

LAND USE ORDINANCE FOR THE TOWN OF PORTVILLE

ARTICLE I

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York, the Town Board of the Town of Portville has ordained and does hereby enact the following ordinance adopting regulations designed to minimize flood losses in the Town of Portville.

ARTICLE II

This ordinance shall be known and may be cited as "Land Use Control Ordinance for the Town of Portville".

ARTICLE III

It is the intent and purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize prolonged business interruptions;
- (d) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in flood plains;
- (e) To ensure that potential home buyers are notified that property is in a flood area.

ARTICLE IV

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Appeal: A request for a review of the building inspector's interpretation of any provision of this ordinance or a request for a variance.

Base Flood: The flood having a one percent chance of being equaling or exceeding in any given year.

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.

Dwelling Unit: A building or portion thereof providing complete housekeeping facilities for one family.

Existing Mobile Home Park or Mobile Home Subdivision: A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

Expansion to an Existing Mobile Home Park or Mobile Home Subdivision: 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).

Flood or Flooding: A general or temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation or run-off of surface waters from any source.

Flood Insurance Rate Map (FIRM): Official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodway: The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge base flood without cumulatively increasing the water surface elevation more than one foot.

Habitable Floor: 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".

Mobile Home: 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.

New Construction: Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

New Mobile Home Park or Mobile Home Subdivision: A parcel (or continuous parcel) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

Start of Construction: The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or 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 home park or mobile home subdivision, "start of construction" means 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 the installation of utilities) is completed.

Story: The 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.

Structural Alterations: 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.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the 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 (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 the 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.

Variance: Relaxation of the terms of this ordinance which are not contrary to the public interest and where owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardships.

ARTICLE V – OFFICIAL MAPS

Section 5.1

- (a) The official maps are hereby designated as those maps bearing the community panel number 360093 0002 8 and consisting of three exhibits.
- (b) In the case of uncertainty as to the true location of area boundary lines or an interpretation of area regulations, the decision of the Board of Appeals is final.

Section 5.2

- (a) Delineation of the Floodway Area (FWA): The delineation of the FWA is based upon an area comprising the channel of the river or other water course and immediate adjacent land area required to carry and discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (b) Delineation of the Floodway Fringe Area (FFA): The purpose of the floodway fringe area is to protect inhabitants from hazards due to periodic, but infrequent, flooding. This shall include the protection of persons and property, the preservation of water quality, and the minimizing of the expenditures for relief, insurance, and flood control projects. The boundaries are delineated on the official maps accompanying this ordinance.
- (c) Open Area: The remaining area within the town that is not within the flood plain areas. The boundaries of the open area are delineated on the official map accompanying this ordinance.

ARTICLE IV

Section 6.1 – Schedules of Area Use Regulations

The requirements and limitations set forth in this Article in the table entitled, “Area Use Regulations, Schedule A”, with all explanatory matter thereon is hereby made a part of this ordinance and shall apply in the respective districts as indicated.

Section 6.2 – Area Use Regulations, Schedule A

The uses which are permitted in the specified areas and for which the building inspector may issue a permit, and the special uses requiring the approval and a permit from the Board of Appeals are set forth in the following table entitled, “Area Use Regulations, Schedule A”, which is Section 6.2 of this Article. Uses not listed or interpreted by the Board of Appeals to be included categorically under this Section shall not be permitted except by amendment to this ordinance.

Permitted Uses

OA Open Area	FWA Floodway Area	FFA Floodway Fringe Area
Single Family Dwelling	General Farming	Article V, Section 5.1(b)
Multiple Family Dwelling	Seasonal Farm Produce	Article V, Section 5.1(b)
Mobile Home	Roadside Stand	
Mobile Home Court	Open Recreational Use	
Commercial Uses	Wildlife	
Industrial Uses	Game & Forest Preserve	
Agriculture	Off-Street Parking	
Accessory Uses	Lawns	
Essential Services	Gardens	
Open Space Uses	Play Areas	
Public Uses	Open Space Preservation	
Semi-public Uses		
	Special Uses	
	Kennels	
	Dairies	
	Bridges	
	Pipe Line	
	Railroads	
	Country Clubs	
	Open Storage	
	Streets	
	Mining, sand, and Gravel extraction	

ARTICLE VII – NON-CONFORMING BUILDINGS AND USES

Section 7.1 – Except as otherwise provided herein, any lawfully established use of a building or land existing at the time of the enactment of this ordinance or amendments thereto may be continued although such use does not conform with the provisions of this ordinance.

Section 7.2 – Repairs, Alterations, and Extensions

Maintenance and extension of a non-conforming structure are permitted; however, no substantial improvements may be made during the life of the structure.

ARTICLE VIII – SUPPLEMENTAL PROVISIONS

Section 8.1 – Application

In addition to all other requirements set forth in this ordinance, the following supplementary regulations shall apply as herein specified in areas created by this ordinance and all amendments hereto.

Section 8.2 – Regulations for Floodway Area

(a) No permanent structures shall be permitted in the Floodway Area District. Prohibits encroachment, 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.

Section 8.3 – Regulation for Floodway (F-W) and Floodway Fringe (F-F) Districts

(A) General Standards

1. All new construction and substantial improvements including mobile homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
4. Service Facilities: Any public facility including electrical and heating shall be constructed at or above the regulatory flood protection elevation for the particular area or flood control.
5. All new replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
6. 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.
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flood.
8. Review subdivision proposals and other proposed new development to determine whether such proposal will reasonably be safe from flooding.
 - a. Subdivisions should be reviewed to assure that:
 - (1) All such proposals are consistent with the need to minimize flood damage.
 - (2) All public utilities and facilities such as gas, sewer, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
 - (3) Adequate drainage shall be provided to reduce exposure to flood hazards.
 - b. All subdivision proposals and other proposed new developments greater than 50 lots or five acres, which ever is the lesser, shall require base flood elevation data.

(B) Specific Standards

1. 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.
2. 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 floodproofed 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.
3. Mobile Homes:
 - a. No mobile home shall be placed in a floodway or coastal high hazard area, except in an existing mobile home park or existing mobile home subdivision.
 - b. 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:
 - (1) 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;
 - (2) Frame ties be provided at each corner of the home with five additional ties per side at immediate points and mobile homes less than 50 feet long requiring four additional ties per side;
 - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the mobile home be similarly anchored.

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

(1) 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;

(2) Adequate surface drainage and access for a hauler are provided; and

(3) In the instance of elevation on pilings: (a) lots are large enough to permit steps, (b) piling foundations are placed in stable soil no more than ten feet apart, and (c) reinforcement is provided for pilings more than six feet above the ground level.

ARTICLE IX – ADMINISTRATION AND ENFORCEMENT

Section 9.1 – Building Inspector

This ordinance shall be enforced by the building inspector who shall be appointed by the Town Board. No Permits or Certificates of Occupancy shall be issued by him except where all the provisions of this ordinance have been complied with.

(A) Permits:

1. General: No building or structure shall be erected, added to, or structurally altered until a permit therefore has been issued by the building inspector. Except upon written Order of the Board of Appeals, no such Permit or Certificate of Occupancy shall be issued for any building where said construction, addition, or alteration, or use thereof would be in violation of any of the provisions of this ordinance.

2. Information Necessary for Application: There shall be submitted with all applications for Permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot or of the building and accessory buildings to be erected, and such other information as may be required on said permit application and to the enforcement of this ordinance.

3. Public Record: One copy of such layout or plot plan shall be returned when approved by the building inspector together with such Permit to the applicant. The second copy with a copy of each application with accompanying plan shall become a public record after a Permit is issued or denied.

4. Water Supply and Sewage Disposal: All water supply and sewage disposal installations shall conform with the New York State Department of Health and the local County Health Department regulations. No plot plan shall be approved by the building inspector in any area unless such conformity is certified on the plan. Drainage affecting adjacent properties shall be considered by the building inspector before issuing a Permit, including possible run-offs to said properties.

5. Issuance of Permits: It shall be the duty of the building inspector to issue a Permit, provided he is satisfied that all requirements of this ordinance are satisfied, and that all other reviews and actions, if any, called for in the ordinance have been complied with, and all necessary approvals secured therefore. All Permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, or workman, or other person shall perform any building operation of any kind unless a Permit covering such operation has been displayed as required by this ordinance, nor shall they perform building operations of any kind after notification of the revocation of said Permit.

6. Denial of Permits: When the building inspector is not satisfied that the applicant's proposed development will meet the requirements of this ordinance, he shall refuse to issue a Permit and the applicant may appeal to the Board of Appeals for a reversal of the building inspector's decision.

7. Expiration of Permit: A Permit shall expire after one year if the applicant fails to implement his application as filed with the building inspector.
8. Revocation of Permits: If it shall appear at any time to the building inspector that the application or accompanying plot is in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the application filed with him under the existing laws or ordinances, he may forthwith revoke the Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said building inspector. After the permit has been revoked, the building inspector, in his discretion before issuing the new Permit, must require the applicant to file an indemnity bond in the favor of the Town with sufficient surety conditioned for compliance with this ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.
9. Special Uses: All such applications shall be accompanied by plans and such other information as may be required in this ordinance and/or by the building inspector.
10. Review permits for proposed development to require that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required. Review permits to assure sites are reasonably safe from flooding.
11. When floodproofing is utilized for a particular structure the building inspector shall obtain certification from a registered professional engineer or architect.

B. Certificate of Occupancy:

1. General: No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the building inspector stating that the building or proposed use thereof complies with the provisions of this ordinance.
2. Application for Certificate of Occupancy: All Certificates of Occupancy shall be applied for coincident with the application for a Building Permit. Said Certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.
3. Record: The building inspector shall maintain a record of all Certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

C. Other Duties:

1. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration.
2. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
3. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
4. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

Section 9.2 – Violations and Penalties:

(A) Complaints of Violations: Whenever a violation of this ordinance occurs, any person may file a Complaint in regard thereto. All such Complaints must be in writing and shall be filed with the building inspector who shall properly record such Complaint and immediately investigate and report thereon to the governing body.

(B) Procedure for Abatement of Violations:

1. In case any building or structure is erected, constructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this ordinance, notification of the violation will be issued in writing by the building inspector and compliance with the ordinance must be met within the specified period of time.
2. After the specified number of days, the Town Board or with their approval, the building inspector or any other proper person, authority, or official may commence an action to enforce this ordinance.

(C) Penalties: A violation of this ordinance is an offense, punishable by a fine not exceeding \$250.00 or imprisonment for a period not to exceed six (6) months or both. Each week's continued violation shall constitute a separate additional violation.

(D) The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Town Law of the State of New York or any other law.

Section 9.3 – Board of Appeals:

(A) Organization: The Town Board, Town of Portville, pursuant to the provisions of the Town 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 the Town 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 shall hold other elective or appointive office in town government.

(B) Powers and Duties: With due consideration for the purpose and intent of this ordinance 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 ordinance.
2. Hear and decide all matters referred to it, or upon which it is required to pass under this ordinance.
3. Decide any questions involving the interpretation of any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
4. Hear and pass upon all applications for variations when a property owner or his agent shows that a strict application of the terms of this ordinance relating to the use, construction, or alteration of building 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 ordinance.

(C) Special Use Permits: The Board of Appeals may issue a Special Use Permit for any of the special uses listed in this ordinance, 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 permit, and such preliminary plans and lot layouts as the building inspector may deem necessary.

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 area in which the property is situated and will not be detrimental to the orderly development of adjacent areas.

Upon finding that such general standards and the special standards set forth have been fully met, the Board of Appeals may issue such Special Use Permit and in so doing may impose any conditions 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 special or general standards. Said Board may require, as a condition of 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) Variances: The Board of Appeals may issue a variance for any use of structure (use variance) or area (area variance) in the Town 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 variances shall be made to the Board of Zoning Appeals through the Building Inspector and shall be accompanied by all material need to verify the claim.

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

Criteria for establishing unnecessary hardships include, but are not limited to:

1. The property owner can secure no reasonable return from, or make no reasonable use of his property; due to the provisions of this ordinance.
2. Hardships result from the application of the Ordinance to some property.
3. Hardship is not the result of one's own actions.
4. Hardship is suffered merely by one property directly and not by others.
5. The hardship is peculiar only to the property of the applicant.
6. The authorization of the variance will not alter the essential character of the locality.

Criteria for establishing practical difficulties includes, but is not limited to:

1. How substantial the variation is in relation to the requirement.
2. The effect of any increased population density on available governmental facilities.
3. Whether a substantial change will be produced in the character of the neighborhood or substantial detriment to adjoining properties created.
4. Whether the difficulty can be eliminated by some other method feasible for the applicant to pursue.
5. Considering all factors, the interest of justice will be served.

In addition to the above criteria, variances in the F-F and F-W require the following criteria:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location where applicable;
6. The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. 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; and
11. 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) Procedure: The Board of Appeals shall act in strict accordance with the procedure specified by law and by the ordinance. 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 ordinance 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.

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

(F) 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 ordinance or to effect any variation of this ordinance.

Section 9.4 – Permit Fees:

A fee in the amount of five dollars (\$5.00) shall be charged and shall accompany each application for a permit.

ARTICLE AMENDMENTS

Section 10.1 – Town Board May Amend:

The Town Board may, from time to time on its own Motion or on a Petition, amend, supplement, or repeal the regulations and provisions of this ordinance after public notice and hearings as provided by the Town Law.

Section 10.2 – Public Notices and Hearings:

The Town Board, by Resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments, and shall cause notice to be given as follows:

(A) Public Notice: By publishing a notice at least ten (10) days in advance of such hearing in the official newspaper of the Town, such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.

1. A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any state park shall be given to the Regional State Park Commission having jurisdiction over such state facility at least ten (10) days prior to the date of such public hearing.

2. A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any village, town, or county shall be given to the clerk of such municipality at least ten (10) days prior to the date of such hearing.

(B) Public Hearing: The hearing shall be held at the state time and place by the Town Board and shall include within its proceedings:

1. The proposed change, amendment, or supplement, either in complete or summary form.

2. An opportunity for all interested persons to be heard in a manner prescribed by the Town Board.

ARTICLE XI - REFERRAL

Section 11.1 – Mandatory Referral:

In accordance with the laws of New York State, all proposed zoning regulations and all Special Permits, exceptions, variances, or amendments thereto which would change the area classification or of the regulations applying to real property lying within a distance of five hundred (500) feet from the boundary of any city, village, or town or from the boundary 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 lands 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.

ARTICLE XII – SEPARABILITY

Section 13.1 – Separability:

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

ARTICLE XIII – WARNING AND DISCLAIMER OF LIABILITY

Section 14.1 – Warning and Disclaimer of Liability:

The degree of flood protection required by this ordinance 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 ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Portville or any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE XIV – EFFECTIVE DATE

Section 15.1 – Effective Date:

This Ordinance shall take effect immediately.

NOTICE OF ADOPTION

PUBLIC NOTICE IS HEREBY GIVEN that pursuant to Section 133 of the Town Law of the State of New York and pursuant to the Local Law Number 2 of the year 1977 of the Town of Portville the following amendments have been adopted relative to the Land Use Ordinance for the Town of Portville, as follows, to wit:

SECTION 8.2 REGULATIONS FOR FLOODWAY AREA

8.2(a) Has been amended to indicate that: No permanent structure shall be permitted in the Floodway Area District except any variance which may be granted.

SECTION 8.3 REGULATION FOR FLOODWAY AND FLOODWAY FRINGE DISTRICTS

Section 8.3 Has been amended to indicate that regulations under Section 8.3 shall pertain to the Floodway Fringe (F-F) Districts only.

SECTION 8.3(B) SPECIFIC STANDARDS

Section 8.3(B) Specific Standards subdivision 1., has been eliminated and the subparagraphs under that section have been renumbered to conform to the existing paragraphs.

SECTION 9.1 BUILDING INSPECTOR

Section 9.1 (A)(7) Reads as follows, to wit:

7. Expiration of Permit: A permit shall expire after six (6) months if the applicant fails to implement his application as filed with the Building Inspector. One (1) extension may be obtained from the Building Inspector for an additional period of six (6) months.

Section 9.1(B)(2) Certificate of Occupancy: Has been amended to indicate that the Certificate of Occupancy shall be issued within ten (10) days after the erection or alteration which shall have been approved as complying with the provisions of this Ordinance.

SECTION 9.4 PERMIT FEES

Section 9.4 Has been amended to read as follows, to wit:

There shall be a fee of Twenty-five (\$25.00) dollars for a Floodway Special Use Permit. A fee of Fifteen (\$15.00) dollars shall be charged by the Town of Portville for a Floodway Fringe Land Use Fill Permit. Said sum shall be charged and accompany each application for a permit.

Dated: November 20, 1984
Portville, New York

By Order of the Town Board of the
Town of Portville, November 20, 1984.

(SIGNED)

By: RICHARD GATES, Town Clerk

PUBLIC NOTICE

Pursuant to Section 133 of the Town Law of the State of New York and Local Law #2 of the Year 1977 of the Town of Portville, and subsequent to a public hearing held at the Town Hall in the Town of Portville on the 3rd day of May, 1998 at 7 p.m., the following Land Use Control Ordinance for the Town of Portville has been duly adopted, to wit:

ARTICLE I

Article I sets forth the purpose of said ordinance which in designing to minimize flood lossage in the Town of Portville.

ARTICLE II

Article II of said ordinance certifies as to the title of said Ordinance which is "Land Use Control Ordinance for the Town of Portville".

ARTICLE III

Article III of said Land Use Control Ordinance for the Town of Portville sets forth the specific areas that said ordinance is designed to protect, including human life and health, the minimization of the expenditure of public money for costly flood control projects, etc.

ARTICLE IV

Article IV of said proposed Land Use Control Ordinance for the Town of Portville sets forth the definitions to be used in the Application of said Land Use Control Ordinance for the Town of Portville.

ARTICLE V

Article V of said Land Use Control Ordinance for the Town of Portville deals with the official maps and sets forth the delineation of the floodway area, floodway fringe area, and open area.

ARTICLE VI

Article VI sets forth the area use regulation for the open area, floodway area, and the floodway fringe area.

ARTICLE VII

Article VII deals with non-conforming building and uses and the repair, alteration, and extention of the same.

ARTICLE VIII

Article VIII pertains to supplementary provisions including regulations for floodway area, regulations for floodway and floodway fringe districts, and specific standards in said areas.

ARTICLE IX

Article IX deals with the administration and enhancement of the Land Use Control Ordinance for the Town of Portville including the appointment of a building inspector, the necessity of a Building Permit, and a Certificate of Occupancy. Article IX further deals with violations and penalties, procedure for abatement of violations and the organization, powers and duties of the Board of Appeals.

ARTICLE X

Article X deals with the power of the Town Board of the Town of Portville to amend on its own Motion or as a Petition any of the regulations and provisions of this ordinance after public notice and hearing as provided by the Town Law of the State of New York.

ARTICLE XI

Article XI deals with mandatory referral as required by the Town Law of the State of New York.

ARTICLE XII

Article XII deals with separability and the effect of a judgment of the invalidity of a portion of the ordinance on the remaining ordinance.

ARTICLE XIII

Article XIII deals with the warning and disclaimer of liability by the Town Board of the Town of Portville.

A full and complete copy of said proposed Land Use Ordinance for the Town of Portville can be obtained at the Town Clerk's Office of the Town of Portville.

Dated: May 3, 1978

(SIGNED)
Paul McCaigue, Town Clerk
Town of Portville