exact location of district boundary lines as shown on the zoning map shall be resolved by the Zoning Enforcement Officer with the option of appeal of such determination to the Zoning Board of Appeals pursuant to the provisions of Section 207 of this Local Law.

B.        Where a district boundary line divides an existing lot of record, the regulations for the less restricted part of such lot shall extend to this lot line in the more restrictive district or fifty (50) feet or whichever is less, provided the lot has frontage on a street in the less restricted district.

**SECTION 305            EXISTING LOTS OF RECORD**

A single family dwelling and/or customary accessory buildings may be placed on any lot of record existing prior to the effective date of this Local Law and having a minimum of fifty (50) feet in width and six thousand (6,000) square feet in area. This provision shall apply even though such lot fails to meet the requirements for area, width or yard size, provided that the yard requirements of this Section and the other requirements of this Local Law are met. The minimum yard requirements for single family dwelling on existing lots shall be as follows:

1. Front.....twenty (20) feet.
2. Side.....eight (8) feet
3. Rear.....thirty-five (35) feet

**SECTION 306**      **RESIDENTIAL R-1**

The R-1 District is designed to accommodate primarily single-family residential uses on lots with a minimum area of 10,000 square feet. The primary purpose of this district is to encourage quality residential development in those newly developed or still undeveloped areas of the Village.

A. The following uses are permitted in R-1 Districts:

1. Single family dwelling
2. Accessory building

B. The following uses are permitted in the R-1 District upon the issuance of a special use permit:

1. Two family dwelling
2. Multifamily dwelling
3. School
4. Church, rectory
5. Volunteer fire department/ambulance service
6. Home occupation
7. Boarding house
8. Child Day Care Center
9. School-age Child Care Program
10. Community Center

**SECTION 307**      **RESIDENTIAL R-2**

The R-2 District is designed to accommodate primarily single and two family dwellings on lots with a minimum area of 6,000 and 8,000 square feet, respectively. The primary purpose of this district is to encourage the retention of a positive community character within those developed residential areas of the Village.

A. The following uses are permitted in R-2 Districts:

1. Single family dwelling
2. Two family dwelling
3. Accessory buildings

B. The following uses are permitted in R-2 Districts upon the issuance of a special use permit:

1. Multifamily dwelling
2. School
3. Church, rectory
4. Volunteer fire department/ambulance service

5. Funeral home
6. Social organization
7. Boarding House
8. Home occupation
9. Child Day Care Center
10. School-age Child Care Program
11. Community Center
12. Adult Care Facility

**SECTION 308**            **NEIGHBORHOOD COMMERCIAL C-1**

The C-1 District is designed to accommodate primarily commercial uses on lots with a minimum area of 8,000 square feet. The primary purpose of this district is to provide areas for small to medium sized commercial uses. Site plan review is required of all uses in C-1 Districts.

A. The following uses are permitted in C-1 Districts:

1. Bakeries
2. Retail stores/services
3. Warehouse/storage (enclosed, no hazardous materials)
4. Funeral homes
5. Business and professional offices
6. Restaurants
7. Accessory buildings

B. The following uses are permitted in C-1 Districts upon the issuance of a special use permit.

1. Gasoline station
2. Gasoline station-market
3. Drive-in establishments
4. Motor vehicle sales and service
5. Residential uses
6. Night club/taverns
7. Child Day Care Center
8. School-age Child Care Program
9. Self-Service Storage Facility
10. Community Center
11. Adult Care Facility
12. Enclosed Light Industrial
13. Commercial School

**SECTION 309**            **CENTRAL COMMERCIAL C-2**

The C-2 District is designed to accommodate primarily concentrated commercial development. Site plan review is required of all uses in C-2 Districts.

A. The following uses are permitted in C-2 Districts:

1. Retail store/service

2. Business and professional office
3. Restaurant
4. Hotel, motel
5. Funeral home
6. Bank
7. Club
8. Medical/veterinary facility
9. Museums (*Amended 11/10*)

B. The following uses are permitted in C-2 Districts upon the issuance of a special use permit.

1. Drive-in establishments
2. Arcade
3. Indoor recreation
4. Motor vehicle sales and service
5. Night club/tavern
6. Residential uses, except on the ground floor (first floor) that would result in the removal of commercial space.
7. Commercial School

**SECTION 310**      **INDUSTRIAL DISTRICT I**

The I District is designed to accommodate industrial uses. Site plan review is required of all uses in the I District.

A. The following uses are permitted in I Districts:

1. Enclosed manufacturing industry
2. Enclosed warehouse or wholesale use
3. Public utility
4. Enclosed service and repair
5. Machinery and transportation equipment, sales, service and repair
6. Enclosed industrial processes and service
7. Freight or trucking terminal
8. Contractor's yard
9. Public garage
10. Accessory building and use

B. The following uses are permitted in I Districts upon the issuance of a special use permit:

1. Manufacturing use (not enclosed)
2. Warehouse or wholesale use (not enclosed)
3. Service and repair (not enclosed)
4. Other industrial uses upon the finding that such use is of the same general character as those permitted and will not be detrimental to other uses within the district or to adjoining land uses.
5. Adult uses
6. Self-Service Storage Facility
7. Child Day Care Center
8. Disposal Transfer Station
9. Recyclables Handling and Recovery Facility

**SECTION 311**            **PLANNED UNIT DEVELOPMENT - PUD**

A.     Purpose

The purpose of the Planned Unit Development District is to permit greater flexibility, more creative and imaginative design and utilization of innovative land development techniques while promoting more economical and efficient use of land, buildings, circulation systems and utilities; to provide for both individual building sites and common property which are planned and developed as a unit; to provide harmonious land uses which offer a high level of amenities; to permit a variety of residential types and/or nonresidential uses; and to preserve natural and scenic qualities of the site during the development process.

B.     General Requirements

1.     Minimum Area

The minimum area required to qualify for a Planned Unit Development shall be two (2) contiguous acres of land.

2.     Ownership

The tract of land for a Planned Unit Development may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner, or jointly by owners, of all property included in a project. In the case of multiple ownership, the approved Planned Unit Development plan is binding on all owners.

3.     Location

The Planned Unit Development District shall be applicable to any zoning district or parts of zoning districts where the applicant can demonstrate that the characteristics of his holdings and plan will meet the objectives of this Section.

4.     Common Open Space

Common open space in a Planned Unit Development may be one (1) or more sites for use in common by all of the occupants within the project area or by the residents of the Village as a whole, depending upon dedication of such sites. Such common open space may be retained in private ownership or received in dedication by the Village. If the open space remains in private ownership, arrangements for the operation, maintenance, improvement and liability of such common property and facilities must be approved by the Village Board. No common open space, so designated by the proposal and approved by the Village Board, may be thereafter developed or disposed of except with the approval of the Village Board.

5.     Permitted Uses

Any uses identified as permitted uses or uses allowed by special permit as set forth in this Zoning Law and mobile home parks (see Section 511) may be permitted in a Planned Unit Development.

6.     Mix of Uses

The mix of permissible uses shall be determined by the Village Board.

C. Application Procedure and Approval Process

1. Conceptual Review

Before submission of a petition for rezoning as a Planned Unit Development, the developer is encouraged to meet with the Village Planning Board to determine the feasibility and suitability of his proposal before entering into any binding commitments or incurring substantial expenses of site plan preparation and the required documentation.

2. Rezoning Procedure

(a) Submission of Petition

All petitions for the establishment of Planned Unit Development districts shall be submitted to the Village Clerk (see Paragraph d. of this Subsection).

(b) Notification and Referral

Within five (5) working days, the Village Clerk shall notify the Village Board of the petition and shall refer the petition and all supporting documentation to the Village Planning Board for their review and recommendations.

(c) Planning Board Review

Within sixty (60) days of receipt of the application, the Village Planning Board shall review the petition and shall recommend approval, approval with modifications or disapproval. Failure to act within 45 days or such longer period as may be consented to shall cause such application to be forwarded to the Village Board without a recommendation.

(d) Submission Requirements

The applicant shall submit a minimum of four (4) sets of such plans, and drawings (additional sets may be required). These four (4) sets shall be submitted to the Village Clerk. The preliminary plans shall be accompanied by such maps, charts and written material necessary for the Boards to make a preliminary judgment on the suitability and impact of the proposed Planned Unit Development on the Village. Preliminary plans should include the following:

(1) A preliminary site plan of the property covered by the petition showing the approximate size and location of the various development areas (road rights-of-way, single-family housing areas, multifamily housing areas, commercial and open space areas, etc.); the number and type of residential structures and dwelling units within each residential area; the approximate square footage of nonresidential use within each nonresidential area; the amount of open space; traffic circulation; and the surrounding land uses.

(2) A written preliminary description of the proposal including the total number of acres in the site; the estimated number and type of housing units; the estimated residential and nonresidential density; the major planning assumptions and objectives; the probable effect on adjoining properties; and the effect on the overall Village development plan and the effect on this Zoning Law.

(e) Review Considerations

In review of the preliminary plans, the Planning Board shall consider the manner with which the proposal fits the general pattern of land use established by the Zoning Law, and the impact on the established land uses in the area, overall density of development, traffic circulation, the provision of open spaces, and the effect on schools and other municipal facilities.

(f) Village Board Review and Approval

Upon receipt of the Planning Board's recommendation, the Village Board may, after a public hearing and review of the proposed zone change by the County Planning Board, amend the Zoning Law so as to establish and define the boundaries of the Planned Unit Development. If the rezoning request is approved for the Planned Unit Development, such action does not authorize improvements to the rezoned land.

3. Final Plan

(a) Ownership

Before final approval of the Planned Unit Development, the applicant must show evidence of the full legal ownership in the land.

(b) Submission of Final Plan

Upon approval of the zone change, the applicant has one (1) year in which to submit a final plan to the Village Clerk.

(c) Notification and Referral

Within five (5) working days, the Village Clerk shall notify the Village Board of the petition and shall refer the petition and all supporting documentation to the Village Planning Board for their review and recommendation.

(d) Planning Board Review

Within sixty (60) days of receipt of the application, the Village Planning Board shall review the petition and shall recommend approval, approval with modifications or disapproval. Failure to act within 45 days or such longer period as may be consented to shall cause such application to be forwarded to the Village Board without a recommendation.

(e) Submission Requirements

The applicant shall submit a minimum of four (4) complete sets of the final plan and drawings (additional sets may be required). These four (4) sets shall be submitted to the Village Clerk. The applicant shall submit detailed site plans comparable to the requirements for final approval of a subdivision plat. The final plan shall be accompanied by a detailed justification for the proposal including such maps, charts and written material necessary for the Village to make an impartial judgment on the

suitability and impact of the proposed Planned Unit Development on the Village. Such material shall include, but not be limited to, the following:

- (1) A mapped development plan of the property covered by the petitions showing the approximate size and location of the various development areas (road rights-of-way, single-family housing areas, multifamily housing areas, commercial and open space areas, etc.), the number of residential structures and dwelling units within each residential area, the approximate square footage of nonresidential use within each nonresidential area and the amount of open space.
- (2) A written description of the proposal including the major planning assumptions and objectives, the probable effect on adjoining properties, the effect on the overall Village development plan and the effect on this Zoning Law.
- (3) Such additional written material, graphs or charts as are necessary to present the total number of acres in the site, the number and type of housing units, the gross and net residential densities, the approximate selling and/or rental prices of the units, and square feet of nonresidential floor area including the approximate selling and/or rental price, the development schedule expressed in units per month (or year or any other appropriate time sequence), the phasing plan (if any), the approximate completion date of the entire project, and the estimated total construction cost of the project upon completion.
- (4) Such other written or graphic material as is necessary for the Planning Board to judge the impact of the proposal on the Village. Such material shall include, but not be limited to: the need for new public facilities and the adequacy of existing facilities including a statement of the intent to which the applicant intends to provide needed facilities, a fiscal impact statement including a summary of new costs and revenues to the Village due to the development, the projected new population, and the method of assuring that all open spaces will be permanently maintained and devoted to open space uses.

(f) Review Considerations

In review of the final plan, the Planning Board shall consider the manner with which the proposal fits the general pattern of land use established by the Zoning Law, and the protection of the established and permitted uses in the area. It shall consider: the location of main and accessory buildings and their relation to one another; the circulation pattern of the site, and the amount, location, and access of parking and off-street loading space facilities; the height and bulk of buildings; the provision of open spaces, landscaped areas, signs, and similar features of the site plan; and the safeguards provided to minimize possible detrimental effects of the proposed development on adjacent property and the surrounding neighborhood; the manner of conformance with the official development policies of the Village; the effect on schools and other municipal facilities; and the manner in which natural and scenic characteristics of the site are preserved.

(g) Village Board Review and Approval

Upon receipt of the Planning Board's recommendation, the Village Board may, after a public hearing and review of the final plan by the County Planning Board, approve, approve with modifications or disapprove the final plan. The Village Board shall make final decision in accordance with official village development policies and may impose conditions relating to that plan.

D. Design Standards

1. Area Requirements

Overall area, yard, coverage, height, density and supplementary regulation requirements shall be comparable to minimum requirements in appropriate zoning districts for each specific use, except where the Planning Board finds that it is in the public interest to modify these requirements and the Village Board approves such modifications.

2. Traffic and Circulation

All proposed public roads shall meet the design and construction specifications set forth by the Village. Special consideration should be given to pedestrian movement from the standpoint of safety, convenience and amenity. Sidewalks, curbs and gutters should be considered in the design of the overall circulation system.

3. Common Open Space

All common open space should be preserved and maintained for the intended purpose through one or more of the following methods:

- (a) Public dedication
- (b) Establishment of a Home Owners Association
- (c) Retention of responsibilities, control and maintenance by the developer.

4. Performance and Maintenance Bonds

Performance and maintenance bonds may be required at the discretion of the Village Board.

**ARTICLE IV**  
**SITE PLAN**

**SECTION 401**      **SITE PLAN REVIEW AND APPROVAL**

Site plan review shall be required of all uses excluding agricultural uses and single family dwellings. Accessory buildings for these two uses are also exempt from site plan review; however, home occupations are not. The Planning Board, at a regular meeting, shall review and approve, approve with modification, or disapprove a site plan in connection with any matter requiring submission of a site plan.

**SECTION 402**      **SUBMISSION OF SITE PLAN AND SUPPORTING DATA**

A. In addition to the site plan initially submitted by an applicant, the Planning Board may require other data to be presented in graphic form and accompanied by a written text. Such other supporting data may include, but is not limited to, the following:

1. Traffic circulation, parking and loading spaces, and pedestrian walks.
2. Topography and landscaping plans including site grading, landscaping design, open areas and buffer zone.
3. Preliminary architectural drawings for buildings to be constructed, floor plans, exterior elevations and sections.
4. Preliminary engineering plans; street improvements, storm drainage, water supply and sanitary sewer facilities.
5. Engineering feasibility studies of any anticipated problem which might arise due to proposed development, as required by the Planning Board.
6. Construction sequence and time schedule for completion of each phase for buildings, parking, and landscaped areas.
7. Description of proposed uses; hours of operation and expected number of employees, volume of business, and volume of traffic generated.

**SECTION 403**      **SITE PLAN REVIEW**

A. When necessary under Section 239 of the General Municipal Law, the Planning Board shall forward the site plan to the County of Genesee for its review prior to taking any final action. The Village Planning Board shall review the site plan and supporting data before approval, approval with modifications, or disapproval of such site plan, taking into consideration the following:

1. Harmonious relationship between proposed uses and existing adjacent uses.
2. Maximum safety of vehicular circulation between the site and street.

3. Adequacy of interior circulation, parking and loading facilities with particular attention to pedestrian safety.

4. Adequacy of landscaping and setbacks to achieve compatibility with, and protection of, adjacent residential uses.

The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to insure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Planning Board, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.

Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

**SECTION 404      PERFORMANCE BOND OR LETTER OF CREDIT AS A CONDITION OF SITE PLAN APPROVAL**

The Planning Board may require as a condition of site plan approval that the applicant file a performance bond or Letter of Credit in such amount as the Planning Board determines to be in the public interest, to insure that proposed development will be built in compliance with accepted plans. The amount of any such bond must also be approved by the Village Board.

**SECTION 405      PERFORMANCE STANDARDS**

In all districts, uses are not permitted which violate applicable county, state and/or federal codes and regulations pertaining to environmental issues. The Planning Board, under its powers of site plan review and approval, shall decide whether uses meet these standards.

**SECTION 406      OTHER DUTIES NOT IMPAIRED**

The provisions of this article shall not be interpreted to limit in any way those powers and duties of the Planning Board as set forth in Article 7 of the New York Village Law.

**ARTICLE V**

**SUPPLEMENTARY REGULATIONS**

**SECTION 501**      **OFF-STREET PARKING SPACE REQUIREMENTS**

For every building hereafter erected, altered or changed in use, there shall be provided at least the minimum number of off-street parking spaces set forth under this Section. All off-street parking for nonresidential and multifamily use shall be designed in such a manner as to allow vehicles to exit onto a street without backing out onto it. Parking areas in a Neighborhood Commercial District (C-1) and Central Commercial district (C-2) shall be surfaced with a suitable dustless, durable hard surface (e.g. asphalt; concrete; or pavers, but not loose stone or gravel). Said surface shall provide adequate drainage.

*(Amended 11/10)*

A.    **Residential Uses**

1.    One and two-family dwellings: Two (2) parking spaces for every dwelling unit.
2.    Multiple family dwellings: Five (5) parking spaces for every three (3) dwelling units.
3.    Home occupation: Three (3) parking spaces, plus one (1) additional parking space for every two hundred (200) square feet of office space or other nonresidential use, in addition to any other required spaces.

B.    **Motel**

Three (3) parking spaces, plus one (1) space for every guest room.

C.    **Places of Public Assembly**

One (1) parking space for every five (5) seats or one (1) parking space for every one hundred (100) square feet of floor area.

D.    **Professional Offices**

Two (2) parking spaces, plus one (1) space for every two hundred (200) square feet of office space.

E.    **Commercial**

One (1) parking space for every motor vehicle used directly in the business, plus one (1) parking space for every two hundred (200) square feet of business area.

F.    **Restaurant, Eating and Drinking Establishment (other than Drive-In)**

One (1) parking space for every one hundred (100) square feet of floor area.

G.    **Industrial, Wholesale, Warehouse, Storage, Freight, and Trucking Uses**

One (1) parking space for every motor vehicle used directly in the business, plus additional parking as required by the Planning Board.

*(8/2010)*

H. Unspecified Uses

As required by the Planning Board, based upon use intensity, turnover, customers, employees and vehicles used.

I. Substitution of On-Street Parking

In determining the number of off-street parking spaces required the Planning Board, at its sole discretion, may allow the substitution of on-street parking spaces in place of the required off-street parking spaces as set forth in Subsection(s) A-H of this Section.

1. If the Planning Board determines that the substitution of on-street parking in place of required off-street parking will not pose an adverse impact upon traffic circulation and access to surrounding land uses, it may, at its sole discretion, allow the substitution of on-street parking spaces in place of the required off-street parking space(s). Whenever a land use is subject to site plan review as provided for in Sections 703, 704 and 708 Subsection C of this Zoning Law, the Planning Board shall reconsider the appropriateness of substitution of on-street parking and may at that time either continue, modify, or eliminate such substitution depending upon proposed changes to the land use under review and the overall parking situation in the area. In considering whether, or not, to allow the substitution of on-street parking space(s) in place of required off-street parking space(s), the Planning Board shall consider the issues listed below.

a. Whether the on-street parking space(s) in question are already considered substitute off-street parking for another use.

b. The actual availability of the parking space(s) in question with respect to the actual use pattern of said parking space(s).

c. Distance between the use under review and the on-street parking space(s) in question. When reviewing such distance the Planning Board shall consider the availability and condition of sidewalks together with highways and driveways that must be crossed.

d. The feasibility of the use under review to provide for the required number of off-street parking through some other means rather than substitution of on-street parking spaces including shared parking, leased parking, or involvement with public parking areas.

**SECTION 502**            **OFF-STREET LOADING SPACE REQUIREMENTS**

Every building occupied for the purpose of business or industry shall provide adequate space for off-street loading and unloading vehicles.

**SECTION 503**            **MODIFICATION OF PARKING AND LOADING REQUIREMENTS**

The Planning Board, under its powers of site plan review and approval, may modify requirements for parking and loading spaces.

**SECTION 504**      **LAND ABUTTING A RESIDENTIAL USE (See also Section 301-A-8e)**

Where in any district a commercial or industrial use is created adjacent to an existing residential use, a buffer strip shall be established by the nonresidential use along the lot line adjacent to the residential use.

**SECTION 505**      **GASOLINE STATION, GASOLINE STATION-MARKET, MOTOR VEHICLE REPAIR SHOP, MOTOR VEHICLE SALES AGENCY, DRIVE-IN BUSINESS**

A. Gasoline stations, gasoline station-markets, motor vehicle repair shop, motor vehicle sales agencies, and drive-in business shall comply with the following:

1. Lots containing such uses shall not be located within three hundred (300) feet of any lot occupied by a school, playground, library or religious institution. Measurement shall be made between the nearest respective lot lines.
2. Lot size shall be at least forty thousand (40,000) square feet.
3. Lot frontage shall be at least two hundred (200) feet.
4. Lot depth shall be at least one hundred fifty (150) feet.
5. Pumps, other service devices, and fuel and oil storage shall be located at least thirty (30) feet from all lot lines.
6. Automobile parts and dismantled vehicles are to be stored within the building and no major repair work is to be performed outside the building.
7. There shall be no more than two (2) access driveways from any street. Maximum width of each access driveway shall be thirty (30) feet.

**SECTION 506**      **PUBLIC UTILITY FACILITY**

Public utility installations shall comply with the following:

1. Such facility shall be surrounded by a fence approved by the Planning Board.
2. The facility shall be landscaped in a manner approved by the Planning Board.
3. To the extent practicable, equipment shall be stored so as not to be visible from surrounding properties.

Any other requirements as determined by the Planning Board.

**SECTION 507**      **SIGNS**

The purpose of this Section is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and

business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs improperly overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community's appearance and attractiveness.

This Section is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with its surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such sign should convey their messages clearly and simply to enhance their surroundings.

A. Permit Required

It is unlawful for any person to erect or relocate any sign other than those identified as exempt in Subsection B of this Section, within the Village without first obtaining a sign permit and paying the fee therefor as provided in this Local Law .

1. Application Procedure

Applications shall be made in writing to the Zoning Enforcement Officer on forms prescribed and provided by the Village and shall contain the following information:

- (a) Name, address and telephone number of:
  - (1) Applicant
  - (2) Owner of the property
- (b) Location of the building, structure or land upon which the sign now exists or is to be erected.
- (c) If a new sign is to be erected, elevation and plan drawings to scale shall be included. In addition, a full description of the placement and appearance of the proposed sign shall be included and shall cover the following:
  - (1) Location on the premises, specifically, its position in relation to adjacent buildings, structures and property lines.
  - (2) The method of illumination, if any, and the position of lighting or other extraneous devices, and a copy of the NYS Uniform Code permit (if required) related to the electrical connections.
  - (3) Graphic design including symbols, letters, materials and colors.
  - (4) The visual message, text, copy or content of the sign.
- (d) Written consent, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is now the owner.

2. Permit

Upon the filing of a completed application for a sign permit and the payment of the required fee, the Zoning Enforcement Officer shall examine the plans, specifications, and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all requirements of this Section, he shall then,

within fifteen (15) days, issue a permit for the erection of the proposed sign or for an existing sign. The issuance of a permit shall not excuse the applicant from conforming to other Federal, State or local laws, ordinances, and/or regulations.

B. Specific Sign Regulations

1. Exempt Signs - (Require No Permits)

(a) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six (6) square feet.

(b) Flags and insignia of any government, except when displayed in connection with commercial promotion.

(c) On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, internally illuminated or non-illuminated, not exceeding four (4) square feet per face and six (6) feet in height. Business names and advertising messages shall not be allowed as part of such signs.

(d) Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.

(e) One on-premises sign, either freestanding or attached, in connection with any residential building in any zoning district, for permitted professional office or home occupation, not exceeding two (2) square feet and set back at least ten (10) feet from the property line. Such sign shall state name and vocation only. Illumination shall not produce a direct glare beyond the limits of the property line.

(f) Number and name plates identifying residents, mounted on house, apartment or mailbox, not exceeding one (1) square foot in area.

(g) Lawn signs identifying residents, not exceeding one (1) square foot (per side). Such signs are to be non-illuminated except by a light which is an integral part of a lamppost if used as a support, with no advertising message thereon.

(h) Private-owner merchandise sale signs for garage sales and auctions, not exceeding four (4) square feet for a period not exceeding four (4) days within a given month

(i) Temporary non-illuminated "For Sale", "For Rent", real estate signs and signs of similar nature, concerning the premises upon which the sign is located. In a residential zoning district, one sign not exceeding four (4) square feet per side. In a commercial or industrial zoning district, one sign not exceeding fifty (50) feet set back at least fifteen (15) feet from all property lines. All such signs shall be removed within three (3) days after the sale, lease or rental of the premises.

- (j) Temporary, non-illuminated window signs and posters not exceeding twenty-five (25) percent of the window surface.
- (k) Christmas holiday decorations, including lighting, are exempt from the provisions of this local law and may be displayed in any district without a permit.
- (l) Temporary directional signs for meetings, conventions, and other assemblies.
- (m) One sign, not exceeding six (6) square feet in the residential districts nor sixteen (16) square feet in the business districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress.
- (n) Political posters, banners, promotional devices and similar signs, not exceeding four (4) square feet in the residential districts nor sixteen (16) square feet in the business districts, providing the names and addresses of the sponsor and the person responsible for removal are identified.
- (o) Signs required by Federal, State, County or Village regulations (i.e., NYS registered motor vehicle shop and NYS inspection stations).

## 2. Prohibited Signs and Acts

- (a) No off-premise signs shall be allowed other than as permitted under the Exempt Signs provision of this section.
- (b) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.
- (c) No sign shall impair or cause confusion of vehicular or pedestrian traffic, in its design, color or placement. No such sign shall impair visibility for the motorist at a street corner or intersection.
- (d) No sign or sign supports shall be placed upon the roof of any building.
- (e) No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
- (f) No advertising message shall be extended over more than one sign placed along a street or highway.
- (g) Temporary and/or portable signs, except those installed by the Village and Town of Oakfield, shall not be attached to or placed upon any tree, lamp post, utility pole, hydrant, bridge, fence or other structure located within a public right-of-way.

## 3. Temporary Signs

All signs of a temporary nature, except as otherwise provided by this Section, shall be

permitted for a period not exceeding six (6) weeks prior to the activity or event. Such signs shall not exceed sixteen (16) square feet in commercial or industrial districts nor eight (8) square feet in residential districts, nor be attached to fences, trees, utility poles, rocks or other facets of the natural landscape, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public. Temporary signs covered by this paragraph shall be removed within seven (7) days after the event or activity.

4. Permanent Signs

(a) Residential Districts

1. Signs advertising a use in a Residential District such as public or quasi-public building or buildings used solely for nonprofit, church, school, hospital or other like purposes shall be permitted provided such sign is located on the same premises as the use that it advertises. No such sign shall exceed twelve (12) square feet in area and such sign shall be located not less than ten (10) feet from property lines.

2. For large scale multifamily developments one project identification sign shall be permitted which shall not exceed twenty-five (25) square feet in area and shall be situated not less than ten (10) feet from the property lines. The sign may include only the name of the property, the street address, and the presence or lack of vacancies.

(b) Commercial (C-1) and Industrial (I) Districts

1. The total number of permitted signs on a single business or industrial lot shall not exceed one (1) sign per wall per use and one (1) freestanding for the building.

2. The total cumulative sign area of all signs permitted on such lot shall be calculated at the rate of two (2) square feet of sign area per lineal foot of building frontage, but in no case shall exceed one hundred fifty (150) square feet, whichever is less, except as provided for in subparagraph 5 below. In calculating the total cumulative sign area, only one side, or wall, of a building, shall be used.

3. A minimum total sign area of thirty-two (32) square feet shall be permitted for any use, regardless of building frontage.

4. The surface area of a freestanding sign shall be calculated as follows: freestanding sign area up to twenty-five (25) square feet (per side) shall be deducted from the total sign area permitted on a one to one basis; freestanding sign area between twenty-five (25) and forty (40) square feet (per side) shall be deducted from the total sign area permitted on a four (4) to one (1) basis; freestanding sign area over forty (40) square feet shall be prohibited except as set for in subparagraph 5 below.

5. Where groups of two (2) or more contiguous stores are located together in a shopping center (mall or plaza) or where a lesser number of

stores total not less than twenty thousand (20,000) square feet of gross leasable area, one common freestanding sign denoting the name of the shopping facility shall be permitted, not exceeding fifty (50) square feet (per side) and with bottom panel not less than eight (8) feet above grade. All other signs shall be attached to buildings, of a wall or soffit type, and coordinated in material, shape, lettering, color and/or decorative elements. Total sign area permitted for the entire shopping center shall be calculated at the rate of one (1) square foot of sign per linear foot of building frontage, and such exterior signs shall be permitted upon, and identify only, the uses which allow direct public access from outside the mall building.

6. Representational signs shall not project in any direction more than four (4) feet beyond the principal structure to which they are attached, or extend over a public right-of-way and shall not exceed fifteen (15) square feet. Only one (1) such sign per establishment shall be permitted, with the area of such sign structure deducted from the total sign area permitted.

7. Illuminated signs which indicate the time, temperature, date or similar public service information shall not exceed thirty-two (32) square feet and shall not employ less than sixty (60) percent of the total sign area, each side, for said public service information.

8. Gasoline service stations shall additionally be permitted two (2) price/product (type of gas: i.e., regular, no lead, etc.) signs each, not exceeding six (6) square feet per side, if located on the pump island, or set not closer than ten (10) feet from the edge of the pavement, not exceeding eight (8) feet above grade nor situated so as to impair visibility for pedestrians or motorists. The sign area for these signs shall be deducted from total sign area for that building.

(c) Commercial (C- 2) District

1. Businesses shall utilize a limited combination of wall, awning, and projecting signs. Each business is allowed three signs, one (1) projecting sign, either one (1) wall sign or one (1) awning sign/ graphics, and one window sign.

2. Each sign, depending on its type, shall be limited in size to conform with the existing scale of the buildings they are mounted upon. Wall signs shall not exceed eighteen (18) square feet in area. Projecting signs shall not exceed five (5) square feet in area, and awning signs/graphics shall not be greater than (10) square feet in area. Window signs shall not exceed fifty (50%) percent of the window area or four (4) square feet in area, which ever is greater.

3. In calculating sign area, only one side of the sign shall be used.

4. Projecting signs shall not extend lower than eight (8) feet to the ground to maintain a safe clearance for pedestrians, and shall not extend over a public right-of-way more than two-thirds of the distance between the building and the curb. Projecting Signs shall not extend higher than thirteen (13) feet above ground level.

5. Roof signs, lighted flashing signs, neon signs, pole and freestanding signs are strictly prohibited.

6. Wall signs and Projecting Signs shall not be installed over existing building openings including windows and doorways, and shall not be installed on walls on the second and third floors.

5. Portable Signs

A new business, or a business in a new location, awaiting installation of a permanent sign, may utilize a portable sign for a period of not more than sixty (60) days or until installation of a permanent sign, whichever occurs first. Such a portable sign must meet all the construction standards of the NYS Uniform Fire Prevention and Building Code. A separate permit for such a portable sign shall be required.

6. Nonconforming Signs

A nonconforming sign shall not be enlarged or replaced by another nonconforming sign. Any maintenance, repair or alteration of a nonconforming sign shall not cost more than fifty (50) percent of the current depreciated value of the sign as of the date of alteration or repair. No repair or alteration exceeding fifty (50) percent of the current depreciative value shall be made without making the sign a conforming sign.

7. Removal of Signs

Any sign, existing on or after the effective date of this amendment, which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located, shall be removed. In addition, where the permit for a sign is revoked for any reason, the sign shall be removed immediately.

(a) If the Zoning Enforcement Officer shall find that any sign regulated in this section is not used, does not advertise a current product or service available on the property, is abandoned, unsafe or insecure, or is a menace to the public, the Zoning Enforcement Officer shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within thirty (30) days from the date of the notice. If the sign is not removed or repaired within said time period, the Zoning Enforcement Officer shall revoke the permit issued for such sign and may remove or repair the sign and assess the owner for all costs incurred for such service.

(b) The Zoning Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.

8. Construction Standards affecting all Zoning Districts

All signs shall be constructed and installed in conformance with the Code of New York State. In addition, the following standards shall apply:

(a) Wall Signs

1. Wall signs shall not extend beyond the ends or over the top of the walls to which attached, and shall not extend above the level of the second floor of the building. Such signs shall be limited to three (3) feet in height.

2. Wall signs shall not extend more than nine (9) inches from the face of the buildings to which attached, except that copy-change signs may extend fifteen (15) inches.

3. Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of eight (8) feet.

4. Copy-change wall signs shall be permitted on theaters only.

b. Freestanding Signs

1. No freestanding sign shall be located less than ten (10) feet from the front property line nor less than five (5) feet from the side property line. No freestanding sign may be located less than fifty (50) feet from any other freestanding sign.

2. If for any reason the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within ninety (90) days to conform with the minimum setback requirements.

3. No freestanding sign shall be more than twenty-five (25) feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is less, to the highest point of the sign, including supporting structures.

4. No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.

5. Freestanding signs under which a pedestrian walkway or driveway passes must have ten (10) feet vertical clearance.

6. Masonry wall-type signs shall not exceed four (4) feet in height and shall not be placed so as to impair visibility for motorists.

c. Projecting Signs

1. Projecting signs shall not be more than three (3) feet in height. For the purposes of this subsection projecting signs shall be considered those signs, which extend more than nine (9) inches from the face of a building, unless such sign is a copy-change which may extend up to fifteen (15) inches before being considered a projecting sign.

2. The exterior edge of a projecting sign shall extend not more than five (5) feet from the building face, or extend more than two-thirds the distance between the building and the curb over a public right-of-way or property line.

3. No part of a projecting sign shall extend into vehicular traffic areas, and any part extending over pedestrian areas shall have a minimum clearance of eight (8) feet.

4. Projecting signs shall not extend above the level of the first floor of the buildings to which attached, or in any case extend higher than thirteen (13) feet from the ground.

d. Other Signs

1. Windows Signs

(a) The area of a window sign(s) shall not exceed twenty-five (25) percent of the area of the window in the Residential (R-1), Residential (R-2), Industrial (I), or Commercial (C-1) Districts. Window signs shall not exceed fifty (50%) of the area of the window or be greater than four (4) square feet in the Commercial (C-2) District.

(b) Copy-change window signs shall not exceed three (3) square feet.

2. Sign Directories

(a) Sign directories shall contain identification of and direction to several business enterprises, but shall contain no promotion advertising.

3. Awning Signs

(a) Awning graphics may be painted or affixed flat to the surface of the front or sides, and shall indicate only the name and/or address of the enterprise or premises.

(b) No graphics or signs may project horizontally or vertically from the awning.

(c) Graphics and signs may hang below an awning provided that no part of the sign hang lower than eight (8) feet from ground level.

(d) Awning graphics shall be a single line of lettering not exceeding ten (10) inches height.

4. Sandwich Board Signs (Local Law #1-2015: Amended 9/14/15)

(a) Sandwich Board signs shall be permitted in C-1 and C-2 Districts only.

(b) Signs are allowed by permit only, subject to payment of a \$25.00 annual fee.

(c) Permits must be renewed annually through the Village Clerk only if the business is in good standing, relative to payment of real property taxes, water and sewer fees.

(d) The signs must be made of a hard plastic type material so that they can be uniform for all businesses. Plywood signs, other

unsightly signs and any sign that might detract from the overall appearance and safety of the community are prohibited.

(e) The signs shall not exceed 36 inches high and 36 inches wide.

(f) Signs must be placed on the sidewalk near the street so as not to impede pedestrian traffic or public parking.

(g) The sign must be put in front of the existing business.

(h) The sign must be "weighted down" to prevent movement or a knockdown from wind. It will be the business owner's responsibility to use discretion as to whether to put the sign out any particular day.

(i) **Signs can be displayed during business hours only with maximum permitted display from 8 AM to 5PM.**

(j) Only one sign per business is allowed. **No more than two (2) signs per building.**

(k) If there is no sidewalk in front of the business and/or the sidewalk is not wide enough to allow pedestrians to walk safely, no sign will be allowed to be displayed.

(l) The following will be considered infractions of this provision;

(1.) Signs that interfere with pedestrian or vehicle traffic or vehicle parking.

(2.) Signs that are left outside overnight.

(3.) Signs that are repeatedly and habitually blown out into the street or endanger the safety of pedestrians and/or interfere with unobstructed pedestrian travel.

(4.) Signs that do not meet the standards as stated in sections (c) & (d) above.

(5.) Signs that do not have a permit through the Village or its permit has expired.

(6.) Signs that are worn, broken or considered a danger to the public.

(7.) Signs that may be snow covered, obscured or otherwise not visible to the general public.

(l) Infraction Procedures for Sandwich Board Signs

(1.) An initial infraction will result in a verbal warning that will be recorded in the Village Office.

(2.) A second infraction within two years, will result in a formal letter of warning that will be recorded in the Village Office.

(3.) A third infraction that occurs at any time after the second warning *and* occurs within that two year period, will result in revocation of the sign permit **one year**. If this should occur, the business/person **will not** be reimbursed for the application fee.

(4) If a business/person who is cited for one or two infractions but has no further infractions the second year, the two year period will start anew and that third year will be considered as year one.

(m) All Sandwich Board applicants assume sole responsibility for any personal liability, damage or injury resulting from any of the above infractions.

(n) The permit season will run from June 1st to May 31st.

### C. Appeal Procedures

Any person aggrieved by a decision of the Zoning Enforcement Officer relative to the provision of this section may appeal such decision in writing to the Board of Appeals as provided in Section 207 and shall comply with all procedural requirements prescribed by the Board of Appeals.

At least thirty (30) days prior to hearing such appeal, the Board of Appeals shall refer the application to the Planning Board for its review and recommendation. The Planning Board shall review such application at a regular meeting and forward its recommendation to the Board of Appeals. Failure on the part of the Planning Board to forward a recommendation within thirty (30) days shall constitute an approval.

In granting any variance for the provision of this section, the Board of Appeals must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this section, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in practical difficulty or unnecessary hardship to the applicant.

## **SECTION 508**      **FENCES**

The installation, or replacement, of a fence within the Village does not require a permit provided the following criteria are met. Failure on the part of the property owner to maintain his fence in accordance with these provisions shall constitute a violation of this zoning ordinance.

### A. All Fencing

1. All fencing must be installed, or replaced, in conformance with the NYS Uniform Fire Prevention and Building Code. Fencing shall be located on an individual's own property and not on adjoining property or directly upon a property line.

2. No fencing shall be installed or replaced which poses a potential hazard to either pedestrians or motorists by restricting vision.

3. The "finished" or "good" side of the fence shall face the adjoining properties.

4. It shall be the responsibility of the property owner whose land contains a fence to maintain that fence so that it remains structurally sound and does not aesthetically detract from neighboring properties.

5. The property owner is responsible to see that any vegetation including grass and weed around a fence is regularly mowed.

B. Fencing - Front Yard

1. Fencing located within front yards shall be located not closer than one (1) foot to the edge of a public sidewalk. In areas where public sidewalks do not exist, front yard fencing shall not be located closer than three feet to the front lot line.

2. Fencing located in the front yard shall not exceed three (3) feet in height for closed fencing, or four (4) feet in height for open fencing. For the purposes of this Section, the term open fencing shall refer to fencing which is at least 75% open including chain link type fencing. Fencing which is less than 75% open shall be considered closed fencing.

3. Fencing, hedges, bushes, and evergreen trees located within 5 feet of a public right of way or road with a sidewalk, or located within 20 feet from the edge of the pavement of a road without a sidewalk, shall not exceed three (3) feet in height.

C. Fencing - Side and Rear Yards

Fencing located in side or rear yards shall not exceed six (6) feet in height.

**SECTION 509 EXTERIOR SECURITY LIGHTING**

Exterior security lighting (i.e. mercury vapor, high pressure sodium, spot or flood lights) shall not be installed or maintained so as to shine directly in or upon adjoining residential dwellings. Such lighting shall not be installed or maintained so as to pose a hazard for vehicular traffic.

**SECTION 510 ADULT USES**

A. Purposes

The Village of Oakfield conducted a study of the potential secondary affects posed by adult uses. This study along with other similar studies has shown buildings and establishments operated as adult uses pose secondary effects that have a detrimental and harmful to the health, safety, morals and general welfare of a community. In order to promote the health, safety, morals and general welfare of the residents of the Village of Oakfield, this Section is intended to control those secondary affects of adult uses by restricting adult uses to non-residential areas of the Village, and otherwise regulating their operation.

B. Definitions Specific to Adult Uses

Adult Bookstore: A bookstore that has as a “substantial portion” (equal to or greater than 25%) of its stock-in-trade and/or floor area as hereinafter defined any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical area”; or,
- (2) Photographs, films, motion pictures, videocassettes, or video reproduction, slides or other visual representations that are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (3) Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

Adult Commercial Establishment: A establishment other than an adult bookstore, adult eating or drinking establishment, adult theater, commercial studio, or business or trade school - which features employees who as part of their employment, regularly expose to patrons “specified anatomical areas” and which is not customarily open to the general public during such features because it excludes minors by reason of age.

Adult Eating or Drinking Establishment: An eating or drinking establishment that regularly features any one or more of the following:

- (1) Live performances which are characterized by an emphasis upon the depiction or description of “specified anatomical areas” or “specified sexual activities”,
- (2) Films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”,
- (3) Employees who as part of their employment, regularly expose to patrons “specified anatomical areas”, and which is not customarily opened to the general public during such features because it excludes minors by reason of age.

Adult Establishment: A commercial establishment including but not limited to adult book store, adult eating or drinking establishment, adult theater, adult motel, adult message establishment, nude model studio or other adult commercial establishment, or any combination thereof.

Adult Massage Establishment: Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed massage therapist, or duly licensed physical therapist; or barber shops or beauty parlors in which massages are administered only to the scalp, face, neck and shoulders. This definition shall also exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

Adult Motel: A motel that:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” and/or currently rated X movies; and/or

- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; and/or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult Theater: A theater that regularly features one or more of the following:

- (1) Films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”; or,
- (2) Live performances which are characterized by an emphasis upon the depiction or description of “specified anatomical areas” or “specified sexual activities”, and which is not customarily opened to the general public during such features because it excludes minors by reason of age.

An adult theater shall include commercial establishments where such materials or performances are viewed from individual enclosures.

Nude Model Studio: Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration, other than as part of a course of instruction offered by an educational institution established pursuant to the Laws of New York State.

Sexual Anatomical Areas: Areas that are less than completely and opaquely concealed (a) human genitals, pubic region, (b) human buttock, anus or (c) female breast below a point immediately above the top of the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

Specified Sexual Activities: Includes (i) human genitals in a state of sexual stimulation or arousal; (ii) actual or simulated acts of human masturbation, sexual intercourse, or sodomy; or (iii) fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast.

For the purpose of determining whether a “substantial portion” of an establishment includes an adult bookstore or use the following factors shall be considered: (1) the amount of floor area and cellar space accessible to customers and allocated to such uses; and (2) the amount of floor area and cellar space accessible to customers and allocated to such uses as compared to the total floor area and cellar space accessible to customers in the establishment. For the purposes of the Section the term “substantial” shall mean an amount equal to or greater than 25 percent of the total.

For the purpose of determining whether a bookstore has a “substantial portion” (equal to or greater than 25%) of its stock in materials defined in paragraphs (a) (1) or (a) (2) hereof, the following factors shall be considered: (1) the amount of such stock accessible to customers as compared to the total stock accessible to customers in the establishment; and (2) the amount of floor area and cellar space accessible to customers containing such stock; and (3) the amount of floor area and cellar space accessible to customers containing such stock as compared to the total floor area and cellar space accessible to customers in the establishment.

A person includes a firm, partnership, corporation, association or legal representative, acting individually or jointly.

### C. Restrictions Affecting Adult Uses

Adult uses and establishments, including but not limited to an adult book store, adult eating or drinking establishment, adult theater, adult motel, adult message establishment, nude model studio or other adult commercial establishment, or any combination thereof. adult bookstore, adult motion-picture theater, adult mini-motion-picture theater, and adult entertainment cabaret shall be permitted subject to the following restrictions. All distance separations shall be measured from closest property lot line to closest property lot line.

1. No such adult uses shall be within one hundred (100) feet of another existing adult use.

2. No such adult use shall be located within five hundred (500) feet of a pre-existing school, place of worship, playground or park.

3. No such adult use shall be located within one hundred (100) feet of a property under residential use within the boundaries of any Residential Zoning District. The actual dwelling unit must be located in the Residential District. If the property is split between a residential district and a commercial or industrial district, then the home on the property must be located in the residential portion of the property. Otherwise, the adult business does not need to abide by the one hundred (100) foot distance separation from this particular property.

4. No such adult use shall be located in any zoning district except the Neighborhood Commercial or Industrial Districts (C-1, C-2 or I).

5. Only one adult establishment shall be permitted on a zoning lot.

D. Prohibition Regarding Public Observation

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

**SECTION 511 MOBILE HOME PARKS**

Mobile home parks may be permitted in a Planned Unit Development District (PUD) provided the following standards and requirements are complied with:

A. Size

The size of all mobile home parks shall be a minimum of ten (10) acres.

B. Construction and Safety Standards

All mobile homes within the park shall comply with the current construction and safety standards set forth by the U.S. Department of Housing and Urban Development.

1. Mobile homes shall have a minimum enclosed living area of seven hundred and fifty (750) square feet.

2. Solid fuel burning devices shall not be permitted within any mobile home in a mobile home park.

C. Layout and Design

1. Double Access

All mobile home parks containing twenty (20) or more units shall have access to a public highway at two (2) points, with such points being separated by at least one hundred (100) feet. This provision may be waived by the Planning Board if the applicant's proposal contains acceptable alternatives for emergency access.

2. Buffer Zone

The site shall be located and laid out so that no mobile home is located within 100 feet of any adjacent public highway right-of way or within 35 feet of any other adjoining property line. Additional buffer areas may be required by the Planning Board if deemed necessary in order to avoid potential conflicts with existing or planned land uses.

1. Sales Area

Commercial areas may be provided for the display and sales of mobile homes within the confines of the mobile home park, except on the frontage established in the buffer zone. Model units shall only be placed upon individual lots, limited to one (1) unit per lot.

4. Other Principal Structures

A private conventional residence may be located within the confines of the mobile home park. Lot location and minimum distances shall be fixed by the Planning Board after due consideration of each case.

5. Interior Roadways

The layout of interior roadways, driveways, and walkways shall be designed and maintained in such a manner as to provide for safe, efficient and orderly vehicular and pedestrian traffic acceptable to the Planning Board. In addition, all interior roadways shall be clearly identified by signs at each intersection. Such signs shall be acceptable to the Planning Board.

6. Roadway (or Driveway) Clear Zone Width

All roadways shall have a minimum clear zone width of forty (40) feet which is completely clear of obstructions to a height of twelve (12) feet.

7. Roadway Grades

The maximum roadway grade shall be seven (7) percent. Entrance gradients shall be less than three (3) percent for a distance of seventy-five (75) feet from the edge of the right-of-way of the public highway.

8. Minimum Radius

The minimum radius of curvature for any street shall be seventy-five (75) feet.

9. Alignment

Roadways shall be laid out so as to intersect as nearly as possible at right angles, and in no case shall any angle or intersection be less than seventy-five (75) degrees. Roadways in four way intersections shall be directly across from one another or offset a minimum of 125 feet.

10. Roadways

Roadway or driveway pavement shall be located in the center of the roadway clear zone and shall be at least twenty (20) feet wide or as designated by the Planning Board. If parking provision is made within the roadway clear zone such parking shall be off the pavement and the clear zone shall be increased accordingly.

11. Parking

Two (2) parking spaces shall be provided for each mobile home lot to meet the needs of occupants of the mobile home park and their guests without interference with normal movement of vehicular or pedestrian traffic. Such parking may be in tandem. Each parking space shall have minimum dimensions of at least ten (10) feet by twenty (20) feet per vehicle and shall have an all weather surfacing.

12. Auxiliary Parking

Auxiliary parking areas for motor vehicles shall be provided at a ratio of one (1) parking space to every five (5) mobile home units. Additional auxiliary parking areas are to be provided for parking trucks, maintenance equipment, boat trailers, utility trailers, and similar such equipment and vehicles.

13. Mobile Home Lot Size

All lots shall be a minimum of eight thousand (8,000) square feet exclusive of any common areas and shall have a minimum dimension of eighty (80) feet across the lot. No common areas such as buffer zones, roadway clear zones, auxiliary parking lots, recreational areas, service buildings and areas, sales areas, etc., shall be counted towards required individual mobile home lot areas.

14. Walkways

Walkways shall be laid out so as to connect service buildings, dry yards, and storage lockers with roadways. Walkways shall also provide access to recreation areas if such areas are not located adjacent to a roadway. Each roadway shall have a walkway running parallel to it, separated from the roadway by a minimum distance of seven (7) feet. Additional walkways may also be placed along the rear of each lot. All walkways shall be a minimum of three (3) feet wide and thickness of four (4) inches and shall be provided with joints so designed as to minimize cracking. All walkways shall be made of concrete or blacktop or other similar material approved by the Planning Board.

15. Recreation Areas

Recreation areas shall be provided in central locations at an amount equal to ten percent (10%) of the total park area. Recreational areas shall include playgrounds for children and separate areas for more passive enjoyment by adults. The playgrounds shall be equipped with play equipment for children under ten (10) years of age and should be away from traffic.

16. Public Telephone

If public telephones are provided within the court, they shall be located directly adjacent to service buildings.

17. Mailboxes

Mailboxes shall be located in compliance with U.S. Postal Service regulations and shall not be placed in any location where they constitute a safety hazard to pedestrians or to vehicles.

18. Trees

All existing trees shall be preserved insofar as possible in the design of the park.

D. Siting of Mobile Homes

Mobile homes shall be so situated within the mobile home park in conformance with the following:

1. The following minimum distances shall be maintained when providing specific locations of mobile homes as related to each other within the park:
  - (a) Laterally - (side of mobile home facing the side of another) thirty (30) feet.
  - (b) Longitudinally - (end of mobile home facing the end of another) twenty (20) feet.
  - (c) Perpendicularly - (end of one mobile home facing the side of another) twenty-five (25) feet.
2. In cases of irregularly shaped lots the Planning Board shall determine the application of the above listed provisions but in no case shall any two (2) mobile homes be closer than twenty (20) feet from one another.
3. No mobile home shall be located less than fifty (50) feet from any service or storage building other than approved accessory buildings located on and serving the specific mobile home lot as set forth in subsection E, paragraph 12 of this Section.
4. The minimum setback from the roadway line (clear zone rather than pavement) shall be fifteen (15) feet. Minimum setback from all interior lot lines shall be five (5) feet.
5. The percent lot coverage for an individual mobile home lot shall be no greater than twenty-five percent (25%).
6. The minimum distance between a mobile home and a parking space for motor vehicles shall be ten (10) feet.
7. No occupied travel or vacation trailer or other form of temporary type living units shall be permitted in a mobile home park.
8. Every mobile home lot shall be clearly identified by a number located on a sign or light post located on the lot.

E. Required Improvements

1. Water and Sewage System

Water supply and sewage collection/treatment facilities shall be installed and maintained in compliance with the requirements of the Village of Oakfield Public Works Department, New York State Health Department, Department of Environmental Conservation and the Genesee County Health Department. Water supply from the Village shall be through a "master meter" installed at the expense of the park owner.

2. Underground Utilities

Electrical systems, gas piping systems, cable and telephone wires, and community and individual fuel storage shall be installed underground and maintained in compliance with the NYS Uniform Code.

3. Artificial Lighting

Artificial lighting shall be provided from dusk to dawn to illuminate walks, driveways, roadways and parking spaces for the safe movement of pedestrians and vehicles. Specifically, roadway lighting standards shall be provided as follows:

(a) Overhead roadway lighting standards shall be placed no farther than one hundred (100) feet apart, have a minimum clearance above the pavement of twelve (12) feet and shall have a minimum capacity of 100 watts or as specified by the Planning Board.

(b) Service buildings shall have sufficient exterior lighting fixtures so as to properly illuminate entrances and drying yards connected therewith.

4. Refuse Disposal

It shall be the responsibility of the park owner to insure that garbage and rubbish shall be collected and properly disposed of outside the park as frequently as may be necessary to insure that garbage receptacles do not overflow. This responsibility shall include either the provision of garbage cans with tight fitting covers to each unit or dumpsters which service a number of units. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, incident or fire hazard. Suitable screening shall be provided for all community refuse (dumpster) areas.

5. Roadway Paving

All roadways within the park shall be paved for a minimum width of twenty (20) feet in accordance with specifications acceptable to the Planning Board.

6. Parking Area Paving

Areas for motor vehicle parking and access driveways shall be surfaced with asphalt or concrete.

7. Mobile Home Lot

Each mobile home lot shall contain a mobile home stand to provide adequate support for the placement and tie down of the mobile home. The stand shall not heave, shift, or settle unevenly under the weight of the mobile home as a result of any frost 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, and shall be constructed in compliance with the NYS Uniform Code. In addition, the footings and the load-carrying portion of the ground anchors shall extend below the frost line.

8. Patios/Decks

Mobile home lots may be provided with patios and/or decks. If installed, patios and/or decks may be covered and shall conform to distance separations, lot setbacks and percent lot coverage requirements, and shall not be enclosed (insect screening is allowable).

9. Storm Water Drainage

Mobile home parks shall have adequate facilities for drainage of surface and subsurface water. The entire mobile home park shall be graded to facilitate the safe and efficient drainage of surface water and to permit no ponding areas where water will stand for lengths of time so as to constitute a health or other hazard. Drainage ditches shall be provided where necessary to provide for the removal of surface drainage. Such ditches shall be provided in such a way as not to constitute a hazard to pedestrians. Gutters, culverts, catch basins, drain inlets, storm water sewers or other satisfactory drainage systems shall be utilized where deemed necessary and shall be acceptable for a size specified by the Planning Board and the Genesee County Soil and Water Conservation District.

10. Landscaping

Each mobile home lot shall be provided with at least two (2) shade trees with trunks not less than one and one-half (1 1/2) inches in diameter as measured three (3) feet from the ground. Poplars, silver or soft maples, box elders, catalpas, and horse chestnuts shall not be planted. The planting of elms is not recommended. Shade trees shall also be planted at intervals of not less than fifty (50) feet within the buffer areas to the sides and rear of the mobile home court. Shade trees are recommended in the buffer area between the public highway and the adjacent mobile home lots. Due regard shall be had to the obstructive qualities of limbs and branches along mobile home movement and accessways.

11. Service Buildings

The developer shall be required to furnish service buildings in conformance with the following:

- (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 NYS Uniform Code and the New York State Sanitary Code.
- (c) The service buildings shall be well lighted at all times from dusk to dawn and shall be well ventilated with screened openings, shall be constructed of such moisture proof material, including painted woodwork, as shall permit repeated cleaning and washing, and be maintained at a temperature of at least 68 degree Fahrenheit during the period of October 1 to June 1. The floors of such buildings shall be of concrete and supplied with drains.

12. Additional Structures on Mobile Home Lots

Additional structures on mobile home lots are subject to the following:

- (a) No non-integral structural addition or other accessory building or structure in excess of one hundred (100) square feet shall be permitted on any mobile home lot.
- (b) Structural additions, accessory buildings, car ports and awnings shall conform to distance separations, lot setbacks and percent lot coverage requirements.
- (c) Accessory buildings shall not be placed in front yards.

13. Mobile Home Park Owner Obligations

In general, mobile home parks shall be properly maintained so as to insure the desirable residential character of the property. Specifically, the following shall apply:

(a) Yard Maintenance

Mobile home parks shall be maintained reasonably free from holes and excavations, sharp protrusions, and other objects or conditions which might be a potential cause of personal injury. Walks, steps, driveways and roadways that contain holes or tripping hazards shall be filled, repaired, or replaced as the need indicates. Trees, or limbs of trees, that constitute a hazard, shall be removed. Snow removal is the responsibility of the mobile home park owner.

(b.) Noxious Weeds

Ragweed and other noxious weeds considered detrimental to health such as a poison ivy or poison sumac shall be completely eliminated from all areas of the mobile home park. Open areas shall be maintained free of heavy undergrowths of any description.

(c) Accessory Structures

All accessory buildings or structures shall be kept in good repair, free from health, fire and accident hazards. They shall be of durable construction and appropriate for intended use and location, exterior wood surface of all structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating or paint or other suitable preservative.

(d) Gravel Areas

All areas surfaced with gravel shall be kept clear of all forms of vegetation.

(e) Infestation

Grounds and structures shall be maintained free of insect, vermin, and rodent harborage and infestation. Methods used for purposes of extermination shall conform with generally accepted practice.

(f) Skirts

Skirts for individual mobile homes are required and shall conform to the New York State Uniform Code. Such skirting shall be installed within thirty (30) days of the installation of the mobile home and must be maintained.

14. Mobile Home Park Plans and Registration of Mobile Home Park Occupants

It shall be the duty of each mobile home park owner/operator to keep a register containing a record of all mobile home owners and occupants located within the park. This register shall contain the following:

- (a) The name and legal address of all occupants.
- (b) The name and address of the owner of each mobile home.
- (c) The make, model, year, and license number of each mobile home.

**SECTION 512**      **LIGHT INDUSTRIAL USES IN C-1 DISTRICTS**

Light industrial uses may be permitted in the Neighborhood Commercial (C-1) District upon compliance with the following standards and the issuance of a special use permit in conformance with Section 208.

A. Construction and Safety Standards

The proposed light industrial uses shall comply with all the construction and safety standards contained in the NYS Uniform Code and all other applicable laws, codes and regulations.

B. Enclosure of Process and Storage Areas

No outside process or storage associated with the light industrial uses shall be permitted. Long term (greater than 24 hours) storage of products and/or materials shall not be allowed in trucks or trailers parked onsite.

C. Hazardous Materials and/or Processes

No light industrial use shall involve a use classified as "high hazard" by the NYS Uniform Code (see Section 703.4) or use highly hazard materials. Use and storage low and moderate hazard materials and processes shall be done in compliance with all applicable laws, codes and regulations. The Village Zoning Enforcement, Code Enforcement and representatives of the Fire Department shall have the authority to thoroughly inspect all light industrial uses at least annually and to preform spot inspections as they determine necessary to protect the public health and safety.

D. Noise Dust and Odors

Light industrial uses shall not emit or release any noxious or annoying fumes, odors, noise or other disturbances.

E. Buffer Area

When the Planning Board has determined that a buffer area may be necessary to protect surrounding land uses from a light industrial use, it may require the installation and maintenance of a buffer strip as set forth in Section 301.A.8.e of this Zoning Law.

**SECTION 513**      **ENERGY TOWERS**

No person, firm, or corporation being the owner or occupant of any land or premises within the Village of Oakfield, shall use or permit the use of said land or premises for the construction of a tower for energy-deriving purposes without obtaining a special use permit and site plan approval therefore as hereinafter provided.

A. Specific Exemptions From This Section.

1. Pre-existing towers.
2. Attached towers the height of which is within the maximum building height prescribed in Zoning Schedule A of the Zoning Law of the Village of Oakfield.

B. Permit Application.

1. All applications for a special use permit and site plan approval shall be by written application on forms provided by the Village of Oakfield.
2. Each application for a special use permit and site plan approval shall be accompanied by a complete plan, drawn to scale, showing the location of the tower on site; the location of all structures, power lines or other utility lines within a radius equal to the proposed tower height; dimensions and sizes of the various structural components of the tower's construction; design data which shall indicate the basis of design; and certification by a registered professional engineer or manufacturer's certification that the tower was designed to withstand wind load requirements for structures as set forth in the New York State Uniform Fire Prevention and Building Code.
3. All applications for a special use permit and site plan approval for the construction of a tower to be used to derive energy will be referred to the Planning Board. In granting such approvals, the Planning Board may impose other conditions and restrictions deemed necessary for the maintenance and safety of such towers.

C. General Provisions

Prior to issuance of final site plan approval, the following requirements shall be complied with:

1. Towers shall be located or placed in rear yards.
2. Guy wires and anchors for towers shall not be located closer than one-half (1/2) of the height of the tower to any property line.
3. Energy-deriving towers shall be so placed that the base portion of the tower, if visible from any right-of-way, shall be suitably screened from view.

4. There shall be a limit of one (1) energy-deriving towers per parcel.

5. Energy-deriving towers shall not produce a level of noise at any lot line greater than the ambient nighttime level. Noise reduction technology shall be installed as a condition of approval if it is determined by the Planning Board that the ambient nighttime noise levels are exceeded after installation occurs.

6. Towers used solely for energy-deriving purposes shall not exceed a total height of one hundred fifty (150) feet from the ground to the top of the tower.

#### **SECTION 514      OUTSIDE SOLID FUEL BURNING DEVICES**

Outside solid fuel burning devices shall not be permitted in the Village of Oakfield.

#### **SECTION 515      COMMERCIAL COMMUNICATION TOWERS**

No commercial communication tower or antenna(s) shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these regulations.

##### **A.      Shared Use of Existing Towers and/or Structures**

At all times, shared use of an existing tower and/or structure including another commercial communications tower, water tower, or building shall be preferred to the construction of a new commercial communication tower. An applicant shall be required to present an adequate report inventorying existing towers or other structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new commercial communication tower. The installation of a commercial communications antenna(s) on an existing structure located within the C-1, C-2 and I Districts shall be considered a permitted accessory use not subject to Site Plan Review, provided the following criteria are met:

1. The existing structure is not increased in height or otherwise modified so as to change its visual appearance,
2. The antenna(s) do not extend above such structure more than ten (10) feet, and
3. The applicant provides the necessary documentation to the Zoning Enforcement Officer to verify the existing structure and proposed antenna(s) installation would comply with the NYS Uniform Fire Prevention and Building Code.
4. An applicant proposing to share use of an existing tower and/or structure shall be required to document intent from an existing tower/structure owner to allow shared use.

##### **B.      New or Altered Towers and/or Structures**

The authorizing board may, in its sole discretion, consider a new or altered (including tower or structure which are modified, reconstructed, or changed) commercial communication tower/structure where the applicant demonstrates to the satisfaction of the

authorizing board that shared usage of an existing tower/structure is impractical. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers or other structures as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and responses for shared use shall be provided.

The applicant shall be required to submit a site plan in accordance with Article IV for all commercial communication towers that are proposed to be erected, moved, reconstructed or altered. Site Plan Review will also be required in those instances when antenna(s) are being added to existing structures not in compliance with the criteria set forth in Subsection A of this Section. In addition to Article IV, the site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wire anchors, parking and landscaping and shall include grading plans for new facilities and roads.

C. Supporting Documentation

The authorizing board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF - SEQR), and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antenna and justification for any required clearing. The applicant must provide a coverage/interference analysis and capacity analysis that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. The authorizing board may require submittal of a more detailed visual analysis based on the results of the Visual EAF in addressing this Subsection and Subsections J and K of this Section.

D. Shared Usage of Site with New Tower

Where shared usage of an existing tower or other structure is found to be impractical, as determined in the sole discretion of the authorizing board, the applicant shall investigate shared usage of an existing tower or other structure site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection B of this Section. Any new commercial communication tower approved for a site with an existing tower or other structure site shall be subject to the standards of Subsections F through N of this Section.

E. New Tower at a New Location

The authorizing board may consider a new commercial communication tower on a site not previously developed with an existing tower or other structure when the applicant demonstrates that shared usage of an existing tower site is impractical, as determined in the sole discretion of the authorizing board, and submits a report as described in Subsection B of this Section.

F. Future Shared Usage of New Towers

The applicant must design a proposed commercial communication tower to accommodate future demand for commercial broadcasting and reception facilities. This requirement may be waived provided that the applicant demonstrates, in the sole discretion of the authorizing board, that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

1. The number of Federal Communications Commission (FCC) licenses that in the future, would be available for the area.
2. The kind of tower site and structure proposed.
3. The number of existing and potential licenses without tower spaces;
4. Available spaces on existing and approved towers; and
5. Potential adverse visual impact by a tower designed for shared usage.

G. Setbacks for New Towers

All proposed commercial communication towers and accessory structures shall be set back from abutting residential parcels, public property or street lines a distance sufficient to contain on-site substantially all ice-fall or debris from tower failure and preserve the privacy of adjoining residential properties.

1. All commercial communication tower bases must be located at a minimum setback from any property line at a distance at least equal to the tower height, or the distance between the tower base and guy wire anchors, or the minimum setback of the underlying zoning district, or a minimum setback at a distance which shall be established in the sole discretion of the authorizing board based on the unique characteristics of the site, whichever of the foregoing is greater. The minimum setback requirement of this paragraph may be increased in the sole discretion of the authorizing board, or it may be decreased, again in the sole discretion of the authorizing board, in those instances when the applicant has submitted plans for a tower designed in such a manner as to collapse within a smaller area. Such tower design and collapse zone must be acceptable to the Village Engineer and the authorizing board.

2. Accessory structures must comply with the minimum setback requirements in the underlying district.

H. Visual Impact Assessment

The authorizing board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modifications of an existing tower that will increase the height of the existing tower. Construction of a new commercial communication tower or modification of an existing tower shall be subject to those guidelines and criteria listed below that the authorizing board, in its sole discretion, deems appropriate at the pre-submission conference:

1. Assessment of “before and after” views from key viewpoints both inside and outside of the Village, including state highways and other major roads, from state and local parks, other public lands; from any privately-owned preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers

2. Assessment of alternative tower designs and color schemes, as described in Subsection I below.

3. Assessment of visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

I. New Tower Design

Alternate designs shall be considered for new towers, including lattice and single pole structures. Plans should show that the owner of the commercial communication tower has agreed to permit other persons to attach other communication apparatus which do not interfere with the primary purposes of the commercial communication tower, provided that such other persons agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment. The design of a proposed new tower shall comply with the following:

1. Unless specifically required by other regulations, all towers shall have a neutral, earth tone, sky tone or similar finish that will minimize the degree of visual impact that the new tower may have. Artificial lighting, including strobes, beacons and other hazard avoidance lighting, shall be limited to that required by the Federal Aviation Administration (FAA) or other governmental agency, recognized safety guidelines and the authorizing board.

2. Any new tower shall be designed and constructed to have the minimum height and carrying capacity needed to provide future shared usage (co-locating of a minimum of two additional antennae).

3. The authorizing board may request a review of the application by the Village Engineer, or other engineer selected by the authorizing board, for evaluation of need for and design of any new tower. The costs associated for such review shall be borne by the applicant.

4. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

5. No portion of a tower may be used for signs or advertising purposes including company name, banners, or streamers.

6. The applicant shall provide documentation acceptable to the authorizing board that certifies the operation of the proposed commercial communication tower facility will not interfere with usual and customary transmission or reception of radio, television or other communication equipment.

7. Space on communication towers shall be made available for public safety purposes including Genesee County Public Safety Radio System at no cost to public safety agencies.

J. Existing Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four (4) inches in diameter (measured at a height of (4) feet off the ground) shall take place prior to approval of the special use permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

K. Screening

Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all commercial communication towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

L. Access

Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize grounds disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

M. Parking

Parking shall be provided in accordance with Section 501. No parking space shall be located in any required yard.

N. Fencing

Sites of proposed new commercial communication towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence eight (8) feet in height from finished grade, unless the applicant demonstrates to the sole discretion of the authorizing board that such measures are unnecessary to ensure the security of the facility. Such security fencing shall surround the tower base as well as each guy anchor.

O. Maintenance and/or Performance Bond

Prior to approval of any application, the authorizing board shall require the applicant and/or owner to post and file with the Village Clerk a maintenance and/or performance bond in an amount necessary to completely demolish and remove the Tower and all related structures, and restore the site to level ground with a non-erodable surface. Such bond or security shall be renewable every five (5) years. Upon renewal, the applicant shall provide to the Village Planning Board no less than two estimates from demolition companies that depict the costs of demolition, removal and restoration. The Village Planning Board may adjust the amount of the performance or maintenance bond as seen fit to reflect these cost estimates. The Village Planning Board, at their own discretion, may require the applicant to reimburse the Village for costs related to hiring an independent demolition company to perform a cost estimate for the demolition, removal and restoration of the tower and site if the applicant does not provide sufficient cost estimates.

P. Annual Re-certification

The owner/operator of a commercial communications tower shall annually, on the anniversary of original issuance of his/her special use permit, provide a written certification to the Zoning Enforcement Officer that their tower is still in operation and currently being used as approved by the special use permit.

Q. Removal of Obsolete/ Unused Facilities

Approval of a new commercial communication tower facility shall be conditioned upon the applicant's agreement to remove such facility once it is no longer used. Removal of such obsolete and/or unused commercial communication towers facilities shall take place within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement with their application to ensure compliance with this requirement.

R. Emergency Call Routing

In accordance with Genesee County Local Law no. 3 of 2001, all wireless service providers installing and operating equipment for communications purposes shall route all 911 emergency calls to the Genesee County Public Service Answering Point.

**SECTION 516**      **BIO REMEDIATION**

A. Purpose

The purpose of this provision is to allow for use of bio remediation for the treatment of petroleum-contaminated soils within the C-1, C-2 and I Districts. It is recognized that operation of such uses without adequate regulations and conditions may pose adverse impacts upon neighboring residential uses.

B. Process

An applicant shall apply to the authorizing board for a special use permit to establish a bio remediation cell(s) in a C-1, C-2 or I District.

C. General Provisions

The following provisions are intended to insure the use of bio remediation will not adversely affect surrounding land uses or pose unnecessary risks to residents and the environment:

1. All operations must be set back not less than 1,000 feet from any neighboring residential use or place(s) of public assembly.

2. All contaminated soils to be treated must have originated from within the Village of Oakfield. No contaminated soils from property located outside of the Village of Oakfield shall be used in a bio remediation process located within the Village.

3. Prior to approval of any special use permit, the authorizing board, in its sole discretion, may require the applicant and/or owner to post and file with the Village Clerk a maintenance and/or performance bond or other form of security acceptable to the Village Attorney, in an amount sufficient to cover the clean up and/or remediation said bio remediation cell(s) during its lifetime and provide for its removal. The amount required shall be determined in the sole discretion of the authorizing board, based upon the unique characteristics of the bio remediation cell(s) and site. The applicant and/or owner shall cooperate with the authorizing board in supplying all necessary construction, sampling, maintenance and reclamation data to the authorizing board prior to approval of any application to accomplish the foregoing.

**SECTION 517**      **PONDS**

A. Purpose

The purpose of this section is to provide for the construction of ponds that are adequately designed and located so as to not pose adverse impacts upon surrounding land uses. Farm water supply, conservancy, storm water/erosion control and fire protection or other ponds may be located within the R-1, R-2, C-1, C-2, and I Districts upon issuance of a special use permit provided the following criteria are met.

B. General Provisions

1. The proposed pond is located not less than 100 feet from any property line. This setback distance shall be measured from the edge of the surface of the water at its highest level.

2. The proposed pond design is deemed acceptable by the Genesee County Soil and Water Conservation District (GCSWCD), as provided through a written certification of approval.

3. Any soil excavated in the construction of a pond shall not be removed from the affected parcel without the specific authorization of the Planning Board in issuing the Special Use Permit.

## **SECTION 518      ACCESSORY APARTMENTS**

### **A.      Purpose**

The purpose of this provision is to allow for accessory apartments that are compatible with the neighborhoods in which they are located. Accessory apartments can be instrumental in allowing senior citizens to remain somewhat independent. It is recognized that the potential investment required for the establishment of an accessory apartment will in all likelihood result in its occupancy by subsequent individuals who may not share the family and/or close friend relationship that may have been the case for the initial occupant(s).

### **B.      Process**

An applicant shall apply to the Planning Board for a Special Use Permit in compliance with Section 208, to establish an accessory apartment in the R-1 or R-2 District. In reviewing a Special Use Permit application for an accessory apartment, the Planning Board shall consider the conditions set forth in Subsection C of this Section in addition to those set forth in Section 208.

### **C.      General Provisions**

The following provisions are intended to insure both that the accessory apartment is secondary to the residential use, and that it is compatible with the residential character of the neighborhood:

1. Only one accessory apartment is permitted per lot, and such apartment shall be part of the principal residential structure on the lot. An accessory apartment shall not be permitted in an accessory building.

2. Either the principal dwelling unit or the accessory apartment shall be occupied by, and considered the primary residence, of the property owner.

3. No alteration to the exterior of the structure shall be made which changes the residential character thereof.

4. An accessory apartment shall not be permitted on a lot that does not meet both the minimum lot area and lot frontage requirements of the respective zoning district in which it is located.

5. Not more than 25% of the entire floor area of the structure may be used for the accessory apartment and the total floor area to be utilized (including any new construction) shall not exceed 600 sq. ft.

6. All utilities hookups shall be installed and maintained in compliance with the requirements of the authority having jurisdiction.

7. Adequate parking shall be provided as set forth in Section 501.

**SECTION 519 OCCASIONAL SALE OF PERSONAL PROPERTY**

No public sales of personal property shall be conducted on residential property or premises unless a permit for the same has been issued by the Village Clerk. No such permit shall be issued unless the fee therefore has been paid in accordance with the Village's current fee schedule, which is on file in the Clerk's Office. No permit shall be issued for a period longer than three (3) consecutive days. No more than two (2) permits shall be issued for the same premises in any one calendar year, except that if the premises contain more than one residence or apartment, no more than two (2) permits shall be issued for the same residence or apartment.