

**TOWN OF RUSSIA
LOCAL LAW 2 FOR 2012**

**A LOCAL LAW AMENDING THE LAND USE
REGULATION LAW OF THE TOWN OF RUSSIA,
HERKIMER COUNTY, NEW YORK**

Be it enacted by the Town Board of the Town of Russia, Herkimer County, New York, as follows:

Section 1.

The Town of Russia Land Use Regulation Law of 1982 and all of its subsequent amendments together with the following Local Laws: Local Law 1 of 2003 “Adult Use and Entertainment Establishment”; Local Law No. 1 of 1999 “Junkyard Law”; and Telecommunications Towers Local Law 1 of 1998 be and are hereby repealed and replaced by the Town of Russia Land Use Regulation Law of 2012 which is annexed hereto and made a part hereof by reference.

Section 2. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town of Russia hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.



**ADOPTION BY THE TOWN BOARD
OF THE TOWN OF RUSSIA, HERKIMER COUNTY, NY
OF LOCAL LAW NO. TWO OF 2012**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Russia for a public hearing to be held by said Town Board on December 10, 2012 at 6:30 PM at Town of Russia Municipal Office Building to hear all interested parties on a proposed Local Law entitled "LAND USE REGULATION LAW," and

WHEREAS, notice of said public hearing was duly published in The Evening Telegram the official newspaper of the Town of Russia, on November 29, 2012, and in the Observer Dispatch, on November 29, 2012, and posted at Town Clerk's Bulletin Board on November 27, 2012, and

WHEREAS, said public hearing was duly held on December 10, 2012 at 6:30 PM at Poland, NY and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Herkimer/Oneida County Department of Planning on August 13, 2012, pursuant to section 239-m of the General Municipal Law, recommended approval of said proposed Local Law, and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law it has been determined by the Town Board that adoption of said proposed Local Law would not have a significant effect upon the environment and could be processed by their applicable governmental agencies without further regard to SEQR, and

WHEREAS, the Town Board of the Town of Russia, after due deliberation, finds it in the best interest of the Town to adopt said Local Law,

NOW, THEREFORE, the Town Board of the Town of Russia hereby adopts said Local Law as Local Law No. Two of 2012 entitled "**A LOCAL LAW AMENDING THE LAND USE REGULATIONS OF THE TOWN OF RUSSIA**" dated November 12, 2012 a copy of which is attached hereto and made a part hereof, and the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Russia, and to give due notice of the adoption of said Local Law to the Secretary of State.



Town Of Russia

Land Use Regulation Law

November 12, 2012

CONTENTS

ARTICLE 1 GENERAL PROVISIONS.....	1
Section 100 Title	1
Section 105 Purpose.....	1
Section 110 Prior Existing Land Use Regulation Law	2
Section 115 Interpretation.....	2
Section 120 Conflict with other Laws.....	2
Section 125 Severability	2
ARTICLE 2 PERMITS AND PROCEDURES.....	3
Section 205 Regulated Activities	3
Section 210 Termination of Permit	4
Section 215 Certificate of Occupancy.....	4
Section 220 Required Information for Application.....	4
Section 225 Land Use and Development Permit Types.....	5
Section 230 Issuance of Land Use and Development Permits.....	6
ARTICLE 3 DEFINITIONS	7
Section 300 Word Terms and Definitions.....	7 - 21
ARTICLE 4 LAND USE DISTRICT REGULATIONS.....	22
Section 405 Types of Districts	22
Section 410 Land Use Districts Map	22
Section 415 Interpretation of District Boundaries on Land Use Districts Map	22
Section 420 Adult Entertainment (Rural Use 3) District Boundary.....	22
Section 422 Shoreline Overlay.....	23
Section 423 Scenic Corridor Overlay	23
Section 425 Lots in Two or More Districts.....	23
Section 430 Permitted Use Chart	23
Section 435 Interpretation of Permitted Use Chart	23
Section 440 Lot Size and Dimension Chart	23
Section 445 Measurement of Building Setbacks.....	23
Section 455 Maximum Height of Structures	24
Section 460 Prohibited Uses.....	24
ARTICLE 5 SUPPLEMENTAL REGULATIONS 24	
Section 500 Principal Buildings Per Lot.....	24
Section 502 Existing Undersized Lots of Record	25
Section 506 Non-conforming Uses, Lots, and Structures	25
Section 508 Signs.....	26
Section 510 Shoreline Regulations	28
Section 512 Junk	29
Section 516 Outdoor Lighting.....	29
Section 518 Individually Sited Mobile Homes	29
Section 520 Recreational Vehicles.....	30
Section 524 Off-Road Parking	31

Section 526	Off-Road Loading	32
Section 528	Home Occupations	32
Section 548	Swimming Pools, Game Courts	33
Section 552	Timber Harvesting	34
Section 556	Portable Temporary Storage Containers	34
ARTICLE 6	SPECIAL USE PERMITS	36
Section 605	Special Use Permits Required	36
Section 610	Planning Board Authorization, Special Use Approval.....	36
Section 615	Procedure for Special Use Approval	36
Section 620	Compliance with Special Use Standards.....	36
Section 625	Waiver of Special Use, Site Plan Requirements	36
Section 630	Campgrounds, Recreational Vehicle Parks	37
Section 635	Home Based Business with Vehicles or Equipment	38
Section 640	Bed and Breakfast Establishments	38
Section 645	Seasonal Roadside Stands / Farm Stands.....	39
Section 650	Kennels and Animal Hospitals.....	39
Section 660	Retail Gasoline Outlet.....	40
Section 665	Storage of Petroleum Based Products	40
Section 670	Adult Entertainment Establishments.....	41
Section 675	Telecommunications Towers	44
Section 680	Wind Power Generating Facilities	46
ARTICLE 7	SITE PLAN REVIEW AND APPROVAL	47
Section 720	Planning Board Authorization, Site Plan Approval	47
Section 725	Site Plan Approval Required.....	47
Section 730	Waiver of Site Plan Requirements	47
Section 735	Site Plan Approval Standards, All Land Use Districts.....	47
Section 740	Site Plan Standards for Scenic Roadways and Historic Hamlets	56
Section 745	Site Plan Review Standards within the Wellhead Protection District.....	56
Section 750	Site Plan Review Checklist	57
Section 755	Conditions	58
Section 760	Application for Site Plan Approval.....	58
Section 765	Review Procedure	60
Section 775	Procedure if Variance is Required	60
Section 780	Findings.....	61
ARTICLE 8	VARIANCES AND APPEALS	62
Section 800	Zoning Board of Appeals	62
Section 810	Application.....	62
Section 830	Requirements for Area Variances	62
Section 840	Requirements for Use Variances.....	63
Section 850	Approval of Variances with Conditions.....	63
Section 860	Appeals of a Decision by the Enforcement Officer (EO)	63
Section 870	Review and Approval Procedure.....	64
ARTICLE 9	ADMINISTRATION	65
Section 905	Enforcement Officer (EO).....	65
Section 910	Duties of the Enforcement Officer	65

Section 912	Planning Board.....	65
Section 915	Powers and Duties of Planning Board.....	66
Section 925	Zoning Board of Appeals.....	66
Section 930	Powers and Duties of Zoning Board of Appeals.....	66
Section 940	Referral to the County Planning Board.....	66
Section 945	State Environmental Quality Review (SEQR)	67
Section 950	Amendments	67
ARTICLE 10	ENFORCEMENT	69
Section 1005	Penalties	69
Section 1010	Alternative Remedy	69
Section 1015	Stop Work Order.....	69
Section 1020	Appeal	69
Section 1025	Misrepresentation.....	70
Section 1030	Actions for Injunction	70
Section 1035	Removal of Violations	70
Section 1040	Steps in the Enforcement Process	70
SCHEDULE A:	Permitted Use Chart.....	71
SCHEDULE B:	Lot Size and Dimensions Chart.....	74

ARTICLE 1 GENERAL PROVISIONS

Section 100 Title

The title of this law is the "Town of Russia Land Use Regulation," and shall include this text and the official zoning map.

Section 105 Purpose

The overall purpose of this law is to promote the health, safety, morals and general welfare of the Town by regulating the density of population; and the location, intensity and use of buildings, structures and land; for trade, residence, recreation or other purposes.

Further purposes of this law are to implement the goals of the Town of Russia Comprehensive Plan adopted by the Town Board March 24, 2005:

- Goal 1: Maintain the Town of Russia as an un-crowded, rural, residential community with large areas of undeveloped open space.
- Goal 2: Protect attractive and important natural features such as lakes, streams, farmlands, woodlands, wildlife, scenic areas, wetlands, and aquifer recharge areas as well as buildings or sites of historical significance.
- Goal 3: Provide for gradual, modest residential development in ways not likely to encourage rapid population growth in the Town but that will allow a range of residential types, and affordable housing choices, at densities and locations consistent with other Plan goals.
- Goal 4: Provide for limited commercial development in locations and of types consistent with the other goals. Also, provide for the continuation and development of agriculture wherever suitable.
- Goal 5: Provide, without imposing unnecessary restrictions, effective control of unsightly, destructive or disruptive land uses, including but not limited to signs, solid waste disposal, junk storage, recycling processes, and other operations generating excessive traffic, noise or other disturbance to Town residents.
- Goal 6: Provide effective control over mining, quarrying and timbering operations within the Town, to the extent permitted by State and Federal law, minimizing the area of the Town devoted to mining and quarrying, and ensuring adequate and timely reclamation.
- Goal 7: Provide for some public facilities in keeping with the Town's rural character while controlling growth of Town expenditures and taxes.

Goal 8: Provide a sound basis for fair and uniform regulation of land use and development.

Section 110 Prior Existing Land Use Regulation Law

This law shall replace and supersede the “Town of Russia Land Use Regulation Law” of 1982 and its subsequent amendments.

Section 115 Interpretation

In their interpretation and application, the provisions of this law shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare. It is not intended by this law to interfere with or abrogate or annul any easement, covenant or other agreement between parties, provided, however, that when this law imposes a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or imposes any stricter standards than are imposed or required by any other statute, law, rule, regulation, or by any easement, covenant or agreement, the provisions of this law shall control.

Section 120 Conflict with other Laws

Whenever the requirements of this Law are at variance with the requirements of any lawfully adopted rules, regulations, law or statutes, the most restrictive or those imposing the stricter standard shall govern.

Section 125 Severability

Should any section or provision of this Law be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

ARTICLE 2 PERMITS AND PROCEDURES

Section 205 Regulated Activities

- A. No person shall undertake any of the following unless a Land Use and Development Permit has been issued by the Enforcement Officer.
 - (1) Construction of any new building or structure one hundred forty-four (144) square feet or larger in ground coverage.
 - (2) Expansion or enlargement of an existing structure, if the completed structure, including the existing structure, is one hundred forty-four (144) square feet or greater in ground area.
 - (3) Placement of a mobile home, or the replacement of an existing mobile home with another mobile home.
 - (4) Change in the use of a building, structure, accessory structure or appurtenant system, or of any lot, plot, or parcel of land.
 - (5) Construction or erection of a swimming pool as defined herein.
 - (6) Construction or enlargement of parking lots for non-residential uses.
 - (7) The placement of any permanent sign greater than eight (8) square feet in area or any lighted or luminous sign.
- B. The following activities do not require the issuance of a Land Use and Development Permit, but must meet the building setbacks, yard dimensions, and other requirements of this law.
 - (1) Buildings or structures less than one hundred forty-four (144) square feet of ground coverage.
 - (2) The placement of any sign not included in Part A7 above.
 - (3) The consolidation of lots or adjustment of lot lines, provided that no additional lots are created, all setback and dimensional requirements are met, that a non-conformity is neither created nor increased, and that no easements or rights-of-way are affected.
- C. The following activities are not regulated by this law and do not require a Land Use and Development Permit.
 - (1) Interior structural alterations, or routine maintenance and improvement which does not expand the exterior dimensions of a structure.

- (2) The erection of chimneys, posts and other similar structures.
- (3) Temporary yard sales, porch sales, garage sales and sales of a similar nature which are held fewer than 30 days per year.
- (4) Agricultural uses.
- (5) Timber harvesting, as defined in Article 3.

Section 210 Termination of Permit

If a project for which a Land Use and Development Permit has been issued is not in existence or completed within two (2) years after the issuance of such permit, said permit shall expire, and the project may not thereafter be undertaken or continued, unless a new permit has been applied for and issued.

Section 215 Certificate of Occupancy

Upon the completion or material alteration of a building, for which a Land Use and Development Permit has previously been issued, a certificate permitting the occupancy of the building and the use designated in the Land Use and Development Permit shall be required, and the building may not be occupied or used until such certificate of occupancy has been issued. The Enforcement Officer shall issue such certificate of occupancy within fifteen (15) days of a written request for inspection, excepting Saturday, Sunday, and legal holidays, if he shall determine that the provisions of all New York State and Town codes have been met, and if he shall determine that all the conditions of the Land Use and Development Permit pertaining to that building, if any, have been fulfilled. If additional or special inspections are required to ensure compliance, the costs for these inspections shall be borne by the property owner.

Section 220 Required Information for Application

Application shall be made on designated forms. All information requested on the application form must be supplied. In addition, the following is required in order to constitute a complete application:

- A. Map. Three (3) copies of a property map shall be submitted with all applications. The map shall be either a sketch map or a site plan map:
 - (1) Sketch Map. A sketch map is required with all applications for dwellings, their customary accessory uses, and uses not requiring a special permit as indicated in Schedule A. A sketch map acceptable to the Enforcement Officer shall show the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal

systems, parking areas and driveway location, natural watercourses, ponds, surface drainage patterns and location of existing or proposed easements.

- (2) Site Plan. A site plan map is required with all applications for uses requiring a special permit or a site plan as identified in Schedule A. See Section 760 herein for required information that should be included on the map.
- B. Approval of water and sewage disposal systems. If the use requires the installation or modification of, or increased demand for, water supply or waste water treatment and removal, evidence of approval of the water supply and the sewage disposal system plans by applicable authorities.
- C. Evidence of property ownership, agreement or option to purchase, with all parties represented, must be provided at the time of application.
- D. Licenses. If the application is for the expansion of an existing use that is subject to licensing by federal, state, county, and/or Town agencies, the applicant shall present evidence of such currently valid license(s).
- E. Fee. The appropriate fee established by the Town Board in its fee structure shall be collected at the time of application.

Section 225 Land Use and Development Permit Types

Under the terms of this Law, the following classes of Land Use and Development Permits may be issued.

- A. Permitted Use. A Land Use and Development Permit for a permitted use shall be approved by the Enforcement Officer on his own authority. (Permitted uses are shown with an "x" on Schedule A of this Law.)
- B. Special Permit Uses. A Land Use and Development Permit for a special permit use shall be issued by the Enforcement Officer after special use approval and, if required, site plan approval by the Planning Board. (Special permit uses are shown by an "sp" on Schedule A of this law.)
- C. Site Plan Uses. A Land Use and Development Permit for a site plan use shall be issued by the Enforcement Officer after Site Plan approval by the Planning Board. (Site plan uses are shown by an "st" on Schedule A of this law.)
- D. After the Granting of a Variance. A Land Use and Development Permit shall be issued by the Enforcement Officer after issuance of a variance by the Zoning Board of Appeals or as a result of a ruling on an appeal heard by the Zoning Board of Appeals. (See Article 8 herein.)

Section 230 Issuance of Land Use and Development Permits

When all requirements of this Law have been met, the Enforcement Officer shall issue a Land Use and Development permit and return one approved copy of the map to the applicant. One copy of the approved permit shall be filed in the Town Clerk's Office. If the permit has been denied, one copy of the map along with the reasons for denial shall be returned to the applicant and filed in the Town Clerk's office.

ARTICLE 3 DEFINITIONS

Section 300 Word Terms and Definitions

- A. Usage and Definitions. Unless otherwise expressly stated in this law, the following terms, for the purpose of this law, shall have the meanings indicated in this Article.
- B. Usage. Words and terms stated in the present tense include the future. The singular includes the plural, and the plural includes the singular, unless the context otherwise requires. The masculine gender includes the feminine and neuter genders. The term "shall" is mandatory and not directory. The term "Town" means the Town of Russia. The term "unincorporated area of the Town" means that part of the Town of Russia lying outside the limits of the incorporated villages. The terms "Town Board", "Zoning Board of Appeals," "Planning Board", "Planning Administrator", "Town Attorney", "Town Clerk" and other designated boards and officers, mean respectively such boards and officers of the Town of Russia. The term "person" includes an individual, corporation, partnership, firm or other combination of persons. The term "lot" includes the term "plot" or "parcel". The term "building" includes the term "structure". The terms "occupied" and "used" as applied to any land or building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used".
- C. Words not specifically defined herein related to uses or structures shall have their meaning as defined or used in the New York State Building Code.
- D. Words neither specifically defined herein nor otherwise covered in paragraphs B and C shall have their customary meaning.

Accessory Building. An Accessory Structure.

Accessory Communications Facility. An accessory structure to a telecommunications tower, such as transmission equipment or storage shed.

Accessory Structure. An accessory structure serves the principal use and is incidental and subordinate in area, extent, and purpose to the principal use.

Accessory Use. A use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of the principal use to which it is accessory. Accessory uses are allowed in all zones to the same extent as the principal use

Adult Use And Entertainment Establishment. See Section 670.

Agricultural Service Use. Any milk processing plant, feed storage or supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits,

vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

Agricultural Use. Management of any land for general farming, truck gardening, nurseries, greenhouse, orchards; raising of cows, horses, pigs, poultry and other livestock for gain or profit; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

Agricultural Use Structure. Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

Animal Hospital. A building or structure for the diagnosis and medical or surgical care of sick or injured animals, including facilities for the temporary housing of such animals.

Animal Husbandry. The keeping of any domesticated animals other than ordinary household pets such as dogs and cats.

Antenna. A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio navigation, radio, television, and microwave communications.

Asphalt Plant. A facility where oil products, stone and/or sand are manufactured, processed or assembled to product asphaltic material, which is then consumed or used at another location. The temporary placement of a portable asphalt plant during construction work on any public road when placed within one mile of such work area is excluded from definition of asphalt plant.

Bed and Breakfast Establishment. A residential dwelling that makes available a room or rooms for overnight accommodation to transient paying guests.

Buffer. A buffer is a designated area of land that is controlled by local regulations to protect an adjacent area from the impacts of development.

Building Code. The New York State Uniform Fire Prevention and Building Code.

Campground. Any area designated for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designated for temporary shelter.

Certificate of Occupancy. A certificate of occupancy is a permit that allows a building to be occupied after its construction or improvement. It certifies that the construction conforms to the building code and is satisfactory for occupancy.

Club. An organization catering exclusively to members and their guests, or premises and buildings for social, recreational or athletic purposes and not open to the general public, which are not operated primarily for gain.

Clear-cutting. Any cutting of all or substantially all trees over six inches in diameter at breast height over any 10-year cutting cycle.

Cluster Subdivision. Cluster subdivision is the modification of the arrangement of lots, buildings, and infrastructure permitted by the zoning law to be placed on a parcel of land to be subdivided. This modification results in the placement of buildings and improvements on a part of the land to be subdivided in order to preserve the natural and scenic quality of the remainder of the land.

Commercial Use. Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee.

Day Care Center. A “child day care center,” “group family day care home,” or “family day care home,” as defined by the Social Services Law of the State of New York, and which is duly licensed or registered by the state. Such facilities provide for the care of three (3) or more unrelated children for three (3) or more hours per day.

Disposal. A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, burned, incinerated, or placed in or on any land or water.

Dwelling Unit. One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

Enforcement Officer or Zoning Enforcement Official (ZEO). Local administrative official appointed by the Town Board who is responsible for enforcement of the zoning ordinance.

Erect a sign. To build, construct, alter, enlarge, relocate, attach, hang, place, affix or maintain any sign, and includes the painting of wall signs.

Essential Use or Service. Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities. Includes electrical, telephone, gas or water transmission or distribution cables, lines, wires, conduit, pipes, or other equipment including dams, buildings, towers or other structures or facilities associated with privately or publicly owned utilities including but not limited to State Authorities.

Family. (1) One or more persons, whether or not related to each other by blood, marriage or adoption, all living together as a single, stable, permanent and bona fide housekeeping unit, so

long as such persons together occupy and own, lease or rent the whole of a dwelling in a family-like living arrangement as the functional equivalent of a natural family and use all rooms and housekeeping facilities in common.

- (2) Any such number of persons shall not be deemed to constitute a family if:
 - (a) Any one of such persons may not have lawful access to all parts of the dwelling;
 - (b) Any one or more of such persons lease or rent any separate portion of such dwelling from any other person; or
 - (c) Residency is temporary or transitional, either as part of an educational, medical, rehabilitation or treatment process or otherwise.
- (3) The presumption provided for in Subsection (2) shall be rebuttable. Such presumption shall not preclude the Building Inspector from making a determination that the dwelling is not occupied by one family based on other facts whether or not listed in Subsection (2). Upon any appeal to the Board of Zoning Appeals, the burden of proof shall be on the owner and/or resident to rebut such presumption.

Farm. See agricultural use.

Farm Stand. A structure whose principal use is the seasonal display and sale of agricultural products grown on the premises. A farm stand pulled by a truck or tractor may also include a movable wagon or platform and placed in proximity to the roadway.

Frontage. The width of a lot along (a) a state, county, or town highway, or (b) a street shown upon a plat approved by the planning board as provided in sections two hundred seventy-six and two hundred seventy-seven of Town Law, as in effect at the time such plat was approved, or (c) a street on a plat duly filed and recorded in the office of the county clerk or register prior to the appointment of such planning board and the grant to such board of the power to approve plats.

Game Court. A quadrangular space walled or marked off for playing tennis, handball, racquetball, or basketball.

Gift Lot. A lot conveyed to an immediate family member under the terms of Section 504.

Greenspace Buffer. A buffer maintained as a vegetated area.

Group Camp. Any land or facility for seasonal housing and recreational, educational or business-related use by private groups or semipublic groups, such as Boy or Girl Scout Camp, or fraternal lodge..

Gun Club. A club which includes the discharge of firearms.

Hazardous Chemicals. Solid, liquid or gaseous substances which pose a potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed, including but not limited to hazardous substances designated by the U.S. Environmental Protection Agency under Section 311 of the Clean Water Act (40 CFR 116).

Hazardous Waste. Chemicals or substances which are physical hazards or health hazards as defined and classified in the State Uniform Fire Prevention and Building Code, Parts 1220 to 1227 of Title 19 of the New York Codes, Rules and Regulations (NYCRR), or in Title 40 of the Code of Federal Regulations (CFR), Part 261.

Home Based Business with Vehicles or Equipment. Business operated from the residence by the resident (owner, lessee, or renter) of a residential property, and that involves the storage or parking on said property of collectively no more than six (6) truck (s) or trailer (s) greater than 20 feet in length, piece (s) of earth moving equipment, any well-drilling rig (s), or any other similar heavy equipment or vehicle (s) used in the conduct of the business, but which would otherwise meet the requirements of a home occupation. Such businesses include, but are not limited to, independent trucking, construction, well drilling, or earth moving businesses.

Home Occupation. An occupation conducted in a dwelling, done as an incidental or secondary use of a residential property, which does not alter the exterior of the property or affect the residential character of the neighborhood. A home occupation shall not exceed more than fifty (50) percent of the gross floor area of one floor of the principal residence or of any garage or other accessory structure. The total area occupied by a home occupation shall not exceed 700 square feet. A home occupation is conducted by resident members of the household residing in the dwelling, and may not employ, more than three employees who are not resident members of the household. It is clearly secondary to the primary use of the dwelling for residential purposes, and meets the purposes and standards for a home occupation set forth at Section 528 of this ordinance. Some business activities may take place in a home as part of residential use and are not considered home occupations as further described in Sections 528 and 635 of this ordinance.

Immediate Family. Any person who is a natural or legally defined spouse, child, sibling, parent, step-child, step-parent, or step-sibling of the property owner.

Industrial Use. Any manufacturing, production, processing, or assembly of goods, materials, or minerals, including any on-site waste disposal directly associated with the use. This term does not include sawmills, chipping mills, and similar wood using facilities.

Junk. The outdoor storage or deposit of any of the following shall constitute junk:

- A. Two or more junk vehicles
- B. One or more junk mobile homes

- C. Two or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, televisions, computers, and computer peripherals.
- D. Two or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge, chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.
- E. Ordinary household or store trash and discarded materials no longer intended or in condition for ordinary use, and any and all tangible personal property no longer intended or in condition for ordinary and customary use.
- F. Toxic chemicals, hazardous materials, and radioactive materials at levels that could be injurious to human, animal, and biological life, exempting New York State licensed applicators.

Junk Mobile Home. Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living, business and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which is no longer suitable for human habitation or business use.

Junk Storage Area. The area of any parcel of land or water used or intended to be used for the placement, storage, or deposit of junk.

Junk Vehicle. A motor vehicle, no longer intended or in condition for legal use on the public highways, racetracks, dirt roads, mines, airports, quarries, construction sites, or farms, or used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles. A vehicle is considered junked when it meets one or more of the following conditions:

- A. It is unlicensed.
- B. It is abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.
- C. It is not in any condition for legal use upon the public highways, racetracks, dirt roads, mines, airports, quarry construction sites, or farms.
- D. It is in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair.

With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than

six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a "junked motor vehicle".

The fact that a motor vehicle does not display a current license plate and registration shall be presumptive evidence that such motor vehicle is unlicensed.

Junkyard. The outdoor storage or deposit of any of the following:

- A. Five (5) or more junk motor vehicles.
- B. Two (2) or more junk mobile homes.
- C. Five (5) or more junk appliances.
- D. Five (5) or more pieces of junk furniture.
- E. Any combination of the above that totals five (5) items.

Kennel. Land or building in which four (4) or more dogs more than six (6) months old are housed, groomed, bred, boarded, or trained for a fee, or are sold, or are raised for sale.

Land Use or Development or Use. Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping or grading which is not intended to be used in connection with another land use, or ordinary repairs or maintenance or interior alterations to existing structures or uses.

Lighted Sign. A sign illuminated by an artificial light source.

Livestock. Domestic animals kept for farm purposes, especially marketable animals such as cattle, horses, sheep, pigs and goats.

Lot. A lot is a portion of a subdivision, plat, tract, or other parcel of land considered as a unit for the purpose of transferring legal title from one person or entity to another.

Lot Area. The total square footage of horizontal area included within the property lines.

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

Lot Width. The 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 or setback specified by the district. Where the front lot line is curvilinear in shape, the lot width shall be measured as the chord of the arc.

Lot Frontage. That portion of the lot abutting the road, highway or street right of way.

Luminous sign. Means an incandescent or other sign which gives forth its own light, or any transparent or translucent sign through which artificial light is emitted, including, without limitations any neon sign, fluorescent sign or advertising light display.

Manufacturing. Any process whereby the nature, size, or shape of articles, minerals, or raw or processed materials is changed, or where such articles, minerals, or raw materials are assembled.

Mine. Any excavation when mining takes place; including all haulage-ways and all equipment above, on or below the surface of the ground used in connection with such excavation.

Mineral. Any naturally formed, usually inorganic, solid material located on or below the surface of the earth, including but not limited to sand, gravel, stone and soil.

Mining. The extraction of more than one hundred (100) cubic yards of overburden or minerals from the earth, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit. The term "mining" shall include the extraction or removal of minerals from their original location and/or the washing, cleaning, crushing, screening, stockpiling, or loading of the minerals.

Mobile Home. Factory built housing at least thirty-two (32) feet in length constructed after June 15, 1976 in accordance with the federal building code, administered by the Department of Housing and Urban Development, which is designed and constructed to be used as dwelling unit when connected to required utilities, and which is assembled on site with metal frame attached, to include both single-wide and double-wide units. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. The term mobile home shall include all additions made subsequent to installation. Modular homes or other dwelling units that are constructed in two or more main sections, and that are transported to and permanently assembled on a site with frame removed, are not considered to be mobile homes, and are considered to be single family dwellings for purposes of these regulations.

Mobile Home Park. Any parcel of land for the placement thereon of two or more mobile home units.

Motor Vehicle. All passenger automobiles, trucks, tractor trucks, trailers, buses, motorcycles, tractors, recreation vehicles, bulldozers, machinery and equipment, drawn by power other than muscle power, and originally intended for use on public highways, racetracks, dirt roads, mines, airports, quarries, construction sites, or farms.

Multiple Family Dwelling. Any structure containing three or more dwelling units, including the conversion of an existing single-family dwelling, designed for occupancy in separate living quarters by three or more families.

Natural Gas. Any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

Natural Gas and/or Petroleum Exploration. Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

Natural Gas and/or Petroleum Exploration and Production Materials. Any solid, semi-solid, liquid, semiliquid or gaseous material used in the exploration or extraction of natural gas.

Natural Gas Exploration and/or Petroleum Production Wastes. Any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

Natural Gas and/or Petroleum Extraction and Production. The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons. "Natural Gas and/or Petroleum Support Activities" shall mean the construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

Non-commercial Goods. Any goods for personal use, not intended to be sold as part of a business enterprise.

Non-commercial Vehicle. Any vehicle that is used primarily for personal use, rather than primarily used in the conduct of a business.

Non-complying Structure or Non-conforming structure. Any structure which is legally in existence within a given zoning district on the effective date of this Law but which is not in conformance with the dimensional regulations for that land use district as listed in Schedule B of this law.

Non-conforming Lot. Any lot lawfully existing prior to the adoption or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

Non-conforming Use. Any use which is legally in existence within a given zoning district on the effective date of this Law but which is not an accessory, permitted or special use for that zoning district.

Non-principal Permitted Structure – A structure on a lot where there is no existing principal permitted structure, including but not limited to a pole barn, shed, garage, dock or deck. Such structure shall be in character with the neighborhood and meet all setback requirements. "Non-principal permitted structure" shall not mean temporary portable housing as defined herein. A non-principal permitted structure would become an accessory structure when a permitted structure is placed on the lot.

Nudity Or State Of Nudity. Means the appearance of "specified anatomical areas" as specified in Section 670.

Overlay Zones or Overlay Districts. Areas with more stringent standards than those contained in the underlying zoning districts as necessary to preserve identified resources and features in need of conservation or preservation.

Parcel. A piece of property. See lot.

Parent Lot. A parcel from which other parcels are created through subdivision or other means.

Permitted Use. A use specifically allowed in a particular land use district.

Person. Any individual, firm, partnership, association, corporation, company, or organization of any kind.

Portable Sawmill. A movable device used for cutting timber harvested on the property where the device is located and used intermittently for non-commercial purposes.

Portable temporary storage container. Any container, storage unit, shed-like container or other portable structure that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building, and which is not an accessory building or shed complying with all building codes and land use requirements. A portable temporary storage container shall also include any enclosed trailer, or junk vehicle, when used for the storage of personal property.

Principal Building. A building three hundred (300) or more square feet in floor area in which the main use of the lot is conducted.

Recreational Vehicle. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicles are deemed to include, but are not limited to: camping trailers, fifth wheel trailers, motor homes, converted buses, travel trailers as defined herein, and truck campers.

Recreational Vehicle Park. Property consisting of a tract of land and providing ground areas for the parking of two (2) or more recreational vehicles or for the erection of tents or other structures for over-night occupancy, primarily for, but not exclusively for, recreational or vacation purposes.

Remainder Lot. That portion of a parent lot which remains after lots are split, subdivided, or otherwise created from the parent lot.

Residential Accessory Structure. An accessory structure to a residential dwelling. Residential accessory structures may include: (a) garages for owner's or resident's non-commercial vehicles, (b) off-road parking, (c) enclosed garage for non-commercial goods, (d) garden house, (e) tool house, (f) swimming pools, (g) game courts, and (h) alternate energy systems intended to provide energy primarily to the residential unit.

Residential Cluster Development. A residential development consisting of four (4) or more lots whereby individual lots may be reduced in size, and/or where buildings may be placed closer together than otherwise permitted, so that open spaces on the development parcel may be retained. A parcel of land containing a single multi-family dwelling structure shall not be considered to be a cluster development.

Resource Conservation Use. Any use or area particularly oriented to wilderness recreation uses and the conservation of the area's natural attributes.

Restaurant. Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground, play field or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

Restaurant Drive-In. A restaurant at which food is sold for consumption off the premises. For the purposes of this Zoning Law, a restaurant which sells food for both on premises and off-premises consumption shall be considered a drive-in restaurant.

Rural. An area where the dominant land use is agriculture, open range, forest, or federal or state public lands.

Sawmill. Mill for processing timber into boards and lumber as a commercial operation. For purposes of this law the term sawmill does not include portable devices used on a temporary basis for cutting timber harvested on the property where the portable device is temporarily located. (See definition of temporary sawmill.)

Senior Citizen Assisted Living Facility. A residence for adults aged 55 years or older that provides temporary or long term care and services for residents who by reason of physical or other limitations are unable to live independently.

Senior Citizen Housing Development. A residential development that may contain attached housing units where at least one of the following conditions is true: (1) the federal Department of Housing and Urban Development has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program, (2) it is occupied solely by persons who are 62 years of age or older, or (3) it houses at least one person who is 55 years of age or older in a least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 years of age or older.

Setback: The required separation between a lot line (and/or right-of-way line) and a building or structure.

Setback, Front. The minimum front Setback shall be measured from the road right-of-way to the closest protruding part of the use or structure, to include such projecting facilities as porches, carports, and attached garages. For properties along multiple roads, front setback shall be measured from each highway right-of-way.

Shoreline. That line at which land adjoins the waters of lakes, ponds, rivers and streams at the mean high water level.

Shoreline Building Setback. The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake, pond, river, or stream.

Shoreline Lot Width. The distance, measured along the shoreline, between the boundary lines of a lot as they intersect the shoreline.

Sign. Any inscribed surface, pattern of artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any business, activity, object for sale or lease, person, or place, or to bear any kind of message. The meaning of "sign" shall not include any sign erected by the federal, state, county, town, government or any department or agency thereof, any poster placed temporarily to advertise a civic event or an event sponsored by a house of worship, school, library, museum, social club, or society, or any patriotic flag or banner not used for commercial advertising purposes. The meaning of "sign" shall also not include any sign

having a sign area no greater than 3 square feet that is used simply to mark property boundaries, give directions regarding roads or trails, exclude hunting, fishing, or other activities, warn of any hazard or condition, denote the name and address of the occupants of the premises on which the sign is located, or advertise the availability of the premises or some portion thereof for sale or lease.

Sign Area. The total area of all faces or surfaces of a sign anywhere upon which writing or any illustrative, emblematic, or other artistic or expressive matter appears, or, in cases where writing or illustrative, emblematic, or other artistic or expressive matter is not set against any face or surface, the total area within a single continuous rectangular, perimeter enclosing the extreme limits of such writing or illustrative, emblematic, or other artistic or expressive matter. The sign area of a sign having more than one face or surface on which writing or illustrative, emblematic, or other artistic or expressive matter appears shall be the total area of all such faces or surfaces; but if a sign consists of two such faces or surfaces placed back-to-back, the sign area of the side having the greater sign area shall constitute the total sign area. The sign area of a group of connected or related signs shall be the sum of the sign areas of the signs belonging to it.

Single-family Dwelling. Any detached building containing one dwelling unit designed for occupancy by one family.

Slaughtering or Rendering Facility. A slaughtering or rendering facility includes slaughter plants, packing houses, animal by-products rendering and other such animal processing facilities to include slaughtering, meat canning, curing, smoking, salting, packaging, rendering, freezing or other similar activities in which meat products are so processed for sale to the public.

Solid Waste. Any material defined as solid waste in 6 NYCRR, part 360, subpart 360-1.2.

Special Permit or Special Use Permit. A permit required for certain uses specified in the law and issued by the Planning Board only after specific conditions are satisfied.

Special Use. A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other uses and is therefore subject to special standards and conditions set forth for such use subject to approval by the Planning Board.

Structure. Anything constructed, erected, or placed on land, the use of which requires location on the ground, or attachment to something on the ground, except a wall or fence on a farm.

Street, Road or Highway. A public or private thoroughfare, however designated, which provides legal access to abutting property.

Subdivision or Subdivision of Land. Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of lease, sale, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use or development preparatory or incidental to any such subdivision).

Swimming Pool. Any structure intended for swimming, recreational bathing or wading which contains or which is designed to contain water over 24 inches deep. This includes in-ground, above-ground, and on-ground pools; indoor pools; hot tubs; spas; and fixed-in-place wading pools.

Telecommunication tower. Any structure greater than 30 feet in height which is capable of receiving and/or transmitting signals for the purpose of communication.

Temporary Sign. Any for sale or for rent sign, or any sign announcing an event which is removed within thirty (30) days of its placement.

Timber harvesting. The cutting of 30 or more trees 6 inches or greater in diameter per acre over a 1 year period.

Tourist Accommodation. Any hotel, motel, resort, tourist cabin or similar facility designed to house the general public.

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and which is no longer than thirty two (32) feet.

Travel Trailer Camp. A parcel of land under single ownership which is used by two or more travel trailers.

Two-Family Dwelling. A structure containing two dwelling units, including the conversion of an existing single-family dwelling, designed for occupancy in separate living quarters for two families.

Undersized Lot. Any legally recorded lot whose area and/or width and/or depth and/or highway frontage is/are less than the minimum requirements specified herein for the district in which said lot is located.

Waste Disposal Area. Any area for the disposal of solid waste. (See definitions of solid waste and disposal.)

Wind Power Generating Facility, Large. A wind conversion facility consisting of wind turbines, towers, and associated control or conversion electronics which has a rated capacity

of more than 100 kW, and where electrical power is transferred to a transmission system for distribution to customers rather than for use on the site.

Wind Power Generating Facility, Small. A wind conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce on-site consumption of utility power.

ARTICLE 4 LAND USE DISTRICT REGULATIONS

Section 405 Types of Districts

For the purpose of this law, the Town of Russia is hereby divided into the following land use districts:

COM	Commercial
CR	Corridor Residential
H	Hamlet
LDR	Low Density Residential
MU1	Mixed Use Low Density, Scenic Corridor 1
MU2	Mixed Use Low Density, Scenic Corridor 2
MDR	Medium Density Residential
RC	Resource Conservation
RDR	Rural Density Residential
RU	Adult Entertainment
SCO	Scenic Corridor Overlay District
SHO	Shoreline Overlay District
WPO	Wellhead Protection Overlay District

Section 410 Land Use Districts Map

Said districts are bounded as shown on the “Town of Russia Land Use Districts Map” which, with all explanatory matter, is hereby made part of this law.

Section 415 Interpretation of District Boundaries on Land Use Districts Map

Boundary lines generally follow property lines, road lines, waterways, or 200 feet, 500 feet or 1000 feet setbacks from the centerline of roadways, or as otherwise indicated on the map. Questions concerning the precise location of district boundaries shall be resolved by the Zoning Board of Appeals under its powers of interpretation.

Section 420 Adult Entertainment (Rural Use) District Boundary

The Adult Entertainment (RU) Land Use District is bounded as follows: Beginning at a point in the centerline of Hughes (aka Schoolhouse) Road, said point being 1000 feet southwest of the intersection of Hughes (Schoolhouse) Road and Wheelertown Road; thence northwesterly a distance of 500 feet along a line perpendicular to said centerline to a point; thence southwesterly a distance of 1000 feet along a line parallel to said centerline to a point, thence southeasterly a distance of 500 feet along a line perpendicular to said centerline to a point; thence northeasterly a distance of 1000 feet along said centerline to the point of beginning.

Section 422 Shoreline Overlay

Within 150 ft. of the high mean water mark of West Canada Creek, Black Creek and Hinckley Reservoir.

Section 423 Scenic Corridor Overlay

Within 200 ft. of the highway right-of-way along NYS Rt. 28, NYS Rt. 365, NYS Rt. 8, Partridge Hill Road, Hinckley Road north of Black Creek Road, Elm Flats Road, Black Creek Road east of Grant Road, Buck Hill Road, Norris Road, Simpson Road, Military Road between Dover Road and Hinckley Road, Military Road east of Buck Hill Road, and portions of Grant Road, as shown on the "Town of Russia Land Use Districts Map" ..

Section 425 Lots in Two or More Districts

If a lot lies in two or more zoning districts, each portion of the lot shall be governed by the regulations of the district in which it lies.

Section 430 Permitted Use Chart

Schedule A, "Permitted Use Chart," of this law shall govern the types of land uses that are permitted within each Land Use District.

Section 435 Interpretation of Permitted Use Chart

- A. Land uses designated by an "x" on Schedule A are Permitted uses within the land use district.
- B. Land uses designated by an "sp" on Schedule A are special uses allowed after approval of a Special Use Permit by the Planning Board..
- C. Land uses designated by an "st" on Schedule A are uses which are allowed after approval of a Site Plan by the Planning Board.
- D. A use shall be deemed prohibited within a land use district unless it is listed as a Permitted Use or as a Special Use within that district.

Section 440 Lot Size and Dimension Chart

Schedule B, "Lot Size and Dimension Chart," of this law shall govern lot size, lot dimensions, minimum setback requirements, and building setbacks on a lot.

Section 445 Measurement of Building Setbacks

When establishing measurements to meet required setbacks, measurements shall be taken from the road right-of-way or lot line, whichever is greater, to the closest protruding part of

the use or structure, to include such projecting facilities as porches, carports, and attached garages.

Section 455 Maximum Height of Structures

The maximum height of structures in all land use districts shall be 35 feet, excepting the following: (1) Churches, chimneys, flagpoles, farm structures, and electrical transmission poles and lines, (2) The maximum height of telecommunication towers is governed by the provisions of Section 675, (3) Maximum height of wind power facilities are governed by Section 680 herein.

Section 460 Prohibited Uses

In addition to uses not expressly permitted herein, the following uses are specifically prohibited in all districts:

- Mobile home park
- Industrial use
- Junk yard, recycling center
- Motor vehicle race track
- Hazardous waste disposal area
- Industrial and commercial waste disposal
- Construction and demolition debris disposal
- Septage (septic tank waste) disposal
- Slaughterhouse
- Commercial airport
- Warehousing and distribution
- Trucking business, excepting a "home based business with vehicles or equipment"
- Fuel oil distribution
- Wind Power facility, large
- Mining
- Asphalt plant
- Exploration for or Extraction or production of Natural Gas and/or Petroleum
- Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Materials
- Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Wastes
- Natural Gas and/or Petroleum support Activities
- Multiple family dwelling

ARTICLE 5 SUPPLEMENTAL REGULATIONS

Section 500 Principal Buildings Per Lot

- A. There shall be only one principal building or one non-principal permitted structure per lot.

- B. A principal residential building means the building used as a dwelling, and does not include accessory buildings or structures. A tourist cabin or similar structure for rent or hire involving three hundred (300) square feet or more of floor space shall be deemed to constitute one principal residential building. A single structure containing a commercial use which is also used as a residence shall be considered to be one principal residential building for the purposes of this section. A principal residential building shall include a hotel or motel in a single structure, but does not include an attached townhouse unit or a row type building.

Section 502 Existing Undersized Lots of Record

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

- A. The lot was created before the adoption of this ordinance.
- B. The owner of said lot owns no adjoining vacant land which would create a conforming lot if combined with the lot which is deficient in area.
- C. Any structure erected on a nonconforming lot shall have front, side and rear yards conforming to the minimums required for the district in which said lot is located, except as may be otherwise approved by the Zoning Board of Appeals.
- D. Separation distances from wastewater system components (such as absorption field to well distance) are maintained as specified in Appendix 75-A of Part 75 of the Administrative Rules and Regulations contained in Chapter II of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, most current edition.

Section 506 Non-conforming Uses, Lots, and Structures

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of these regulations and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions.

- A. Intent – It is the intent of these regulations to permit non-conforming uses to continue until they are removed, but not encourage their survival.
- B. Alterations and Repairs. Nothing in this section shall be deemed to prevent structural alteration or reconstruction of a non-complying structure, provided that the degree of non-compliance is not increased.

- C. Addition, Enlargement, or Expansion – No non-conforming structure shall be added to, enlarged, expanded, or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations. No non-conforming use shall be changed, added to, enlarged, expanded, or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations.
- D. Change in Use. If a non-conforming use is replaced by a different use, the new use shall conform to this ordinance. Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
- E. Continuation of Dwelling on Lot with Less than Required Area or Width. A pre-existing non-conforming dwelling on a lot which does not meet the minimum lot size and dimension requirements enumerated in Schedule B of this law for the land use district in which said lot is situated, may be continued and maintained but may not be altered to increase the number of dwelling units.
- F. Unsafe Structures. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- G. Restoration – A non-conforming structure damaged by fire, flood or act of nature may be repaired or rebuilt to the original dimensions, provided that such repair is accomplished within one year of the damage.
- H. Discontinuance – Whenever a non-conforming use has been discontinued for a period of one (1) year, use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these regulations.
- I. Moving – Should any structure be moved for any reason any distance, it shall thereafter conform to the requirements for the district in which it is placed.

Section 508 Signs

A. Number of signs.

- (1) Not more than one sign advertising or otherwise relating to a single business or activity may be erected or maintained, except for directional signs that do not exceed two square feet in sign area and are limited to such texts as "Office," "Entrance," "Exit," "Parking," and "No Parking".
- (2) In addition, a single pole sign may be erected or maintained upon the premises of any retail gasoline sales establishment.

B. Maximum Size of Signs.

Commercial zone (COM)	Non-luminous sign	20 square feet
	Luminous sign	8 square feet
Hamlet zones (H)	Non-luminous sign	4 square feet
	Luminous sign	Not permitted
All other zones	Non-luminous sign, home occupations	4 square feet
	Non-luminous sign, other uses	8 square feet
	Luminous sign	Not permitted

C. Materials and design. Non-luminous signs shall be made of stone, brick or wood, shall be simple in design and color scheme, and shall contain a minimal number of component parts.

D. General Provisions.

- (1) No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity.
- (2) No sign shall constitute a traffic hazard.
- (3) No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause glaring or non-diffuse beams on adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance.
- (4) No sign or part thereof shall contain or consist of any banner, pennant, ribbon, streamer, spinner, or other similar moving, fluttering, or revolving device. The said devices, as well as strings of lights, shall not be used for advertising or attracting attention whether or not they are part of any sign. No sign or part thereof may rotate or move back and forth.
- (5) No sign shall be erected or maintained upon the roof of any building or structure. No sign shall be placed upon or be supported by any tree, rock, or other natural object other than the ground.
- (6) No motor vehicle or trailer on which is placed or painted any sign shall be parked or stationed in a manner primarily intended to display the sign.
- (7) No sign shall exceed twenty (20) feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.

- (8) No sign shall project more than three (3) feet from the wall of any building, nor shall any sign project from the roof of any building or into any public way.
- (9) No sign shall be erected or maintained within the right-of-way, nor within ten (10) feet of the road bed of any public street or highway. These minimum setback distances shall not apply to signs erected upon any building entirely housing the business or activity with which the signs are principally associated. For the purpose of this provision, the road bed shall mean the trafficable portion of a road, street, or highway, bounded on either side by the outer edge of the shoulder or guardrail, whichever extends farthest. Where there is no shoulder or guardrail, there shall be deemed to be a shoulder extending four feet from the outer edge of the pavement or unpaved traffic lanes.
- (10) No sign shall be erected or maintained more than two hundred (200) feet from the business or activity with which it is principally associated.

E. Number of permitted signs where more than one principal activity is being conducted. Notwithstanding parts A and B above, the following standards shall apply when more than one principal activity is proposed to be conducted on a single property, such as the case of a shopping center or other multiple commercial use facility.

- (1) A single free-standing sign not in excess of 20 square feet in sign area may be erected identifying the center or facility as a whole, but shall not contain advertising matter.
- (2) One individual sign not in excess of 8 square feet in sign area may be erected for each separate principal activity, such as a shop or store.

Section 510 Shoreline Regulations

- A. Applicability. The regulations set forth in this section shall be applicable in all Town land use districts.
- B. Septic Setback. In the case of all lakes, ponds, reservoirs, rivers and streams, or any swamp, marsh or wetland, the minimum setback of any on-site sewage drainage field or seepage pit shall be one hundred (100) feet from the mean high water mark.
- C. Vegetative Cutting Restrictions. In the case of the shorelines of all lakes, ponds, and reservoirs and the shorelines of any river or stream navigable at any time of the year by boat, including kayak and canoe, the removal of vegetation, including trees, shall be permitted on shorefront lots provided the following standards are met:
 - (1) Within thirty-five (35) feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of thirty percent of the trees in excess of six (6) inches diameter measured at breast height existing at any time may be cut over any ten-year period.

- (2) Within six (6) feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of thirty percent of the shoreline may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to (1) above.
 - (3) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.
- D. Shoreline Overlay District. Additional regulations apply for parcels adjacent to the West Canada Creek, Black Creek, and Hinckley Reservoir, as specified in Schedule B of this law.
- E. Minimum Shoreline Frontage for Deeded or Contractual Access.
- (1) No residential use of land shall allow access to Hinckley Reservoir, West Canada Creek, or Black Creek unless such access is supported by a minimum shoreline frontage of the length specified on Schedule B of this law.
 - (2) No lot occupied by a recreational vehicle shall allow access to Hinckley Reservoir, West Canada Creek, or Black Creek unless such access is supported by a minimum shoreline frontage of the length specified on Schedule B of this law.

Section 512 Junk

No junk shall be so located so as to be visible from public roads, trails, boat or canoe routes, or from neighboring properties.

Section 516 Outdoor Lighting

All exterior lighting shall be designed to encourage energy efficiency to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicle traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. Exterior lighting shall not be directed so that it shines onto adjoining residential properties or onto public roads. Lighting shall be shielded from shining into the night-time sky so as to prevent light pollution. High intensity lighting shall be minimized.

Section 518 Individually Sited Mobile Homes

The following requirements shall apply to all mobile homes not located in mobile home parks.

- A. All mobile homes shall be in compliance with standards equal to or more stringent than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976) and any amendments

- and revisions thereto. The permit applicant is responsible for providing adequate evidence that these standards have been complied with. The presence of a permanent certification label affixed to the mobile home by the manufacturer shall be presumptive evidence that the construction of a mobile home is in compliance with such standards.
- B. Each mobile home shall have a mobile home stand which will provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures, and the retention of the home on the lot in a stable condition. The stand shall be of sufficient size to fit the dimension of the anticipated mobile home and its appurtenant structures or appendages, and shall be constructed of an appropriate material which is durable and adequate for the support of the maximum anticipated loads.
- C. The stand shall be suitably graded to permit rapid surface drainage.
- D. The stand shall be equipped with an anchor or tie-down at each corner thereof to provide adequate security for the mobile home against wind loading.
- E. Each mobile home shall be provided with skirting to screen the space between the mobile home and the ground. Such skirting shall be of non-transparent durable material such as wood, stone or cement block, and shall not consist of wire mesh, bales of hay, or transparent plastic.
- F. Any existing mobile home may be replaced with a mobile home of larger size without obtaining a variance provided that the extent of any existing non-conformity with respect to minimum building setbacks is not increased, and the mobile home stand shall conform to paragraph B for the enlarged structure.
- G. Tires, pieces of metal, boards, cement blocks, bricks and similar loose objects shall not be placed upon a roof of a mobile home.
- H. No mobile home may be used for any purpose other than for a single family residence or seasonal residence. A mobile home may not be used as a storage building.
- I. More than one mobile home may not be joined to create a single residence.

Section 520 Recreational Vehicles

- A. No recreational vehicle shall be parked, occupied or stored on a property unless at least one of the following requirements is met.
 - (1) A single recreational vehicle may be stored, unoccupied, at an owners primary residence in any land use district.
 - (2) Recreational vehicles may be parked, occupied or stored in a legally established recreational vehicle park.
 - (3) A single recreational vehicle is permitted to be parked or occupied on any property within the land use districts specified in Schedule A herein for a maximum of thirty

- (30) days per calendar year, when the property is not the primary residence of the owner of recreational vehicle.
 - (4) A single recreational vehicle may be parked and occupied on a lot owned by the owner of the recreational vehicle, for a period not to exceed one year, while constructing a principal residence under a valid building permit.
- B. No recreational vehicle may be connected to water, sewer or electrical utilities except for a temporary thirty (30) day period.

Section 524 Off-Road Parking

- A. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods.
- B. Parking should be designed to eliminate the need to back out onto, or to park on the shoulder of, public roads.
- C. A parking space shall not be less than 10 ft x 20 ft exclusive of access ways.
- D. No non-residential parking space shall be located within thirty (30) feet of a side lot line that borders upon a residential property.
- E. Existing uses must comply with off-road parking requirements if the use changes, if the use expands its gross floor area by twenty-five (25) percent or more during a three year period, or if the use is discontinued for a period of one year and seeks to be re-established.
- F. In calculating the number of required parking spaces, fractional portions shall be rounded to the nearest whole space.
- G. The Planning Board shall have the authority to reduce or increase the requirements stated in the table below at the time of Special Use or Site Plan approval. Requirements may be reduced if the developer can demonstrate the need for fewer parking spaces.
- H. Required Number of Off-Road Parking Spaces:

Use	Required number of parking spaces
Residential use, except senior citizen housing	1 space per dwelling unit
Senior citizen housing	1 space per dwelling unit
Hotel, motel, bed and breakfast establishment	1 space per guest room
Church, meeting hall, auditorium or other	1 space per 5 seats or occupants

place of public assembly not other-wise classified	
Retail sales establishment	1 space per 100 square feet of sales area
Offices	1 space per 300 square feet of gross floor area
Eating and drinking establishments	1 space per 4 seats
Personal service establishment	1 space per 200 square feet of gross floor area
Business service and supply service establishment	1 space per 300 square feet of gross floor area
Repair service establishment	1 space per 200 square feet of gross floor area
Medical or dental office	4 spaces per examination or treatment room
Vendor/Flea Market	5 spaces for each booth/table/rental space
Place of employment, in addition to the requirements above	1 space per employee plus visitor parking
For uses not specifically listed, the requirement shall be the same as for the most similar listed use as determined by the Planning Board.	

- I. There is no limitation on the number of agricultural vehicles accessory to farm use.

Section 526 Off-Road Loading

Business uses shall provide off-road loading space on the site sufficient for the loading and unloading of any trucks which are anticipated to use the site. Space for off-road loading shall be in addition to space for off-road parking. Loading areas shall not be located within front, side, or rear yard setbacks. Loading areas shall be substantially screened from the view of any neighboring residence.

Section 528 Home Occupations

- A. A home occupation must be conducted within a dwelling that is a bona fide residence of the principal practitioner, or within an accessory building, such as a garage, on the residential property.
- B. Home occupations shall not be conducted in more than one accessory structure.
- C. In no way shall the appearance of the structure be altered or the operation within the residence be conducted in a manner which would cause the residence to differ from its residential character either by use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.

- D. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- E. There shall be no outdoor display of goods or products. There shall be no outdoor storage of materials used in the home occupation.
- F. No truck or trailer greater than 20 feet in length used in connection with the home occupation shall be parked or stored on the property at any time, except for temporary, single overnight parking for purposes of pick-up or delivery of merchandise. Home based businesses with vehicles or equipment are addressed in Section 635.
- G. There shall be sufficient off-street parking spaces provided in accordance with Section 524 such that at no time are vehicles parked along public roads or highways.
- H. Signage shall comply with the sign regulations contained in Section 508.
- I. A home occupation shall not include any of the following: garages and shops for the repair or maintenance of motor vehicles; commercial stables and kennels; restaurants; tourist homes; rooming or boarding houses; clinics; musical and dancing instruction to groups exceeding four (4) pupils; convalescent homes; mortuary establishments; and other trades and businesses of a similar nature. A home occupation shall not include any trucking business, construction business, well-drilling business, excavation business or similar business that involves parking or storing on the property at any time any truck or trailer greater than 20 feet in length, any piece of earth moving equipment, any well-drilling rig, or any other similar heavy equipment or vehicle used in the conduct of the business. Home based businesses with vehicles or equipment are not considered home occupations as described in this section, and are addressed in Section 635.

Section 548 Swimming Pools, Game Courts

- A. All swimming pools installed, constructed, or substantially modified after December 14, 2006 shall be equipped with an approved pool alarm in accordance with the New York State Uniform Fire Prevention and Building Code.
- B. Every outdoor swimming pool shall be completely surrounded by a barrier not less than four feet in height, and constructed in such a manner consistent with the New York State Uniform Fire Prevention and Building Code. The fence must be erected before filling the pool.
- C. Swimming pools having a surface area of one-hundred and twenty (120) square feet or more shall be deemed to be a structure for all purposes under the provisions of this Ordinance.

- D. No part of a swimming pool having a surface area of one-hundred and twenty (120) square feet or more, or a game court, shall be located within the minimum front, side, or rear setbacks specified in Schedule B of this law.

Section 552 Timber Harvesting

- A. Timber harvesting shall comply with "The Timber Harvesting Guidelines for New York," as published by the New York State Department of Environmental Conservation
- B. Timber harvesting within the Adirondack Park shall comply with Adirondack Park Agency regulations.
- C. Timber harvesting that disturbs more than 1 acre of land shall be subject to the State Pollutant Discharge Elimination System (SPDES) program.

Section 556 Portable Temporary Storage Containers

- A. General requirements:
 - (1) A portable temporary storage container shall be a maximum of ten feet in width, 45 feet in length, and eight feet 6 inches in height.
 - (2) Hazardous materials, including flammable and biohazard substances, shall not be stored in the containers.
- B. A single portable temporary storage container, not for permitted construction activity, shall be allowed subject to the following, if the container is visible from the highway or adjacent residential properties:
 - (1) A permit is required if the container remains on the property more than 15 days, including the day of delivery and removal.
 - (2) The container shall remain on the property a maximum of 30 days, including the day of delivery and removal.
 - (3) A container may be delivered to a site a maximum of three times per calendar year.
 - (4) A minimum of 30 days shall elapse between placements of a container on a property.
 - (5) Placement of a container shall meet all setback requirements where possible. Placements that do not meet setback requirements shall be at the discretion of the Enforcement Officer.
 - (6) The container shall be located so that pedestrian and vehicular traffic is not obstructed and so that the view of an operator of a motor vehicle entering or exiting a right-of-way is not obstructed.

C. Portable temporary storage containers used in connection with permitted construction activity may be located subject to the following conditions:

- (1) Container(s) shall not encroach on sidewalks, rights-of-way, adjacent properties, or obstruct the view of motorists.
- (2) The container(s) may remain on the lot for the duration of construction authorized by an active building permit.
- (3) The container(s) shall be removed within thirty (30) days of issuance of a certificate of occupancy or final inspection.

ARTICLE 6 SPECIAL USE PERMITS

Section 605 Special Use Permits Required

All uses listed as Special Uses in Schedule A of this law shall require the approval of a Special Use Permit by the Planning Board before a Land Use and Development Permit may be issued by the Enforcement Officer.

Section 610 Planning Board Authorization, Special Use Approval

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove Special Uses in accordance with the standards set forth in herein.

Section 615 Procedure for Special Use Approval

The procedure for approval of special uses shall be the same as for approval of site plans, as described in Section 765. A separate site plan permit is not required, unless the proposed uses also involve a use also regulated by site plan review.

Section 620 Compliance with Special Use Standards

- A. A Special Use is considered to be an allowable use within a district provided that sufficient conditions and safeguards are established in each particular case to protect the health, safety, and welfare of the public at large, and the residents and properties of the surrounding area in particular. Accordingly, no Special Use shall be approved unless a site plan for the proposed use has been reviewed and approved in accordance with Article 7 of this ordinance.
- B. In addition to site plan standards, the standards described in this Article are to be used by the Planning Board in judging applications for special permit reviews. These standards shall serve as minimum requirements for approval of the special permit. The special permit shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

Section 625 Waiver of Special Use, Site Plan Requirements

The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an undue burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the town or otherwise be converse to the purposes and intent of this ordinance and the comprehensive plan. The Planning Board shall document its

justification for waiver of any requirements.

Section 630 Campgrounds, Recreational Vehicle Parks

- A. Minimum lot size: 10 acres.
- B. Campgrounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreational purposes. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.
- C. Each recreational vehicle park shall have adequate access to a public highway, and each recreational vehicle site shall be serviced from interior roadways.
- D. A recreational vehicle park shall be divided into campsites. The corners of each campsite shall be clearly marked, and each campsite shall be numbered for identification.
- E. Each campsite shall comply with NYCRR Title 10, Part 7, Subpart 7-3, Section 7-3.8 in regards to campsite space requirements;
- F. There shall be a minimum fifty (50) feet green space buffer surrounding the recreational vehicle park. No campsite or portion thereof, building, structure or roadway shall be placed within the buffer area.
- G. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site;
- H. No campsite shall be located within one hundred (100) feet of the mean high water mark of any water body, and shall otherwise comply with the setbacks from shorelines required by Schedule B of this law.
- I. The Planning Board may require that the recreational vehicle park be substantially screened from the view of public roads and neighboring properties by use of vegetation and/or fencing.
- J. All applicable standards of New York State must be met. Campgrounds shall conform to the minimum requirements imposed under State procedures.
- K. Each recreational vehicle park shall comply with all applicable rules and regulations of the New York State Department of Health.
- L. Adequate provisions shall be made for the collection and disposal of garbage, rubbish and solid wastes generated within the park. There shall be no on-lot exposed garbage, junk, or other wastes. The operator shall provide for the pick up of trash at least once a week.
- M. Mobile homes, whether permanent or temporary, shall not be parked in any campground.

Section 635 Home Based Business with Vehicles or Equipment

A home-based business operated from the residence by the resident (owner, lessee, or renter) of a residential property, and that involves the storage or parking on said property of collectively no more than six (6) of any trucks or trailers greater than 20 feet in length, pieces of earth moving equipment, well-drilling rigs, or any other similar heavy equipment or vehicle used in the conduct of the business, but which business would otherwise meet the requirements of a home occupation, shall meet the requirements of this section.

- A.** Any truck or trailer (or combination thereof) exceeding 20 feet in length, piece of earth moving equipment, well-drilling rig, or other similar heavy equipment or vehicle used in the conduct of the business may, in districts identified in Schedule A and with a Special Use Permit, be parked or stored on the property where the business owner resides, provided that any such trucks, trailers or equipment are parked and/or stored under conditions and in a location approved by the Planning Board.
- B.** Any materials stored outdoors on the property for use in such business must be stored under conditions and in a location approved by the Planning Board.
- C.** No use shall create a nuisance on any surrounding property, including but not limited to, noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or traffic hazard.

Section 640 Bed and Breakfast Establishments

- A.** Detailed plans of the structure and layout of the residence must be submitted, together with a written statement from the Code Enforcement Officer as to safety, fire protection and structural soundness, with recommendations, if any, for improvement or changes deemed advisable.
- B.** The applicant must demonstrate compliance with all applicable regulations, including the New York State Uniform Fire Prevention and Building Code.
- C.** A Bed and Breakfast shall be conducted by members of the family residing on the premises. Not more than five (5) nonresidents shall be employed therein.
- D.** Banquets, parties, weddings, or conferences are prohibited.
- E.** No more than four (4) rooms shall be used as bedrooms for paying guests. Services may only be provided to the overnight patrons of the facility.
- F.** No more than nine (9) guests per night shall be permitted. No guest shall stay more than thirty (30) consecutive days.

- G. There must be at least one (1) off-street parking space per paying room. All parking shall be off-street.
- H. Signage shall comply with Section 503.
- I. A Bed and Breakfast shall not be a detriment to the surrounding neighborhood.
- J. A bed and breakfast establishment must be an accessory to a household living use on a site. This means that an individual or family must occupy the house as their primary residence.

Section 645 Seasonal Roadside Stands / Farm Stands

Seasonal roadside stands and farm stands shall be permitted for the sale of farm produce grown on the property. Stands shall be located at least fifteen (15) feet from any public highway right-of-way. Entry, exit and parking shall not constitute a traffic hazard.

Section 650 Kennels and Animal Hospitals

- A. Adequate landscaping, fencing, or other provisions shall be provided to create a visual, sound and smell buffer between such facility and adjacent property.
- B. All buildings, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.
- C. No animals shall be kept, either indoors or outdoors, within 500 feet of any neighboring residential structure that was in existence at the time that the kennel was issued a permit to operate.
- D. No outdoor animal run shall be located closer than one hundred and fifty (150) feet from any property line.
- E. All animals, except livestock, shall be kept within a totally enclosed building between 7 p.m. and 7 a.m.
- F. All buildings in which animals are kept shall provide adequate soundproofing, such that the sound pressure level produced at any point along the property boundary shall not exceed 50 dB.
- G. All fencing used to confine the animals shall extend a minimum of 6 ft. high above the local terrain. Fencing shall be sufficient to safely and securely contain the animals.
- H. No more than twelve animals older than 4 months of age may be kept on the property at any time.

- I. All pens, runs, or kennels; and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered is the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- J. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- K. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once each week. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- L. Incineration is not permitted.

Section 660 Retail Gasoline Outlet

- A. Gasoline and/or fuel pumps shall not be located closer to any side or rear lot line than the minimum setbacks for buildings as specified in Schedule B of this law.
- B. Underground fuel storage tanks are prohibited.
- C. Adequate space shall be provided for safe pull-off, parking, waiting lines and service, so as to prevent any interference with the roadway or shoulder.
- D. Gasoline pumps shall be located at least fifty (50) feet from the road right-of-way.
- E. Gasoline pumps shall be substantially screened from view of pre-existing neighboring residential properties at all seasons of the year.
- F. Lighting shall comply with Section 516.
- G. Uses regulated under this section shall comply with Section 665, and all Shoreline Protection Overlays where applicable.

Section 665 Storage of Petroleum Based Products

Any storage of petroleum based products, including but not limited to gasoline, diesel, oil or kerosene, shall include adequate provision for ensuring that leaks are prevented, and that any

leak, rupture or spill will be contained and not introduced into any reservoir, pond, stream, creek or any other water body.

Section 670 Adult Entertainment Establishments

- A. Adult use and Entertainment Establishments, as herein defined, shall only be permitted in the Commercial District for Adult Uses upon issuance of a special use permit as specifically set forth in this Local Law and only to the extent that it is consistent with Local Law and the New York State Penal Law relating to exposure, obscenity or lewdness.
- B. Purpose: To maintain property values, prevent crime, protect retail trade, to restrict minor's access to adult uses, to maintain the general welfare, safety and morals for Town residents, to preserve the character and safety of life in the Town.
- C. Definitions

Adult Use and Entertainment Establishment – A public or private establishment, or any part thereof, which presents any of the following entertainment, exhibitions or services topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages, service or entertainment where the servers or entertainer wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and Entertainment Establishments customarily exclude minors by reason of age.

Adult Arcade – Any place to which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing specified sexual activities or specified anatomical areas.

Adult Bookstore or Adult Video Store – A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with specific sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specific sexual activities or specified anatomical

areas and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. So long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition principal business purpose shall mean twenty-percent or more of any to the following:

- a) The number of different titles or kinds of such merchandise;
- b) The number of copies or pieces of such merchandise;
- c) The amount of floor space devoted to the sale and/or display of such merchandise; or
- d) The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

Adult Cabaret – A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Motion Picture Theater – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater – Means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performance which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Escort – A person who for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Nudity or State of Nudity – Means the appearance of “specified anatomical areas.”

Semi-Nude – Means a state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center – Means a business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between

male and female persons and /or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Business – An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, escort agency, nude model studio or sexual encounter center.

Specified Anatomical Areas – Means unless completely and opaquely covered, human genitals, pubic region, buttocks, or breasts below a point immediately above the top of the areola; and even if completely and opaquely covered, male genitals in a discernibly turgid state.

Specified Sexual Activities – Any of the following

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
- (2) Sex acts, normal or perverted, actual or simulate, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions.

D. In addition to the general requirements for special use permits, Adult Use and Entertainment Establishments shall also meet the following conditions:

- (1) No signage shall be permitted outside the Commercial District.
- (2) There shall be a minimum side setback of two hundred (200) feet from an Adult use and Entertainment Establishment structure to the property line of an adjoining property, and a minimum two hundred (200) foot set-back from the front and rear property lines.
- (3) An Adult Use and Entertainment Establishment structure is not allowed within one thousand (1,000) feet of a property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park or playground, within the town;
- (4) Not more than one Adult Use and Entertainment Establishment may be located on one parcel;
- (5) All building openings, including but not limited to doorways and windows, shall be located, covered or screened in such a manner as to prevent a view into the Adult Use and Entertainment Establishment from any public street, sidewalk, or parking area;
- (6) There shall be no outdoor display or advertising of any kind, other than one business identification sign complying with the signage requirement set forth in the Town of

- Russia Land Use Regulation Law. Additionally the building shall not be painted in a fashion as would effectuate the same purpose as a sign;
- (7) No dwelling unit shall be allowed on a parcel containing an Adult Use Entertainment Establishment;
 - (8) No loud speakers or sound equipment that can be discerned by public from a public and/or semipublic area shall be used as a part of the Adult Use and Entertainment Establishment;
 - (9) A public hearing shall be conducted prior to the approval of any Special Use Permit under this section;
 - (10) No special Use Permit granted pursuant to this section is transferable upon the sale, assignment, lease or otherwise of the property.

Section 675 Telecommunications Towers

- A. No telecommunications tower shall be erected, moved, reconstructed, changed, or altered except after approval of a special use permit and in conformity with this section. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with this section.
- B. Exceptions to this section are limited to:
 - (1) New uses which are accessory to residential uses, and
 - (2) Lawful or approved uses existing prior to the effective date of this ordinance, and
 - (3) Non-commercial towers.
- C. Where these regulations conflict with other laws and regulations of the Town, the more restrictive shall apply, except for tower height restrictions which are governed by the special use standards of this section.
- D. Special use standards:
 - 1) Site Plan. An applicant shall be required to submit a site plan in accordance with Article 6 of this ordinance.
 - 2) Shared use:
 - a. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report that inventories existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.

- b. An applicant intending to share use of an existing tower shall be required to provide documentation from an existing tower owner indicating an agreement to share use. The applicant shall pay all reasonable fees and costs of adopting an existing tower or structure for shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or reception interference, additional site screening, and other changes, including real property acquisition or lease required to accommodate shared use.
 - c. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
- 3) Setbacks. Towers and antennas shall comply with all existing setbacks within the affected zone, but shall be a minimum of one-half of the tower height. Additional setbacks may be required by the Planning Board to substantially contain all debris from tower failure or ice fall on-site and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors and any accessory communications facilities.
 - 4) Visibility. All towers and accessory communications facilities shall be sited to have the least practical adverse visual effects on the environment. Towers shall not be artificially lighted, except to assure human safety as required by the Federal Aviation Administration. Towers shall be galvanized finished painted grey above the surrounding tree line, unless other standards are required by the FAA. In all cases, guided towers shall be preferable to free-standing structures. Towers should be designed so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory facilities shall maximize use of building materials, colors, and textures designed to blend with the natural surroundings.
 - 5) Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the special use permit.
 - 6) Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory communications facilities.
 - 7) Access and Parking. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the top of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement.

Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this section.

8) Security fencing eight feet in height shall surround the tower, equipment shelter and any guy wires, either completely or individually as determined by the Planning Board.

9) Signage. No advertising is permitted anywhere on the facility.

10) Tower height. Maximum tower height is 100 ft.

E. Authority to Impose Conditions. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use of site plan.

F. Abandonment. In the event the use of any telecommunication tower has been discontinued for a period of three hundred sixty-five (365) consecutive days or more, the telecommunication tower shall be deemed to be abandoned. Designation of the date of abandonment shall be made by the Zoning Enforcement Official, who shall have the right to request documentation from the owner/operator regarding usage thereat. Upon such abandonment, the owner/operator shall remove the telecommunication tower at its own expense, and failing prompt removal, the Town may remove the telecommunication tower at the owner's/operator's expense. All special permits, variances, and approvals of any nature granted by the Town shall automatically expire as of the date of abandonment of the telecommunication tower.

Section 680 Wind Power Generating Facilities

A. Small Wind Power Generating Facility (see definition).

(1) A wind power generating facility shall not create sound levels exceeding 55 dBA as measured from the closest property line.

(2) Maximum height of any tower shall be 40 feet.

(3) Minimum setback from any lot line shall be the greater of (a) the setback (side, rear, or front setback) required for all structures under Schedule B or (b) the sum of the height of the tower plus the blade length.

B. Tower Height. For purposes of this section, height of tower shall be measured from the ground to the top of the fixed portion of the tower, excluding the wind turbine itself.

ARTICLE 7 SITE PLAN REVIEW AND APPROVAL

Section 720 Planning Board Authorization, Site Plan Approval

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove Site Plans in accordance with the standards set forth in herein. The purpose of site plan approval is to insure that the design and layout of the proposed use minimizes adverse impacts upon the environment, neighboring properties, roadways, and the community in general.

Section 725 Site Plan Approval Required

Site Plan Approval is required for:

- A. All new structures in the Hamlet Land Use District, excluding residential structures and residential accessory structures.
- B. All new principal buildings in the SCO (Scenic Corridor Overlay) District and in the SHO (Shoreline Overlay) District.
- C. Other uses as set forth in Schedule A Permitted Use Chart.

Section 730 Waiver of Site Plan Requirements

The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an undue burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the town or otherwise be converse to the purposes and intent of this ordinance and the comprehensive plan. The Planning Board shall document its justification for waiver of any requirements.

Section 735 Site Plan Approval Standards, All Land Use Districts

The following standards are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

- A. Impact Upon Surrounding Properties. The proposed use shall not create a significant adverse impact upon nearby properties by reason of traffic, noise, fumes, odors,

vibration, flashing lights, litter, surface water or groundwater contamination, air pollution, drainage, visual impact, excessive night time lighting, creation of a safety hazard, risk of fire or explosion, or any other cause. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.

- B. Relation of proposed building to environment. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimally adverse affect on the environmental and aesthetic qualities of the developed and neighboring areas including historic buildings and sites.
- C. Preserve and Enhance the Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of the development and minimize the encroachment of the proposed use on neighboring land uses.
- D. Environmentally sensitive areas such as aquifers, significant wildlife habitat, wetlands, steep slopes, floodplains, historic buildings and sites, existing and potential archaeological sites and unique natural features will be maintained and preserved to the maximum extent.
- E. Vehicular Access. Proposed vehicular access points shall be adequate in width, grade, alignment and visibility. The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems

The following standards apply to design and construction of vehicular access to properties.

- (1) Each property shall be provided with vehicular access to the property by abutting private or public ways. If the only vehicular access is via a private right-of-way, that right-of-way shall be protected by permanent easements.
- (2) The maximum number of driveways to a particular site with a projected traffic flow of fewer than 1,500 vehicles per day shall be limited to one two-way entrance no wider than 20 feet. Higher volume uses may have two, one or two way exits/entrances no more than 24 feet in width if two way and 18 feet if one-way.
- (3) Angles. Driveways used for two-way operation shall intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees.
- (4) Dimensions. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily

- onto the land development for which a site plan is prepared.
- (5) Driveways grades shall not be more than three percent (3%) for the first one hundred feet (100') from the road.
 - (6) Sight Triangle. A "sight triangle" shall be formed by the intersection of each side of the driveway and the street right-of-way line, extending 10 feet in length along the side of the driveway and 25 feet in length along the right of way line, with the third side connecting the other two sides. Within each sight triangle, no landscape materials, other than low growing shrubs 30" or less in height above the exit driveway elevations at maturity shall be planted.
 - (7) All lots of record legally existing at the time of the adoption of this ordinance shall be allowed one (1) direct access, provided that the minimum sight distances specified in this ordinance are met to the maximum extent possible.
 - (8) Access. Parking stalls shall not be directly accessible from any public way. Ingress and egress for parking areas shall be limited to driveway entrances.
 - (9) Traffic Impact Study. Developers shall provide a description of the traffic movement to be generated by the development including types and peak hour and average daily vehicle trips, travel routes, and duration of traffic movement both during and following construction.
 - (10) Full traffic study requirement. If the development will meet a) or b) below, the developer shall provide a full traffic impact study at his or her expense. This study will be subject to review by another consultant of the town's choosing at the applicant's expense. The safety and congestion mitigation measures recommended shall be followed by the applicant.
 - a. Volume. During any one-hour period, traffic attributable to the development equals or exceeds 35 trips at the project driveway(s). A trip can be either inbound or outbound
 - b. Safety or capacity deficiencies. The Planning Board, in consultation with the New York State Department of Transportation or Town Highway Superintendent, determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
 - (11) Driveway Turn-Around Area. Driveways shall be designed with sufficient vehicle turn-around area to enable a driver to exit the premises without backing onto the roadway.
- F. Emergency Vehicle Access. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- G. Sight Distance at Entry and Exit. To the extent practicable, intersections with and entries onto any public road shall be designed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways," State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be

maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

<u>Design Speed of Highway</u>	<u>Left Turn</u>	<u>Right Turn</u>
30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road. (Said distances represent the safe braking distance for traffic along the public road.)

- H. Screening. The following uses shall be substantially screened from view of pre-existing neighboring residential properties, whether developed or not at the time of permit review, at all seasons of the year by vegetation or by fencing of a design and type approved by the Planning Board: retail gasoline sales, campgrounds, mining, excavations, and any other use which in the judgment of the Planning Board may have an adverse visual impact upon neighboring properties or the public at large. Parking and loading areas which may in the judgment of the Planning Board have an adverse visual impact upon neighboring residential properties shall be reasonably screened by vegetation or by fencing at all seasons of the year from the view of such properties. Natural features in buffer zones shall be maintained where possible and may be acceptable as screening. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide the required screening, other kinds of screening shall be considered
- I. Drainage and Erosion Control. Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, streets or roads within and outside the development, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site. Appropriate erosion control measures shall be taken to prevent the pollution of waterways by silt and sediment. Provisions for drainage and erosion control shall be consistent with "Guidelines for Urban Erosion and Sediment Control", Soil and Water Conservation Society, Empire Chapter, most recent edition. Projects affecting one or more acres of land may be required to obtain a State Pollution Discharge Elimination System (SPDES) permit.
- J. Water Quality Protection.
- (1) Surface water. The proposed activity will not result in surface water pollution. In making this determination, the Planning Board shall at least consider the elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other approved licensed discharge; the slope of the land and its effect on effluents.

- (2) **Ground water.** The proposed site development and use shall not adversely impact the quality or quantity of groundwater in the aquifers or any water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall be required to demonstrate that the groundwater at the nearest down hydro-geologic gradient property line shall comply, following development, with the standards for safe drinking water as established by the State of New York. The Planning Board may place conditions upon an application to minimize potential impacts to the town's groundwater resources.
- (3) **Control of hazardous materials.** Adequate provision shall be made to insure that any leak, spill or other discharge of petroleum based products or other chemical potentially harmful to surface water or groundwater supplies are contained and are prevented from being introduced into such waters. Such potentially harmful materials should be stored on an impervious pavement, and should be enclosed by an impervious dike high enough to contain the volume of liquid kept in the storage area. This provision shall apply: (a) in areas characterized by soils of rapid permeability such as sand or gravel, (b) in areas where the seasonally high ground water table is less than 4 feet from the ground surface within RC, SHO, and WP Districts, and (d) within 100 feet of any stream, river, or other water body, or (e) any other area as determined by the Planning Board.

- K. **Sewage Disposal.** The development shall provide for a suitable sewage disposal system. All individual on-site systems will be designed by a licensed professional engineer in full compliance with New York State Department of Health.
- L. **Waste Disposal.** All generated waste, including special or hazardous wastes shall be disposed of at a licensed disposal facility and evidence of a contractual arrangement with the receiving facility shall be submitted. All waste disposal shall be at the owner's expense
- M. **Water Supply.** The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of New York for drinking water. The supply must also be adequate for fire fighting purposes.
- N. **Comprehensive Plan.** The development shall be in conformance with the Town's Comprehensive Plan.
- O. **Advertising Features.** Signs and billboards relating to commercial or industrial use of the premises shall be in accordance with Section 508 of this ordinance. Signs and billboards related to commercial or industrial uses not on the premises shall be prohibited.
- P. **Lighting.** All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicle traffic and potential damage to the value of adjacent properties. Lighting

shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. Exterior lighting shall be not directed so that it shines onto adjoining residential properties or onto public roads. Lighting shall be shielded from shining into the night-time sky so as to prevent light pollution. High intensity lighting shall be minimized.

- Q. Air Pollution. The proposed development shall not create an emission of dust, dirt, fly ash, fumes, vapors or gases that could damage human health, animals, vegetation or property, or that could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission. All such activities shall also comply with applicable federal and state regulations.
- R. Odor. The proposed development shall not produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

S. Noise.

- (1) Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all lot lines of the proposed site, at a height of four (4) feet above the ground surface.

Sound Pressure Level Limit <u>(500 to 10,000 Hz range)</u>			
	7 a.m. - 7 p.m.	7 p.m. - 7 a.m.	
Non-Industrial Establishments	<u>65dB</u>	<u>55dB</u>	
Industrial Establishments	<u>70dB</u>	<u>65dB</u>	

On a site abutting any residential use, construction activities occurring between 8:00 p.m. and 7:00 a.m. shall be subject to the maximum permissible sound level specified for industrial establishments.

Such maximum sound levels will also apply to noises created by all excavation, construction, and maintenance activities between 7:00 a.m. and 8:00 p.m.;

- (2) Temporary construction and external maintenance activities shall be limited to the hours of 6:00 am to 6:00 pm, with the exception of ice and snow removal.
- T. Utilities and Municipal Services. The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road and other transportation systems, fire department, solid waste program, schools, recreational programs and facilities, and other municipal services and facilities. Any above-ground utility installations shall be located so as to minimize visual impact upon neighboring properties. When underground utilities are installed within a roadway, they should be installed prior to the installation of the final gravel base of the road.

U. Parking Design Requirements

(1) General Requirements

- a. The proposed development layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including sight distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems.
- b. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, emergency vehicles, loading areas, and arrangement and use of parking areas.
- c. In the design of parking areas, special attention shall be given to the separation of pedestrian and vehicular traffic and the arrangement of parking areas that are safe and convenient, and which have a minimum adverse effect on the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and neighboring properties.
- d. Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor trailers.
- e. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and obviate their backing out onto a street.
- f. All streets and access ways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

(2) Parking Area Design Standards

- a. Access -- There shall be adequate provisions for ingress and egress for all parking spaces. The width of access drives or driveways shall be determined as part of site plan review depending on use, topography and similar considerations.
- b. Size of Aisles -- The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.

Parking Angle (Degrees)	Minimum Aisle Width (Feet)
0 parallel parking	12
30 degree parking	12
45 degree parking	13
60 degree parking	18
90 perpendicular parking	30

- c. General Location -- No off-road parking or loading shall be located within the required front and side setbacks on public roads. Whenever possible, the majority of parking should be at the side or rear of the principal building(s).
- (3) Off-Street Parking Requirements. No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine feet (9') in width by eighteen feet (18') in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be arranged so that vehicles can be turned around within such lots without entering the street. Private roads, separated from public right-of-ways, but not allowing for turn-around space are deemed adequate for these requirements. Where the number of employees is indicated, this shall mean the number of employees during the shift with the largest number of employees present.
- a. Automobile Repair and Filling Stations: one (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work
 - b. Boarding and Rooming House: one (1) space for each guest room.
 - c. Drive-in Restaurants and Dairy Stands: ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.
 - d. Nursing Homes: one (1) space for each five (5) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each employee.
 - e. Hotels: one (1) space for each guest bedroom, plus one (1) space for each employee.
 - f. Industrial Establishments: two (2) spaces for every three (3) employees, at the maximum employment level, on the two (2) shifts of highest employment combined, plus one (1) space for each company vehicle operating from the premises.

- g. Fraternal Organizations and Clubs: one (1) space for each three (3) members.
- h. Business and Professional Offices: one (1) space for each two hundred (200) square feet of working space.
- i. Places of Amusement or Public Assembly: one (1) space for each fifty (50) square feet of floor area devoted to patron use.
- j. Restaurants, Cocktail Lounges, taverns, and bars: one (1) space for each four (4) customer seats, plus one (1) space for each employee.
- k. Retail Business: four (4) spaces for each one thousand (1,000) square feet of sales area.
- l. Elementary Schools: two (2) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.
- m. High Schools: five (5) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.
- n. Banks: one (1) space per one hundred fifty (150) square feet of floor area.
- o. Motels: one (1) space for each accommodation.
- p. Wholesale Business: one (1) space for each three hundred (300) square feet of floor space.
- q. Churches: one (1) space for each five (5) persons seating capacity.
- r. For uses not specifically listed in this section, the Planning Board shall prescribe the number, which in no case will be less than an adequate number to provide for employees and customers and visitors anticipated on the site.

Impact upon Historic Resources. Adverse impacts to the integrity of neighboring properties of national, state, or local historic significance shall be minimized. A proposed development shall be designed, to the extent practicable, to harmoniously blend with the historic resource by means of utilizing green space buffers, vegetative or other screening; landscaping, and appropriate building designs and color schemes.

Section 740 Site Plan Standards for Scenic Roadways and Historic Hamlets

- A. Applicability. This section shall apply to any land use or development that requires Site Plan Approval within the SCO (Scenic Corridor Overlay) District or Hamlet Districts (H1, H2, or H3). These standards are in addition to those specified in Section 735 above
- B. Purpose. The purpose of this section is to ensure that new development along scenic rural roadways and in historic hamlets is planned so as to visually harmonize with the scenic and/or historic character of the area, and not detract from it.
- C. Standards. The following standards shall apply in addition to any others contained in this Land Use Regulation Law.
 - (1) **Roadside Trees.** Removal of trees over five (5) inches in diameter (at four feet height) shall be minimized, especially along roadways. Removal of existing trees can usually be lessened by shifting the site of the building, parking lot, or the entrance/exit drive. In addition, planting of new or replacement trees every thirty (30) feet along side roads is encouraged, to reinforce rural character. Such trees should be deciduous hardwoods in order that a stately atmosphere may ultimately be created.
 - (2) **Placement of Buildings.** Buildings should be sited so that obstruction of views from public roads are minimized to the extent practicable.
 - (3) **Compatibility with Historic Structures.** Where new construction is near an historic structure, building height and exterior materials shall be harmonious with those of the historic structures.
 - (4) **Color schemes.** Colors of buildings, signs and other structures associated with the proposed use shall be harmonious with the existing scenic character of the area and with any nearby historic buildings. Generally, earth tones, traditional house white, or period correct colors are preferred.

Section 745 Site Plan Review Standards within the Wellhead Protection District

- A. All non-residential uses within the WPO (Wellhead Protection Overlay) District shall require site plan review and approval.
- B. All uses and site plans shall be reviewed with the objective of protecting the Village of Poland public water supply by preventing harmful substances from leaching into the groundwater that supplies the village wells.
- C. No toxic chemicals shall be stored on the site. Road salt shall not be stored on the site.
- D. Adequate provision shall be made to prevent accidental spills, leaks, or illegal dumping from contaminating the groundwater.

- E. Any activity requiring excavation shall be reviewed for its possible adverse impact upon groundwater as a result of lessening the distance between the land surface and the underlying groundwater table.

Section 750 Site Plan Review Checklist

- A. The Planning Board's review of site plans shall include, but shall not be limited to, the following:
 - (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersection, road widths, pavement surfaces, dividers and traffic control.
 - (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (4) Location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
 - (5) Adequacy of storm water and drainage facilities.
 - (6) Adequacy of water supply and sewage disposal facilities.
 - (7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
 - (8) In the case of a multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 - (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness, odor, or nuisances.
 - (10) Protection of solar access on adjacent or neighboring properties.
 - (11) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (12) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- B. Consultant Review. The Planning Board may consult with the town building inspector, fire commissioner, highway department, county planning department, and other local county officials, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation, the Department of Health, and the State Department of Environmental Conservation. If funding is available, it may hire consultants to assist in reviews.

Section 755 Conditions

In their review of a proposed special permit use the Planning Board may impose any conditions it deems necessary to serve the interests of the public health, safety and general welfare, and to improve compatibility with surrounding properties. Such conditions may include, but shall not be limited to:

- A. Requiring landscaping or vegetative screening.
- B. Increasing building setback.
- C. Limiting the size of buildings, parking areas or facilities.
- D. Specifying the location and design of entrances, exits, and off-street parking space.
- E. Requiring that materials be stored indoors or certain activities be conducted indoors.
- F. Limiting hours of operation to reduce noise impacts.
- G. Requiring noise barriers.
- H. Requiring storm water retention ponds or other drainage and pollution control devices.

Section 760 Application for Site Plan Approval

All applications for Site Plan approval shall consist of the following:

- A. Three copies of a site plan map, drawn to scale, to include as applicable:
 - (1) title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 - (2) north arrow, scale and date;
 - (3) a map showing the applicant's entire property and adjacent properties and streets; any relevant deed restrictions or covenants shall also be noted;
 - (4) locations of all existing water courses, intermittent streams, wetland areas, rock out-crops, wooded areas, and other significant existing features;
 - (5) existing topography and proposed grade elevations at intervals of five feet or less;
 - (6) proposed grading and drainage;
 - (7) location, proposed use and height of all buildings and site improvements

- including culverts, drains, retaining walls, and fences;
- (8) location of all parking and truck loading areas and walkways, showing points of entry and exit from the site;
- (9) location of outdoor storage;
- (10) description of the method of sewage disposal and location of the facilities;
- (11) identification of water sources; if well, locate;
- (12) location and size of all proposed signs;
- (13) location and proposed development of all buffer areas, including existing vegetative cover;
- (14) location, height, and design of outdoor lighting, power, and communications facilities;
- (15) landscaping plan.
- (16) letters or permits from other agencies having jurisdiction as to their comments on the site development plan; and
- (17) any other pertinent information as may be necessary to determine and provide for the proper enforcement of this section.

The Planning Board may, at its discretion, require that such site plan be prepared by a licensed engineer or architect for more complex, costlier, or larger projects.

B. Accompanying data, to include the following as applicable

- (1) Application form and fee.
- (2) Name and address of applicant.
- (3) Property deed, or authorization of owner if applicant is not the owner of the property.
- (4) Environmental Assessment Form.
- (5) Any additional endorsements, certifications or approvals required by the Planning Board.
- (6) Other information as the Planning Board may reasonably require to assess the proposed project; such as location of fire lanes and hydrants, provisions for pedestrian access, or designation of the amount of building area proposed for use for retail sales or other commercial activity.

Section 765 Review Procedure

- A. Referral to Planning Board. The Enforcement Officer should refer an application for a special permit or site plan review to the Town Planning Board within ten (10) days after receipt.
- B. Preliminary Review. The Planning Board shall undertake a preliminary review of an application at its first regularly scheduled meeting after the application is submitted, provided the application is received by the Planning Board at least ten days prior to the meeting. Applications received by the Planning Board within ten days of the regularly scheduled meeting shall be deferred to the second regularly scheduled meeting after receipt. At the review, the Planning Board shall determine whether the application is complete. If the application is deemed to be incomplete, then the applicant shall be notified in writing of what further information is required. If the application is considered to be complete, then the Planning Board shall proceed to schedule a public hearing.
- C. SEQRA. Pursuant to the New York State Environmental Quality Review Act (SEQRA) the Planning Board in their initial review of an application shall: (1) determine that no further action is necessary to fulfill the requirements of said act, or (2) require that the applicant submit either a short or long Environmental Assessment Form (EAF) for their review, at the Planning Board's discretion. Upon review of the EAF the Planning Board shall issue either a negative or positive declaration. The application shall not be considered complete until the requirements of SEQRA are fulfilled.
- D. Hearing. The Planning Board shall conduct a public hearing on the application within sixty-two (62) days of the receipt of a complete application. Notice of said hearing shall be printed in a newspaper of general circulation in the town at least five (5) days prior to the date of the hearing. Certain actions require that notice of the hearing be mailed to the Herkimer County Planning Board ten (10) days prior to conducting the hearing, as further specified in Section 1040 herein.
- E. Decision. The Town Planning Board shall render its decision either approving, approving with conditions, or denying the application within sixty-two (62) days after the hearing, unless an extension is mutually agreed upon.

Section 775 Procedure if Variance is Required

Should an application require both a Variance and a Special Permit and/or Site Plan Approval, then the Planning Board shall have the authority to determine the application for the Special Permit and Site Plan, and the Zoning Board of Appeals shall have the authority to determine application for the variance. The applicant must meet all the conditions required in both approvals. The Planning Board shall not accept an application as complete until any required variance is granted by the Zoning Board of Appeals.

Section 780 Findings

The Planning Board shall make written findings for each Special Permit and Site Plan decision, and all decisions shall be filed with the Town Clerk. Findings shall state the reasoning behind the decision.

ARTICLE 3 VARIANCES AND APPEALS

Section 800 Zoning Board of Appeals

The Zoning Board of Appeals shall have the authority to review and approve requests for variances, to hear appeals from a decision of the Enforcement Officer, and to decide any question involving the interpretation of a provision or definition contained in this law.

Section 810 Application

A party may initiate a request for a variance by filing an application with the Zoning Board of Appeals using forms supplied by the Board. The applicant shall include a copy of the tax map which shows the property; a map drawn to scale showing existing features and the planned variance; and other drawings or information the Zoning Board of Appeals deems necessary.

Section 830 Requirements for Area Variances

- A. Area variances may be granted where the dimensional or physical requirements of this law cannot be reasonably met, including but not limited to: minimum lot size, minimum lot width, minimum road frontage, minimum side and rear setbacks, minimum green space buffer, maximum lot coverage by buildings, maximum height of buildings, size or height of signs, and screening requirements.
- B. In making its determination the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community. In making such determination the Zoning Board of Appeals shall consider:
 - (1) Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance.
 - (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - (3) Whether the requested variance is substantial.
 - (4) Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood.
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C. Any area variance granted shall be the minimum necessary for the applicant to make reasonable use of the property.

Section 840 Requirements for Use Variances

- A. A use variance may be granted to allow land to be used for a purpose which is otherwise not permitted by this law.
- B. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals all of the following:
 - (1) For each and every permitted use or special permitted use within the zone where the property is located the applicant cannot realize a reasonable return, provided that lack of return is substantial and is established by competent financial evidence.
 - (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
 - (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood.
 - (4) That the alleged hardship has not been self-created. Evidence of a self-created hardship shall include that an applicant acquired property subject to the restrictions from which relief is sought.
- C. Any use variance granted shall be the minimum necessary to address the unnecessary hardship proven by the applicant.

Section 850 Approval of Variances with Conditions

In the granting of variances the Zoning Board of Appeals shall have the authority to impose such reasonable conditions as are related to the use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 860 Appeals of a Decision by the Enforcement Officer (EO)

- A. Any appeal from a decision of the EO shall be made within sixty (60) days after the EO files said decision.
- B. An appeal shall stay all proceedings in furtherance of the enforcement action appealed from unless the Enforcement Officer certifies to the Zoning Board of Appeals that by reason in the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings may not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record.

Section 870 Review and Approval Procedure

Upon receipt of a complete application the Zoning Board of Appeals shall:

- A. Schedule a public hearing within sixty-two (62) days and provide notice of such hearing by publication in a newspaper of general circulation in the town at least five (5) days prior to the date thereof.
- B. Refer the application to the Herkimer County Planning Board, if required in accordance with Section 840.
- C. The Zoning Board of Appeals shall conduct a public hearing on the matter.
- D. Within sixty-two (62) days of the final public hearing, the Zoning Board of Appeals shall render a decision. Said time period may be extended by mutual consent of the applicant and the Zoning Board of Appeals.
- E. All decisions shall be in writing, shall be filed with the Town Clerk within five (5) business days of the decision, and a copy thereof shall be provided to the applicant.

ARTICLE 9 ADMINISTRATION

Section 905 Enforcement Officer (EO)

The duties of administering and enforcing the provisions of this Law are hereby conferred upon the Enforcement Officer. The Enforcement Officer shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

Section 910 Duties of the Enforcement Officer

- A. Administer the Zoning Law. The Enforcement Officer shall provide applications for special use permits, site plans, and variances, along with the applicable zoning regulations; explain the process for obtaining permits or variances; answer applicants' questions to the best of his ability; and receive applications completed by the applicant. The Enforcement Officer shall review all applications for Land Use and Development permits and, if the minimum requirements of this law are met, he shall issue a permit. If the applicant's plans do not meet the Zoning requirements, The Enforcement Officer must deny the permit. The Enforcement Officer may not use discretionary judgment.
- B. Referral to the Zoning Board of Appeals. An applicant denied a Land Use and Development permit may appeal the Enforcement Officer's findings to the Zoning Board of Appeals for an interpretation or variance. Should an appeal be requested the Enforcement Officer shall notify the Secretary of the Zoning Board of Appeals of the request and forward all necessary supporting information.
- C. Referral to Town Planning Board. Any application for a special permit, change of zoning district or use that requires a Site Plan Review shall be forwarded by the Enforcement Officer to the Secretary of the Town Planning Board along with all supporting information.
- D. Site Zoning Violations. For any plans, construction, building, use or premise found in violation of this Law, the Enforcement Officer shall order the responsible party, in writing, to remedy the conditions. He shall have the authority to secure from the Town Justice a stop order to restrain the continuance of the violation.
- E. Report to Town Board. A monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.
- F. Public Record. The Enforcement Officer shall file all permit actions, including all correspondence with regard to violations, with the Town Clerk.

Section 912 Planning Board

- A. The Town Board may select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.

- B. The Planning Board may adopt rules or bylaws for its operation.
- C. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.

Section 915 Powers and Duties of Planning Board

- The Planning Board shall have the following powers and duties with respect to this law:
- A. Review and approval of Special Use Permits and Site Plans in accordance with the standards and procedures set forth herein.
- B. Submittal of an advisory opinion to the Town Board for any proposed amendment to this law.
- C. Submittal of an advisory opinion to the Town Board in any matter relating to planning and zoning.

Section 925 Zoning Board of Appeals

- A. The Town Board may select a Chairman of the Zoning Board of Appeals, or on failure to do so, the Zoning Board of Appeals shall elect a chairman from its own members.
- B. The Zoning Board of Appeals may adopt rules or bylaws for its operation.
- C. The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses including the means for the Zoning Board of Appeals to maintain a written record of its meetings and public hearings.

Section 930 Powers and Duties of Zoning Board of Appeals

The Zoning Board of Appeals shall have the following powers and duties with respect to this law:

- A. Review and approval, denial, or approval with conditions of variances to this law.
- B. Hearing of appeals from a decision made by the enforcement officer.
- C. Upon appeal from a decision by the Enforcement Officer, decide any question involving interpretation of any provision of this law, or the location of any district boundary line on the Land Use District map.

Section 940 Referral to the County Planning Board

- A. State law requires that certain variances, Special Use Permit approvals, or zoning amendment actions be referred to the Herkimer County Planning Board for their review prior to taking final action on the matter. Such actions are those which affect real property within 500 feet of any of the following:
 - (1) A State or County highway.

- (2) State or County land where a public building or institution is located.
 - (3) A State or County owned park or recreation area.
 - (4) The Town of Russia boundary.
 - (5) The boundary of a farm operation located in an Agricultural District as defined by the Agriculture and Markets Law, except that this part shall not apply to area variances.
- B. If the County Planning Board does not respond within thirty (30) days from the time it receives a complete application, final action may be taken on the matter without such report. The term "receives" as used in this Section shall mean delivery at least one week in advance of the regularly scheduled County Planning Board meeting.
- C. In the event the County Planning Board disapproves the proposal, or approves it subject to modifications, then the local board may override the county opinion only by a vote of a majority plus one of its members.
- D. The local board shall send a copy of its final decision to the County Planning Board within seven (7) days after the local decision is reached. If the decision of the local board is contrary to a County Planning Board recommendation, then the local board shall send a resolution fully stating the reasons for its contrary action.

Section 945 State Environmental Quality Review (SEQR)

The State Environmental Quality Review Act requires that local government examine the environmental impact of certain actions they permit, fund, or construct. For zoning actions reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board:

Zoning Text Amendments – Town Board
Zoning District Amendment – Town Board
Special Permits – Planning Board
Site Plan Review – Planning Board
Variances and Interpretations – Zoning Board of Appeals

Section 950 Amendments

The Town Board may amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. Certain amendments require referral to the Herkimer County Planning Board as described in Section 840 herein. The Town Board, by resolution, shall fix the time and place of public hearing on the proposed amendment and shall cause notice to be given as follows.

- A. By publishing a notice at least ten (10) days in advance in the official newspaper of the Town.

- B. By referring the proposed amendments to each town and village within 500 feet of the affected property boundaries, and to any state park commission whose property lies within the Town or within 500 feet of the affected property boundaries.

ARTICLE 10 ENFORCEMENT

Section 1005 Penalties

Any person owning, controlling or managing any such building, structure, land or premises wherein or whereon there shall be placed on or there exists or is practiced or maintained anything or any use in violation of any of the provisions of this law shall be guilty of an offense and subject to a fine or penalty as specified in a schedule of fines and penalties as determined by the Town Board for each such violation. For each 24-hour period such violation continues, every such person shall be deemed guilty of a separate offense. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agency or manager may be considered to be the "person" for the purpose of this section.

Section 1010 Alternative Remedy

In the case of any violation or threatened violation of any of the provisions of this law, or conditions imposed by a zoning permit, in addition to other remedies herein provided, the Town may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises and to collect a penalty or fine assessed hereunder.

Section 1015 Stop Work Order.

- A. The Town Board for the Town of Russia herein grants the Enforcement Officer the administrative responsibility of determining in the first instance whether a violation has occurred and immediately terminating said violation by posting a Stop Work Order on the premises wherein the violation has occurred.
- B. The Stop Work Order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the Stop Work Order must be terminated immediately.

Section 1020 Appeal

Any person found to be in violation as described above may appeal the notice of violation to the Zoning Board of Appeals. Such appeal must be in writing and may be made no later than sixty (60) days from the date of the notice. An appeal shall stay all proceedings in furtherance of the enforcement action appealed from unless the Enforcement Officer certifies to the Zoning Board of Appeals that by reason in the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings may

not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record.

Section 1025 Misrepresentation

Any permit or approval granted under this law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstances known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town under Section 940 (1)-(5) of this law.

Section 1030 Actions for Injunction

The town may obtain an action to restrain by injunction any violation of this ordinance or any failure to comply with any of the provisions of this ordinance.

Section 1035 Removal of Violations

Any building or structure erected, or any use conducted without a zoning permit or certificate of compliance, where required, or not in conformity with the provisions of this ordinance may be removed, closed, or halted at once by the Enforcement Officer with issuance of a stop order, with the assistance, if deemed necessary, of any appropriate Town Officer or employee. Any costs involved with removal (if deemed necessary) shall be paid by the owner of the property that is not in compliance.

Section 1040 Steps in the Enforcement Process

The following procedures may be followed in order to enforce this law.

- A. Notice of Violation. The Enforcement Officer (EO) may serve a Notice of Violation on the landowner to inform him that a violation has occurred.
- B. Stop Work Notice. The EO may serve a Stop Work Order requiring that construction or other activity in violation must stop.
- C. Voluntary Compliance. Voluntary compliance may be sought.
- D. Injunction. The Town may seek a court order requiring that the activity in violation cease.
- E. Criminal Justice Proceedings. The Town may file an Information and Complaint to the local court to initiate court action.

SCHEDULE A, PERMITTED USE CHART
Page 1 of 3

X = Permitted Use
 St = Site Plan
 Sp = Special Use
 Blank = not permitted

Use	H	CR	COM	MU1	MU2	RU	MDR	LDR	RDR	RC
Residential uses										
Single family dwelling	X	X	X	X	X	X	X	X	X	X
Two family dwelling	X	X	X	X	X	X	X	X	X	X
Individual mobile home		X	X	X	X	X	X	X	X	X
Residential accessory structure	X	X	X	X	X	X	X	X	X	X
Senior citizen housing development		sp	sp	sp	sp	sp	sp	sp	sp	sp
Senior citizen assisted living facility for 4 or fewer residents	st	st	st	st	st	st	st	st	st	st
Nursing home, Senior citizen assisted living facility for more than 4 residents		st	st	st	st	st	st	st	st	st
General uses										
Accessory use	X	X	X	X	X	X	X	X	X	X
Agricultural use and structures, sale of products produced on premises	X	X	X	X	X	X	X	X	X	X
Agricultural Service Use	X	X	X	X	X	X	X	X	X	X
Cemetery		st	st	st	st	st	st	st	st	st
Club, other than gun club	st	st	st	st	st	st	st	st	st	st
Essential use/service other than telecommunication tower		st	st	st	st	st	st	st	st	st
Group camp	st	st	st	st	st	st	st	st	st	st
House of worship	st	st	st	st	st	st	st	st	st	st
Private airstrip		st	st	st	st	st	st	st	st	st
Gun club		sp	sp	sp	sp	sp	sp	sp	sp	sp
Telecommunication tower		sp	sp	sp	sp	sp	sp	sp	sp	sp
Forest use, Timber harvesting	X	X	X	X	X	X	X	X	X	X
Wind power facility, small							sp	sp	sp	sp
Public watershed and associated structures										X

SCHEDULE A, PERMITTED USE CHART
Page 2 of 3

Commercial or industrial uses	H	CR	COM	MU1	MU2	RU	MDR	LDR	RDR	RC
Home occupation	x	x		x	x	x	x	x	x	x
Adult entertainment establishment	st	st	st	st	st	st	sp	st	st	st
Antique, art and craft shops	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp
Bed and breakfast establishment										
Building supply				st	st	st				
Campground, recreational vehicle park						st				
Commercial riding stables						st				
Convenience or general store with gas pumps				sp	sp	sp				
Convenience or general store without gas pumps				st	st	st				
Day care center	st	st	st	st	st	st	st	st	st	st
Drive-In Restaurant	st	st	st	st	st	st	st	st	st	st
Funeral home				st	st	st				
Gasoline and auto service station				sp						
Golf course					st	st				
Home based business with vehicles or equipment				sp	sp	sp	sp	sp	sp	sp
Indoor recreation (bowling, skating)				st						
Kennel	st	st	st	st	st	st	st	st	st	st
Launderette				st	st	st				
Lawn, garden or farm equipment				st	st	st				
Marina, marina supplies without gas					st	st				
Mobile home sales				st	st	st				
Motel, seasonal accommodations				st	st	st				
Motor vehicle repair, auto body shop				st	st	st				
Motor vehicle sales				st	st	st				
Nursery, florist, greenhouse	st	st	st	st	st	st	st	st	st	st
Personal service	st	st	st	st	st	st	st	st	st	st
Private schools (max enrollment 25)	st	st	st	st	st	st	st	st	st	st
Professional or business office	st	st	st	st	st	st	st	st	st	st
Research and testing laboratory				sp	sp					
Restaurant	st	st	st	st	st	st	st	st	st	st

SCHEDULE A, PERMITTED USE CHART
Page 3 of 3

Commercial or industrial uses	H1	CR	COM	MU1	MU2	RU	MDR	LDR	RDR	RC
Retail store not listed elsewhere in this chart	st	st	st	st	st	st				
Farm Stand	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp
Shopping center				st						
Tavern, bar, nightclub	st	st	st	st	st	st				
Sawmill, chipping mill									st	
Temporary sawmill	x	x	x	x	x	x	x	x	x	
Veterinarian, animal hospital				sp					sp	
Well drilling or construction business				st						
Non-listed commercial or industrial use substantially similar in nature, scope, and adverse impacts to those allowed in the zone, as determined by the Zoning Board of Appeals				sp						

1. The following uses are prohibited in all zones:

- Mobile home park
 - Industrial use
 - Junk yard, recycling center
 - Motor vehicle race track
 - Hazardous waste disposal area
 - Industrial and commercial waste disposal
 - Construction and demolition debris disposal
 - Septage (septic tank waste) disposal
 - Slaughterhouse
 - Commercial airport
 - Warehousing and distribution
 - Trucking business, excepting a "home based business with vehicles or equipment"
 - Fuel oil distribution
 - Wind power facility, large
 - Mining
 - Asphalt Plant
 - Exploration for or Extraction or Production of Natural Gas and/or Petroleum Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Materials.
 - Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Wastes
 - Natural Gas and/or Petroleum Support Activities
 - Multiple Family Dwelling
2. All new principal buildings in the SCO (Scenic Corridor Overlay) district and in the SHO (Shoreline Overlay) District require a site plan, with the exception of single family and two-family residences.

SCHEDULE B, LCT SIZE AND DIMENSION CHART

Page 1 of 1

	Zone	H	CR	COM	MU1	MU2	RU	MDR	LDR	RDR	RC
Minimum lot size for any use	1 acre	2 acres	1 acre	5 acres	1.3 acres	5 acres	3.2 acres	5 acres	8 acres	20 acres	
Minimum highway frontage (ft)	150	200	50	300	150	300	250	300	300	300	500
Minimum lot width (ft)	150	200	150	300	150	300	250	300	300	300	500
Minimum lot depth (ft)	200	200	200	500	200	500	500	500	500	500	500
Minimum front setback (ft)	30	50	50	50	50	50	50	50	50	50	50
Minimum shoreline frontage (ft) on Hinckley Reservoir, West Canada Creek and Black Creek	100			150	150	150	125	150	150	150	
Minimum side setback (ft)	30	30	20	50	30	50	30	50	50	50	50
Minimum rear setback (ft)	30	30	30	30	30	30	30	30	30	30	50
Minimum shoreline setback (ft) from Hinckley Reservoir	50				50	50	50	50	50	50	
Minimum shoreline setback (ft) from West Canada Creek and Black Creek	50				150	150	150	150	150	150	
Minimum shoreline setback (ft) from all other year round streams, and from ponds greater than 10,000 square feet in surface area	50	50	50	50	50	50	50	50	50	50	100
Maximum height Number of stories Feet	2 1/2 35	1 20									

1. Minimum front setback in Scenic Corridor Overlay is 75 ft.