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These regulations shall be known and may be cited as “ZONING REGULATIONS FOR THE TOWN OF WINFIELD.”

This Local Law shall be known as Local Law No. 1 for the year 1997 and will provide for Amendments to “Zoning Regulations for the Town of Winfield”, Date of Adoption, March 28, 1974 and as *Amended April 1, 1985 Amended September 13, 1989, Amended October 30, 1996. & Amended November 19, 1997,*

ARTICLE II PURPOSE AND SCOPE

A. Purpose

The provisions of these regulations shall be held to be the minimum requirements adopted to promote the health, safety and general welfare of this community. Such requirements are deemed necessary to achieve the following purposes.

Promote Orderly Development – To protect the character and maintain the stability of residential, recreational, commercial and agricultural areas within the Town, and to promote the orderly and beneficial development of such areas.

Regulate Intensity of Use – To regulate the intensity of use of zoning lots, and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air, privacy and convenience of access to property, and to protect the public health and safety.

Regulate Location of Buildings – To establish building lines and the location of buildings designed for residential, recreational, commercial, agricultural, or other uses within such lines.

Establish Standards of Development – To fix reasonable standards to which buildings or structures or the use of the land shall conform.

Prohibit Incompatible Uses – To prohibit uses, buildings or structures, which are incompatible with the existing or desirable character of development within, specified zoning districts.

Regulate Alterations of Existing Building – To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.

Limit Congestion in the Streets and Highways – To limit congestion in the public streets and to protect the public health, safety, convenience, and the general welfare by providing for off-street parking of motor vehicles and for the loading and unloading of commercial vehicles.

Protect Against Hazards – To provide protection against fire, flood, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort and general welfare.

Conserve Taxable Value of Land – To conserve and enhance the taxable value of land and buildings throughout the Town through an enlightened approach to land development and building location.

B. Scope

These regulations shall apply to the construction, installation or alteration of any building, structure or appurtenant system and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Town Of Winfield.

ARTICLE III DEFINITIONS

A. General

For the purposes of these regulations, certain terms or words used herein shall be interpreted as follows:

Words used in the present tense shall include the future. **The singular number includes the plural, and the plural the singular.** The word “lot” includes the word “plot” or “parcel”. The word “person” includes a corporation, partnership, association or organization as well as an individual. The word “building” includes the word “structure”. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “built, arranged or designed to be used or occupied”. The word “shall” is mandatory.

B. *Definitions

* Additional definitions will be found in Article VI, “SUPPLEMENTAL REGULATIONS.”

ACCESSORY BUILDING: A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

ACCESSORY USE: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ALLEY: A service-way, which affords a secondary public means of vehicular access to abutting property.

ALTERATIONS: A change or rearrangement in the structural parts, or in the entrance and exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AUTO WASH: A structure designed or intended primarily for the washing of automobiles, including conveyor, drive-through and self-service types.

BASEMENT: A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the established grade of the street center line, or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building, and which space is not designed or used primarily for year-round living accommodations.

BUILDING: Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. When a building is divided into entirely separate parts extending from the ground up, each part so divided is deemed a separate building.

BUILDING AREA: The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, steps and terraces.

BUILDING COVERAGE: That portion of the plot or lot area covered by a building.

BUILDING, DETACHED: A building surrounded by open space on all sides on the same lot.

BUILDING, FLOOR AREA: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces.

BUILDING, HEIGHT OF: The vertical distance measured from the established grade at the street center line or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE: A line parallel with the front, side and rear property lines, respectively, beyond which a structure may not extend as, determined by these regulations.

BUILDING PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMP: A recreational vehicle, mobile home, cottage or other accommodation for seasonal or other more or less temporary living accommodations.

CAMPSITE: Anyone or more of the following: A parcel of land designed to accommodate two or more camps, recreational vehicles or other accommodation for seasonal or other more or less temporary or transitory living arrangements, or buildings and facilities thereon, used for the assembly of children or adults for what is commonly known as "day camp" purposes, or for overnight, weekend or longer periods of camping by organized groups.

CELLAR: That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the established grade at the street center line or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building, and which space is not designed or used primarily for year-round living accommodations.

COMMERCIAL EXCAVATION: The excavation, processing or sale of topsoil, earth, sand, gravel, clay or other natural mineral deposits. *Amended April 1, 1985*

COMMERCIAL RECREATION: Any commercial business that is not confined with a permanent structure, and exists primarily for the recreational enjoyment of the users. *Amended April 1, 1985*

DWELLING, CONDOMINIUM: Any apartment, town house or other residential building or portion thereof, involving a combination of two kinds of ownership of real property,

- a. Fee simple ownership of the individual dwelling unit; and
- b. Undivided ownership together with other purchasers of the common elements of the structure, land and appurtenances, the management thereof controlled by a property owners' association.

DWELLING, GUEST HOUSE: An accessory seasonal dwelling unit built on the same lot with the principal dwelling and not for rent.

DWELLING, MULTIPLE-FAMILY: A building or portion thereof designed for year-round occupancy, containing separate dwelling units for three or more families living independently of each other, other than hotels, motels, campsites and rooming houses.

DWELLING, ONE-FAMILY: A detached building designed for year-round occupancy by one family only, other than a mobile home, recreational vehicle, camp or any temporary structure.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND: Any place or premises used for sale, dispensing, or serving of food, refreshments or beverages to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING, SEASONAL: A detached dwelling unit providing complete housekeeping facilities for one family designed for seasonal or non-year-round occupancy by one family per unit.

DWELLING, TOWN HOUSE: Three or more attached dwelling units designed for year-round occupancy and containing separate dwelling units for occupancy by one family per unit.

DWELLING, TWO-FAMILY: A detached building designed for year-round occupancy by two families living independently of each other, other than a mobile home, recreational vehicle, camp or rooming house.

DWELLING, UNIT: A building or portion thereof, providing complete housekeeping facilities for one family, including living, cooking, sanitary and sleeping facilities.

FAMILY: One or more persons occupying the premises related by blood, marriage or adoption, living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, hotel or commune.

FAMILY CARE: Any institution that requires approval, inspection or certification of any state or county agency. *Amended April 1, 1985*

FARM: A parcel of land containing at least ten acres which is used for the raising of agricultural, dairy or livestock products, except where such is an accessory and non-commercial garden to a principal residential use on the same lot. The term includes the necessary farm structures within the prescribed limits and the storage of equipment used on the premises. It excludes the raising of fur-bearing animals, riding academies, boarding stables and dog kennels. It also excludes a holding area where cattle, livestock or poultry are held and fed commercially in a restricted area as distinguished from a traditional farm.

GARAGE, PRIVATE: A roofed space for the storage of one or more motor vehicles; provided that no business, occupation or service is conducted for profit therein or space for more than one car is leased to a non-resident of the premises.

GARAGE, PUBLIC: A building or part of thereof operated for gain and used for the storage, hiring, selling, greasing, washing, servicing, or repair of motor-driven vehicles.

GASOLINE STATION: Any area of land, including structures thereon, that is used for designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term Gasoline Station shall be deemed to include filling station and service station.

HOME OCCUPATION: Any use customarily conducted entirely within a dwelling and operated only by a resident of the premises and in which only one non-resident is employed or engaged, which use is clearly incidental to the use of the dwelling as a place of residence; and further provided that no article is

sold or offered for sale except such as may be produced by a resident of the premises. In particular, a home occupation includes, but is not limited to, the following:

Professional or business office
Art or photographic studio
Dressmaker or seamstress
Barber or beauty shop

However, a home occupation shall not be interpreted to include commercial stable or kennel; animal hospital; restaurant; tourist or boarding house; convalescent home; Funeral home, nor stores, trades or businesses of the kind herein accepted.

HOLDING AREA: A special farm area where cattle or other livestock are held and bulk fed commercially in a restricted area as distinguished from a pasture and other parts of an operating farm.

HOSPITAL: A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

HOSPITAL, ANIMAL: A building or structure for the diagnosis and medical or surgical care of sick or injured animals.

HOTEL OR MOTEL: A building or group of buildings where transient guests are lodged for hire.

JUNK YARD: A lot, land, or structure, or part thereof, used for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of the parts thereof. It shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or second-hand motor vehicles, no longer intended or in condition for legal use on public highways, are held, whether for the purpose of resale of used parts there from; or reclaiming for use of some or all of the materials therein, whether metal, glass, fabric or otherwise; or 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 which, taken together, equal in bulk, two or more such vehicles.

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

LAUNDERETTE: A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential or resort hotel or club.

LOT: A parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by these regulations, and having its principal frontage on a public street or an officially approved place.

LOT, AREA: The total area included within side and rear lot lines and the street or highway right-of-way.

LOT, CORNER: A lot located at the intersection of an fronting on two or more intersecting streets, and having an interior angle at the corner of intersection of less than 135 degrees.

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

LOT, INTERIOR: A lot other than a corner lot.

LOT, LINES: The property lines bounding the lot.

- a. Lot Line, Front- The lot line separating the lot from the street right-of-way.
- b. Lot Line, Rear- The lot line opposite and most distant from the front lot line.
- c. Lot Line, Side- Any lot line other than a front or rear lot line.

LOT, THROUGH: A lot having frontage on two approximately parallel or converging streets other than a corner lot.

LOT, WIDTH: The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

MANUFACTURING: To make or process a raw material into a finished product, especially with the use of industrial machines. *Amended November 19, 1997*

MOBILE HOME: Any vehicle, or combination thereof, used, designed for use, or capable of being used for complete housekeeping, purpose, including cooking, sanitation and sleeping for one or more persons, originally designed to be moved from one location to another by means of wheels affixed to an axle or carriage affixed to the vehicle whether propelled by its own power or another vehicle to which it may be attached, and whether the axle or carriage to which the wheels may be affixed are detachable and detached regardless of whether it is unattached for permanent foundation, and irrespective of the name or title assigned or designated by the manufacturer of that unit or any other person. Such a vehicle must have attached to it a seal certifying the Mobile Home complies with Federal Construction Standards. A prefabricated dwelling built to State Building Code Regulations, or a sectional dwelling, and all travel trailers, truck campers, and mobile homes shall not be considered a Mobile Home. Said Mobile Home shall have a minimum floor area of 700 square feet. *Amended November 20, 1996*

MOBILE HOME CLUSTER: Any group of mobile homes (three or more) situated on adjacent lots which are under common ownership, which would then require planned development. *Amended April 1, 1985*

MOBILE HOME COURT: A parcel of land, which has been planned and improved for the placement of two or more mobile homes for dwelling purposes. The term shall include mobile home park or other area planned and/or improved for two or more mobile homes.

NON-CONFORMING LOT: Any lot in single ownership, which does not conform with the minimum area and/or dimensions required in the district in which it is situated or for any special use as the case may be and where the owner of said lot does not own any adjoining property, the subdivision of which could create one (1) or more conforming lots.

NON-CONFORMING USE: Use of a building or of land that does not comply with the regulations for the district in which it is situated and where such use existed and/or was used legally at the time of adoption of these regulations.

NURSING HOME: A proprietary facility, licensed or regulated by the State of New York for the accommodate on of convalescents or other persons (who are not acutely ill and not in need of hospital care, but) who require skilled nursing and related medical services which are prescribed by or performed

under the direction of a person or persons licensed to provide such care or services in accordance with the laws of the State of New York.

PARKING SPACE: A space designated for the parking of one motor vehicle and having an area of not less than 180 square feet, exclusive of passageways and driveways thereto.

PERMITTED USES: Any use that conforms with the general description allowable in that particular zoning district. *Amended April 1, 1985*

PLANNED DEVELOPMENT DISTRICT: A tract of land in single ownership, or controlled by an individual, partnership, cooperative or corporation designed for and capable of being used for one or more residential, commercial, industrial or recreational uses which have certain facilities in common and which have been designed as an integrated unit.

RECREATIONAL VEHICLE: A mobile recreational unit including travel trailer, pickup camper, converted bus, tent-trailer, camper trailer, tent or similar device used for temporary portable housing.

RETAIL STORES: A business for the sale of goods and commodities in small quantities directly to the consumer. *Amended November 19, 1997*

ROADSIDE STAND: A structure, stand or location for the sale of seasonal farm produce grown on the landowner's property. *Amended April 1, 1985*

SATELLITE OR MICRO DEVICES: Any disk-shaped device three feet or greater in diameter, whose primary use is the receiving of communication signals. *Amended April 1, 1985*

SIGN: Any device affixed to, painted, or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business. (These regulations shall not apply to any flag or insignia of a government or government agency, school or religious group, nor any official traffic control device.) Each display surface shall be considered to be a "sign".

SIGN, ADVERTISING: A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises, if at all. A commercial billboard shall be construed to be an advertising sign.

SIGN, BUSINESS: A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such a sign is located, or to which it is affixed. A "for Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

SIGN, FLASHING: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of these regulations, any revolving illuminated sign shall be considered a "flashing sign".

SPECIAL USES: A use that would not be appropriate generally or without restriction 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. Such use may be permitted in certain zoning districts as a special use, if specific provision for such special permit is made in these Zoning Regulations.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above H, then the space between any floor and the ceiling next above it.

STORY, HALF: That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet headroom shall not be considered as floor area.

STREET: A public or private way, which affords the principal means of access to abutting property.

STRIP MALL: A shopping complex containing various stores, businesses, and restaurants. *Amended November 19, 1997*

STRUCTURE: Anything constructed or erected; the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

SUBDIVISIONS: The division of any parcel of land into five (5) or more lots, plots, sites, or other division of land, for the purpose, whether immediate or future, for transfer of ownership or building development, of one or more parcels and shall include re-subdivision in whole or in part of any plot, filed or not filed, which is entirely or partially undeveloped. *Amended April 1, 1985*

SWIMMING POOL: Private, under-or-above-ground pools and portable pools more than three (3) feet in height and fifteen (15) in length or diameter; when accessory to a principal residence and erected on the same lot as the principal structure. *Amended April 1, 1985*

THEATRE, OUTDOOR: An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

USES: Same as "permitted uses", except the applications require formal action by the Planning Board. *Amended April 1, 1985*

VARIANCE: An authorized departure by the Board of Appeals from the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of these regulations would result in unnecessary and undue hardship.

YARD, FRONT: An open space extending across: a) the principal street side or b) the waterfront side, of a lot measured between the side lot lines, the depth of which yard is the minimum horizontal distance between a) the street center line or b) shoreline at normal water level and the building line or any projection thereof other than steps and unenclosed porches, extending not more than six (6) feet from the front of the building, except as otherwise provided in these regulations. All waterfront lots shall have front and rear yards as approved by the Planning Board.

YARD, REAR: An open space extending across the rear of a lot measure between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof other than steps and unenclosed porches extending not more than six (6) feet from the rear of the building, except as otherwise provided in these regulations. On both corner and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE: An open space from the front yard to the rear yard between the building and the nearest side lot line unoccupied and unobstructed from the ground upward, except for steps and unenclosed porches and as otherwise specified in these regulations.

ARTICLE IV ESTABLISHMENT OF DISTRICTS

A. Designation of Districts

For the purpose of these regulations, the Town of Winfield is divided into the following districts:

- R-A Residential-Agricultural District
- C-H Commercial Highway District
- L-C Land Conservation District
- P-D Planned Development District

Provision is also made for the creation of the following district:

- R Residential District

B. Districts and Their Permitted Uses

1. R Residential District
 - a. Purpose: To provide for creation of a district which recognizes those areas where predominantly single-family residential development has occurred or is likely to occur in accordance with the Town Plan; to maintain the quality of residential areas by requiring lot and building standards which accurately reflect existing conditions and the availability of service facilities; and to protect the integrity of residential areas by prohibiting the intermixture of residential and incompatible non-residential uses.
 - b. Permitted Uses: *Amended April 1, 1985*
 1. Existing farm
 2. One-, two-family dwelling
 3. Accessory Building, use
 4. Swimming pool (private use)
 5. Satellite Dishes
 - c. Uses Permitted Upon Authorization of the Planning Board. *Amended April 1, 1985*
 1. Home occupation
 2. Family Care, boarding, foster home
 - d. Special Uses Permitted Upon Authorization of the Planning Board. *Amended April 1, 1985*
 1. Three-, four-family dwelling, by conversion.
 2. Professional, business office, by conversion
 3. Public Utility structure, use
 4. Public school, park, building use
 5. Church, cemetery
2. R-A Residential-Agricultural District
 - a. Purpose: To delineate those areas of the Town which are appropriate for agricultural and open space purposes and for low density residential uses and to preserve the integrity of such areas for these purposes.
 - b. Permitted Uses: *Amended April 1, 1985*
 1. Farm
 2. One-, two-family dwelling
 3. Accessory building, use
 4. Swimming Pool (private use)
 5. Satellite Dishes

- c. Uses Permitted Upon Authorization of the Planning Board: *Amended April 1, 1985*
 1. Home occupation
 2. Mobile home
 3. Family care, boarding foster home
 4. Roadside stand
 - d. Special Uses Permitted Upon Authorization of the Planning Board: *Amended April 1, 1985*
 1. Three-, four-family dwelling, by conversion
 2. Commercial excavation
 3. Junk yard
 4. Animal hospital, kennel, riding or sales stable
 5. Public utility structure, use
3. C-H Commercial Highway District
- a. Purpose: To delineate those areas of the Town which are now used or may appropriately be used for those commercial uses located along and dependent upon the through transportation route to their clientele.
 - b. Permitted Uses: *Amended April 1, 1985*
 1. Existing one-, two-family dwelling, farm
 2. Motel
 - c. Uses Permitted Upon Authorization of the Planning Board. *Amended April 1, 1985*
 1. Roadside Stand
 - d. Special Uses Permitted Upon Authorization of the Planning Board. *Amended April 1, 1985*
 1. Motel, restaurant
 2. Gasoline station, public garage, auto wash
 3. Drive-in restaurant, refreshment stand
 4. Automobile, farm implement, mobile home, recreational vehicle sales, service
 5. Storage, trucking, warehouse operation
 6. Commercial recreation
 7. Manufacturing *Amended November 19, 1997*
 8. One-, two family dwelling, farm *Amended November 19, 1997*
 9. Retail Stores *Amended November 19, 1997*
 10. Strip Malls *Amended November 19, 1997*
4. L-C Land Conservation District
- a. Purpose: To enhance community appearance; to promote the use of scenic resources for the pleasure and welfare of the citizens of, and visitors to, the Town; and to safeguard against damage due to natural causes such as flooding and water pollution.
 - b. Permitted Uses:

Within this Land Conservation District, which includes that area 200 feet on either side of the shoreline at normal water level of those streams and waterways and such additional **ar13as** as are delineated on the map, all development will be in accord with the Planned Development Process. No permanent building or structure shall be located within fifty (50) feet of the shoreline at normal water level, except as permitted by the Planning Board in accordance with guidelines established by the Board and in accordance with those uses otherwise permitted in the district.
5. P-D Planned Development District
- a. Purpose: To provide a means of developing those land areas within the community considered appropriate for new residential, recreational, commercial or industrial use – or a satisfactory combination of these uses – in an economic and compatible manner, while

encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of these Zoning Regulations.

- b. Procedure:
 1. For the establishment of planned districts:
 - a) Application for designation of a P-D District shall be referred to the Town Board. The Town Board shall refer the application to the Planning Board within ten (10) days of receipt. The applicant shall furnish basic data pertaining to the boundaries of the proposed development, the existing zoning, topography, drainage soil conditions, and such preliminary plans as may be required for an understanding of the type, uses and design of the proposed development.
 - b) The Planning Board and the Board's professional planning consultant, if any, shall review such application. The Board may require such changes in the preliminary plans as are found to be necessary to meet the requirements of this section, to protect the established permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. In evaluating the proposal and in reaching its decision regarding the preliminary plans, the Planning Board shall consider and make findings regarding those considerations set forth under paragraph 2-c) of this subsection.
All applications for creation of a planned district shall be referred to the Herkimer County Planning Board, which may review and comment on the referral within 30 days.
 - c) The Town Planning Board shall report its findings and render its decision to the Town Board within forty-five (45) days. It may approve, disapprove, or give conditional approval subject to modifications regarding the proposed development.
 - d) The Town Board shall hold any public hearing after public notice as required for any amendment to these regulations and shall consider the report and recommendations of the Planning Board, and all other comments, reviews and statements pertaining thereto. It may amend the zoning map to establish and define the type and boundaries of the planned district, and in so doing may state the specific conditions in addition to those provided by these regulations, further restricting the nature or design of the development.
 2. For the approval of development within an established planned district:
 - a) Amendment of the zoning map shall not constitute authorization to develop in the district.
 - b) Such authorization, after a planned district has been established or for development within the L-C District, shall require that the applicant submit to the Planning Board such plans and specifications, supporting documents and data as shall be required by the Board, and shall specify on the plans and in writing the building types and layout, setbacks, off-street parking and loading, ingress and egress, signs, existing and proposed amenities, screening, planting and ornamental feature, and the plan or arrangement for development of the area in stages or in its entirety. A copy of the proposed development will be submitted to the Herkimer County Planning Board for review.
 - c) The Planning Board, and the Board's professional planning consultant, if any, shall set forth the particular ways in which the proposed development would or would not be in the public interest, including, but not limited to findings of fact and conclusions on the following:
 - 1) The need for the proposed project

- 2) In what respects the plan is or is not consistent with the stated purposes of a planned district.
 - 3) The extent to which the plan departs from zoning regulations formerly applicable to the property in question. (if not originally designated as a planned district), including but not limited to bulk, density, and permitted uses.
 - 4) The existing character of the neighborhood and the relationship, beneficial or adverse of the proposed development to this neighborhood.
 - 5) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
 - 6) The provision for pedestrian circulation and open space in the planned development, the reliability of the proposal for maintenance and conservation of common open space and pedestrian circulation as related to the proposed density and type of development.
 - 7) The traffic circulation features within the site including the amount of, location of, and access to automobile parking and terminal loading areas.
 - 8) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards such as inadequate site distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.
 - 9) The provision for storm, sanitary and solid waste disposal and other utilities on and adjacent to the site.
 - 10) The proposed location, type and size of signs and landscape features.
- d) The physical design of the plan and the manner in which said design does or does not make adequate provision for service demands (water, sewer, fire, etc.) provide adequate control over vehicular traffic, and further the amenities of light, air and visual enjoyment. *Amended April 1, 1985*
 - e) No permit shall be issued until the Planning Board has made its determination based on the foregoing considerations and the Town Board has considered this determination, and any review by the Herkimer County Planning Board, and authorized issuance of a permit by resolution. The Town Board may override the recommendation of the Planning Board in adopting its resolution to authorize or deny a permit only by an affirmative vote of a three-fourths majority of the members of the Town Board.
 - f) All conditions imposed by the Town Board in its amendment and all subsequent conditions imposed by the Planning Board or Town Board in their review of the final plans, including, any the performance of which may be conditions precedent to the issuance of any permit, shall run with the land and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated district.
 - g) Notification of action taken will be given to the Herkimer County Planning Board within seven (7) days of such action on matters previously referred to and reviewed by such Board in accord with General Municipal Law 239-M.
 - h) If construction of the development in accordance with the approved plans and specifications has not begun within one year after the date of the resolution authorizing issuance of the building permit, all permits shall become null and void, the approval shall be deemed revoked and vacated, and the Town Board

shall have the authority to again amend the map to restore the zoning designation for the district to that which it had been prior to the application, or any other district.

c. Special Applicability

All mobile home courts will be considered under this process according to the following general guidelines:

1. Mobile Home Court- Creation, expansion, extension or alteration of any mobile home court shall be in accord with the following minimum requirements.
 - a) A mobile home court shall be located and maintained only in those districts as permitted in these regulations and in accord with the standards herein. All proposed mobile home courts shall be subject, and developed according, to the Planned District procedures set forth under B-5 of this Article.
 - b) All existing mobile home courts of record shall be exempt from these regulations, except that they shall comply with them whenever any addition, expansion or alteration of the use or operation is proposed, and that they shall be required to obtain an initial and annual operating permit. All existing mobile home courts shall be limited to the number and size of mobile homes presently accommodated at the time of adoption of these regulations, except as they shall meet the minimum requirements set forth herein. In addition, existing courts shall comply in regard with every minimum standard for health, sanitation and cleanliness.
 - c) A mobile home court shall have a minimum lot size of 5 acres.
 - d) Within the mobile home court, minimum lot size for individual mobile homes shall be 6,000 square feet; and within the individual mobile home lot, yard requirements shall be as follows:

| | |
|-------------------|---------|
| Front yard | 20 feet |
| Side yards (each) | 15 feet |
| Rear yard | 15 feet |
 - e) Sanitary Facilities
 - 1) Water and Sewer- All water supply and sewage disposal systems shall be approved by the New York State Department of Health before any permit is issued.
 - 2) The following shall comply in every regard with standards set forth by the New York State Department of Health and any such additional regulations as may be established by the Town.
 - a. Storm and Surface Drainage
 - b. Open Areas, Yards and Drives
 - c. Garbage and Refuse Disposal
 - f) Utility and Fuel Installations

All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the American Insurance Association and the local utility company. Whenever possible, electrical transmission and other utility lines shall be placed below ground.

Fuel tanks, where used, shall be placed at the rear of the mobile home and at a distance at least 5 feet from any exit and shall have a safety shut-off at the tank. Underground tanks or a centralized fuel supply system are to be encouraged wherever possible.

g) Roadways

No individual mobile home, within a mobile home court, will have access to an existing street. Internal roadways within a mobile home court shall have a minimum right-of-way of fifty (50) feet and a minimum paved or stone course in accordance with those standards set forth in the Town Subdivision Regulations. There shall be no dead-end streets in any court although a cul-de-sac or wye turn around may be provided in accord with the Subdivision Regulations.

h) Off-Street Parking

One off-street parking space shall be provided for each mobile home lot in the mobile home court outside the 50 foot right-of-way and otherwise comply with off-street parking requirements as set forth elsewhere in these regulations.

i) Recreation Area

Open space areas (up to 10 percent of the land area) suitable for recreation and play purposes shall be designated on the site plan and shall be an integral part of any proposed mobile home court.

j) Improvements

Each mobile home owner/tenant shall be required to enclose the bottom portion of the mobile home with a metal, wood or other suitable 'skirt', properly ventilated, within sixty (60) days after location in the mobile home court. Notification of such requirement shall be the responsibility of the mobile home court operator.

Sidewalks, lighting and landscaping shall be in keeping with surrounding development, the unique features of the site, and the health and safety of the occupants of the mobile home court as determined by the Planning Board. Attractive site development and landscaping shall be a consideration in determining the adequacy of the proposed mobile home court.

k) Permits

No mobile home court shall be established in the Town until a permit has been applied for and granted in compliance with these regulations. All permits for the operation of a mobile home court shall be approved by the Town Board after referral to and recommendation by the Enforcement Officer and Planning Board.

All permits shall be effective until December 31 of the calendar year of their issuance. An application for a renewable operating permit shall be made to the Town Clerk thirty (30) days prior to expiration date of the previous permit. Upon recommendation of the Enforcement Officer, the Town Board shall issue or deny such permit in accord with the requirements set forth in these regulations such other applicable regulations as may be established by the Town, and the established fee schedule.

2. Campsite – Creation, expansion, extension or alteration of any campsite shall be in accord with the following minimum regulations:

a) Campsites shall be located and maintained only in those districts as permitted in these regulations and in accord with the standards therein. All

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proposed developments of this nature shall be subject and developed according to/the Planned District Procedures set forth in B-50f this Article.

- b) All existing campsites of record shall be exempt from these regulations, except that they shall comply with them whenever any addition, expansion or alteration of the use or operation is proposed and that they shall be required to obtain an initial and annual operating permit. In addition, existing campsites shall comply in every regard with minimum standards for healthy sanitation and cleanliness.
- c) A campsite shall have minimum individual camp sites as determined by the Planning Board.
- d) Sanitary Facilities
 - 1) Water and Sewer – All water supply and sewage disposal systems will comply with any standards established by the Town and shall furthermore be approved by the New York State Department of Health before any permit is issued. Each campsite will contain adequate and suitably located restroom facilities which may include one or more of the following:
 - a. Toilet and urinal closets
 - b. Lavatory or washing sinks
 - c. Bath or shower stalls

The number and type of each shall be determined by the Planning Board as part of their recommendation to the Town Board. In addition, a dumping station will be provided for those travel trailers which have self-contained toilet facilities.

- 2) The following shall comply in every regard with those standards set forth by the New York State Department of Health and any such additional regulations as may be established by the Town.
 - a. Storm and Surface Drainage
 - b. Open Areas, Yards, Drives
 - c. Garbage and Refuse Disposal
- e) Roadways and Parking

Access roads shall have a minimum right-of-way of fifty (50) feet and a paved or stone course in accordance with those standards set forth in the Town Subdivision Regulations. There shall be no dead-end streets in any campsite, although a cul-de-sac or wye turn-around may be provided in accordance with the Subdivision Regulations. Individual travel-trailer or recreation sites shall not be located in the 50-foot right-of-way.

- f) Improvements
 - 1) Lighting, landscaping and buffer area shall be as required by the Planning Board and shall be in keeping with surrounding development, the unique features of the site and the health and safety of occupants in the campsite. Attractive site development shall be a consideration in determining the adequacy of the proposed campsite.
 - 2) Open space areas suitable for recreation and play purposes shall be designated on the site plan and shall be an integral part of any proposed campsite. At least one acre or up to 10 percent of the land area shall be

g) Permits

No campsite shall be established in the Town until a permit has been applied for and granted in compliance with these regulations. All permits for the operation of a campsite shall be approved by the Town Board after referral to and recommendation by the Enforcement Officer and Planning Board.

All permits shall be effective until that date specified in the application of the calendar year of its issuance. An application for a renewable operating permit shall be made sixty (60) days prior to the date of the proposed use. Upon recommendation of the Enforcement Officer, the Town Board shall issue or deny such permit in accord with the requirements set forth in these and any other applicable Town regulations and the established fee schedule.

C. Zoning Map

The location and boundaries of said districts are hereby established on the Zoning Map of the Town of Winfield. Said map, with all notations, references and designations shown thereon, is hereby made a part of these regulations.

D. Interpretation of District Boundaries

The district boundary lines are intended generally to follow the center line of streets and highways; the center line of railroad rights-of-way; existing lot lines; the center line of rivers, streams, and other waterways; water or sewer district boundaries and Town boundary lines. Where a district boundary line does not follow such a line, its position shall be shown on the Zoning Map by a dimension expressing its distance in feet from a street line or other boundary line as indicated; or by the use of the scale appearing on the Zoning Map.

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

Where district boundaries are so indicated that they are approximately parallel to the centerline of streets or highways, such district boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning Map.

Where a district boundary line divides a lot in single ownership at the time of the passage of these regulations, the standards for the less restricted portion of such lot shall extend not more than fifty (50) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

In case of uncertainty as to the true location of a district boundary line in a particular instance, the Board of Appeals shall render a determination with respect thereto.

ARTICLE V DISTRICT REGULATIONS

A. Application of Regulations

No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed or used for any purpose or in any manner other than as specified among the uses herein listed as permitted in the district in which such building or land is located.

No building shall be erected, reconstructed or structurally altered to exceed in height the limit herein designated for the district in which such building is located.

No building shall be erected and no existing buildings shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location regulations hereinafter designated for the district in which such building or open space is located.

No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be considered as providing a yard or open space for any other buildings, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

B. Lot Area and Width, Yards, Building Coverage and Height

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in Schedule A, subject to the additional standards of these regulations. Schedule A accompanies and, with all explanatory matter thereon, is hereby made a part of these regulations.

C. Additional Area Regulations

1. Existing Lots of Record

A permitted use may be constructed on any lot of record in any district even if said lot is less than the minimum area required for building lots in the district in which it is located, providing the following conditions exist or are met:

- a. Adjoining Vacant Land – The owner of said lot owns no adjoining vacant land, which would create a conforming lot if combined with the lot if combined with the lot, which is deficient in area.
- b. Front and Rear Yards – Any structure erected on a nonconforming lot shall have front and rear yards conforming to the minimums required for the district in which said lot is located, except where conditions make this impossible, and then;
- c. Side Yards – Any structure erected on a non-conforming lot shall have a minimum side yard of ten feet”, except that it shall be 20 feet adjacent to any street.

2. Number of Dwellings on Lot

No more than one residential structure on any lot, other than group housing, shall be permitted unless lot area and yard requirements are met for each dwelling, including required street frontage.

3. Corner Lot

On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot and the Owner shall designate the rear yard on his application for a permit.

4. Through Lots

Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the principal structure shall be erected to face the street on which those adjoining structures face. The building height shall be measured from the grade of the street designated as the street on which the building fronts.

5. Visibility at Street Corners

On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained which obstructs visibility of vehicular traffic within the triangular area formed by the intersecting street

right-of-way lines and a straight line joining said lines at points 30 feet distant from the point of intersection, measured along said lines.

6. Front Yard Exception

When a vacant lot in any district is situated between two improved lots, the front yard of the vacant lot shall have a minimum depth equal to the average depth of the front yards of the two adjoining improved lots, but not less than twenty (20) feet from the street right-of-way.

7. Transition Yard Requirements

Where a residential district abuts a non-residential district on a street line there shall be provided in the non-residential district for a distance of fifty (50) feet from the district boundary line, a front yard at least equal in depth to that required in the residential district.

Where the side or rear yard in a residential district abuts a side or rear yard in a non-residential district, there shall be provided along such abutting line or lines in the non-residential, a side or rear yard at least equal in depth to that required in the residential district. In no case, however, shall the abutting side or rear yard be less than ten (10) feet.

8. Projections into Required Yards

a. The space in any required yard shall be open and unobstructed except for accessory buildings in a side or rear yard and except for the ordinary projections of window sills, eaves and other architectural features, provided, however, that such features shall not project more than two (2) feet into any required yard.

b. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, or other form of enclosure exceeding six (6) feet in height.

c. In determining the percentage of building coverage or the size of yards for the purpose of these regulations, enclosed porches, or porches open at the side but roofed shall be considered a part of the building.

d. An open fire escape may extend into any required yard not more than six (6) feet provided that such fire escape shall not be closer than nine (9) feet at any point to any lot line.

e. Unenclosed entrance steps or stairways providing access to the first story, cellar or basement of a building may extend into any required yard a distance not to exceed six (6) feet.

9. Walls, Fences and Hedges

The yard requirements of these regulations shall not prohibit any retaining wall nor any fence, wall or hedge otherwise permitted, provided that in any residential district such fence, wall or hedge shall be no closer to any front lot line than two (2) feet, and shall comply with visibility at street corners as provided in this section.

10. Screen Planting

a. Enclosed Uses – Any use required by these regulations to be screened shall provide a fence, screen, or landscaping sufficient to obscure such uses from view from abutting properties or from the public right-of-way.

b. Unenclosed Uses – Any commercial or industrial use which is not conducted within a building, including, but not limited to junk yards, storage yards, building materials yards, and which is in, abuts or is adjacent to a Residence District or fronts on a public right-of-way, shall be obscured from view from such Residence District and public right-of-way in an effective manner. This section shall not apply to nurseries, and the display for sales purposes of new or used cars, trucks, trailers, bicycles, motorcycles, snowmobiles or farm equipment if set back at least fifty (50) feet from the edge of the pavement.

c. Approved by the Planning Board – Plans and site design for the installation of such fencing or screening as are required by these regulations shall be reviewed and approved by the Planning Board prior to issuance of a building permit. Any fencing or screening installed in accordance with this section shall be maintained in good order to achieve the objectives of this section.

Failure to maintain fencing or to replace dead or diseased plant materials shall be considered a violation of these regulations.

11. Width of Side Yard May Be Reduced

Width of One Side Yard May Be Reduced – When authorized by the Board of Appeals, the width of one side yard may be reduced to a width of not less than ten (10) feet, provided that the sum of the width of the two side yards is not less than the required minimum for both side yards, and further provided that the distance between the proposed structure, and any structure, existing or proposed on an adjacent lot is not less than the required minimum sum of the width of the two side yards. Such reduction may be authorized only when the Board of Appeals finds it to be warranted by the location of existing buildings or conditions or where it is conducive to the desirable development of two or more lots.

12. Accessory Building: Number, Height and Location

- a. Number – On any lot one accessory building including a garage, non-commercial home workshop or other accessory building or use in connection with the principal structure and use may be constructed and located subject to the following.
- b. Height – There shall be no height limitation on barns, silos, and other farm structures. Others are as shown on Schedule A.
- c. Location – Non-residential accessory buildings shall comply with front and side yard requirements for the principal building, except that front and side yard requirements for accessory farm buildings shall be a minimum of 100 feet from the road center line and 100 feet from the side lot line.

Accessory Buildings to a residential use which are not attached to a principal building may be erected in accordance with the following requirements:

1. Rear or side yard – at least 15 feet from side or rear property line.
 2. Side yard, street side of corner lot – same as for principal building.
 3. Not closer to a principal or other accessory building than ten feet.
- d. Attached Accessory Building in Residence District – When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of these regulations applicable to the principal building.

D. Additional Height Requirements

General Application

No building or structure shall have a greater number of stories, not have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except that the height limitations of these regulations shall not apply to belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, silos, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure, which extends above the height limitations.

ARTICLE VI SUPPLEMENTARY REGULATIONS

A. “Uses” Permits Amended April 1, 1985

On application, the Planning Board may authorize the Enforcement Officer to grant a permit for any use for meeting of its members on any such application prior to approval or denial. In authorizing such permit, the Board may designate appropriate conditions in harmony with the following standards:

1. Home Occupations – A home occupation may be approved only if it complies with the following:

- a. It shall not display or create outside the building any evidence of home occupations, except that one non-illuminated sign having an area of not more than five (5) square feet shall be permitted.
 - b. Such use is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not utilize more than twenty (20) percent of the gross floor area of the dwelling or its accessory buildings.
 - c. Off-street parking shall be provided for all clients, customers, or patients in the side or rear yard. Such off-street parking shall be located at least ten (10) feet from any side or rear property line, shall be paved, screened or fenced as directed by the Board, and shall be so lighted that there will be no direct light onto adjacent properties or streets.
 - d. No dwelling shall include more than one (1) home occupation.
2. Family Care, Boarding, Foster Home
- Such use shall be approved by the Planning Board only where the proposed use of any residential structure meets those minimum lot size and yard requirements set forth in Schedule A and, in addition, where such facility requires the approval, inspection, or certification of any state or county agency, that such is certified to as having been made and as being acceptable to any such agency, and further that the proposed use of any residence for this purpose will not have an undesirable or objectionable impact on the immediate neighborhood or the community by reason of traffic, noise or other objectionable characteristics.
3. Mobile Home
- Individual mobile homes may be located in the R-A Residential-Agricultural District according to the special conditions outlined below:
- a. Adequate water and sewer installations shall be provided for each mobile home.
 - b. A building permit shall be obtained for any addition or alteration to the mobile home and such permits shall include a provision for removing the structural addition at such time as the mobile home may be removed or relocated and for satisfactorily improved any such vacated lot.
 - c. A mobile home shall be located only where it is appropriate to and does not detract from the surrounding neighborhood.
4. Roadside Stand
- A structure, stand or location for the sale of seasonal farm produce may be established upon issuance of permit by the Planning Board where the Board determines that:
- a. Such use will not interfere with the normal flow of traffic or present a hazard by way of its proximity to the highway and in this regard that adequate pull-off and parking area is provided.
 - b. Such use will not present a nuisance or be objectionable to neighboring uses in terms of traffic, noise or unsightliness.

In addition, an annual operating permit shall be required for all roadside stands, such permit to be effective to that date specified in the application of the calendar year of its issuance. Application for such annual operating permit will be made to the Town Clerk sixty (60) days prior to initiation of the proposed use. Upon recommendation of the Enforcement Officer and Planning Board, the Town Board shall issue or deny such permit in accord with the requirements set for herein and the established fee schedule.

B. Special Uses Permits Amended April 1, 1985

On application, the Planning Board may authorize the Enforcement Officer to grant a permit for any use for which approval of the Board is required by these regulations. The Board shall, pursuant to law, hold a public hearing on any such application prior to acting thereon.

In authorizing such permit, the Board may designate appropriate conditions in harmony with the following standards:

1. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to development of adjacent districts and uses.
2. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.
In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, and the general character and intensity of development of the neighborhood.
3. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
4. Three-, four-family dwelling by conversion *Amended April 1, 1985*
Three-, four-family dwelling by conversion of an existing residence may be permitted only according with the following:
Floor space, health, safety, and sanitary conditions shall be adequate to insure livability and be in accord with the New York State Multiple Residence Law where applicable.
Adequate off-street parking arrangements for each dwelling unit shall be provided.
Such residential units shall be in keeping with the Town Plan for the area in question including lot size sufficient to accommodate the number of persons to be housed and yard space for any children.
Special landscaping and screening may be required to achieve a satisfactory residential environment and prevent detrimental impact to adjacent property in accord with Article V, C-10 of these regulations.
All mobile homes shall be satisfactorily anchored on an approved foundation and an approval metal, wood or other suitable 'skirt', properly ventilated and attached, shall enclose that area from the bottom of the mobile home to the ground.
5. Public Utility Station or Structure
Such uses shall include electric substations, transformers, switches and auxiliary apparatus serving a distribution area, and water and sewage pumping stations and shall be subject to the following regulations:
 - a. Such facility shall not be located on a residential street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
 - b. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
 - c. Adequate fences, barriers and other safety devices shall be provided, and the facility shall be screen planted in accordance with the provisions of Article V, C-10.
6. Drive-in Restaurant or Refreshment Stand
In addition to meeting the minimum yard and lot coverage requirements, such businesses, where persons are served in automobiles or out-of-doors shall be subject to the following regulations:
 - a. Such use shall be not closer than two hundred (200) feet to the Residence District.
 - b. It shall have frontage on a public street.
 - c. Ingress and egress shall be so designed as to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to review and approval of the Planning Board.
 - d. Such use shall be adequately fenced and screened from any adjacent residential property and light shall be directed away from adjacent property and from the highway.
7. Commercial Recreation
Commercial recreation shall be permitted only when the proposed use is compatible with and does not detract from surrounding uses, and where the Planning Board determines that any traffic, noise, light, or the assembly of persons likely to be generated by any such activity will not create a hazard or nuisance.

8. Commercial Excavation

Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of topsoil, earth, sand, gravel, clay or other natural mineral deposits is subject to the following conditions.

In its consideration of an application for a Special Use Permit the Planning Board shall find that such excavation will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic or other condition. The Planning Board shall specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, including the following:

- a. The slope of material in such topsoil, sand, gravel, clay or other earth shall not exceed the normal angle of repose of such material.
- b. The top and the base of such slope shall not be nearer than 100 feet to any property line nor nearer than 100 feet to the centerline of any street or highway.
- c. A plan for restoration and rehabilitation of a commercial earth excavation area or borrow pit shall accompany the application for a Special Use Permit and shall assure conformance with the public health, safety and welfare. The Planning Board, upon approval of such plan, may require a performance bond to assure rehabilitation of commercial excavation sites in conformance therewith.

9. Junk Yard, Automobile Junk Yard

No junkyard shall be established hereafter in any area of the Town unless a Special Use Permit shall have been granted by the Planning Board for such use.

Before a permit for a junk yard is authorized, the Planning Board shall find that such use will not constitute a detriment to the public health, safety, welfare, convenience and property values by reason of dust, smoke, fumes, noise, traffic, odors, vermin or other conditions. The Planning Board may specify any reasonable requirements to safeguard the public health, welfare, safety, convenience and property values in granting such permit, including the following:

- a. Said use shall not be located within 100 feet from any highway, body of water or property line; or 500 feet from any existing dwelling, church, school, hospital, public building or place of public assembly.
- b. Such junk yard shall be completely surrounded with a fence which substantially screens said area and shall have a suitable gate which shall be closed and locked except during the working hours of said use.
Such fence shall not be erected nearer than 100 feet from the centerline of a public highway. All junk and dumping materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence, except during transportation of it in the reasonable course of business. All dumping shall be accomplished within the area enclosed by the fence.
- c. Where the topography, land forms, natural growth of trees or other considerations accomplish the purpose of this section in whole or in part, the fencing requirements hereunder may be reduced by the Planning Board, provided, however, that such natural barrier conforms with the purposes of this section.
- d. All junk yards existing at the time of adoption of these regulations shall be limited to the size, area, and scale of the present use and operation unless a permit is issued in accordance with these regulations.

10. Holding Area, Kennel, Riding Stable, Animal Hospital

No such use shall be located within 200 feet of any adjoining residential lot or any existing dwelling other than a principal residence on the same parcel. The Planning Board shall determine that any such proposed use shall not jeopardize the health, welfare or useful enjoyment of any surrounding property before any permit is granted.

C. Off-Street Parking

Off-street parking space shall be required for all principal buildings constructed or substantially altered after the effective date hereof. Each off street space shall consist of at least one hundred and eighty (180) square feet with a minimum width of 9 feet. In addition, space necessary for aisles, maneuvering and drives shall be provided and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. Parking requirements are specified in Schedule A, which is a part of these regulations.

For uses not specified, the Planning Board shall establish parking requirements in specific cases consistent with those specified in Schedule A.

For any building having more than one use, parking space shall be required for each use.

Parking space in Residential Districts shall be located in the side or rear yard only.

Off-street parking for gasoline stations in C-H Commercial Districts shall be limited to employee and customer cars which are licensed and in running condition and shall not be used for repair or sale of new or used cars.

For the purposes of computing parking requirements, floor areas shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas.

Overnight parking or storage out-of-doors in any Residence District of any vehicle licensed for commercial purposes having more than two axles and four wheels shall be prohibited. Parking or storage in any Residence District of mobile homes, recreational vehicles or boats out-of-doors shall be confined to the rear or side yard and not within ten feet of any property line.

D. Off-Street Loading

Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 1,500 square feet and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. Any required off-street loading berth shall have a clear area not less than twelve (12) feet in width by twenty-five (25) feet in length.

An off-street loading space may occupy any part of any required side or rear yard, except no such berth shall be located closer than one hundred (100) feet to any lot in any Residence District unless wholly within a completely enclosed area or within a building.

E. Signs

1. General Regulations

The following regulations shall apply to all permitted signs:

- a. Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- b. Signs, other than an official traffic sign, shall not be erected within the right of way of any street or highway, nor project beyond the authorized property lines.
- c. All temporary signs erected for a special event or property sale, rental or repair, shall be removed by the property owner or his agent when the circumstances leading to their erection no longer apply.
- d. A permit shall be required for the erection, alteration or reconstruction of any business or advertising sign.
- e. In a Planned or Land Conservation District, the Planning Board shall review and approve any proposed sign as a part of its review of a project.

2. In R Residential Districts, non-advertising signs are permitted, as follows:

- a. One nameplate, identification or professional sign not to exceed five (5) square feet of sign area showing the name and address of the resident or a permitted home occupation of the resident of the premises. In the case of a corner lot, such sign shall be located on the principal street frontage.
- b. One non-illuminated sale or rental sign not to exceed six (6) square feet of sign area during and pertaining to the sale, lease, or rental of the land or building. Such sign shall be of a temporary nature.

- c. One artisan's sign not to exceed six (6) square feet of sign area during and pertaining to construction, repairs or alterations on the property. Such sign shall be removed promptly upon completion of the work.
 - d. Institutional or religious identification sign not to exceed twelve (12) square feet in area.
 - e. Sign advertising the sale or development of a tract of land may be erected upon the tract by the developer, building, contractor or owner. The size of sign shall not exceed twenty (20) square feet and not more than two (2) signs shall be placed upon the tract along any highway frontage. Such sign must be at least fifty (50) feet from the edge of the pavement.
3. In the C-H District the applicable signs above are permitted and, in addition, the following:
Business signs erected hereafter in the C-H District shall not project into a public street right of way and shall not be closer than ten (10) feet to any lot line. No sign attached or unattached shall be higher than the principal building to which it is accessory, and no sign shall be erected upon the roof of any building. The gross surface area of business signs in the C-H District shall not exceed two (2) square feet per lineal foot of building frontage for non-illuminated signs, or one (1) square foot per lineal foot of building frontage for illuminated signs. The gross surface area of any sign shall not exceed thirty-two (32) square feet. All signs shall have sufficient clearance so as to provide clear and unobstructed visibility for vehicles entering and leaving the highway.
4. In R-A Residential-Agricultural Districts, the applicable signs above are permitted and, in addition, the following:
Business signs are permitted provided that such signs shall not exceed thirty-two (32) square feet in area, and if illuminated, the light shall not be directed toward any public highway or adjacent residential property.
Advertising signs are permitted in the R-A Residential-Agricultural District as follows:
- a. The maximum size of any advertising sign shall be 50 square feet and if illuminated, the light shall not be directed toward any public highway or adjacent residence.
 - b. Any advertising sign shall be located at least 50 feet from the edge of the pavement of the nearest street highway. No such sign shall be erected or established within 200 feet of any street or road intersection, or of any dwelling.

F. Non-Conforming Use

The lawful use of any land or building existing at the time of the adoption of these regulations may be continued, although such use does not conform with the provisions of these regulations, and any such building may be reconstructed or structurally altered and the non-conforming use therein changed, subject to the following regulations:

1. Additions – A non-conforming building or use shall not be added to or enlarged unless such non-conforming building or use is made to conform to the regulations of the district in which it is located.
2. Alterations – A building non-conforming as to use may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost (50) percent of the fair value of the building, unless the use of such building is changed to a conforming use.
3. Changes – A non-conforming use shall not be changed to another use except in conformity with these regulations.
4. Discontinuance – Whenever a non-conforming use has been discontinued for a period of one year, any future use shall be in conformity to the provisions of these regulations.
5. Restoration – A building non-conforming as to use which has been damaged by a fire or other causes to the extent of not more than fifty (50) percent of its fair value may be restored, reconstructed or used as before, provided the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within one (1) year of such occurrence or the use of the building or land as a legal non-conforming use thereafter shall be terminated.

6. Removal – If any building in which any non-conforming use is conducted is hereafter removed, the subsequent use of the land on which said building was located and the subsequent use of any building erected thereon shall conform with the regulations of the district.
7. Validity of Permit – Any building for which a permit has lawfully granted, and on which construction has been started and diligently prosecuted before the effective date of these regulations may be completed.

ARTICLE VII ADMINISTRATION AND ENFORCEMENT

A. Building/Use Permit

No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefore has been issued by the Enforcement Officer, or by the Board of Appeals wherever it is provided in these regulations that the approval of the Board of Appeals is required.

No such permit shall be issued until there has been filed with the Enforcement Officer a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location on the lot of the building or accessory buildings to be erected, relocated or altered and such other information as may be necessary to provide for the enforcement of these regulations. Each application shall state the purpose for which the structure or land is to be used and a general description of the type of construction.

The Enforcement Officer shall issue or refuse to issue such permits all within a reasonable time. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative in writing and shall state the reasons for said refusal. The fee for any such permit shall be as determined from time by the Town Board.

B. Certificate 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 the Enforcement Officer shall have issued a certificate of compliance.

A certificate of compliance shall be issued only if the proposed use of the building or land conforms to the provisions of these regulations and to the plot plan, purpose and description for which the permit was issued. The Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of compliance is required before issuing such certificate. Such inspection shall be made within ten (10) days from the date of notification of project completion.

C. Completion of Existing Buildings

Nothing herein contained shall require any change in the plans, construction, or designated use of a building actually under construction at the time of the passage of these regulations, and the entire building shall be completed within one year from the date of the passage of these regulations.

D. Board of Appeals

There is hereby established a Board of Appeals consisting of five (5) members who shall function in the manner prescribed by law. The Board of Appeals shall adopt such rules and regulations as it may deem necessary to carry into effect the provisions of these regulations, and all its resolutions and orders shall be in accordance therewith.

1. Procedure

The Board of Appeals shall act in strict accordance with the procedure specified by law and by these regulations. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal shall refer to the specific provision of these regulations involved, and shall set forth the interpretation that is claimed or the details of the Variance that is applied for, and the basis thereof. At least seven (7) days before the date of the hearing required by the law on an application or appeal to the Board of Appeals, the secretary of said Board shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion prior to the date of said hearing.

Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.

2. Meetings

All meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as such Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. Meeting of the Board shall be open to the public. Such Board shall keep minutes of its proceeding 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.

3. Records

All decisions of the Board shall be by resolution and a copy of each decision shall be sent to the applicant, to the Town Clerk and to: the Enforcement Officer. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards pertaining thereto where the appeal concerns a Variance or a Special Use.

4. Appeal

The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Enforcement Officer. It shall also hear and decide all matters referred to it upon which it is required to pass under these regulations. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations or to effect any variation in these regulations. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.

Such Appeal shall be taken within 30 days or such additional time as may be prescribed by the Board of Appeals, by general rule, by filing with the Enforcement Officer and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Enforcement Officer shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from were taken.

5. Stay

Enforcement Officer, from whom the appeal is taken, certifies, to the Board of Appeals after the notice of appeal shall have been filed with him, that by reason of acts stated in the certificate, a stay would in his opinion cause imminent peril to life of property, in which case proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

6. Hearing and Determination

The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and by publication at least once in the official newspaper seven (7) days before the date of the hearing, and shall decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

The applicant shall bear the cost of advertising as required in connection with hearings. The Town Board shall establish and post a schedule of fees.

7. Jurisdiction

The Board of Appeals shall have the following powers and duties prescribed by statute and by these regulations as described below:

- a. Interpretation – On appeal from a determination of the Enforcement Officer, to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or determination made by the Enforcement Officer involving the interpretation of any provision of these regulations.
- b. Variance – On appeal from a determination of the Enforcement Officer, in conformity with law, to vary the requirements as they apply to a particular lot where the property owner can show that his property was acquired in good faith and where the strict application of these regulations would not result in practical difficulty or unnecessary hardship. No application for a variance shall be acted on until the required public hearing has been held. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case that:
 1. Because of exceptional narrowness, shallowness, shape or area of the specific parcel, or because of extraordinary topographic conditions or other physical condition or location of the specific parcel, the strict application of the provisions of these regulations actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property, and that the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property; or
 2. The granting of the variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the owner, which conditions are peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of these regulations; and
 3. In any case, the granting of the variance will be in harmony with the intent and purpose of these regulations, will not constitute, in effect, an amendment of any district regulations or boundaries, or uses, and will not be injurious to the neighborhood.

E. Amendments

The Town Board may from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by these regulations pursuant to law.

The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions of the regulations. Within thirty- (30) days from the time such resolutions is filed with the Town Clerk, it shall be the duty of the Board to vote on such proposed amendment.

1. Referral of Proposed Amendments to the town Planning Board and County Planning Board

All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

Whenever any zoning regulation or any amendment including Special Use Permits or Variances would change the district classification of or a regulation applying to real property within a distance of 500 feet from any boundary line of properties in a neighboring municipality or upon other county or state property said zoning regulation or amendment shall be referred to the Herkimer County Planning Board, which Board shall have thirty (30) days in which to report its recommendations to the Town Board. Failure of the County Planning Board to report within thirty (30) days may be construed to be approval by the Board.

2. Hearing On Proposed Amendment

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing may be held by the Town Board, by a committee of the Board, or by the Planning Board on request of the Town Board. In addition to the public notice of a hearing, notice shall be given in writing either personally or by mail, to all property owners of the land included in any such change involving the Zoning Map.

3. Adoption of Amendment

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the zoning regulations, except as described in Protest Petition below.

4. Protest Petition

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet there 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 Town Board.

F. Interpretation and Enactment

1. Periodic Review of Zoning Regulations

From time to time, at intervals of not more than three (3) years, the Planning Board shall reexamine the provisions of these regulations and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

2. Interpretation

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of these regulations are at variance with **file** requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard shall govern.

3. Validity

The invalidity of any provision of these regulations shall not invalidate any other provision thereof.

4. Enforcement

These regulations shall be enforced by a person hereinafter called the "Code Enforcement Officer", designated by the Town Board, who shall in no case grant any permit for any building or use on premises where the proposed erection, alteration, relocation, or use thereof would be in violation of any provision of these regulations. The Enforcement Officer shall make such inspections of buildings or premises as are necessary to carry out his duties. No permit or certificate or compliance required hereunder shall be issued by the Enforcement Officer except in compliance with the provisions of these regulations, or as directed by the Board of Appeals under the provisions of Article VII – D.

5. Violations

Violations of these regulations shall be subject to the provisions of the applicable law. 'Each violation can be assessed a fine of up to \$250.00 per violation.' *Amended November 19, 1997.* Each week a violation continues shall constitute a separate additional violation. Upon determination by the Enforcement Officer that a violation of these regulations exists, he shall send written notice to the last known owner of record of the property, as determined by the assessment records, informing said owner of the violation of specific provisions of these regulations and stating that action is to be taken by said owner to remove such violation in sixty (60) days; or proceedings to compel compliance with the regulations will be instituted. Any violation of these regulations may also be enjoined pursuant to law.

6. Effective Date

ZONING

REGULATIONS

TOWN OF WINFIELD

HERKIMER COUNTY

NEW YORK

The Town of Winfield Zoning Regulations were adopted March 28, 1974, *amended April 1, 1985, September 13, 1989, October 30, 1996, November 19, 1997*, and are effective from these dates as provided by law.