

3 1978
DRAFT LOCAL LAW NUMBER 1, 1977
VILLAGE OF PORTVILLE, NEW YORK

Local Law
#3 1978
filed on Nov. 1
1978 with
Dept. of State

Pursuant to Section 7-700 and 20-2000 of the Village Law and Article 2 of the Municipal Home Rule Law.

A LOCAL LAW ESTABLISHING LAND USE REGULATIONS IN THE VILLAGE OF PORTVILLE

BE IT ENACTED by the Board of Trustees of the Village of Portville, New York, as follows:

SECTION 1. Purpose. It is the purpose of this local law to promote the public health, safety, morals, comfort and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding congestion in the public streets and highways; minimizing flood losses in areas subject to periodic inundation; and facilitating adequate but economical provision of public improvements, all in accordance with a comprehensive plan. The Village Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures; percentages of lot area which may be occupied, setback building lines; sizes of yards, courts and other open spaces; and the use of land for trade, industry, residences, recreation or other purposes, and for such purpose, divides the incorporated area of the Village into districts.

SECTION 2. Rules and Definitions.

- (a) Rules. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and plural the singular. The word "shall" is mandatory; the word "may" is permissive. The word "lot" shall include the words "plot", "piece" and "parcel"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

The following words and terms, wherever they occur in this local law shall be interpreted as herein defined.

(b) Definitions.

1. Accessory structure or use means a use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use of structure.
- yx 2. Alterations, as applied to a building or structure, means a change or rearrangement in the (structural parts) or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
3. Appeal is a request for a review of the Building Inspector's interpretation of any provision of this local law or a request for a variance.

4. Area, building means the total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.
- X 5. Automobile graveyard is any site containing one or more inoperative motor vehicles which is unlicensed and which have been permanently removed from the use for which they were originally manufactured.
6. Automotive repair means the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning of vehicles.
7. Base flood means the flood having a one-percent chance of being equalled or exceeded in any given year.
8. Bill board is any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.
9. Board means the Board of Trustees of the Village of Portville, County of Cattaraugus, State of New York.
10. Boarding house is a dwelling in which more than three persons individually or as families are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed a boarding house.
11. Board of Appeals means the Board of Appeals for land use regulations of the Village of Portville, County of Cattaraugus and State of New York.
12. Breakaway walls are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which are not part of the structural support of the building and which are so designed as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.
13. Buildable area means the space remaining on a lot after the minimum open space requirements of this local law have been complied with.
14. Building means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of person, animals or chattels.
15. Building height means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height be-

tween eaves and ridge for gable, hip and gambrel roofs.

16. Building setback line is a line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this local law.
17. Camp means any one or more of the following other than a hospital, place of detention or school offering general instruction.
 - Type 1. Any area of land or water on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise; or
 - Type 2. Any land, including any building thereon, used for any assembly or persons for what is commonly known as "day camp" purposes; and any of the foregoing establishments whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families or groups.
18. Club or lodge is a building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for a social, educational or recreational activity but not primarily for profit or to render a service which is customarily carried on as a business.
19. Coverage means that percentage of the plot or lot area covered by the building area.
20. Development is 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.
21. Dump means a lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.
22. Dwelling means a building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but not including hotel, motels, boarding or lodging houses.
23. Dwelling unit is a building or portion thereof providing complete housekeeping facilities for one family.

24. Essential services means the erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.
25. Expansion to an existing mobile home park (or mobile home subdivision) means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)
26. Family means one or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this local law as an accessory use.
27. Farm means an area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and for the storage or packing of the products produced on the premises as well as for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits, etc.
28. Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- A. The overflow of inland or tidal waters.
 - B. The unusual and rapid accumulation or runoff of surface waters from any source.
29. Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
30. Floor area, gross, for the purpose of determining requirements for the off-street parking and off-street loading, means the sum of gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

31. Fuel bulk station is a place where crude petroleum, gasoline, naphtha, benzine, benzol, kerosene or other flammable liquid which has a flash point at or below two hundred degrees Fahrenheit (closed cup tester) is stored for wholesale purposes where the aggregate capacity of all storage tanks is more than eight thousand (8,000) gallons, regardless of whether the fuel is stored above the ground, underground or in mobile tank cars or trucks.
32. Gasoline or filling station is any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including major repairs, collision service or painting.
33. Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."
34. Home occupation means an accessory use of a service character customarily conducted within a dwelling by the residents thereof which is clearly secondary to the use of the building for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate and in connection therewith there is not involved the keeping of stock in trade, provided that said use does not occupy more than one-fourth of the floor area in said principal residential building or such equivalent in accessory building(s) and that not more than one paid assistant be therein employed. Mortuary establishments, stores, eating establishments, professional occupation, beauty salons, tourist homes and manufacturing establishments of any kind shall not be deemed to be home occupations.
35. Hotel, motel, inn, tourist or auto court means an establishment containing lodging accommodations designed for use by transients or travelers or temporary guests with no provision in said accommodations for cooking in any individual room or suite.
36. Inspector, building is the administrative officer appointed by the Village Board to enforce the provisions of this local law.
37. Junk yard means a lot, land or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags or similar materials, but not including pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment or clothing; purchase or storage of used motor vehicles or salvaged machinery to be used for the purpose for which originally manufactured.

38. Line, street is dividing line between the street and the lot.
39. Loading and unloading space, off-street, means an open hard-surface area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, thirty-five feet in length and fourteen feet in height, exclusive of access aisles and maneuvering space.
40. Lodging or rooming house is a building with not more than three guest rooms where lodging is provided for compensation pursuant to previous agreement, but not open to public or overnight guests.
41. Lot means a portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.
42. Lot area means the net area contained within lot lines.
43. Lot coverage means the area of a lot occupied by the principal building or buildings and accessory buildings.
44. Lot depth means the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
45. Lot lines means the property lines bounding a lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line.
46. Lot of record means any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Cattaraugus County.
47. Lot width means the mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.
48. Manufacturing means the making of goods and articles by hand or machine process. Restricted manufacturing shall be considered to be any manufacturing or industrial processing which by the nature of the materials, equipment and process utilized is to a considerable measure clean, quiet and free of any objectionable or hazardous element. All manufacturing permitted in any district shall comply with the performance requirements set forth herein.
49. Mobile home means a structure, transportable in one or more

sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

50. Mobile home court means a plot or parcel of ground containing thereon two or more mobile homes, vehicles or other portable structures being used for dwelling or sleeping purposes.
51. New construction means structures for which the "start of construction" commenced on or after the effective date of this local law.
52. Non-conforming use means a building, structure or use of land existing at the time of enactment of this local law and which does not conform to the regulations of the district in which it is situated.
53. Planning board means the Planning Board of the Village of Portville, Cattaraugus County, New York.
54. Principal use means the main use of land or buildings as distinguished from a subordinate or accessory use.
55. Public use means public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.
56. Public utility means any person, firm, corporation or municipal department duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation or water.
57. Quarry, sand pit, gravel pit, top soil stripping means a lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building.
58. Sanitary land fill is a method of disposing of garbage and refuse by spreading, covering and compacting with earth.
59. Seasonal residence means summer or winter cabins, cottages, hunting camps, farm labor housing and similar housing design intended and/or used for seasonal, non-permanent residential use.
60. Semi-public use means churches, parochial schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.
61. Sign means any advertisement, announcement, direction or communication produced in whole or part by the construction, erection, affixing or placing of a structure on any land or

other structure, or produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, city, county or state agency for the purpose of showing street names, directions, regulations, or for other public purpose.

62. Specialized animal raising and care means the use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses or other domestic animals of a similar nature.
63. Special use means any use of land or buildings, or both, described and permitted herein, subject to the provisions of Section 9(d).
64. Stand, roadside means a structure for the display and sale of farm and related produce, 75% of which must have been produced on the premises.
65. Start of construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs of footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.
66. Story is that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.
67. Street means a public or private way which affords the principal means of access to abutting properties.
68. Structural alterations means any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders.

69. Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
70. Substantial improvement means 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, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
71. Use means the purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.
72. Yard is an unoccupied space, open to the sky, on the same lot with a building or structure.
73. Yard, front means an open, unoccupied space on the same lot with a building situated between the street right-of-way line and a line connecting the parts of the building setting back from and nearest to such street right-of-way line and extending to the side lines of the lot.
74. Yard, rear means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
75. Yard, side means the part of the yard lying between the nearest line of the principal building and a side lot line and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard.
76. Land use Regulation Map is the map or maps incorporated into this local law as a part hereof, designating land use districts.
77. Land use permit is the permit issued by the Village Clerk authorizing the development, extension or use of land and/or buildings.

Section 3. General Provisions.

(a) Interpretation.

1. Minimum Requirements. The provisions of this local law shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
2. Relationship with Other Laws. Where the conditions imposed by any provision of this local law upon the use of land or buildings, or upon the bulk of buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this local law or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.
3. Effect on Existing Agreements. This local law is not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations of this local law are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements, the requirements of this local law shall govern.

(b) Application of Regulations.

1. Application. Except as hereinafter provided:
 - A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
 - B. No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.
 - C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this local law shall be included as a part of a yard or other open space similarly required for another building.
 - D. No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this local law. If already less than the minimum required under this local law, said area, dimension or capacity shall not be further reduced.
2. Responsibility. The final responsibility for the conforming of buildings and use to the requirements of this local law shall rest with the owner or owners of such building or use and the property on which it is located.

(c) Lot Area and Dimension.

1. Contiguous Parcels. When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they can be used as one lot for such use.
 2. Lots or Parcels of Land of Record. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this local law, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts or usable open spaces are not less than seventy-five percent of the minimum required dimensions of areas.
- (d) Access to Public Street. Except as otherwise provided for in this local law, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or platted street unless a permanent easement of access to a public street is approved by the Village Board of Trustees.

SECTION 4. Establishment of Districts.

- (a) Districts. For the purpose and provisions of this local law, the Village of Portville, New York, is hereby divided into the following types of districts:

R-1 Residential	F-W Floodway
B-1 Business	F-F Floodway Fringe
I-1 Industrial	

- (b) Land use regulation map. The boundaries of the aforesaid land use districts are hereby established as shown on the map entitled "Land Use Map of the village of Portville, New York, dated 10/11/78", which map accompanies and is made a part of this local law and shall have the same force and effect as if the land use map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

- (c) Verbal Description of Districts.

1. R-1. The residential district shall consist of all other property located in the Village, except that heretofore described as business district, industrial district, floodway district and floodway fringe district and shown on the land use map for the Village of Portville.
2. B-1. The business district boundaries on the westerly side of Main Street shall extend from a point 135 feet northerly on the center line of Main Street from the center line of Barrett, thence proceed westerly 265 feet to the New York Flood Easement, thence proceeding southerly and easterly following the easement to the center line of Main Street, thence northerly along the center line of Main Street to the point of beginning. Also beginning at the intersection of the center line of Elm and Main Street proceed westerly 200 feet, thence northerly at a 200

foot depth from the center line of Main Street to Dodge Creek. Excepting for the aforesaid, the New York State Flood Easement, thence southerly following the center line of Main Street to point of beginning.

The business district boundaries on the easterly side of Main Street shall extend from the center line of Temple Street on the north to the center line of Elm Street on the south and shall contain a depth of 200 feet from the center line and paralleling Main Street. Excepting for the aforesaid the New York State Flood Easement.

3. I-1. The industrial district shall be bounded from a point at the intersection of the center line of Brooklyn Street and the center line of the Penn-Central Railroad proceed easterly 80 feet on the center line of Brooklyn Street, then proceed southerly 251 feet to a point, then easterly 76.5 feet to a point then southerly 80 feet to a point then easterly 241 feet to a point then easterly 114 feet to a point, then proceed south 562 feet to the Village boundary, thence westerly along Village boundaries to the center line of the Penn-Central Railroad, then proceed northerly along the center line of said railroad to the point of beginning. Excepting from the aforesaid the New York State Flood Easement.
 4. F-W. The floodway boundaries shall extend from the west bounds of the Village along the east bank of the Allegany River and the center line of Dodge Creek to their respective flood control structures.
 5. F-F. The floodway fringe boundaries shall extend from the flood control structures along the Allegany River and Dodge Creek to the New York State Flood Easement lines.
- (d) District Boundaries. The district boundary lines shown on the land use map are, unless otherwise indicated, intended to follow either highways, railroads, streets, alleys, easements or lot lines, and where the districts designated on the map are bounded approximately by such highway, railroad, street, alley, easement or lot line, the highway, railroad, street, alley, easement or lot line shall be construed to be the boundary of the district. In the case of subdivided property, or in the event lot lines are not so indicated, the district boundary lines shall be determined by the use of the scale appearing on the district map or by dimensions.
- (e) Land Use of Streets, Alleys, Public-Ways, Waterways and Rights-of-Way. Where the center line of a street, alley, public-way, waterway or railroad right-of-way serves as a district boundary, the land use of such areas, unless otherwise specifically designated shall be deemed to be the same as that of the abutting property up to such center line.

SECTION 5. District Use Regulations.

- (a) Schedules of District Use Regulations. The requirements and limitations set forth in this section in tables entitled "District Use

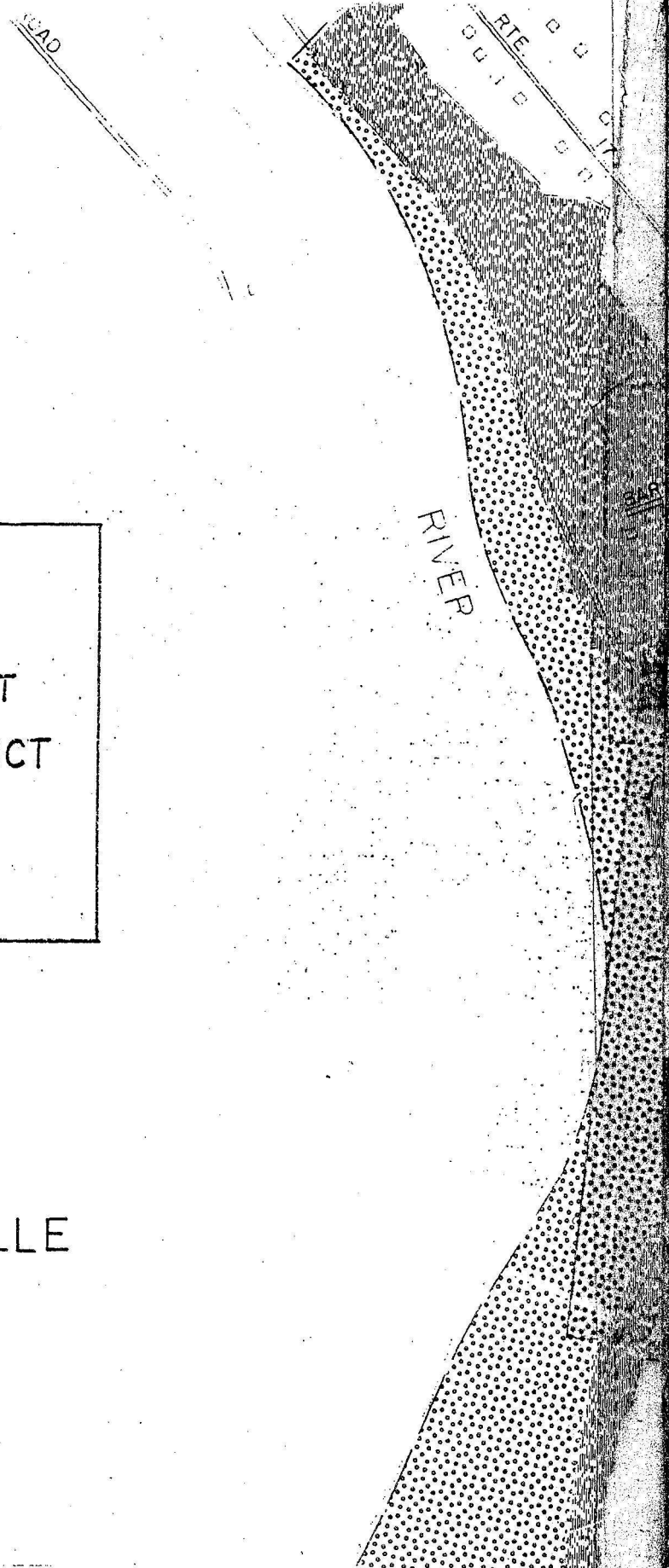
LEGEND

- BUSINESS DISTRICT
- INDUSTRIAL DISTRICT
- RESIDENTIAL DISTRICT
- FLOODWAY
- FLOODWAY FRINGE

LAND USE MAP OF
VILLAGE OF PORTVILLE
NEW YORK

DATE: 10/11/1978






400 1200 2000



JUNKYARD
EXCAVATION
SPREADING PLANT SIGNS
APPROX
FLOODING FRINGE
DISCONTINUED USE
MOBILE HOME NOISE
FENCE
OPEN FIRE DUMP

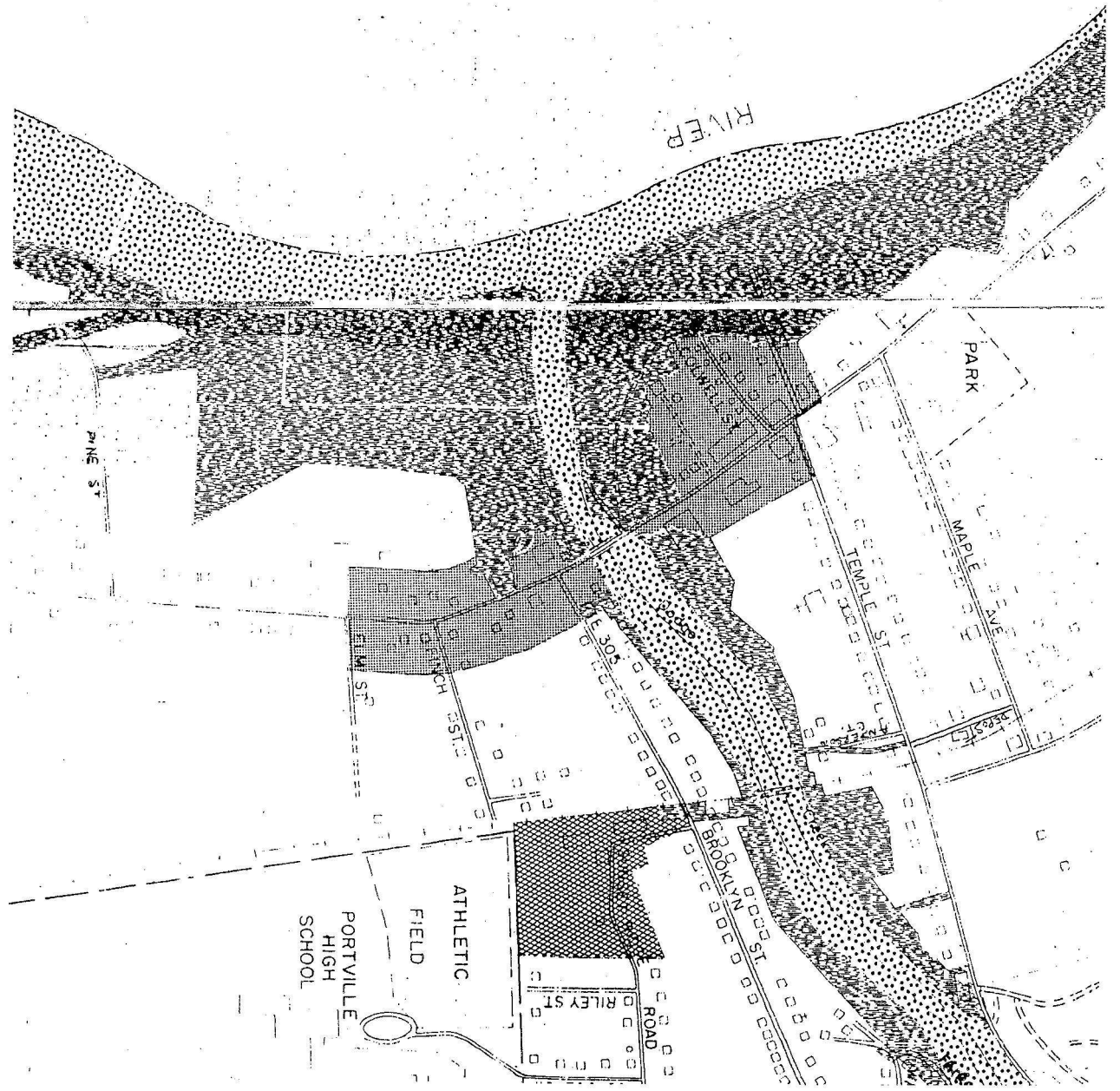
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LEGEND

-  BUSINESS DISTRICT
-  INDUSTRIAL DISTRICT
-  RESIDENTIAL DISTRICT
-  FLOODWAY
-  FLOODWAY FRINGE

LAND USE MAP OF
VILLAGE OF PORTVILLE
NEW YORK

DATED: 10/11/1978



Regulations, Schedule A " and " District Use Regulations, Schedule B", with all explanatory matter thereon are hereby made a part of this local law and shall apply in the respective districts as indicated.

(b) District Use Regulations, Schedule A. (See pages 13 and 14.)

(c) District Use Regulations, Schedule B. (See page 15.)

DISTRICT USE REGULATIONS, SCHEDULE A

PERMITTED USES

"R-1"
RESIDENTIAL DISTRICT

Single-family residence
Two-family residence
Municipal parks
Recreational areas

"B-1"
BUSINESS DISTRICT

Local retail business
Personal services
Professional activities
Offices and banks
Restaurants
Motels and hotels
Public uses
→ Semi-public uses includes churches
Essential services
Accessory uses
Public utilities
Mortuaries
Multiple dwellings
Rest homes, nursing homes,
and sanitariums
Nursery schools
Medical centers
Child care clinics
Tourist homes
Theatres
Animal hospitals or clinics
Outdoor advertising
Automotive sales and repairs
Commercial schools
Entertainment facilities
Wholesale businesses
Drive-in commercial uses
Lumber and building material
sales
Warehouses
Gas stations and garages

SPECIAL USES REQUIRING
BOARD OF APPEALS APPROVAL

Home occupations
Accessory uses
Cemetaries
Seasonal residences
Professional services
and beauty parlors
Multiple dwellings

SCHEDULE A (CONT.)

"I-1"
INDUSTRIAL DISTRICT

General manufacturing
Feed and grain storage
Wholesale businesses
Lumber and building materials
storage and sales
Warehouses
Accessory uses
Research and testing facilities

Fuel, oil and gasoline storage
Automobile salvage yards and
junk yards
Mobile homes or trailer parks

"F-W"
FLOODWAY DISTRICT

Agriculture
Plant cultivation
Essential services
Parking lots
Water related uses
Forestry

Private recreation
Public recreation
Mining, sand and gravel
extraction
Public uses
Accessory uses
Amusement enterprises
Drive-in theatres
New and used automobile sales
Road-side stands
Signs

Note: All uses in this
district, permitted and special,
are subject to conditions set
forth in Section 7(c) of this
local law.

"F-F"
FLOODWAY FRINGE DISTRICT

Subject to regulations in District adjacent to it on
land use map, plus supplemental regulations set forth in
Section 7(c) of this local law.

Juni

EXCAVATION

SPECIAL USE PERMITS

APPEALS

Flowing Springs

Discretionary Use

Mobile Home Noise

Fence

Open Fire Dump

DISTRICT USE REGULATIONS, SCHEDULE B

District	MINIMUM LOT AREA *4 Per Dwelling Unit	Other	Minimum Lot Width	Front *2	Minimum Yard Dimensions		Rear	Maximum Height	Maximum Percent of Lot Coverage	Minimum Gross Building Area
					Residential	Non-Residential				
Residential R-1	12,000 sq. ft. for single family homes	15,000 sq. ft. for apartments	100 ft.	25 ft.	20 ft. total	15 ft. min. each side	30 feet Principal Structure 15 feet Accessory Structure	35 ft.	30%	500 sq. ft. per family unit
Business B-1	Residences not Permitted	2,500 sq. ft.	50 ft.	20 ft.	20 ft. *3		20 ft. *3	35 ft.	50%	Residences not permitted
Industrial Ind.	Residences not Permitted	30,000 sq. ft.	150 ft.	50 ft.	40 ft. each side		40 ft.	35 ft.	25 %	Residences not permitted
Foodway F-W	Residences not Permitted	9 acres	450 ft.	180 ft.	225 ft.		180 ft.	40 ft.	25%	Residences not permitted

Refer to Section 7(c) for supplementary regulations.

Subject to regulations in district or district adjacent to it on land use map plus supplementary regulations, Section 7(c).

- *1 Minimum lot area requirements in the Residential District may be reduced by 25% if either an approved combined sewage treatment system or an approved public water supply system is provided, and by 50% if both approved systems are provided. If both are provided, yard dimensions may be decreased by 20%.
- *2 Along any U.S., State or County Highway, no residential or accessory building shall be located within 50 feet of the existing or proposed right-of-way line.
- *3. Commercial uses shall not be located or conducted within 30 feet of any lot line of any other lot in a Residential District.
- *4. The Cattaraugus County Board of Health may require a larger minimum.

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SECTION 6. Non-Conforming Buildings and Uses.

- (a) Continuance of Use. Except as otherwise provided herein, any lawfully established use of a building or land existing at the time of the enactment of this local law or amendments thereto may be continued although such use does not conform with the provisions of this local law.
- (b) Discontinuance of Use.
1. Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this local law, such premises shall not thereafter be used or occupied by a non-conforming use.
 2. Whenever a non-conforming use of a building or structure or part thereof, has been discontinued, as evidenced by vacancy, for a period of six consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a non-conforming use, such use shall not after being discontinued or abandoned be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.
 3. Where no enclosed buildings are involved, voluntary discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.
- (c) Change of Use. The non-conforming use of any building, structure or portion thereof may be changed, with the approval of the Board of Appeals, to a use of a more restricted classification and when so changed shall not thereafter be changed to a less restricted classification.
- (d) Repairs and Alterations. Normal maintenance of a non-conforming building is permitted. However, such building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost twenty-five (25) percent of the assessed value of the building unless changed to a conforming use.
- (e) Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building designed or manifestly arranged for such use, which existed prior to the enactment of this local law, shall not be deemed the extension of such non-conforming use.
- (f) Restoration. A non-conforming building or other structure, as established by district use regulation Schedule B Section 5, which has been damaged or destroyed by fire, earthquake or act of public enemy shall be permitted to be restored to the same non-conformity or lesser non-conformity as established by district use regulation Schedule B Section 5, only with a permit issued for such purposes by the building inspector. Substantial restoration shall be made within six months.
- (g) District Changes. Whenever the boundaries of a district shall be

changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.

SECTION 7. Supplementary Regulations.

- (a) Application. In addition to other requirements set forth in this local law, the following supplementary regulations shall apply, except as herein specified, in all land use districts created by this local law and all amendments hereto.
- (b) Performance Requirements. No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition and a land use permit shall not be issued therefor unless the following performance requirements are observed to the satisfaction of and approved in writing by the Village Board.
1. Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and suppression equipment and by such other safety devices as are normally used in the handling of such material.
 2. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity or electrical disturbance at any point where it may adversely affect other land uses in the Village.
 3. Noise. Noise which is objectionable as determined by the Village Board shall be muffled or otherwise controlled except that air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.
 4. Vibration. No vibration shall be permitted which is discernible without instruments on any adjoining property.
 5. Odors. No malodorous gas or matter shall be permitted which is discernible on any adjoining property.
 6. Air Pollution. No pollution of air by flyash, dust, vapors or other substance shall be permitted which is harmful to health, animals, vegetation or other property, or which can cause excessive soiling.
 7. Glare. No direct or reflected glare shall be permitted which is visible from any property outside an industrial district or from any public thoroughfare.
 8. Water Pollution. No pollution of water by chemicals or other

substances shall be permitted which is unhealthful to animal or plant life as determined by the Cattaraugus County Department of Health.

(c) Regulation for Floodway (F-W) and Floodway Fringe (F-F) Districts.

1. General standards.

- A. All new construction and substantial improvements (including mobile homes) shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- D. Any public facility including electrical and heating shall be constructed at or above the regulatory flood protection elevation for the particular area or flood-proofed.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- H. Review subdivision proposals and other proposed new development to determine whether such proposal will be reasonably safe from flooding. Subdivision should be reviewed to assure that:
 - i. All such proposals are consistent with the need to minimize flood damage.
 - ii. All public utilities and facilities such as gas, sewer, electrical and water systems are located and constructed to minimize or eliminate flood damage.
 - iii. Adequate drainage shall be provided to reduce exposure to flood hazards.

All subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, shall require base flood elevation data.

2. Specific Standards.

- A. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official.
- C. Mobile Homes.
- i. No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.
 - ii. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side.
 - frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side.
 - all components of the anchoring system be capable of carrying a force of 4,800 pounds.
 - any additions to the mobile home be similarly anchored.
 - iii. For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction, or improvement of the streets,

utilities and pads equals 50 percent of value of the streets, utilities and pads before the repair, reconstruction, or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision require:

- stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
- adequate surface drainage and access for a hauler are provided.
- in the instance of elevation on pilings: (1) lots are large enough to permit steps, (2) piling foundations are placed in stable soil no more than ten feet apart, and (3) reinforcement is provided for pilings more than six feet above the ground level.

3. F-W Districts.

The following regulations shall apply in all areas designated as F-W Districts:

- A. No permanent structures shall be permitted in the F.W District.
- B. Encroachments, including fill, new construction, substantial improvements and other developments, unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge, is prohibited.

4. Flood Control Facilities.

With the construction of flood control facilities approved by the Village Planning Board and the New York State Conservation Department, permits may be granted in the F-W District for the same uses that are permitted in the non-floodway district nearest it on the land use map.

(d) Mobile Home Parks and Mobile Homes.

- 1. Mobile Home Parks. Where permitted in Section 5(b) of this local law, a mobile home court shall conform to the following requirements:

- A. An application for a mobile home park permit shall be filed with and issued by the Village Board subject to the approval of the Cattaraugus County Department of Health. The application shall be in writing, signed by the applicant and shall include the following:

- i. Name and address of applicant
- ii. Location and legal description of the park
- iii. A complete plan of the park in conformity with the following:

- Shall be located on a well drained site, properly graded to insure rapid drainage.
- Shall contain a minimum of four (4) acres.
- Mobile home spaces shall be provided consisting of a minimum of 2500 square feet for each space which shall be at least 30 feet wide and clearly defined.
- There shall be at least a 20 foot clearance between individual mobile homes housed, and between mobile homes and permanent structure on or adjacent to the park.
- All mobile homes shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street or highway.
- An adequate and tested supply of pure water for drinking and domestic purposes shall be supplied to all mobile home spaces within the park.
- No mobile home shall be located closer than 40 feet to any property line or 60 feet from street right-of-way line.
- A compined sewage treatment and disposal system shall be provided as recommended and approved by the Cattaraugus County Department of Health.
- Adequate garbage disposal facilities, as approved by the Cattaraugus County Department of Health, shall be provided.
- Every park shall have a fire protection plan approved by the Fire Department having local jurisdiction.
- Every park operator shall keep a complete register of occupants which shall be available for inspection at all times by the enforcement and health officials.

- B. The Village Board may revoke any permit to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this local law.
2. Mobile Homes. No mobile home, trailer or other habitable vehicle shall be permitted to locate in the Village in any district as specified under Section 5(b) of this local law except under the following conditions:
- A. The mobile home shall be located as the principal use on a lot containing not less than 30,000 square feet.
 - B. The mobile home shall contain a minimum area of 600 square feet.
 - C. Plans shall be submitted to the Cattaraugus County Department of Health for approval, showing water supply, sewage disposal, drainage, and refuse disposal.
 - D. The mobile home shall be set back at least ten (10) feet from any side or rear property line and shall be at least thirty (30) feet distant from the edge of any public street or road.
 - E. The mobile home shall be placed on a permanent type foundation with skirting or solid type material screening the space between the mobile home floor and ground.
 - F. Dependent mobile homes, other than recreational or vacation trailers with a special permit, shall not be located within the Village.
 - G. Recreation or vacation trailers may be located and used in the Village with a 30-day permit obtained from the Village Board. Said permit may be renewed by the Board for a total consecutive period up to ninety (90) days. Individual recreation or vacation trailers owned by residents of the Village may be stored on the property of the owner for an unlimited period provided that no residence is taken therein or business conducted therewith.
- (e) Automobile Graveyards and Junk Yards. Where permitted in Section 5(b) of this local law as a special use with the Board of Appeals approval, all automobile graveyards and junk yards shall conform to the following requirements:
- 1. The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.
 - 2. The permittee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard

therefrom and to prevent improper trespass thereon by children and others.

3. The permittee must erect and maintain in good condition a solid eight foot fence of wood or of other acceptable material, adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the permittee and if such area abuts a residential area or public street or highway, such fence shall be at least fifty (50) feet from the boundary line or right-of-way thereof. All the materials dealt in by the permittee shall be kept within such fence at all times.
 4. When the area is not supervised by the permittee or his employees, the fence shall be locked at a secure gate in a secure manner.
 5. * The area of the permittee's activity or business shall not be used as a dump area or as a place for the burning and disposal of junk or trash.
 6. The Village Police, the Village Clerk, or the Village Board or any of its representatives shall be granted access to the area of the activity or business of the permittee at all reasonable hours to inspect the same for compliance herewith.
 7. No person shall keep or maintain more than one junk yard at a single location by virtue of one permit.
 8. Open fires are prohibited. Requests for special burning permits may be made to the New York State Department of Environmental Conservation.
 9. The autos, parts and materials dealt in by the permittee shall be disassembled or dismantled by means other than by burning. They shall be piled less than seven feet high and arranged in neat rows so as to permit easy, clear passage through the area.
 10. There shall be maintained at each such place of activity or business for which a permit is issued at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
- (g) Control of Excavation. Where permitted in Section 5(b) of this local law, all mining, quarrying, removal of top soil, and sand and gravel extraction shall conform to the following requirements:
1. The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.
 2. The permittee must submit to the Village Planning Board a plan of operation including final grading and seeding of excavation site.

3. No excavation shall take place within 1000 feet of any inhabited dwelling except upon the written consent of the owners and residents of such dwelling located within such 1000 feet of the excavation site.
 4. No excavation shall be performed or proceed to such a depth as to diminish, pollute or impede the water available to any such person drawing water from a private well located within 2000 feet of such excavation.
 5. During any such excavation for sand, gravel or soil, the permittee shall be responsible for protection of excavation by the use of fences or natural barriers, once the excavation has proceeded to a depth of six feet or more below original gravel level unless such excavation is leveled for or to such depth for a circumferential area of at least 100 feet.
 6. Following completion of such excavation operation for sand and gravel as herein referred to and within 30 days thereafter it shall be the obligation of the permittee to provide for a leveling of such excavation site as to remove and prevent holes and depressions in which water may settle to depth in excess of six inches.
- (h) Sanitation. The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board and the Cattaraugus County Department of Health. Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of the Department of Health of the State of New York and the Cattaraugus County Department of Health. Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of such supplies.
- (i) Signs and Outdoor Advertising Structures. With the exception of public road and highway signs, no sign or billboard shall be permitted in any district except as hereinafter provided.
1. Real estate signs not exceeding 12 square feet in area and advertising the sale, rental or lease of the premises on which the sign is located shall be permitted on any property.
 2. Announcement or professional signs for legitimate home occupations and professional activities and name of resident signs not exceeding more than 6 square feet in area shall be permitted in any district where such activities are permitted.
 3. Bulletin boards and signs for a church, school, community or public or semi-public institutional building shall be permitted provided that the area of such sign does not exceed 15 square feet in area and such signs are set back a minimum of 15 feet from the established right-of-way line.

4. Temporary signs not exceeding 50 square feet, announcing the erection of a building, the architect, builders, etc., may be erected for the period of 60 days plus the construction period provided, however, the same shall be removed from the premises upon the completion of the building.
 5. In a business district, each business shall be permitted to erect one flat or wall sign for the purpose of permanent advertising. The area of such sign for any single business enterprise shall be limited according to the frontage width of the building or the frontage width of the part of the building occupied by such enterprise. In computing the maximum size, each business enterprise may have a permanent sign of an area equivalent to one and one-half square feet of sign area for each lineal foot of frontage width occupied, but in no case shall exceed a maximum area of 100 square feet. A free-standing pole sign of symbolical design not over 30 feet in height and not in excess of 40 square feet in sign area may also be permitted each business providing that:
 - A. No part of such sign shall project (into) or (over) any public right-of-way.
 - B. The pole support of such sign shall not be less than 40 feet from any lot in any residential district.
 6. In an industrial district, a sign or billboard may be erected which pertains to the specific use of the property upon which it is erected. The area of such sign shall not exceed more than 100 square feet in area, except that the Board of Appeals may approve signs of up to 200 square feet in area provided they be at least 35 feet from any street line and 50 feet from any other lot line.
 7. Except as provided above, signs and outdoor advertising structures, where permitted, shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal use in such district. Further, no outdoor advertising sign or structure shall be located within 500 feet of another such sign or structure.
- (j) Off-Street Parking and Loading Requirements. In all districts in connection with every residential, commercial, industrial, institutional or other use, there shall be provided at any time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:
1. Each off-street parking space shall have an area of not less than 180 square feet exclusive of access drives or aisles, and shall be of usable shape and surface.
 2. There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a private or public access drive, an access drive of not less than eight feet

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in width in the case of a dwelling, and not less than 18 feet in width in all other cases leading to the parking area shall be required.

3. The number of off-street parking spaces to be provided shall not be less than the following:

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
Residential	Two per dwelling unit
Rental units, motels & hotels	One per rental room or unit
Church	One for each five seats in principal gathering room
Restaurant	One for every four seats
Golf course	Six for each hole
Private club or lodge or school	One for each ten members
Country club	One for each five members
Theatre	One for every four seats
Offices, clinics, wholesale establishments & <u>business services</u>	One for every 300 square feet of floor space
<u>Retail store or personal services establishment</u>	One for each 100 square feet of floor space
Industrial uses	One for each two employees on the maximum working shift
Hospital	One for every three beds and one for each two employees on the maximum working shift
Sanitarium or convalescent home	One for every three beds and one for each two employees on the maximum working shift
Dance hall, assembly or exhibition hall, night club, cafe or similar recreation establishment	One for each 100 square feet of floor space
Bowling alley	Five for each alley
Mortuary or funeral home	One for each 75 square feet of floor area
Public swimming pool	One for each 40 square feet of pool area.

4. Every building having a gross floor area of 10,000 square feet or more, requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof. Each loading space shall be not less than 10 feet in width, 25 feet in length and 14 feet in height.
- (k) Sanitation. The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board and the Cattaraugus County Department of Health.
- (l) Stripping of Top Soil. Without a special permit from the Board of Appeals, no person shall strip, excavate or otherwise remove top soil for sale or use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building or paved parking area on such premises and excavation or grading incidental thereto.
- (m) Temporary Buildings. Temporary buildings or trailers, other than buildings or trailers for living purposes, to be used in connection with construction work only, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon the completion of such work. Permits for temporary non-residential buildings shall be used for a one-year period and must be renewed for continued use.
- (n) Corner Lots. On corner lots, no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines on such lots and a line drawn between two points thirty feet distant from the intersection, measured along said street lines.
- (o) Seasonal Residences. Where permitted in Section 5(b) of this local law, any seasonal residence in the Village of Portville shall be provided with adequate water supply and sewage disposal facilities acceptable under standards of the Cattaraugus County Department of Health. Minimum floor area requirements shall comply with Section 5(c).

SECTION 8. Permits.

- (a) Land Use Permit. Except as provided herein, it shall be unlawful for an Owner to use or to permit the use of any structure or land or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly until an application is made to, and a land use permit issued by the Building Inspector. It shall be the duty of the Building Inspector to issue a land use permit within fifteen (15) days after a written request for the same has been made, provided he is satisfied that the proposed use, change, construction, enlargement or alteration fully conforms with all the requirements of this local law. Where the approval of the Cattaraugus County Department of Health or other authority is required the land use permit specified in this subdivision shall not be issued until such approval has been granted in writing.

A land use permit hereafter granted under the provisions of this local law shall expire two (2) years from the date of issuance unless the proposed structure or change in use has been completed.

(b) Land Use Permit for Non-Conforming Uses. A land use permit shall be required for all lawful non-conforming uses of land or buildings created by the adoption of this local law and applications for such permits shall be filed with the Building Inspector within one year after the effective date of this local law. It shall be the duty of the Building Inspector to issue such permits free of charge, but failure to apply within the specified time or refusal of the Building Inspector to issue such permits shall be evidence that said non-conforming use was illegal or did not lawfully exist on the effective date of this local law.

(c) Land Use Permit Fees. A fee, in accordance with the following schedule of amounts, shall be chargeable and shall accompany each application for a land use permit. Such fee shall be paid into the General Fund of the Village if the application is approved or returned to the applicant if the application is denied.

Single family dwellings (including seasonal)	\$ 5.00
Multiple family dwellings (including seasonal)	\$ 7.00 per unit
Structures accessory to residential dwellings	\$ 1.00
Structures accessory to other principal uses	\$ 3.00
Swimming pools	\$ 3.00
Land use not involving structures (except agriculture)	\$ 3.00
Commercial or industrial	\$15.00
All other structures	\$10.00

(d) Enforcement. This local law shall be enforced by a Building Inspection Committee consisting of three (3) members, one of which shall act as its chairman. The powers and duties of the Building Inspection Committee shall be:

1. Approve and examine applications pertaining to the use of land, buildings or structures when the applications conform with the provisions of this local law.
2. Issue all land use permits and keep permanent records thereof.
3. Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the provisions of this local law.
4. Receive, file and forward for appropriate action all applications for special uses, variations and amendments to this local law which may be filed in the land use office.
5. Maintain permanent and current records of the local law, including all maps, amendments, special uses and variations.
6. Collect, receipt and account for all fees chargeable under the provisions of this local law and pay all of the same into the Village General Fund.

SECTION 9. Board of Appeals.

B

- (a) Organization. The Village Board of the Village of Portville, pursuant to the provisions of the Village Law applicable thereto, shall appoint a Board of Appeals consisting of five members. The terms of office shall be five years, excepting that the five members first appointed shall serve for terms of one, two, three, four and five years. Such Board of Appeals, subject to the provisions of Village Law, shall determine its own rules of procedure. The members of the Board of Appeals shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled in the same manner as the original for the unexpired term of any member whose term becomes vacant. No member of the Board of Appeals shall hold other elective or appointive office in the Village government.
- (b) Powers and Duties. With due consideration for the purpose and intent of the local law, the Board of Appeals shall:
1. Hear and determine appeals from and review any order, requirement, decisions or determination made by the Building Inspector charged with the enforcement of this local law.
 2. Hear and decide all matters referred to it, or upon which it is required to pass under this local law.
 3. Decide any question involving the interpretation of any provision of this local law, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
 4. Hear and pass upon applications for variations when a property owner or his agent shows that a strict application of the terms of this local law relating to the use, construction or alteration of buildings or structures, or the use of land imposes upon him a particular hardship which is unique to the premises in the same district.
 5. Hold public hearings and approve or disapprove each application for a special use received in compliance with the provisions of this local law.
- (c) Special Use Permits. The Board of Appeals may issue a special use permit for any of the special uses listed in Section 5(b) of this local law, provided such special use complies with the general standards set forth in this section and with the special requirements enumerated elsewhere herein. Application for special use permits shall be made to the Board of Appeals through the Building Inspector and shall be accompanied by an application for the necessary land use permit, the prescribed fees and such preliminary plans and lot layouts as the Building Inspector may deem necessary.
1. General Standards.

- A. A special use permit shall only be granted when the proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent districts.
- B. A permit for a special use in a residential district shall only be granted when it is clearly obvious that the special use will not impair the use, enjoyment and value of adjacent residential properties and that any vehicular traffic generated therewith will not be hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.
- C. A permit for a special use in a commercial or industrial district shall only be granted when it is clearly obvious that such use will be harmonious with the district in which its location is sought and will not create undue pedestrian or vehicular traffic hazards or any display of signs, noise, fumes or lights that will hinder the normal development of the district or impair the use, enjoyment and value of adjacent land and buildings.

Upon finding that such general standards and the special standards set forth herein have been fully met, the Board of Appeals may issue such special use permit and in so doing may impose any condition that it may deem necessary to accomplish the reasonable application of said standards. Furthermore, it may deny any such application which in its judgment is not in accordance with said general or special standards. Said Board may require, as a condition of the issuance of any special use permit, that it shall be periodically renewed, or said Board may issue a temporary special use permit subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board, provided that any such renewal or extension shall be subject to the same procedure as specified herein for the original issuance of the special use permit involved and shall be in conformity with aforesaid general and special standards.

(d) Variations. The Board of Appeals may issue a use variance for any use of structure or area variance in the Village of Portville, provided such variance complies with the general standards set forth in this section and with the special requirements enumerated elsewhere herein. Application for variations shall be made to the Board of Appeals through the Building Inspector and shall be accompanied by all material needed to verify the claim.

1. General Standards. Each case must be determined on its own merits. Unnecessary hardships and practical difficulties are the determining factors for the authorization of a use variance and an area variance respectively.

- A. Unnecessary Hardships. Criteria for establishing unnecessary hardships include, but are not limited to:
- i. The property owner can secure no reasonable return from, or make no reasonable use of his property, due to the provisions of the local law.
 - ii. Hardship results from the application of the local law to some property.
 - iii. Hardship is not the result of one's own actions.
 - iv. Hardship is suffered merely by one property directly and not by others.
 - v. The hardship is peculiar only to the property of the applicant.
 - vi. The authorization of the variance will not alter the essential character of the locality.
- B. Practical Difficulties, Criteria for establishing practical difficulties include, but are not limited to:
- i. How substantial the variation is in relation to the requirement.
 - ii. The effect of any increased population density on available governmental facilities.
 - iii. Whether a substantial change will be produced in the character of the neighborhood or substantial detriment to adjoining properties created.
 - iv. Whether the difficulty can be eliminated by some other method feasible for the applicant to pursue.
 - v. Considering all factors, the interest of justice will be served.
- C. F-F and F-W. In addition to the above criteria, variances in the F-F require the following criteria:
- i. The danger that materials may be swept onto other lands to the injury of others.
 - ii. The danger to life and property due to flooding or erosion damage.
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - iv. The importance of the services provided by the proposed facility to the community.

- v. The necessity to the facility of a waterfront location, where applicable.
 - vi. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 - vii. The compatibility of the proposed use with existing and anticipated development.
 - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - x. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
 - xi. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (e) Referral to Planning Board. The Board of Appeals shall refer to the Planning Board such matters as required by this local law and any other pertinent matters for review and recommendations, and defer any decision thereon for a period of not more than thirty (30) days pending a report from the Planning Board. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application for appeal.
- (f) Procedure. The Board of Appeals shall act in strict accordance with the procedure specified by law and by this local law. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board of Appeals. Every appeal or application shall refer to the specific provision of the local law involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted as the case may be. At least thirty (30) days before the date of the hearing required by law on an application or appeal to the Board, the secretary of said Board shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid and shall request that the Planning Board make a determination in accordance with Section 9(e).

Every decision of the Board shall be by resolution, each of which shall contain full record of the findings of the Board in the particular case.

- (g) Votes Necessary for a Decision. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the appellant any matter upon which it is required to pass under the terms of this local law or to effect any variation of this local law.

SECTION 10. Amendments. All amendments to this local law shall be in accordance with the provisions of the Village Law of New York State applicable thereto. Any proposed amendment shall be submitted to the Village Planning Board, if any, for a report and recommendations prior to the required public hearing and the final action thereon by the Village Board.

SECTION 11. Referral. In accordance with the laws of New York State, all proposed land use regulations, and all special permits, exceptions, variances or amendments thereto, which would change the district classification of the regulations applying to real property lying within a distance of five hundred feet from the boundary of any city, village or town, or from the boundary of any county or state park or other recreation area, or from the right-of-way of any county or state parkway, thruway, expressway or other controlled access highway, or from the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the boundary of any county or state owned land on which a public building or institution is situated, shall be referred to the Cattaraugus County Planning Board for review and comment prior to their adoption by the appropriate legislative authority.

SECTION 12. Violation and Penalties. Any person violating any provisions of this local law shall be guilty of a violation of this local law and shall be liable for any such violation or the penalty therefor. For each violation, the person committing same shall be subject to a fine of not less than \$10.00 or more than \$500.00 or imprisonment not exceeding 30 days or both such fine and imprisonment. Each week of continued violation shall constitute a separate additional violation.

The Building Inspector, upon his becoming aware thereof, shall serve notice of violation of the local law on the person or entity committing or permitting the same.

SECTION 13. Warning and Disclaimer of Liability. The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the areas of special flood hazards or used permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village Board of Portville, or by any officer or employee thereof for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.