

TOWN OF CINCINNATUS

ZONING LAW

Drafted with assistance from:

Cortland County Planning Department

Adopted February 2002

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I GENERAL PROVISIONS	
Section 101 Title	1
102 Purpose	1
103 Conflict with Other Laws	1
104 Validity and Severability	1
105 Fees	1
106 Violations and Penalties	1
107 Actions for Injunction	1
108 Removal of Violations	2
109 Amendments	2
110 Effective Date	2
ARTICLE II DEFINITIONS	
Section 200 Words, Terms, and Definitions	2
210 Definitions	2
ARTICLE III PERMITS AND PROCEDURES	
Section 300 Building Permits Required	11
301 Preapplication Conference with Planning Board	11
302 Application Procedure & Required Information	11
303 Building Permit Types	12
304 Building Permit Granted	12
305 Termination of Permit	13
306 Certificate of Occupancy or Compliance	13
ARTICLE IV ESTABLISHMENT AND DESIGNATION OF LAND USE DISTRICTS	
Section 400 Establishment of Districts	13
401 Zoning Map	13
402 Designation of District Boundaries	13
403 Determination of Location of Boundaries	13
ARTICLE V DISTRICT REGULATIONS	
Section 500 Hamlet (H)	14
501 Purpose	14
502 Permitted Uses	14
503 Permitted Accessory Uses	14

504	Conditional Uses Requiring a Special Permit issued by the Planning Board (Subject to Special Permit Regulations, Article VII)	14
505	Specifications	15
511	Purpose	15
512	Permitted Uses	15
513	Permitted Uses Accessory	15
514	Conditional Uses Requiring a Special Permit issued by the Planning Board (Subject to Special Permit Regulations, Article VII)	15
515	Specifications	16
520	Residential (R)	16
521	Purpose	16
522	Permitted Uses	16
523	Permitted Uses Accessory	16
524	Conditional Uses Requiring a Special Permit issued by the Planning Board (Subject to Special Permit Regulations, Article VII)	17
525	Specifications	17
530	General Business (B)	17
531	Purpose	17
532	Permitted Uses	17
533	Permitted Uses Accessory	17
534	Conditional Uses Requiring a Special Permit issued by the Planning Board (Subject to Special Permit Regulations, Article VII)	18
536	Specifications	18
540	Research, Development and Professional Office (RD)	18
541	Purpose	18
542	Goals	19
543	Conditional Uses Requiring a Special Permit issued by the Planning Board (Subject to Special Permit Regulations, Article VII)	19
544	Zoning, Conditions and Restrictions	19
545	Specifications	20
550	Light Industrial (I)	20
551	Purpose	20
552	Conditional Uses	21
553	Permitted Accessory Uses	22

554 Other Provisions and Requirements	22
555 Specifications	22
560 Historic (H)	23
561 Purpose	23
562 Applicability	22
563 Other Provisions and Requirements	22
570 Well Head Protection District (WH)	23
571 Purpose	24
572 Area of Scope and Applicability	24
573 Administrative Provisions	24
574 Definitions	24
575 Prohibited Activities	27
576 Additional Requirements for the Wellhead Protection District	28
577 Non Conforming Activities	29
578 Inspections	29
579 Penalties	30
ARTICLE VI REGULATIONS APPLICABLE TO ALL DISTRICTS	
Section 600 Signs	30
601 General Standards	31
605 Parking	31
606 Minimum Parking Standards	32
610 Fences	32
615 Individual Mobile Homes (New and Replacement)	32
625 Camping Trailers	33
630 State Environmental Quality Review (SEQR)	34
635 Corner Lots	34
640 Non-Conforming Uses, Lots, Structures	34
645 Abandoned Cellar Holes, Wells, Buildings	36
650 Alternate Energy Systems	36
ARTICLE VII SPECIAL PERMIT USE REGULATIONS	
Section 700 Adult Entertainment Business	36
701 Bed-n-Breakfast	37
702 Camping Grounds	37
703 Clubs (Lodges, Fraternal Organizations, etc.)	39
704 Day Care Centers	39

705 Drive-in Restaurants	39
707 Excavation and Mining	40
708 Farm Labor Camps	42
709 Home Occupations	42
710 Hotel and Motels	43
711 Junkyards	44
712 Kennels and Animal Hospitals	46
713 Mobile Home Parks	46
714 Motor Vehicle Repair Shop/Service Stations	49
715 Multiple Family Dwellings	49
716 Public and Semi Public Buildings and Grounds	50
717 Retail Gasoline Outlet	51
718 Telecommunication Towers	51
ARTICLE VIII ADMINISTRATION AND ENFORCEMENT	
Section 800 Enforcement	52
801 Duties and Procedures of the Code Enforcement Officer	52
810 Zoning Board of Appeals	53
811 Functions of the Zoning Board of Appeals	53
820 Appeals for Variances Through ZBA	53
821 Granting Area or Dimensional Variances	53
822 Granting Use Variances	54
ARTICLE IX SPECIAL PERMITS	
Section 900 Purpose	55
901 Procedure	55
902 Findings	56
ARTICLE X SITE PLAN REVIEW	
Section 1000 Purpose	56
1001 Applications	56
1002 Procedure	57
1003 Application for Site Plan Approval	57
1004 Planning Board Review of Site Plan	58

ARTICLE I

GENERAL PROVISIONS

- SECTION 101 TITLE: The title of this Code is the "Zoning Law of the Town of Cincinnati" and shall include this Text, Zoning Map and Fee Schedule.
- SECTION 102 PURPOSE: The objectives of this Zoning Law are:
1. Protect the open and natural character of the land.
 2. Provide for planned growth of agricultural, residential, commercial and industrial use of land consistent with the economic and social needs of the community and its development policies.
 3. Preserve the town's natural resources and habitats.
 4. Encourage the use of alternative energy systems and protect solar and wind access.
 5. Promote the health, safety and general welfare of the town consistent with the objectives of Town Law, Section 263.
 6. Preserve historic buildings when possible.
- SECTION 103 CONFLICT WITH OTHER LAWS: Whenever the requirements of this Law are at variance with the requirements of any lawfully adopted rules, regulations or ordinances, the most restrictive of those imposing the higher standards shall govern.
- SECTION 104 VALIDITY AND SERVERABILITY: Should any section of or provisions 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.
- SECTION 105 FEES: Permit fees shall be collected and paid according to the fee structure in effect at the time of application. A fee schedule is available from the Town Clerk.
- SECTION 106 VIOLATIONS AND PENALTIES: Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this Law, shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not more than \$500.00 or imprisonment for a period not more than six (6) months or both. Each week a violation is continued shall be deemed a separate offense.
- SECTION 107 ACTIONS FOR INJUNCTION: The Town may obtain an action to restrain by injunction any violation of this law or any failure to comply with any of the provisions of this law.

- SECTION 108 REMOVAL OF VIOLATIONS: Any building or structure erected, or any use conducted without a building permit or certificate of occupancy, where required, or not in conformity with the provisions of this Law may be removed, closed or halted at once by the Code Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate town officer or employee.
- SECTION 109 AMENDMENTS: The Town Board may on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this Zoning Ordinance in accordance with the applicable provisions of law.
- SECTION 110 EFFECTIVE DATE: This Zoning Law shall take effect in accordance with the provisions of Section 264 of the Town Law. This becomes effective on the date of March 11, 2002, or such earlier date as provided by law.

ARTICLE II

DEFINITIONS

SECTION 200 WORD TERMS AND DEFINITIONS:

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

1. Words used in the present tense include the future;
2. The singular includes the plural;
3. The term "person" includes a corporation, partnership, and association as well as the individual;
4. The term "shall" is always mandatory;
5. The term "may" is permissive;
6. The term "used" shall be interpreted to include the term "designated" or "intended to be used".

SECTION 210 DEFINITIONS:

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot and of the nature customarily incidental and subordinate to the principal use or structure which may include alternate energy systems.

ADULT USE: Any one (1) of the uses defined below shall be considered an adult use. An "adult use" shall always be a primary use and may not be accessory to any other use, including another "adult use". In the case of a combination of "adult uses", each use shall be considered as a separate primary use. All "adult uses," whether or not preexisting, shall obtain certificates of zoning occupancy as an "adult use" within sixty (60) days of the effective date of this law. No adult physical culture establishment, whether preexisting or new, shall receive a certificate of zoning occupancy.

(A) Adult entertainment business:

- (1) A public establishment which features topless dancers, nude dancers or strippers, male or female.

(2) An enclosed building used for presenting, lending or selling motion picture films, video cassettes, cable television, or any other such visual media, or used for presenting, lending, or selling books, magazines, publications, or any other written materials distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or "specified anatomical area".

AGRICULTURE: The use of land for agricultural purposes including tilling of the soil, dairying, pasture, agriculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals.

AGRICULTURAL BUSINESS ESTABLISHMENTS (AGRI BUSINESS): a business engages in performing agricultural, animal husbandry, or horticulture services on a fee or contract basis including corn shelling, hay baling and combining, sorting, grading and packing fruits and vegetables for the grower, agricultural produce milling and processing, horticultural services, crop dusting, fruit picking, grain cleaning, land grading, harvesting grains and plowing.

AIRPORT: Any facility for the purpose of engaging aircraft to flight.

ALTERATIONS: As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or moving from one location to another.

ALTERNATIVE ENERGY SYSTEM: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site which may be attached to or separate from the principal structure. Examples include windmills and solar water heaters.

ANIMAL HOSPITAL: A business that treats animals and regularly houses them on premises overnight and for extended periods for treatment.

ARCADE OR VIDEO ARCADE: A place where coin activated amusements such as video games and pinball machines are available to the public.

BED AND BREAKFAST:

A single-family dwelling that contains a dwelling unit occupied and used by the owner of such dwelling as his/her principal residence together with not more than four (4) accessory rooms for guests whose stay shall not exceed seven (7) consecutive days, together with the provision of a morning meal.

BUILDING: Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

BUSINESS CONVENIENCE: Small commercial establishments (of less than 5,000 square feet in floor area) catering primarily to nearby residential areas providing convenience goods and services including but not limited to grocery stores, drug stores, beauty salons, barber shops, carryout dry cleaning and laundry pickup stations.

CAMPING TRAILERS: Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels and drawn by a power driven vehicle, or such type vehicle having its wheels removed. This definition is intended to include self-contained recreational vehicles.

CAMPGROUND: A parcel of land used or intended to be used for occupancy by camping trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

CARPOR: A roofed structure, with no more than two walls, used for the storage of one or more automobiles.

CERTIFICATE OF OCCUPANCY: A certificate issued by the Code Enforcement Officer stating that a new structure, or any existing structure under repair, reconstruction or improvements which would require a permit within the guidelines of the International Building Codes, or the use thereof, is in compliance with this Law.

CLUB: Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing they are not conducting any vending stands, merchandising, or commercial activities except as required for the membership and purposes of supporting such club. For the purpose of this law, clubs shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

CODE ENFORCEMENT OFFICER: The official designated to administer and enforce this Law.

CONVERSIONS: Any change of use, or any change of occupancy of a dwelling unit, with or without alteration or other reorganization, so as to increase the number of families or number of dwelling units in a structure.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

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

DWELLING: Any building or portion thereof designed or used exclusively as a residence or sleeping place of one (1) or more persons, including a mobile home.

SINGLE FAMILY: A detached residential dwelling designed for and occupied by one family only.

TWO-FAMILY: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

THREE-FAMILY: A detached residential building containing three dwelling units, designed for occupancy by not more than three families.

MULTIPLE-FAMILY: A residential building designed for or occupied by four or more families with the number of families in residence not exceeding the number of dwelling units provided.

SEASONAL HOME: A dwelling unit intended for the occupancy only during certain seasons of the year, principally for recreational use by the owner, including river cottages, hunting cabins, vacation cottages, summer cottages and vacation lodges.

DWELLING UNIT: One room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities, designed for occupancy by one family.

ESSENTIAL SERVICES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone communication equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

EXCAVATION (QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING): A lot or land, or part thereof, used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial or commercial operation, but not including the process of grading a lot preparatory to the construction of a building which has an approved building permit.

FAMILY: One or more persons related to each other by blood, marriage or adoption (or not more than three individuals who are not related), living together as a single housekeeping unit. A group home for not more than twelve (12) persons, seventeen (17) years of age or less who are not related, as above, to the adult occupants of the unit shall be considered a family for this Law when it has an internal structure akin to a traditional (biological unitary) family and external appearance of a relatively normal, stable and permanent family unit and is operated or supervised by a qualified social services agency.

FARM LABOR CAMP-PRIVATE: Labor camp housing facilities, building or buildings in which people are housed who are employed in an individual farmer's personal farming operation.

FARM LABOR CAMP-COMMERCIAL: Any structure or combination of structures designed or intended to be used for the housing of persons engaged in casual or per diem labor on a profit basis for farmers other than an individual farmer's private labor camp as defined in this Law.

FLOOD HAZARD AREA-SPECIAL: Maximum area of the flood plain that, on the average, is likely to be flooded once every 100 years.

FLOOD PLAIN: A land area adjoining a river, stream, watercourse, pond or lake which is susceptible to flooding.

FLOOD PROOFING: Any combination of structural and non-structural additions, changes or adjustments to properties and structures which significantly reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of the floodways on official Federal, State and local flood plain maps.

FLOOR AREA-GROSS: For the purpose of applying the requirements for off-street parking and loading, "gross floor area" in the case of offices, merchandising or service types of uses shall mean the total floor area to be used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

FLOOR AREA-HABITABLE: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business.

GARAGES-PRIVATE: An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and/or other household items.

GARAGES-PUBLIC: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, including the supply of gasoline or oil.

HOME OCCUPATION: An occupation in a dwelling unit or customary accessory structure provided that the use of the dwelling unit for the home occupation is incidental and subordinate to its use for residential purposes by its occupants as further defined in Section 709 (Home Occupations).

HOTEL-MOTEL: A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public. The term "hotel-motel" includes buildings designed as auto cabins, auto courts, motor lodges, tourist courts, and similar terms.

JUNK YARD: Any area of land, including buildings thereon which is used primarily for the collecting, storage or sale of waster paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles that are not operable and/or not registered with the New York State Department of Motor Vehicles.

KENNEL: Any lot or premises on which four (4) or more domestic animals more than three (3) months of age are housed, groomed, breed, boarded, trained or sold.

LOT: A parcel or area of land, occupied or capable of being occupied by one or more principal buildings, the dimensions and extent of which are determined by the latest official records or recordings.

A. **CORNER LOT:** A parcel of land at the junction of and fronting on two or more intersecting roads.

LOT DEPTH: The average horizontal distance from the road line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The front of the lot shall be construed to be the portion along the public road. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to roads shall be considered frontage, and yards shall be provided as indicated under "YARDS" in these definitions.

LOT LINE: Any boundary line of a lot.

LOT WIDTH: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

MOBILE HOME: Any portable vehicle with a steel frame which is designed to be transported on its own wheels or those of another vehicle, which is used, designed to be used, and capable of being used as a detached single-family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities, and plumbing and electrical connections for attachment to outside systems. The definition of mobile home includes all additions made subsequent to installation. This definition does not include modular housing placed on a standard foundation or camping trailer.

MOBILE HOME PARK: Any site, lot, field, plot, parcel or track of land on which two (2) or more mobile homes are parked or located and for which use said premises are offered to the public or to any person for a fee of any type, including cost sharing. This definition shall not include mobile homes on a property used for agricultural purposes as living quarter for persons employed on said property.

MODULAR HOUSE: A housing unit constructed off-site consisting of more than one segment and designed to be permanently anchored to a foundation, to become a fixed part of the real estate, and which meets all standards of the International Building Code.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles.

MULTIPLE PRINCIPLE STRUCTURE: More than one structure occupied or capable of being occupied on an individual lot with each structure requiring at least equal setback to an individual structure on adjacent individual lots as defined in this Law.

NON-CONFORMING LOT: A lot existing at the time of enactment of this law which does not conform to the area regulations of the district or zone in which it is situated.

NON-CONFORMING USE: A use of land existing at the time of enactment of this law which does not conform to the regulations of the district or land use in which it is located.

PARKING SPACE: Space available for the parking of one motor vehicle and having an area of not less than 200 (20 X 10) square feet exclusive of passageways and driveways giving access thereto.

PERMITTED USE (OR USE BY RIGHT): A land use allowed under the regulations of the Law.

POULTRY HOUSE: The keeping of any number of poultry or chicken.

PROFESSIONAL OFFICES: The office or place of business where professional services are offered but which does not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS: The words "public and semi-public buildings and grounds", as used in this Law are intended to designate but not limit to any one (1) or more of the following uses, and includes grounds and accessory buildings necessary for their use:

- A. Churches, places of worship, parish houses and convents.
- B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- C. Nursery schools, elementary schools, high schools, colleges or universities.
- D. Golf courses and country clubs, not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
- E. Public Libraries and museums.
- F. Not-for-profit fire, ambulance and public safety buildings.
- G. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law of the State of New York, provided that they are duly licensed by the State of New York.
- H. Not-for-profit membership corporations established for cultural, social, or recreational purposes.
- I. Recreational facilities, either for profit or not-for-profit, such as swimming, tennis, table tennis, bowling, hockey, ice skating or other indoor or outdoor sports.
- J. Day-care centers approved by the New York State Department of Social Services.

RECREATION AREA: The sum of all open or covered areas used for recreational purposes.

RESTAURANT: Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or playground or park operated by the agency or group or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RIGHT-OF-WAY: Land set aside for use as a road, alley, or other means of travel.

RETAIL GASOLINE OUTLET: Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

ROAD-MAJOR: Public streets or highways connecting through roads with each other which also handle internal movement within built-up areas.

ROAD-SECONDARY: Public streets or roads serving to connect major roads with each other which also handle internal movement within built-up areas.

ROAD-LOCAL: Public streets or roads which primary function is to give direct access to abutting property. Local roads are the internal part of the system providing movement within residential and other land use areas.

SETBACK-FRONT: The required open, unoccupied space between the edge of the road right-of-way and the front of the main structure, but not including porches, entrance steps and other appendages to the front of the main structure.

SETBACK-BACK: The required open, unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

SIGN: Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge or insignia of any public, quasi public, civic, charitable or religious group.

SIGN AREA: The area defined by the frame of the edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed four sided (straight sides) geometric shape which most closely outlines the said sign.

SITE PLAN: A layout plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SITE PLAN REVIEW: A review and approval process, conducted by the Planning Board whereby Site Plans are reviewed utilizing criteria stated in this Law.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade.

SPECIAL PERMIT USES: Those particular uses which are specifically permitted in a given district only when conditioning criteria enumerated in this Law are met.

STREET LINE: The limit of the public street width or highway right-of-way, whichever is greater.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, billboards and poster panels. This definition does not pertain to parking areas.

SWIMMING POOL: Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or intended to be used for swimming, bathing, or wading and permanently installed or constructed either above or below ground.

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

TELECOMMUNICATION TOWERS: Any tower, edifice, pole or other structure within the Town whether attached to a building or freestanding, whether guyed or self-supporting, designed to be used or designed to support a device to be used for the transmission and/or reception of radio and television communication frequency signals, and including but not limited to broadcast, shortwave or citizen band or when supporting driven devices, including but not limited to energy conversion systems and wind speed and/or direction indicators. (Amateur radio operators refer to – FCC Regulations PRB-1).

TEMPORARY USE: An activity conducted for a specified, limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work and seasonal produce stands.

USE: The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE: A variance is any departure from the strict letter of these regulations granted by the Zoning Board of Appeals as it applied to a particular piece of property, usually pertaining to dimensional requirements (only in some instances use variances are given). Variances run with the land and are not particular to any one land owner. Variances may be granted for a specified time period.

YARD-FRONT: An open space within and extending the full width of the lot from the front lot line to the part of the principle building which is nearest to such front line.

YARD-REAR: An open space extended across the entire width of the lot between the rear wall of the principle building and the rear line of the lot, and unoccupied except for accessory buildings and open porches which can be within five (5) feet of the rear or side lot line.

YARD-SIDE: An open space on the same lot with a principle building located between the principle building and the side line of the lot extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than two (2) feet of rain water leaders, window sills, and other such fixtures and open steps.

ARTICLE III

PERMITS AND PROCEDURES

SECTION 300 BUILDING PERMITS REQUIRED:

A. No use or structure shall be established, erected nor land developed until a permit has been issued by the Code Enforcement Officer who shall issue such permits in accordance with regulations in this code. Permit applications shall be filed with the Town Clerk

B. No permit shall be required.

1. For the performance of necessary repairs which are not of a structural nature and which are done in conformance with the Uniform Code;
2. For alterations to existing buildings, provided that the alterations:
 - a. Do not materially affect structural features;
 - b. Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
 - c. Do not involve the installation or extension of electrical systems;
 - d. Do not include the installation of solid fuel burning heating appliances and associated chimneys or flues;
3. For small noncommercial structures with maximum size of 200 square feet that are not to be improved with electric or septic systems and that are not intended for use by one or more persons;
4. For agricultural buildings or structures that are not to be improved with electric or septic systems.
5. Placement, alteration, movement or removal of storage sheds that are not to be improved with electric or septic systems.

SECTION 301 PRE APPLICATION CONFERENCE WITH PLANNING BOARD:

Pre application conferences with the Town's Planning Board are encouraged for all applicants seeking permits for non-residential uses or non-farm uses or when a change of use is desired.

SECTION 302 APPLICATION PROCEDURE AND REQUIRED INFORMATION:

- A. Application must be made with the Town Clerk on forms approved by the Town.
- B. All information on the application form must be completed. In addition, the following information is also required to constitute a complete application.

1. Map Required - Two copies of a property map shall be submitted with all applications. The map shall be either:
 - a. Sketch Map: A sketch map is required with all applications for one, two or three family dwellings, their customary accessory uses, or farm uses. The sketch map shall be drawn to scale and 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 water courses, ponds, surface drainage patterns and location of existing or proposed easements, or;
 - b. Site Plan: A site plan is required with applications for all other uses, including application for residential uses in a Historic District. The requirements and procedures for site plan approval are given in Article X of this Law.
- C. Approval of Water and Sewage Disposal Systems: Evidence of approval of the water supply and the sewage disposal system plans by the Cortland County Health Department, or its agent, must be submitted at the time of application. Applications lacking such information shall not be accepted.
- D. Evidence of Property Ownership or Intent to Purchase: Proof of ownership or an option to purchase the subject property shall be provided on request.
- E. License: Any user currently licensed by Federal, State, County or Town agencies and operating within the Town shall present evidence of currently valid licenses before any expansion permit application is accepted.
- F. Fee: The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application.

SECTION 303 BUILDING PERMIT TYPES: Under the terms of this Law, the following classes of Building Permits may be issued:

- A. Permitted Use: A building permit for a permitted use may be issued on the authority of the Code Enforcement Officer.
- B. Special Permit Uses and/or Site Plan Approval: A building permit for a special permit use may be issued by the Code Enforcement Officer after special permit or site plan approval is given by the Town Planning Board.
- C. Building Permit-After an Appeal or Request for a Variance: A building permit may be issued by the Code Enforcement Officer upon order of the Zoning Board of Appeals after a Public Hearing as more full described in Article VIII.

SECTION 304 BUILDING PERMIT GRANTED: When all requirements of this code have been met, the Code Enforcement Officer shall issue a Building Permit. The Code Enforcement Officer shall file one copy of the approved permit in the Town Clerk's Office.

SECTION 305 TERMINATION OF PERMIT: Any Building Permit for which construction has not commenced or construction has not been completed within one (1) year after issue shall be revoked. If construction has not been completed within the year of issue, The Building Permit can be renewed at six (6) month intervals with the fee schedule as enacted by the Town Board. Renewals are limited to two per original construction and/or use permit.

SECTION 306 CERTIFICATE OF OCCUPANCY: If construction meets with all Codes and Local laws, and all special conditions required by the Planning Board or the Zoning Board of Appeals, the Code Enforcement Officer shall issue a Certificate of Occupancy to the owner for the specified use only. The owner of a building or structure has no right of occupancy or use until he or she receives a validated Certificate of Occupancy as specified above.

ARTICLE IV

ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

SECTION 400 ESTABLISHMENT OF DISTRICTS: For the purpose of promoting the public health, safety, morals, and general welfare of the Town of Cincinnatus, the town is hereby divided into the following types of districts.

RH Hamlet

AG Agricultural

R Residential

B General Business

RD Research & Development District

I Light Industrial

H Historic

W Well Head Protection District

SECTION 401 ZONING MAP: Said districts are bounded as shown on the map entitled "Zoning Map of the Town of Cincinnatus", adopted as certified by the Town Clerk which accompanies, and which, with all explanatory matter, is hereby made a part of this Law.

SECTION 402 DESIGNATION OF DISTRICT BOUNDARIES: Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow the center lines of streets, the center lines of railroad right-of-ways, existing lot lines, the mean water level of streams, and other waterways, all as shown on the Zoning Map.

SECTION 403 DETERMINATION OF LOCATION OF BOUNDARIES: In case of uncertainty as to the true location of a district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

ARTICLE V
DISTRICT REGULATIONS

SECTION 500 HAMLET (H)

SECTION 501 PURPOSE

The purposes of the Hamlet District is to recognize that the crossroads community is a unique area where residential and commercial business uses exist together, providing necessary, basic services for the surrounding area.

SECTION 502 PERMITTED USES

A. One, Two and Three Family Dwellings

SECTION 503 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis except for home occupations.

SECTION 504 CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE IX)

- A. Retail Business
- B. Drive-In Restaurant
- C. Agriculture
- D. Auto Service and Repair Shops
- E. Multi-Family Dwelling
- F. Public Utilities
- G. Wholesale Business
- H. Restaurants
- I. Taverns
- J. Clubs
- K. Home Occupations
- L. Essential Services

M. Public and Semi-Public Buildings and Grounds

N. Conversions

SECTION 505 SPECIFICATIONS

Setbacks:	Front:	Seventy five (75) feet
	Side:	Fifteen (15) feet
	Rear:	Twenty (20) feet
	Frontage:	One hundred thirty-five (135) feet
	Height:	Thirty five (35) feet
	Minimum Lot Size:	Thirty thousand (30,000) square feet

SECTION 510 AGRICULTURAL (AG)

SECTION 511 PURPOSE

The purpose of the Agricultural District is to protect agricultural lands and uses from incompatible land uses and to limit non-farm residential, commercial and industrial uses to those areas best suited by reason of their requirements for public services.

SECTION 512 PERMITTED USES

- A. Agriculture and Agri-Business
- B. One, Two and Three Family Dwellings
- C. Individual Mobile Home (See Section 615)
- D. Recreation Areas
- E. Riding Stables

SECTION 513 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis except for home occupations.

SECTION 514 CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE IX)

- A. Home Occupations
- B. Airports
- C. Camp Grounds
- D. Excavation and Mining

- E. Farm Labor Camps
- F. Kennels
- G. Essential Services
- H. Conversions
- I. Telecommunication Towers

SECTION 515 SPECIFICATIONS

Setbacks:	Front:	One hundred (100) feet
	Side:	Thirty (30) feet
	Rear:	Thirty (30) feet
	Frontage:	Two hundred (200) feet
	Height:	Thirty five (35) feet (except agricultural storage facilities, airport structures and telecommunication towers).
	Minimum Lot Size:	One (1) acre

SECTION 520 RESIDENTIAL (R)

SECTION 521 PURPOSE

The purpose of the Residential District is to provide a stable environment for rural residential development, free from incompatible uses. Uses in this district are either served by an approved water and/or sewer system or are areas with densities high enough to support such facilities if growth is likely or encouraged.

SECTION 522 PERMITTED USES

- A. Agriculture
- B. One, Two and Three Family Dwellings
- C. Individual Mobile Homes (See Section 615)
- D. Recreation Areas

SECTION 523 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis except home occupations.

SECTION 524 CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE IX)

- A. Multiple Family Dwellings
- B. Public and Semi-Public Buildings and Grounds
- C. Essential Services
- D. Home Occupations
- E. Mobile Home Parks
- F. Day Care Centers
- G. Telecommunication Towers
- H. Conversions

SECTION 525 SPECIFICATIONS

Setbacks:	Front:	Seventy-five (75) feet
	Side:	Twenty (20) feet
	Rear:	Twenty (20) feet
	Frontage:	One hundred thirty-five (135) feet
	Height:	Thirty five (35) feet
	Minimum Lot Size:	Twenty Thousand (20,000) Sq. Feet, if public water or sewer available. Thirty Thousand (30,000) Sq. Feet, if no public water or sewer available.

SECTION 530 GENERAL BUSINESS (B)

SECTION 531 PURPOSE

The purpose of General Business District is to provide for business establishments serving the needs of area residents, especially retail and service businesses. Permitted uses are intended to create a business district free from conflicting land use.

SECTION 532 PERMITTED USES

- A. Agriculture and Agri-Business
- B. One, Two, Three Family Dwellings
- C. Recreation Areas

SECTION 533 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures.

Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.

Off-street parking, loading and unloading facilities subject to the provisions of Article VI of this Law.

One (1) on premise sign shall be permitted per business for each street and parking area upon which said use fronts. Said sign shall not exceed twenty (20) square feet.

SECTION 534 CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE IX)

- A. Motor Vehicle Repair Stations/Service Stations
- B. Restaurants
- C. Drive-In Restaurants
- D. Business Services including Warehousing and Storage
- E. Hotels and Motels
- F. Retail & Wholesale Business
- G. Retail Gasoline Outlet
- H. Professional Offices
- I. Essential Services
- J. Telecommunication Towers
- K. Conversions

No commercial structure shall be permitted within fifty (50) feet of the nearest lot line of any residential district.

SECTION 536 SPECIFICATIONS

Setbacks:	Front:	Fifty (50) feet
	Side:	Fifteen (15) feet
	Rear:	Fifty (50) feet
	Height:	Thirty five (35) feet
	Frontage:	One hundred thirty-five (135) feet
	Minimum Lot Size:	Thirty thousand (30,000) sq. ft.

SECTION 540 RESEARCH, DEVELOPMENT AND PROFESSIONAL OFFICE (RD)

SECTION 541 PURPOSE

The purpose of this district is to provide a plan and structure to encourage and accommodate emerging technology firms, high tech multi-use office and laboratory production firms, multi-use facilities having accessory warehousing, digital commerce, new media, and professional offices.

SECTION 542 GOALS

To provide a planned district with sufficient space to accommodate Cincinnati's expected future growth requirements.

To protect and buffer abutting residential districts. Zoning restrictions will encourage building mass limitations, establish setbacks, limit off-street loading/unloading areas and parking, and establish landscape-screening provisions.

To promote a well considered plan that protects the character of the area and established patterns in adjacent development, thereby maintaining land values and protecting Cincinnati's tax revenue.

SECTION 543 CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE IX)

- A. Information technology, data processing, and computer centers including programming, software development, new media, and digital commerce.
- B. Laser technology and applications.
- C. Communications equipment sales, service and repair.
- D. Medical laboratories engaged in research, demonstration, display or testing.
- E. Research, testing, design, development, and training for aerospace, telecommunications, automobile, satellites, medical, computers, electronics, robotics research, and similar technology development.
- F. Professional offices, including engineers, planners, doctors, architects, financial consultants, lawyers, or other occupations that are dependent upon high-speed telecommunications.

SECTION 544 ZONING CONDITIONS AND RESTRICTIONS

Facilities located in the research and development district will be subject to the following conditions:

- A. Limited manufacturing and assembly line operations shall be permitted when accessory to research and development activities and shall occupy no more than 25% of the total floor space of the principal structure.

- B. Limited warehousing or storage of products for distributions shall be permitted only if such is an accessory use from products created or used in relation to the principal use or for products used in research, testing, design, technical training or experimental product development. Warehousing, storage and distribution activities shall not be permitted as principal uses.
- C. No temporary structures or trailers will be permitted in the district except for during construction of the facility.
- D. Truck loading and unloading areas shall be visually screened from adjacent residences and from the main roads servicing the facility.
- E. All equipment, electrical substations, and mechanical devices shall be visually screened from adjacent residences and the main road.
- F. All electric, telephone, telecommunications, and other service lines shall be underground and comply with local codes.
- G. Outdoor storage of goods or materials shall be prohibited.
- H. Accessory buildings, when such are required for the function of the principal use(s), are permitted provided that all such accessory buildings comply with all setbacks, screening and façade design as are required for principal buildings.
- I. The grade level of all proposed structures shall be oriented for safe pedestrian access.
- J. A greenbelt-planting screen is required between the main service road and the planted facility. Landscaped islands are required in parking lots.
- K. No land or structure in the district will be used or occupied in any manner which create dangerous, injurious, noxious or otherwise objectionable conditions which may affect any other property.

SECTION 545 SPECIFICATIONS

Front:	Thirty-five (35) feet
Side: - 1side	Eight (8) feet
Total	Twenty (20) feet
Rear:	Forty (40) feet
Frontage	Two-hundred (250) ft.
Minimum lot size	3 acres
Maximum Lot Coverage**	50%

** Parking areas and all other impervious surfaces are considered part of lot coverage.

SECTION 550 LIGHT INDUSTRIAL (I)

SECTION 551 PURPOSE

The purpose of this district is to provide for the establishment of industrial uses essential to the development of a balanced economic base and to regulate its development so it will not be detrimental or hazardous to the surrounding community.

SECTION 552 CONDITIONAL USES

Any use of light industrial or agri-industrial nature is permitted which involves only the processing, assembly or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause:

- A. Dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollutants, noise, glare or vibration which are discernible beyond the property lines of the industry.
- B. Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site.
- C. Groundwater contamination

The following uses are indicative of those which are intended to be permitted:

- A. Manufacture of machinery.
- B. Fabrication of metal, paper or wood products.
- C. Excavation and mining.
- D. Food and associated industries.
- E. The warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of fuel or petroleum products, nuclear or radioactive products, and toxic waste chemicals is specifically excluded from the intent of the above.
- F. Office buildings for executive, professional, engineering and administrative purposes.
- G. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabrication incidental thereto.
- H. The manufacturing and processing of pharmaceutical and cosmetic products.
- I. Farm and garden implement stores.
- J. Truck garden nursery, farm produce sales.

K. Adult Entertainment Businesses.

L. Telecommunication Towers.

SECTION 553 PERMITTED ACCESSORY USES

A. Signs shall be permitted for advertising, professional and/or industrial activities on the premises which shall not exceed, in aggregate, fifteen (15) percent of the area of the front facade of the building. Such signs may be illuminated but shall not be of the flashing type.

B. Private garages and storage buildings which are necessary to store vehicles, equipment, or materials on the premises.

C. Off-street parking space subject to the provisions of Article VI of this Law.

SECTION 554 OTHER PROVISIONS AND REQUIREMENTS

A. Residential uses shall be prohibited in this District

B. All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets, adjacent off-street parking areas and adjacent non-industrial districts by fencing, landscaping or other appropriate measures.

C. All uses permitted in this district shall set aside not less than ten (10) percent of the lot to be devoted to seeding, planting, retention of tree cover or other landscaping. This area shall be used for no other purpose.

D. Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.

E. Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.

F. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.

SECTION 555 SPECIFICATIONS

Setbacks: Front: Fifty (50) feet

Side:	Fifty (50) feet
Rear:	Fifty (50) feet
Height:	Thirty-five (35) feet
Frontage:	One hundred thirty-five (135) feet
Minimum Lot Size:	One (1) acre

SECTION 560 HISTORIC (H)

SECTION 561 PURPOSE

The purpose of the Historic District is to preserve certain areas of historical or cultural significance in the Town of Cincinnati. Development in these areas should be consistent with the architectural, cultural and historic character of the area.

SECTION 562 APPLICABILITY

The Historic District is designated on the Zoning Map of the Town. The provisions of this district take precedence over any Zoning District to the extent that the provisions of this district are inconsistent with such other provisions.

SECTION 563 OTHER PROVISIONS AND REQUIREMENTS

- A. All building permits, including residential development, shall require Site Plan Approval from the Planning Board as outlined in Article X.
- B. No demolition or substantial exterior alteration resulting in an essential change in the building is allowed without Site Plan Approval.
- C. The Town Planning Board Site Plan Review must demonstrate the following additional requirements in its findings:
 - 1. The building or use is consistent with the architecture and historic significance of the area.
 - 2. The building or use does not encroach, diminish or otherwise lessen the significance of other structures or use within the district.
 - 3. For demolition permits, evidence of overwhelming construction or structural problems must be shown to preclude any reasonable effort at rehabilitation, restoration, or preservation. Evidence must be in the form of a written statement from an engineer with the New York State Department of Historic Preservation.
- D. The Planning Board may consult historic experts to aid in demonstrating the requirements of Part C, above.

SECTION 570 WELLHEAD PROTECTION DISTRICT (WH)

SECTION 571 PURPOSE

This local law is adopted under the authority of Section 10 of the Municipal Home Rule Law of the State of New York. The purpose and intent of the Wellhead Protection District is in the interest of public health, safety, and general welfare, to preserve the quality of the Cincinnatus Water District's water resources in order to ensure safe and healthy drinking water supplies.

SECTION 572 AREA OF SCOPE AND APPLICABILITY

There is hereby established a Wellhead Protection Area for the Cincinnatus Water District in the Town of Cincinnatus which is depicted on the Town of Cincinnatus Zoning map which is incorporated and made part of this Law. This Wellhead Protection Area, defined with the assistance of the New York Rural Water Association and the Cortland County Soil and Water Conservation District, consists of the area which supplies water to public supply wells. The Wellhead Protection Area shall be considered as overlaying other Zoning districts the Cincinnatus Water District and the Cincinnatus Street Lighting District, including maps defining limitations within any of those districts.

SECTION 573 ADMINISTRATIVE PROVISIONS

The Planning Board is charged with the enforcement of compliance with these regulations relating to any and all development, or, change of activity of existing buildings and or parcels of property within the Wellhead Protection Area as of the date of the adoption of this law and thereafter. It is to review all building permit applications, may issue limitations on construction, development, or change in activity prior to building permits being issued. Prior to the issuance of a Certificate of Occupancy, the Planning Board is to review the final development or changes in activity of the building permit issued, and or the development of the parcel within the Wellhead Protection Area.

SECTION 574 DEFINITIONS

Abandonment: To stop, to suspend, or to leave unsupervised an activity.

Animal Unit: Defined as one (1) slaughter or feeder cattle, 1.43 dairy cows, or 0.4 swine.

Aquifer: A geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield adequate quantities of ground water to wells.

Bulk Storage: Materials stored in large quantities which are usually dispensed in smaller units for use or consumption.

Cincinnatus Water District: Purveyor of water to the users within the district located in the Town of Cincinnatus as established under the laws of New York State, under the control of the Town Board of the Town of Cincinnatus, Cortland County, State of New York.

Concentrated Animal Feeding Operation: A feeding operation which animals are kept for more than forty-five (45) days in a year and there is no vegetation.

Contamination: The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

Deicing Compounds: Any bulk quantities of chloride compounds and/or other deicing compounds (e.g. area of calcium magnesium acetate) intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in water proof bags or containers which do not exceed one hundred pounds each.

Development: To make a site or area available for use by physical alteration, including but not limited to providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such a parking facilities, storm water management and erosion control systems, and sewage disposal systems, altering land forms, or construction of a structure on the land.

Disposal: The abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing by any means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or waste water into or onto land or surface water body.

Dry Well: A well or hole constructed to allow the downward movement of water through soil.

Fertilizers: Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients for plants.

Hazardous Substance: Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which; (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

Hazardous Waste: A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, identification and Listing of Hazardous Wastes. Hazardous wastes include but are not limited to petroleum products, organic chemical solvents, heavy metal sludge's, acids with a pH less than or equal to 2.0, alkalize with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or fails the Toxicity Characteristic Leaching Procedure (TCLP).

Human Excreta: Shall mean human feces and urine.

Impervious Surface: Shall mean any man-made material, such as pavement used in parking lots or driveways or any other building or other structure on a lot, that does not allow surface water to penetrate into the soil.

Manure: Shall mean animal feces and urine.

Person: Any individual, firm, partnership, corporation (public or private), company (public or private), municipality or other public or governmental body, professional or other association, trust, business trust, joint venture, and any combination thereof.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insect, rodents, fungi, weeds, or other form of plant or animal life or viruses, except viruses on or in living man/or other animal; and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. These substances include but are not limited to: herbicides, fungicides, insecticides, and rodenicides.

Petroleum: Any petroleum based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy, 2) as a motor fuel or lubricant, or 3) in the operation of hydraulic equipment.

Radioactive Material: Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

Refuse: Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

Secondary Containment: A structure which prevents any materials that have spilled or leaked from primary containment structures, such as piping, tanks or other containers, from reaching the land surface, substance, subsurface, or a surface water body.

Septage: The contents of a septic tank, cesspool, or other individual waste water treatment work which receives domestic sewage wastes.

Sewage: The combination of human and household waste with water which is discharged to the home plumbing system.

Sludge: The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Solid Waste: Any garbage, refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities.

Spill: Any escape of a substance from the containers employed in storage, transfer, processing, or use.

Surface Water Body: Those water bodies which are identified as drainage features (perennial stream or river, intermittent stream, canals, ditches, etc.), lakes, ponds, reservoirs, springs, or wetlands on United States Geological Survey or New York State Department of Transportation 7.5 minute topographic maps, United States Department of Agriculture Soil Survey Maps, or Wetland Maps by the New York State Department of Environmental Conservation.

Town: Shall mean the Town of Cincinnatus, Cortland County, State of New York.

Town Board: Shall mean the Town Board of the Town of Cincinnatus.

Waste Water: Aqueous carried waste including, but not limited to, dredge spoil, solid waste, hazardous waste, incinerator ash and residue, septage, garbage, refuse, sludge, chemical waste, infectious waste, biological material, radioactive materials, heat, and commercial, industrial, municipal, and agricultural waste.

SECTION 575

PROHIBITED ACTIVITIES

The following activities are specifically **prohibited** in the Wellhead Protection District in order to safeguard ground water resources which serve as public drinking water supplies:

- A. Establishment and/or operation of any solid waste management facility or hazardous waste treatment, storage, or disposal facility, including but not limited to: solid waste storage area or facility; transfer station; raw waste landfill; sanitary landfill; solid waste landfill; ash landfill; construction and demolition debris landfill, disposal facility; solid waste incinerator; refuse-derived fuel processing facility; pyrolysis facility; construction and debris processing facility; land application facility; composting facility; surface impoundment; used oil storage; reprocessing refining facility; recyclable handling and recovery facility; waste tire storage facility; junkyard; salvage yard; impoundment yard; dump; radiological waste facility; pathological or medical waste facility; or hazardous waste treatment, storage, or disposal facility.
- B. Surface land application of septage, sewage, sludge, or human excreta.
- C. Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage waste water into or onto land or a surface water body.

- D. Activities occurring on any vacant parcel, developed parcel or change in activity of an existing building and associated land of any of the following: asphalt / concrete / coal tar production, concentrated animal feeding operation with more than 10 animal units or oil and gas drilling and production.
- E. Outdoor uncovered stockpiling or bulk storage of coal, deicing compounds, pesticides, or fertilizers.
- F. Outdoor uncovered stockpiling or bulk storage of manure within the Wellhead Protection District.
- G. Storage, use, and/or application of pesticides without proper certification from the New York State Department of Environmental Conservation.
- H. Disposal of snow containing deicing salts/chemicals removed from streets, roads, and parking areas that has been transported from areas outside of the Wellhead Protection District.
- I. Construction of commercial pipelines or piping systems that carry petroleum or liquid hazardous substances/waste.
- J. Construction of on-site waste water treatment systems designed for or capable of surface or subsurface discharges of one thousand gallons per day (1,000 gpd) or more.
- K. Construction of municipal/industrial sewage treatment facilities with disposal of primary or secondary effluent within the Wellhead Protection District.
- L. Underground storage of petroleum products, hazardous substances, hazardous waste, pesticides and fertilizers.
- M. Installation and operation of new above ground or indoor storage facilities for petroleum storage except for replacement of existing facilities and for on-site consumption.
- N. Outdoor, above ground storage of petroleum products, pesticides, and other hazardous substances/wastes.
- O. New mining or commercial extraction of soils, sands and gravels except for the purpose of on-site construction.

SECTION 576

ADDITIONAL REQUIREMENTS FOR THE WELLHEAD PROTECTION DISTRICT

A. Waste Water Disposal

- 1. In the Wellhead Protection District, construction of on-site waste water treatment systems (septic systems) will require a two (2) acre lot minimum.

2. All new proposed industrial/commercial facilities shall be required to provide on site sewage treatment of all waste water discharge of the facilities plumbing system prior to entering the inground septic system to prevent all possible contamination to the Wellhead Protection District and is limited to discharging one thousand gallons per day of treated waste water.

B. Impervious Surface Area

In the Wellhead Protection District, the maximum impervious surface area shall not exceed ten thousand (10,000) square feet or 12% of the lot size, which ever is greater.

C. Above ground and Indoor Petroleum Storage

Installation and operation of new above ground or indoor storage facilities for petroleum including replacement of existing facilities for both storage and on-site consumption requires the storage unit to be mounted on a horizontal plane (the installed storage unit cannot be taller than its width) on a concrete pad composed of impermeable material.

SECTION 577

NON CONFORMING ACTIVITIES

- A. Existing activities are not subject to the restrictions and requirements of this Law and are considered allowed non conforming activities. Any abandonment for one year or longer of, or change in as described below, an allowed non conforming activity shall be subject to the requirements of this Law. Notwithstanding the foregoing, if any allowed non conforming activity is found to pose a potential or imminent health hazard or threat to the districts water resources, it shall be deemed a violation of this Law.
- B. A non conforming activity within the Wellhead Protection District shall not be enlarged in size so as to occupy a greater area of land or floor area than was committed to the non conforming use at the time of enactment of the Law.
- C. A non conforming activity within the Wellhead Protection District shall not be altered, reconstructed, or structurally changed in a way which increases its nonconformity at the time of enactment of this Local District. Planning Board approval must be obtained for any alteration, reconstruction, or structural change of a non conforming activity within the Wellhead Protection District.

SECTION 578

INSPECTIONS

The Town Board, or its legally authorized representatives, may enter upon the premises or land of any person or legal entity in violation of the Law for purposes of monitoring, cleanup, and controlling in any way necessary any existing or potential threat to the Districts water resources located on or beneath said premises or land. The expenses and costs associated with said monitoring, cleanup, and/or control shall be assessed against the offending person, persons holding legal title, owner and/or occupant of said premises or land and/or shall be assessed against the real property and shall constitute a lien or charge against said real property until fully and completely discharged.

SECTION 579

PENALTIES

Violations of this Local Law shall give rise to appropriate enforcement action and may give rise to civil action.

Any person who permits, takes part in, or assists in the violation of this Local Law shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not less than the sum of five hundred dollars (\$500) and not more than the sum of fifty thousand dollars (\$50,000), by up to fifteen (15) days of imprisonment or by both. When a violation of this Local Law is continuous, each twenty-four (24) hour period shall constitute a separate and distinct offense.

In the event a convicted violator is a corporation, company, or professional association, that entity may be assessed a fine double the maximum hereunder. If the convicted violator is a corporation, company, or professional association, in addition to the fine that may be assessed, each corporate officer of said entity and the entire Board of Directors of said entity may be prosecuted hereunder as individual violators above and beyond any conviction and/or sentencing against the entity with which such individual is associated.

Any person who violates this Local Law shall be liable to the District for any expense, loss, or damage, including damage to the environment resulting from such violation and shall be required, at the violator's sole expense, to remedy any effects of the violation on surrounding or adjacent properties or water resources.

The Town Board in the name of the District may maintain a legal or equitable action or proceeding in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of the Local Law.

ARTICLE VI

REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SECTION 600 SIGNS

Signs shall be permitted only according to standards listed below unless otherwise stated in this Law.

SECTION 601

GENERAL STANDARDS

- A. No sign shall consist of lights which flash or move or appear to move.
- B. No sign shall be higher than the principal building to which it is accessory.
- C. No general advertising signs unrelated to the permitted use of the premises are allowed.
- D. No sign shall project into a public right-of-way.
- E. No sign shall be erected on a public utility pole or traffic control structure.
- F. All existing signs at the time of the enactment of this Law shall be allowed to remain as long as they are properly maintained and their use remains current.
- G. Temporary unlighted signs erected by and for non-profit organizations such as churches, American legion, Boy Scouts, political organizations, etc. advertising suppers, banquets, benefits, fund raising sales, etc. may be erected for a twenty-one (21) day period without permit in any district, provided that the sign will not constitute a traffic hazard and shall be removed within forty eight (48) hours after the advertised event.
- H. Temporary lighted or unlighted signs erected by and for the business located on the property may be erected for a seven (7) day period without permit in any district, provided that the sign will not constitute a traffic hazard and shall be removed within forty eight (48) hours after the advertised event.
- I. One site sign is permitted, not to exceed twenty (20) square feet per side (except as otherwise specified in this code).
- J. Setbacks from the edge of the street right-of-way and property lines shall be at least 15 feet.

SECTION 605

PARKING

This section is designed to reduce problems caused by inadequate or poorly designed parking facilities.

- A. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.

- B. Violation is constituted by an observed overflow of parking on to off-site areas, neighboring property or road right-of-ways more than three times per month.
- C. A parking space shall be not less than 10' X 20' exclusive of aisles, access and driveway areas.
- D. Off-street parking areas for non-residential uses shall provide aisles or access lanes to parking spaces. Parking areas for fifty (50) or more vehicles shall delineate fire lanes and include "no parking" signs.

SECTION 606 MINIMUM PARKING STANDARDS

Minimum standards, supplementary to the basic standards cited above, are as follows:

- A. One parking space for every three seats in a public meeting place.
- B. One parking space for each employee at places of employment and one parking space per five hundred (500) square feet of gross floor area.

SECTION 610 FENCES

- A. Fences may be erected, altered or reconstructed to a height of four (4) feet across the front and along each side of the house; six (6) feet from the rear of the house to the property line for residential uses; eight (8) feet for non-residential uses on all sides.
- B. Fences may be substituted for lot line landscaping during Site Plan Review upon the discretion of the Planning Board.
- C. No fence shall cause obstruction to vision at street intersections. Also, clear visibility from motor vehicles about to enter public right-of-ways must not be obstructed by fences. This clear visibility must be such that a vehicle operator sitting in a vehicle on a private access way at a distance of twenty (20) feet from a public right-of-way must not have his or her full view of the public right-of-way obstructed for two hundred (200) feet by any fence or fences constructed on private property.
- D. Farm fencing shall be exempt from these provisions.

SECTION 615 INDIVIDUAL MOBILE HOMES (NEW AND REPLACEMENT)

- A. Only mobile homes manufactured after the implementation of the Housing and Community Development act (June 15, 1976) shall hereafter be placed in the Town.
- B. No structure may hereafter be constructed or moved from elsewhere so as to be attached to the mobile home. Decks, door porches, peaked roofs and car ports are excluded from the above prohibition and may be attached.
- C. A storage shed or garage must be located on each mobile home lot. The shed will provide necessary storage space to compensate for the lack of attics and basements and have a minimum size of eight (8) feet by ten (10) feet.
- D. Each mobile home shall have a pad to provide adequate support for the placement and anchoring of the mobile home. The pad shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. The pad shall inhibit the ponding of water under and around the home, and shall be of concrete and wire mesh, with the concrete being at least six (6) inches in thickness and with minimum dimensions of length and width of the mobile home to be situated on the pad.
- E. All mobile homes shall be secured to the concrete pad. Anchors and tie downs such as cast in place in concrete "dead men", eyelets in concrete, foundations or runways, screw augers or other devices securing the stability of the unit are required. Such anchors and tie downs shall be placed in at least each corner of the foundation and shall have adequate strength for the structure.
- F. Single wide mobile homes shall be provided with a fire resistant skirt or covering between the ground and the base of each unit. Double wide mobile homes must have block construction between the ground and the bottom of the unit.
- G. Mobile homes are subject to all applicable provisions of this Ordinance pertaining to single family dwellings.
- H. Mobile homes on a property used for agricultural purposes shall be removed within one hundred twenty (120) days upon being vacated as living quarters for persons employed on said property or upon said property no longer being used for agricultural purposes.

SECTION 625

CAMPING TRAILERS

Camping trailers shall not be occupied on an overnight basis except in an approved camping ground, or, with the consent of the owner, for a period not to exceed fourteen (14) days on private land provided all health standards are met.

SECTION 630

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

- A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and Part 617 or Title 6 of the New York State Code of Rules and Regulations are hereby adopted by reference.
- B. All "Type I" actions (NYCRR 8, Part 617) shall require the submission and review of an Environmental Assessment Form.
- C. For any Zoning action 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

Amendments

Town Board

Special Permits

Planning Board

Site Plan Review

Planning Board

Variances

Zoning Board of Appeals

- D. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement.
- E. Review, notice and action on the Environmental Impact Statement shall be conducted according to Part 617.

SECTION 635

CORNER LOTS

On corner lots, the sides facing both streets shall be considered front yards and the remaining two as side yards. No rear yard is required.

SECTION 640

NON-CONFORMING USES, LOTS AND STRUCTURES

Lots, structures uses of land and structures 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.

- B. **Enlargement** -- No non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations.
- C. **Unsafe Structures** -- Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- D. **Alterations** -- A non-conforming structure may not be reconstructed or structurally altered where the aggregate cost will exceed fifty percent of the full value of said structure, unless the structure is changed to a conforming use.
- E. **Restoration** -- No non-conforming structure damaged by fire or other causes to the extent of more than seventy five percent of its full value shall be repaired or rebuilt except in conformity with the requirements of these regulations
- F. **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.
- G. **Changes** -- Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
- H. **Displacement** -- No non-conforming use shall be extended to displace a conforming use.
- I. **Moving** -- Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.
- J. **Existing Undersized Lots of Record**
 - 1 Any recorded lot held in single and separate ownership prior to the adoption of these regulations and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with these regulations and no variance therefore shall be required, provided that:
 - a. Such lots do not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for that district.
 - b. The minimum yard requirements set by these regulations are met.

- 2 In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single family dwelling.
- 3 A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

SECTION 645 ABANDONED CELLAR HOLES, WELLS AND BUILDINGS

Within one (1) year after work on any excavation for a building has begun, any excavation for a building shall be covered over or refilled by the owner to the normal grade. Any building substantially destroyed by any cause shall be rebuilt or demolished and debris removed within one (1) year. Any excavation or cellar hole remaining after the demolition or destruction of a building from any cause, and any abandoned well, shall be permanently covered by the owner within (1) year.

SECTION 650 ALTERNATE ENERGY SYSTEMS

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems:

- A. All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property and of a radius at least equal to the height of the tower.
- B. All appurtenant electrical equipment shall cause no undue interference or noise.
- C. Rotating windmill blades shall clear the ground at their lowest points by at least twenty (20) feet.

ARTICLE VII

SPECIAL PERMIT USE REGULATIONS

SECTION 700 ADULT ENTERTAINMENT BUSINESSES

- A. Adult entertainment businesses are prohibited within:

- (1) One thousand (1000) feet of any residential zoning district or any single-family, two family or multiple-family dwelling, including structures devoted to both residential and commercial or business purposes.
 - (2) One thousand (1000) feet of any public or private school.
 - (3) One thousand (1000) feet of any church or other religious facility or institution.
 - (4) One thousand (1000) feet of any public park.
- B. The distance provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult entertainment business is to be located to the nearest point of the parcel of property or the land use district boundary line from which the adult entertainment business is to be separated.
- C. The provisions of this chapter shall not apply to any theater, concert hall, or similar establishment which is primarily devoted to theatrical performances.

SECTION 701 BED – AND – BREAKFAST

- (1) A bed-and-breakfast shall not be permitted in a mixed use dwelling or a mixed use property lot.
- (2) The parking requirement for a single-family dwelling shall apply and, in addition, one (1) additional parking space for every guest room.
- (3) A single non-illuminated stationary sign, not exceeding four (4) square feet shall be permitted.

SECTION 702 CAMPING GROUNDS

Camping grounds shall be occupied for temporary habitation and used for travel, vacation and recreation purposes. The placement of a unit on a foundation in a camping ground is prohibited.

- A. Minimum site area: fifteen (15) acres.
- B. Not more than ten (10) camping sites shall be permitted per acre of gross site area.
- C. A camping ground shall be so located that no entrance or exit from a site shall discharge traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street or road.

- D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences. Also, no portion of the camping grounds subject to flooding, or other physical hazard shall be used for any purpose which exposes persons or property to such potential or actual dangers.
- E. Management headquarters, recreational, educational and social facilities, toilets, lavatories, showers, coin-operated laundries sewage dumping and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses. In addition, retail stores and other convenience establishments are allowed as accessory uses in camping grounds in districts where such uses are not allowed as principle uses, but subject to the following restrictions:
1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.
 2. Such establishments shall present no visible evidence from any street or road outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
 3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street or road and shall not be directly accessible from such street or road, but shall be reached only from within the camping ground.
- F. Plans for sewage disposal and water supply shall be designed in accordance with standards established by the State of New York and the Cortland County Health Code and shall receive approval from the Cortland County Health Department.
- G. Roadways in camping grounds shall be private, but shall be constructed with a stabilized travelway and shall meet the following minimum stabilized travelway width requirements:
- | | |
|-----------------------|--------------------|
| One Way -- No Parking | Ten (10) feet |
| Two Way -- No Parking | Eighteen (18) feet |
- H. A minimum of eight (8%) percent of the gross area for the camping ground shall be set aside and be developed as common use areas for open or enclosed recreation facilities. No camping site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting recreational purposes.

- I. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground. All traffic into or out of the camping ground shall be through such entrances and exits. An adequate lighting system shall be provided for the camping ground.
- J. No camping site shall be more than two hundred (200) feet from a garbage receptacle area. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- K. All applicable sanitation standards established by the State of New York and by the Cortland County Health Code shall be complied with.
- L. Setbacks. Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that camping sites may be located not closer than sixty (60) feet to any front lot line and twenty five (25) feet from any adjacent property lines.

SECTION 703 CLUBS (LODGES, FRATERNAL ORGANIZATIONS, ETC.)

- A. Proposed landscaping Site Plan indicating the size and type of plant materials and or fencing to screen adjacent properties and land uses shall be provided as part of the Application for Site Plan Approval.
- B. Minimum off street parking shall provide one (1) space per employee and (1) space for each three (3) members.
- C. Entrance and exit points shall be from major or secondary roads.

SECTION 704 DAY CARE CENTERS

- A. Outdoor play areas must be appropriately fenced-in or otherwise protected from roads and nearby properties.
- B. Play equipment shall not be placed within ten (10) feet of any property line, fence, or structure.
- C. Minimum parking shall be one (1) space per staff member plus one (1) space for each ten (10) children.

SECTION 705 DRIVE-IN RESTAURANTS

- A. The following information shall be submitted as part of the application for site plan approval and the special use permit for drive-in restaurants in addition to that information required in other sections of this law.

1. The location and dimensions of all structures including buildings, screened trash areas, fencing and lighting with the direction and level of illumination.
 2. The location and dimensions of all off-street parking areas including ingress and egress and the layout of aisles and spaces.
 3. Proposed landscaping site plan indicating the sizes and types of plant and or fencing materials.
- B. Drive-in restaurants shall be a minimum of two hundred (200) feet from other drive-in restaurants.
- C. All drive-in restaurants shall provide suitable storage of trash in areas which are so designed and constructed as to allow no view of the trash storage from the street, to prevent trash and waste materials from blowing away and to permit safe and easy removal of trash and waste.
- D. All drive-in restaurants shall provide ingress, egress and parking as follows:
1. The minimum distance of any driveway to a property line shall be fifteen (15) feet.
 2. The minimum distance between driveways on the site shall be one hundred (100) feet.
 3. The minimum driveway entrance distance from a street intersection shall be fifty (50) feet.
 4. Drive-in restaurants adjacent to or integrated into a shopping center or other commercial facilities shall use a common access with the other business establishments.
- E. Exterior lighting shall be installed and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way.
- F. A food service permit shall be obtained for the Cortland County Health Department.

SECTION 707

EXCAVATION AND MINING

- A. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation where applicable.
- B. Minimum land area: Ten (10) acres.

- C. All buildings and excavation operations shall be located or shall occur not closer than one hundred (100) feet to any street or property line.
- D. All equipment used for excavations and processing shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practical, noises, vibrations and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- E. All operations shall be conducted between the hours of seven o'clock in the morning (7:00 AM) and eight o'clock in the evening (8:00 PM) with no Sunday operations. Exceptions can be made in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.
- F. All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Zoning Board of Appeals and the New York State Department of Environmental Conservation as part of the site development plan review and approval process. This shall be done within one (1) year after the termination of operations and at the expense of the operator.
- G. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the special use permit are carried out.
- H. The Zoning Board of Appeals shall consider the following criteria in their review of the special use permit application:
 1. The current use of the property proposed to be excavated as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.
 2. The potential short-term and long-term effects on the proposal on the aesthetics and environment of the surrounding area.
 3. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or the desirability or feasibility for future development purposes.
 4. The amount of time, as estimated by the applicant, that will be required for the completion of the proposed excavation and the restoration of the property.
 5. Noise and/or vibrations that may be created by the proposed operations.
 6. Truck traffic that may be created by the proposed operation.

7. All other criteria which may be relevant to the proposed operation.

- I. Special permits for excavation operations are for a two (2) year duration. Upon reapplication, the Code Enforcement Officer may grant a permit renewal if all conditions of the original permit have been complied with. If there is a question about compliance the applicant must apply to the Zoning Board of Appeals for a renewal.
- J. No persons, firm or corporation shall strip, excavate or otherwise remove top soil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building incidental thereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the completion of said operation.

SECTION 708 FARM LABOR CAMPS

- A. Farm Labor Camps, whether private or commercial, shall meet all requirements of the State Sanitary Code and other applicable laws, regulations including those of the Cortland County Health Department.
- B. Housing facilities maintained shall be set back at least three hundred (300) feet from all property lines.
- C. Special permits for labor camps are of one (1) year duration. Upon reapplication, the Code Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with. Otherwise, application must be made to the Town Planning Board.

SECTION 709 HOME OCCUPATIONS

- A. Not more than one person other than members of the immediate family occupying such dwelling shall be employed as part of a home occupation.
- B. A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- C. No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than fifty (50) percent of the floor area of an accessory structure shall be used for a home occupation.

- D. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or the emission of sounds, noises or vibrations.
- E. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
- F. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- G. One sign shall be permitted not to exceed four (4) square feet in area. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- H. One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.
- I. 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 that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- J. A home occupation shall not be interpreted to include the following:
 1. Commercial stables or kennels.
 2. Restaurants.
 3. Musical and dancing instruction to groups exceeding four (4) pupils.
 4. Convalescent homes.
 5. Mortuary establishments.
 6. Garages or shops for the repair of motor vehicles.
 7. Other trades and businesses of a similar nature.

SECTION 710

HOTELS AND MOTELS

- A. Minimum Lot Width: Two (200) hundred feet

Minimum Front Setback: One (100) hundred feet
Minimum Side Setback: Forty (40) feet
Minimum Rear Setback: Forty (40) feet
Minimum Lot Size: Two (2) acres

- B. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops and other personal service shops for the convenience of guests may be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of these internal commercial activities is permitted.

SECTION 711 JUNKYARDS

A. REQUIREMENTS FOR OPERATION AND MAINTENANCE

No person shall operate, establish or maintain a junk yard until he (1) has obtained a license to operate a junk yard business and (2) has obtained a certificate of approval for the location of such junk yard.

B. APPLICATION OF LICENSE AND CERTIFICATE OF APPROVAL

Application for the license and the certificate of approved location shall be made in writing to the Town Board of the Town of Cincinnati. The application shall contain a description of the land to be included within the junk yard.

C. HEARING

A hearing on the application shall be held within the Town of Cincinnati by the Zoning Board of Appeals no less than two (2) nor more than four (4) weeks from the date of the receipt of the completed application by the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the Town which publication shall be less than seven (7) days before the date of the hearing.

D. LICENSE REQUIREMENTS

At the time and place set for hearing, the Zoning Board of Appeals shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junk yard. In considering such application, it shall take into account the suitability of the applicant with reference to his or her ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard, to any record of convictions for any type of larceny or receiving of stolen goods, and to any other matter within the purposes of this section.

E. LOCATION REQUIREMENTS

At the time and place set for hearing, the Zoning Board of Appeals shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon same, it shall take into account the nature of the development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings - or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

F. GRANT OR DENIAL OF APPLICATION: APPEAL

After the hearing, the Zoning Board of Appeals shall, within one (1) week, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following December 31st. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this Section are complied with during the license period and the junk yard is not convicted of any type of larceny or the receiving of stolen goods.

G. The annual license fee shall be twenty-five (25.00) dollars to be paid at the time of the application is made and annually thereafter in the event of renewal. In the event the application is not granted the fee shall be returned to the applicant.

H. Before use, a new junkyard shall be completely surrounded with solid fence at least eight (8) feet in height and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway line. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of the same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts, all burning of same within the vicinity of the junk yard, shall be accomplished with the enclosure.

Where the topography, natural growth of timber or other considerations accomplish the purpose of this section in whole or in part, the fencing requirements hereunder may be reduced by the Town Board upon granting the license, provided, however, that such natural barrier conforms with the purpose of the Section.

I. Established Junk Yards

1. For the purposes of this Section the location of junk yards already established shall be considered approved by the Town Board of the Town of Cincinnati and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the passage of this law, however, the owner shall furnish the Town Board the information as to license fee and the Town Board shall issue him a license valid until the next December 31st, at which time such owner may apply for renewal as herein provided.

Such owner shall comply with all other provisions of this section for requirements of junk yards including fencing requirements set forth.

SECTION 712 KENNELS AND ANIMAL HOSPITALS

- A. Adequate landscaping and/or fencing shall be provided for visual Screening and buffering between such facilities and adjacent Properties.
- B. All buildings, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.
- C. All animals shall be kept within a totally enclosed building Between 8:00 P.M. and 6:00 A.M.
- D. Lot coverage shall not exceed fifty (50) percent.
- E. Entrance and exit points shall be from major or secondary roads only.

SECTION 713 MOBILE HOME PARKS

- A. Special use permits for the establishment and operation of mobile home parks are of a one (1) year duration. Upon re-application, the Code Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with, Otherwise renewal applications must be submitted to the Planning Board.
- B. The minimum site area of proposed mobile home parks shall not be less than twenty (20) acres.
- C. Regulations pertaining to individual mobile homes (Section 615 A-F) shall also apply to each mobile home within a mobile home park.
- D. Mobile home lots shall have an area of not less than ten thousand (10,000) square feet. Each mobile home lot shall front on an interior park roadway and have a minimum frontage width of fifty (50) feet.

- E. Minimum front setback for mobile homes - twenty (20) feet; minimum side setback - ten (10) feet - minimum rear setback ten(10) feet.
- F. The minimum setbacks of every mobile home, building or other structure in a mobile home park from the nearest public street line shall be seventy (70) feet and from every other lot line of the mobile home park shall be forty (40) feet.
- G. At least one (1) service building shall be constructed in each mobile home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.
- H. Each mobile home lot must have not less than two (2) off street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by a sidewalk having a minimum width of twenty-four (24) inches.
- I. No boats, campers, travel trailers, recreational motor vehicles or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site plan approval.
- J. Every roadway within a mobile home park shall have a minimum pavement width of twenty-two (22) feet and a minimum right-of way width of fifty (50) feet. If cul-de-sacs exist they shall have a minimum diameter of seventy (70) feet.
- K. A complete water distribution system approved by the Cortland County Health Department shall be installed. Such system shall include a water-service pipe for each mobile home lot and approximately spaced fire hydrants shall be installed. Fire hydrants shall be provided at each street intersection and at intermediate points between intersections as recommended by the State Insurance Services Office. Generally, hydrant spacing shall range from three hundred fifty (350) to six hundred (600) feet depending on the area being served.
- L. A public sanitary sewage disposal system approved by the Cortland County Health Department shall be installed, including sewage/waste water discharge connection for each mobile home lot.
- M. All public utility, electric, gas, cable television and telephone lines shall be installed underground.

- N. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways as well as with each abutting public road and at least every two hundred feet where such intersections are more than two hundred (200) feet apart.
- O. Pedestrian walkways shall be provided along at least one side of all interior streets. Such walkways shall have a minimum pavement width of three (3) feet.
- P. An acceptable landscape plan shall be prepared and carried out which will provide for appropriate planting of ground cover, trees and shrubs.
- Q. No mobile home shall be located on a mobile home lot until the paved roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site plans for the mobile home park.
- R. Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent number which shall be noted on the mobile home lot in a location clearly visible from the roadway.
- S. Wherever utilized, fuel oil storage shall be enclosed in a ventilated structure designed to hide the tanks from view and blend in with the surroundings unobtrusively. All fuel tanks used for heating within a mobile home park, including all fuel tanks used for heating within mobile homes, shall be installed in accordance with New York Conservation Law, 6 NYCRR Part 610 as well as in accordance with National Fire Protection Association (NFPA) Sections 30 and 30A. Fuel tanks as described above shall also be installed in accordance with the Cortland County Sanitary Code and the International Building Code.
- T. Every mobile home park shall have a recreational area or open space area for use by the occupants of the mobile home park. Such areas shall be as centrally located as the topography and design of the park permit. Such areas shall be not less than ten thousand (10,000) square feet or one thousand (1,000) square feet per mobile home lot in the park, whichever is greater.
- U. The park owner shall provide for the regular collection and disposal of garbage, trash and rubbish.
- V. No more than one (1) accessory building shall be permitted on any mobile home lot.
- W. Each mobile home shall be enclosed at the bottom with a fire resistant skirt or enclosure within thirty (30) days after the placement of the mobile home on the lot.

- X. No enclosure or addition, with the exception of carports, door porches, decks and peaked roofs shall be constructed on or added or attached to the exterior of any mobile home.
- Y. Every roadway within a mobile home park shall be maintained in good repair and shall be kept open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying for the cost of roadway maintenance including snow plowing.
- Z. Sale of lots. Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the town, shall thereupon immediately invalidate the permit for such park approved by the town board. Any use of any of the premises within the mobile home park other than as a mobile home park shall thereupon immediately invalidate the special permit of such park approved by the Planning Board.

SECTION 714 MOTOR VEHICLE REPAIR SHOPS

- A. Entrance and exit driveways shall have an unrestricted width of twenty-five (25) feet and shall be located not nearer than fifteen (15) feet from any property line and shall be laid out so as to avoid the necessity of vehicles backing out into any public right-of-way.
- B. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors. All such vehicles shall be stored in a neat and orderly manner.
- C. Motor vehicle repair shops shall be effectively screened from adjacent properties.
- D. The hours of operation of motor vehicle repair shops shall be no earlier than 6:00 A. M. and not later than 10:00 P. M.

SECTION 715 MULTIPLE FAMILY DWELLINGS

- A. The maximum gross density shall not exceed six (6) units per acre.
- B. Minimum habitable floor area requirements:
 - 1. One (1) bedroom: six hundred (600) square feet.
 - 2. Two (2) bedrooms: eight hundred (800) square feet.
 - 3. Three (3) bedrooms or more: one thousand (1,000) square feet.

4. No more than one third (1/3) of the total units within a multiple family dwelling development shall be three (3) or more bedroom units.

C. Setback Requirements

1. The minimum front setback from any public street shall be seventy-five (75) feet.
2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
3. Minimum distance between building in a multiple family dwelling development shall be eighty (80) feet.

- D. All apartments on the second floor or higher shall have two means of external access.

E. Access to public road:

1. All multiple family dwelling developments must have direct access to a public road.
2. If there are more than fifty (50) dwelling units in a multiple family development, or if, in the opinion of the Planning Board, the location and/or the topography of the site indicate the need for additional access, the Planning Board may require same as a condition of site plan approval.

- F. Off-street parking shall be provided in the amount of two (2) spaces for each unit plus one additional space for every two (2) units.

- G. The aggregate lot coverage of multiple family dwelling development shall not exceed thirty (30) percent of the total land area.

- H. Plans submitted for site plan approval shall address at least these elements: sewage disposal, water supply, storm drainage, landscaping, lighting, pedestrian and vehicular circulation and off street parking.

SECTION 716 PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS

- A. Landscaped areas at least ten (10) feet in width, or other suitable screening, shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.

- B. No structures or use shall be located within fifteen (15) feet of any adjacent property line.

- C. Entrance and exit points shall be from major or secondary roads.
- D. Parking areas shall not be within fifteen (15) feet of any property line.

SECTION 717 RETAIL GASOLINE OUTLET

- A. Entrance and exit driveways shall have a restrictive width of twenty-five (25) feet and shall be located not nearer than fifteen (15) feet from any property line and shall be designed to avoid the necessity of any vehicle backing out into any public right of way.
- B. Entrance and exit points shall be from a major or secondary road.
- C. All buildings shall be setback from the major or secondary street line a distance of not less than thirty (30) feet.
- D. Gasoline pumps shall be located not less than twenty (20) feet from the street line and not less than thirty (30) feet from all other property lines.
- E. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than (50) persons, or within five hundred (500) feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- F. Landscaped areas of at least ten (10) feet in width shall be provided along side and rear yard property lines to lessen any visual unattractiveness.
- G. The entire area of the site traveled by motor vehicles shall be a dust free paved surface.

SECTION 718 TELECOMMUNICATION TOWERS

- A. No telecommunication tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with this Law. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with this Law.
- B. Telecommunication towers are prohibited within:
 - (1) Five hundred (500) feet of the Residential and Hamlet zoning district.
 - (2) Seven hundred fifty (750) feet of an existing single family, or two family dwelling including structures devoted to both residential and commercial or business purposes.

- C. Applicants proposing to collocate on a previously approved telecommunication tower do not require a special permit. They are, however, subject to Site Plan Review in accordance with ARTICLE X.
- D. Any proposed new telecommunication tower shall be designed to accommodate future demand for reception and transmitting facilities to include a minimum of an additional two (2) sites for collocation.
- E. Lot Size and Setbacks. All proposed telecommunication towers shall be setback from abutting parcels and street lines a distance sufficient to contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.
- F. The applicant shall submit and maintain the appropriate bond or letter of credit to cover cost of removal of all improvements to be made by the applicant. Said bond or letter of credit is subject to review as to its adequacy once every five (5) years thereafter.

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

SECTION 800 ENFORCEMENT

The duties of administering and enforcing the provisions of this Ordinance shall hereby be conferred upon the Code Enforcement Officer.

SECTION 801 DUTIES AND PROCEDURES OF THE CODE ENFORCEMENT OFFICER

- A. Administer the Zoning Ordinance;

The Code Enforcement Officer shall review all applications for building permits and, if the minimum requirements of this Ordinance are met, the officer shall issue a permit.

If the applicant's plans do not meet the Zoning requirements, the officer must deny the permit. The Code Enforcement Officer may not use discretionary judgment but must enforce the "Letter of the Law".

- B. Referral to the Zoning Board of Appeals;

An applicant, after being denied a building permit, may appeal the Code Enforcement Officer's findings to the Zoning Board of Appeals for an interpretation or a variance. Should an appeal be requested, the Code Enforcement Officer must notify the Secretary of the Zoning Board of Appeals of the request and forward all necessary supporting information.

C. Referral to the Town Planning Board;

Any application for a special permit, or site plan review shall be forwarded by the Code Enforcement Officer to the Secretary of the Town Planning Board along with all supporting information.

D. Remedy for Zoning Ordinance Violations;

For any plans, construction, building or use of property found to be in violation of this Ordinance, the Code Enforcement Officer shall contact the responsible party or parties, in writing, to stop and to remedy the situation and/or conditions. The officer shall have the authority to secure from the Town Justice a stop order to constrain the continuance of any zoning law violation.

SECTION 810 ZONING BOARD OF APPEALS

SECTION 811 FUNCTION OF THE ZONING BOARD OF APPEALS

- A. Interpretation: Upon appeal from a decision by the Code Enforcement Officer, the Zoning Board of Appeals shall decide any question involving interpretation of a provision of this Law.
- B. Appeals for Variances: Upon denial of a building permit by the Code Enforcement Officer, the Zoning Board of Appeals shall hear requests for variances as more fully described in SECTION 820 of this Law.

SECTION 820 APPEALS FOR VARIANCES THROUGH THE ZONING BOARD OF APPEALS

All requests for variances shall be made to the Zoning Board of Appeals after denial of a building permit by the Code Enforcement Officer.

SECTION 821 GRANTING AREA OR DIMENSIONAL VARIANCES

- A. Area variances may be granted where setback, frontage, lot size, density or yard requirements of this Ordinance cannot be reasonably met. In order to grant an area variance, the Zoning Board of Appeals, must weigh the benefit of granting the variance to the applicant against the detriment to the health, safety, and welfare of the community or neighborhood.

- B. In making its determination, the Zoning Board of Appeals shall also consider:
- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (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 area variance is substantial;
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district; and
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

SECTION 822 GRANTING USE VARIANCES

- A. A use variance may be granted by the Zoning Board of Appeals only after the findings of the Zoning Board of Appeals establish that unnecessary hardships exist.
- B. In determining whether or not unnecessary hardship exists, the Zoning Board of Appeal's findings must establish that each of the following criteria is the case.
- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated 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; and
 - (4) That the alleged hardship has not been self-created.

ARTICLE IX
SPECIAL PERMITS

SECTION 900 PURPOSE

It is the intent of this Code to use Special Permits to control the impact of certain uses upon areas where they will be incompatible unless conditional in a manner suitable to a particular location. Special permits bring needed flexibility and individuality to the otherwise rigid controls of land use management regulations.

SECTION 901 PROCEDURE

- A. The Code Enforcement Officer shall refer the completed special permit application to the Town Planning Board within ten (10) days after receiving a completed application.
- B. At its next regular or special meeting, the Town Planning Board shall designate a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date application was made or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m.
- C. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.
- D. The notice of the public hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
- E. The Town Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The decision of the planning board shall contain the reasons for its decision.
- F. The Town Planning Board shall render its decision, either approving with conditions, or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon.
- G. Each application for a special permit shall be accompanied by a proposed plan showing the information required for site plan approval in ARTICLE X.
- H. Each special permit application must also receive site plan approval before the special permit may be granted.

SECTION 902 FINDINGS

1. In order to grant approval for a Special Permit, the applicant must prove that the structure and/or use:
 - A. Is appropriate for the particular lot and area, and will not conflict with allowed uses.
 - B. Is in compliance with all other applicable sections of this Zoning Law.
 - C. Is physically and visually compatible with the general neighborhood.
 - D. Provides a suitable transition when located between differing uses or Districts or provides a visual buffer by landscaped green areas or fencing.
 - E. Has adequate space and plans for off street parking.
 - F. Has future expansion or revision capabilities without need for variances.
 - G. Provides for safe handling of vehicular traffic to and from site without causing congestion. No new vehicular entrances shall be permitted within fifty feet of an existing intersection.
 - H. Provides for safe passage of pedestrians.
 - I. Enhances neighboring property and does not lead to depreciation of properties (by reason of noise, traffic dust, fumes, smoke, odor, fire, glare, flashing lights or sewage disposal).

ARTICLE X

SITE PLAN REVIEW

SECTION 1000 PURPOSE

The intent of this section is to set forth additional general standards applying to certain land uses and activities. These standards are felt to be necessary to protect against the possible undesirable effects of particular land uses and related activities on surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Law.

SECTION 1001 APPLICATIONS

All applications for Building Permits, Zoning Variances, or Special Permits, (except building permit applications for one and two family dwellings and their permitted accessory uses or any addition to a single family dwelling or general farming use) shall be accompanied by a site plan approval. Residential development within a historic district must also have site plan approval. No Building Permit shall be issued until all the requirements of this article and all other applicable provisions of this Law have been met.

SECTION 1002 PROCEDURE

- A. All completed applications for site plan approval shall be made to the Planning Board by filing it with the Town Clerk. The Code Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting.
- B. Within forty-five (45) days of receipt of the completed application (or sixty (60) days in cases when the application must be referred to the County Planning Board) the Planning Board shall render a decision to approve with conditions, or deny, and forward the decision to the Code Enforcement Officer. An extension of this forty-five (45) day period may be granted upon mutual agreement of the applicant and the Town Planning Board. If the Planning Board fails to act within said forty-five (45) day period or within any extensions that have been granted, the site plan shall be approved.

SECTION 1003 APPLICATION FOR SITE PLAN APPROVAL

An application for Site Plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist. The Town Planning Board may require additional information to complete its review.

- A. Plan checklist for all site plans:
 - 1. title of drawing, including name and address of the applicant or person responsible for preparation of such drawing;
 - 2. north arrow, scale and date;
 - 3. boundaries of the property plotted to scale;
 - 4. existing watercourses and bodies of water,
 - 5. location of any slopes of 15% or greater;
 - 6. proposed grading and drainage;
 - 7. location, proposed use and height of all building and site improvements such as culverts, drains, retaining walls and fences, etc.;

8. location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site;
 9. location of outdoor storage, if any;
 10. description of the method of sewage disposal and location of the facilities;
 11. identification of water source, if well, locate;
 12. location, size and design, and construction materials of all proposed signs;
 13. location and proposed development of all buffer areas, including existing vegetative cover;
 14. location and design of outdoor lighting facilities;
 15. general landscaping plan.
- B. As necessary, the planning board may require the following:
1. provision for pedestrian access;
 2. location of fire lanes and hydrants;
 3. designation of the amount of building area proposed for retail sales or similar commercial activity;
 4. other elements integral to the proposed development as considered necessary by the planning board.

SECTION 1004 PLANNING BOARD REVIEW OF SITE PLAN

The Town Planning Board's review of the Site Plan shall include, as appropriate, the following:

- A. General Considerations
1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian conveniences.
 3. Location, arrangement, appearance and sufficiency of off street parking and loading.

4. Location, arrangement, size, 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 buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
10. Protection of solar access on adjacent or neighboring properties.
11. Adequacy of fire lanes and other emergency zones and the provisions 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. Professional Review

The Planning Board may seek professional review, by a Surveyor or Professional Engineer licensed in the State of New York, of any application for site plan review. The bill for this professional review shall be incurred by the applicant.