TOWN OF OAKFIELD WATER DISTRICT NO. 3

LATERAL RESTRICTIONS RESOLUTION

WHEREAS, the Town Board of the Town of Oakfield has created the Town of Oakfield Water District No. 3 pursuant to Town Law for the express purpose of providing public water supply to residents along portions of Maltby Road, Fox Road, Drake Street (NYS Route 262), and Fisher Road; and

WHEREAS, part of the land area within Water District No. 3 is also within Genesee County Agricultural District No. 2; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 2; and

WHEREAS, the New York State Department of Agriculture and Markets ("Department") has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the "Lateral Restriction - Conditions on Future Service" specified by the New York State Department of Agriculture and Markets as follows:

Lateral Restriction - Conditions on Future Service

The <u>Town of Oakfield</u> imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along <u>the portions of Maltby Road, Fox Road, Drake Street (NYS Route 262), and Fisher Road, included in Water District No. 3, within an agricultural district:</u>

(1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a "subdivision," in part, as "any tract of land which is divided into five or more parcels." Water and/or sewer service will not be extended to the fifth and subsequent parcels

where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
 - (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

STATE OF NEW YORK:	
COUNTY OF GENESEE:	S
TOWN OF OAKFIELD:	
HEREBY CERTIFY that I have of the Town of Oakfield on the	n Clerk of the Town of Oakfield, Genesee County, New York, DO ompared the foregoing resolution duly adopted by the Town Board 10 th , day of <u>April</u> , 2012, with the original thereof now on file orrect and true copy of said resolution and of the whole thereof.
DATED:	2012
(SEAL)	
	Melissa Haacke, Town Clerk