

ZONING ORDINANCE

TOWN OF PORTLAND CHAUTAUQUA COUNTY, NY



ADOPTED: JANUARY 10, 1978

DISCLAIMER

THIS ZONING BOOK AND ITS CONTENTS, INCLUDING ALL CHANGES AND AMENDMENTS ARE A COMPILATION. IT, AND ITS AMENDMENTS AS FILED IN THE TOWN OF PORTLAND LOCAL LAWS, IS INTENDED TO BE USED AS A GUIDE, NOT INTERPRETED TO BE THE LEGAL DOCUMENT

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ARTICLE 100 -TITLE, ENACTING CLAUSE, PURPOSE

Section 101 - Title

An ordinance regulating and restricting the location, construction and use of buildings, structures and the use of land in the Town of Portland, County of Chautauqua, State of New York and for said purposes dividing the Town into districts. This Ordinance shall be known and cited as the Zoning Ordinance of the Town of Portland.

Section 102 - Enacting Clause

The Town Board of the Town of Portland in the County of Chautauqua, under the authority of the Town Law of the State of New York, hereby ordains, enacts and publishes this Zoning Ordinance.

Section 103 - Purpose

The zoning regulations and districts herein set forth and outlined upon the zoning map are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the Town of Portland. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, and to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, public utilities, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Portland, excluding the Village of Brocton.

ARTICLE 200 - INTERPRETATIONS, DEFINITIONS

Section 201 - Language, Interpretations

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense in the Ordinance shall be interpreted to include the future, and words used in the plural shall be interpreted to include the singular. The word "person" includes a corporation as well as an individual. The word "lot" can be interpreted to include the words "plot or parcel". The word "shall" is intended to be mandatory. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied". The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character.

Section 202 - Definitions

Certain words and terms used in the Ordinance are defined as follows:

ACCESSORY BUILDING OR USE -An accessory building or use is one which:

1. Is subordinate to and serves a principal building or principal use.

2. Is subordinate in area, extent or purpose to the principal building or principal use served.
3. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served.
4. Is located on the same lot as the principal building or principal use served.

Signs, home occupations and farm stands are permitted only as accessory uses. The words “accessory uses”, when listed in Article Four hundred (400) of this Ordinance, shall apply to uses accessory to uses permitted in the particular sub-section (either Uses Permitted by Right or Uses Permitted by Special Condition) of this Ordinance in which found.

ADULT BOOK/VIDEO/MEDIA STORE - An establishment having as its stock-in-trade, books, magazines, videos and other periodicals which are distinguished or relating to specified sexual activities or specified anatomical areas, as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT FACILITIES - Means and refers to “adult news-racks”; “adult book stores”, adult motion picture theaters” and “exotic cabarets”.

ADULT PICTURE/VIDEO THEATER - An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by persons within the building.

ADULT NEWS RACK - Any machine or device, whether coin operated or not, which dispenses material which is distinguished or characterized by emphasis depicting, describing or relating to the “specified sexual activities” or “specified anatomical areas” defined herein.

AGRICULTURE - Shall mean production of crops, plants, vines, trees or farm animals.

AGRICULTURE, LIMITED - Agriculture, except for farm animals. Provided, however, the housing or keeping of customary farm animals for family use on lots less than two (2) acres shall be allowed if no nuisance is created.

AGRICULTURE, UNLIMITED - Agriculture where no nuisance is created.

AGRICULTURAL STRUCTURES – Any structure used primarily and directly for agriculture (limited and unlimited) activities and including but not limited to barns, silos, storage sheds, corncribs, milk house, green house, saw mills and similar structures.

AIRSTRIP - A runway without normal airport facilities.

AIRPORT - A piece of land that is maintained for the horizontal or vertical landing and takeoff of aircraft and for receiving and discharging passengers and cargo and that usually has facilities for the shelter, supply and repair of aircraft.

ALTERATION - As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities; moving from one location or position to

another; the term “alter” in its various modes and tenses and its participle form, refers to the various making and/or alteration.

ANTENNA - Shall mean a metallic or composite apparatus that radiates and receives electromagnetic waves, such as those needed for cellular/PCS operations.

APARTMENT HOUSE - A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other.

BILLBOARD - A sign other than one indicating a business conducted on the premises; a sign upon which advertising matter of any character is printed, posted, or lettered; and, it may be either freestanding or attached to a surface of a building or other structure.

BUILDING - Any structure having a roof supported by four (4) columns done or by four (4) independent, nonparty walls and intended for the shelter, housing or enclosure of persons, animals or chattel. "This shall include pre-manufactured buildings where erection or placement of such building is on any lot in the Town of Portland, including inside a mobile home park." In matters of setback and required yards and other such respects, free standing signs larger than eight (8) square feet shall be regarded as buildings within the meaning of this Ordinance.

BUILDING AREA - The total of 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. All dimensions shall be measured between the exterior faces of walls.

BUILDING HEIGHT - 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 type roofs and to the mean height eaves and ridge for gable, hip and gambrel type roofs.

BUILDING LINE - A line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

BUILDING PERMIT - A permit issued by the Zoning Officer of the Town of Portland in accordance with Section 1003 of this Ordinance.

BUILDING SETBACK LINE - An established line, set up in the Zoning Ordinance as amended from time to time, defining the distance between the face of any structure to be erected and the edge of the right of way of any road or adjacent highway.

BY RIGHT - Shall mean uses that require a permit be issued without a hearing by the planning board.

CAMP SITE - A parcel of land (with or without structures) designed, intended or used for one temporary shelter or a seasonal residence.

CAMPING OR TRAVEL TRAILER PARK - A parcel of land designed, intended, or used for the parking, pitching, erection, or maintenance of more than one travel trailer, tent, cabin, or any temporary recreational shelter.

CAMPING TRAILER - A vehicular, portable structure (whether towed or self-propelled) as a temporary dwelling or traveling, recreation or vacation use.

CHARACTER - The number of homes, businesses, topography of the land, the number and size of signs already in the district, the nature of the business in the district, the proximity of homes to each other and to the business district, the proximity of businesses to each other in the district, the amount of traffic in the district, and the roads, main thoroughfares, or side roads in the district, size of residences and costs thereof in the district, location of schools and public facilities in the district.

CLUB - An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purpose of such club.

CLUSTER DEVELOPMENT - A development of five acres or more where a developer may elect after (Town Board) approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of development remains approximately the same as required by the district area requirements.

COMMERCIAL DISTRICTS - Those districts mentioned in the Ordinance where retail sales establishments are permitted by right. Also those areas of planned unit developments permitting retail sales establishments by right.

DAY CARE CENTER - A structure, together with its lot operated on a regular basis, for the purpose of providing daytime care for five (5) or more children or adults. Similar uses going under names as Day Nurseries shall for the purpose of this law be considered to be Day Care Centers.

DEVELOPMENT - Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling.

DWELLING UNIT - One (1) or more rooms providing living facilities, including equipment and provision for cooking for a single household including one or more persons living as a family. Dwelling units shall be categorized by five (5) construction types:

A. Conventional - A permanent single-multiple-family dwelling unit which is built on site using conventional "stick" construction techniques among others. Included in this category are pre-cut homes which refers to a conventional dwelling unit built on site utilizing wood framing members that are pre-cut in a factory to the correct lengths but delivered to the building site un-assembled. For the purpose of this law, a pre-cut dwelling unit shall be considered to be the same as a conventional dwelling unit and shall not be considered to be a manufactured home.

B. Modular - A permanent single- or multiple- family dwelling unit which is brought to the building site as two (2) or more units on a transport trailer. Modular dwelling units have no support frames as found on mobile homes but instead are placed on a separate foundation. Modular dwelling units contain the same utility systems as conventional dwelling units. Modular dwelling units are not designed to be moved after they have been lifted onto a foundation. There are generally a minimum of twenty-four (24) feet wide.

C. Prefabricated - A permanent single- or multiple-family dwelling unit which is brought to a building site in large sections or panels usually eight (8) feet in height and up to approximately forty (40) feet long. Often the doors and windows are factory installed in the panels with the wall panels designed to be erected immediately after delivery. Prefabricated dwelling units are sometimes referred to as panelized units.

D. Mobile Home - A transportable, fully assembled single-family dwelling unit suitable for year round occupancy. Mobile dwelling units contain the same utility systems (water, waste, electricity) as found in conventional dwelling units. Mobile dwelling units are supported by a chassis which is not an integral part of the unit. Mobile dwelling units are not designed to be lived in except when set up on a lot with proper utilities. This does not include travel trailers which are self-contained.

E. Double Wide Mobile Home - A permanent single or multiple family dwelling unit which is brought to the building site as two (2) or more units on a permanent steel support frame, like a mobile home. Double Wide Mobile Home dwelling units contain the same utility systems as conventional dwelling units. They shall be a minimum of twenty-four (24) feet wide.

EATING AND DRINKING ESTABLISHMENT - Places where food and/or beverages are prepared and/or sold for consumption on the premises or for takeout, including restaurants, tea rooms, cafeterias, bars, taverns and lunchrooms.

ENFORCEMENT OFFICER – Shall mean the Enforcement Officer and any deputies or assistants appointed from time to time by resolution of the Town Board of the Town of Portland.

ERECT - To raise up or construct; to set up or assemble.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of gas, electrical, steam, water, sewage and communication systems and facilities. Railroad trackage and facilities and bus shelters shall also be considered as providing an essential service.

EXOTIC CABARET - A nightclub, bar, restaurant or similar commercial establishment which regularly features 1.) Persons who appear nude or semi-nude, or 2.) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities” or 3.) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas”.

FAMILY - One (1) or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single, non-profit housekeeping unit.

FARM - An area which is used for the growing of plants, vines, trees, vegetables, fruits or grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of farm animals, but not including the commercial feeding of garbage or offal to swine or other animals.

FARM ANIMALS - Shall mean bees, poultry, sheep, lamas, goats, swine, cattle, or horses and other equine.

FENCE - Any artificially constructed barrier or vegetation barrier such as a hedge with the purpose or intent of preventing passage or view, thus providing privacy.

FLOATING DISTRICT - Any zoning district for which district regulations are included in this law and yet for which no land has initially been designated on the zoning map to be included in said district. Such a district may become reality through the amendment of the zoning map of the Town of Portland in accordance with the amendment procedures of the zoning law. The initiation of the creation of such a district may come from residents, the Planning Board, a developer or the Town Board, itself, while the decision whether to activate such a district shall be made based upon the need for such a district.

FULL FOUNDATION - A continuous masonry substructure of a frame dwelling unit; or the supporting part or member of a wall or structure, including the base course or footing courses in a frame dwelling unit, the whole structure being masonry, i.e. stone, poured concrete, pre cast concrete, concrete block, eight inches thick and shall be placed on a concrete footer, to wit: equal to the thickness of the wall in depth by twice the width of the wall in width, a minimum of thirty six (36) inches below the grade or below the frost line whichever is deeper.

Provided, however, a mobile home or doublewide dwelling unit supported by piers, with NYS building code complying tie-downs, and not by the foundation walls; may substitute a poured, precast, or masonry curtain wall a minimum six (6) inches thick on the footer; the top of such wall shall abut the bottom of the outside wall of the dwelling unit.

GARAGES - PUBLIC AND PRIVATE, A PUBLIC garage shall mean any structure within which personal property may be stored for a fee and or any work or labor is performed for which a charge is made to a person not performing work or labor. A PRIVATE garage shall mean any structure within which items of personal property are stored without a fee being charged and in which the owner or lessee may perform work or labor upon such personal property without charging a fee.

GOVERNING BODY - The Town Board of the Town of Portland.

HIGHWAY ACCESS POINT - The distance between any vehicular entrance or exit to the street.

HOME OCCUPATION - An accessory use of a service character customarily conducted within a dwelling and/or existing buildings, by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the

character thereof or have any exterior evidence of such secondary use other than a small nameplate not to exceed six (6) square feet.

1. A home occupation shall emit no offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical and/or electronic interference.
2. A home occupation may use up to fifty (50%) percent of floor space which includes all floor spaces, garage, etc.
3. A home occupation shall be allowed on premises sales.
4. Such light industry (crafts) as conforms to the above, plus the office of a physician, surgeon, dentist, or other professional person, including an instructor in violin, piano, or other individual musical instrument, limited to a single pupil at a time, who offers skilled services to a client, and is not professionally engaged in the purchase or sale of economic goods other than those produced on the premises shall be deemed Home Occupation.

HOSPITAL - Unless otherwise specified, the term hospital shall be deemed to include sanitarium, preventorium, clinic, rest home, nursing home, convalescent home and any other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOSPITAL, ANIMAL - An establishment for the medical and/or surgical care of sick or injured animals.

INDUSTRIAL DISTRICT - The districts mentioned in this Ordinance where industrial uses are permitted by right. Also to include areas of a planned unit development permitting industrial uses and planned unit industrial developments.

JUNK YARD - A lot, land, or structure or part thereof used for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags, or similar materials including storage of three (3) or more inoperative motor vehicles.

JUNK VEHICLES ON PRIVATE PROPERTY - Any unregistered or an uninspected vehicle no longer in condition for legal use on public highways. Vehicles utilized for agriculture purposes shall not be considered to be junk vehicles.

LOADING AND UNLOADING SPACE, OFF-STREET - An open hard-surface area of land other than a street or public way, the principal use of which is for the standing, loading and unloading of vehicles, tractors and trailers, to avoid undue interferences with public streets and alleys. Such space shall not be less than ten (10) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height, exclusive of access aisles and maneuvering space.

LOT - 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.

LOT AREA - The net area contained within lot lines.

LOT CORNER - A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

LOT COVERAGE - That percentage of the lot area which is devoted to building area. District regulations refer to the maximum percentage of the lot area devoted to building area.

LOT LINE - Any line dividing one lot from another.

LOT OF RECORD - Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Chautauqua County

LOT WIDTH - The main horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the building area.

MOBILE HOME - Excluding camping trailers, any piece of mobile equipment designed or constructed to be towed, pulled by a motor vehicle, or self-propelled and intended for long-term human occupancy.

MOBILE HOME PARK - A tract of land used or intended to be used for the parking of two (2) or more mobile homes, together with the necessary improvements and facilities on the land.

MOTOR HOME - (See CAMPING TRAILER)

MOTOR VEHICLE SERVICE STATION - Any use 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 the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

MUNICIPALITY - Shall mean the Town of Portland.

NONCONFORMING USE - A building, structure, or use of land existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district in which it is situated.

NUISANCE – A use on any property in the Town of Portland outside the Village of Brocton which use results in an offensive, annoying, unpleasant, or obnoxious condition or conditions being created to such nature or degree, that they are detrimental to the health, safety, general welfare of persons or property. Common Examples include accumulations of trash and/or rubbish, excessive odors, noise, smoke, vibration, light, runoff, traffic, or electric interference to excess.

OFFICE - A place which is used to conduct a business or profession and is occupied by a physician, surgeon, dentist, lawyer or person providing similar services, or in whose office the functions of consulting, record keeping and clerical work are performed.

OPEN SPACE - Common, or public, or private greens, parks or recreation areas, including playgrounds, woodland conservation areas, walkways, trails, stream crossing

and drainage control areas, golf courses, swimming pools, tennis courts, ice skating rinks and other similar recreational uses, but which may not include any such uses or activities which produce noise, glare, odor, air pollution, fire hazards or other safety hazards, smoke, fumes, or any use or activity which is operated for a profit, or other things detrimental to existing or prospective development of the neighborhood.

PARKING SPACE - A required off-street parking space shall be an area of not less than one hundred and sixty-two (162) square feet nor less than eight and one-half (8-1/2) feet wide by nineteen (19) feet long, exclusive of access drives or aisles, accessible from streets, to be used for the storage or parking of passenger automobiles or commercial vehicles under one and one-half ton capacity. Aisles between vehicular parking spaces shall not be less than twelve (12) feet in width when serving automobiles parked at a forty-five (45) degree angle in one direction nor less than twenty (20) feet in width when serving automobiles parked perpendicular to the aisles and accommodating two way traffic.

PLANNING BOARD - Unless otherwise designated the Planning Board of the Town of Portland.

PRE-MANUFACTURED BUILDING - Any combination of wood, steel, plastic or any other building material put together off the premises upon which it is placed, or pre-cut, stamped or manufactured for assembly, whole or in part, upon a lot.

PORCH - A roofed open structure projecting from an outside wall of a structure which may or may not have screening installed thereon.

PUBLIC - Owned, operated or controlled by a governmental agency (Federal, State or local) including a corporation created by law for the performance of certain specialized governmental functions, a public school district, or service district.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING - A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, in any quantity, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

RESIDENCE SINGLE FAMILY DETACHED - A detached building designed to contain one dwelling unit.

RESIDENCE TWO FAMILY – Either of the following:

1. A building having two (2) side yards and accommodating but two (2) dwelling units, with one (1) family living over the other.
2. A detached building containing two (2) dwelling units separated by a party wall, each having one (1) side yard.

RESIDENCE MULTI-FAMILY - A building used or designed for three (3) or more dwelling units including apartment houses, condominiums, and town houses.

RESIDENTIAL DISTRICTS - Those districts mentioned in this Ordinance where single family detached, two (2) family, and multifamily residences are permitted by right.

RUBBISH - Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other materials; this term shall also include discarded, abandoned or stored refrigerant units, such as but not limited to refrigerators, freezers and air conditioning units.

SANITARY LANDFILL - A method of disposing of garbage and refuse by spreading, covering, and compacting with earth.

SECTION - Unless otherwise noted section and section numbers shall refer to this Ordinance.

SEMI-PUBLIC - Places of worship, institutions for the aged and children, nurseries, non-profit colleges, hospitals, libraries, cemeteries and institutions of a philanthropic nature. Also open space.

SIGN - Any structure or part thereof, attached thereto, or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device of representation used for the purpose of bringing the subject thereon to the attention of the public. The word sign does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization of the property thereon.

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

SIGN, ADVERTISING - A sign which offers services or goods produced or available somewhere other than on the lot on which the sign is located. The words "advertising sign" includes the word "billboard". Neither directional, warning, nor other signs posted by public officials in the course of their public duty shall be construed as advertising signs.

SIGN, BUSINESS - A sign for permitted use conducted on the premises which shall identify the written name and/or type of business and/or any trademark of an article for sale or rent on the premises or otherwise call attention to a use conducted on the premises.

SIGN, IDENTIFICATION - A sign for a permitted use conducted on the premises or for articles sold or distributed by that use, or displaying the name of the premises.

SIGN, INSTRUCTIONAL - A sign conveying instructions with respect to the use of the premises or a portion of the premises on which it is maintained or a use or practice being conducted on the premises.

SIGN, NAMEPLATE - Any sign attached directly to the wall of a building occupied by the person for whom such sign indicates the name, occupation and/or address of the occupant. A name plate shall not be over two (2) square feet in size.

SIGN, TEMPORARY - A sign which offers premises for sale, rent or development, or announces special events, or calls attention to new construction or alteration, or offers a sale of seasonal produce, garage, household, porch items or signs of a similar nature; or political signs.

SLAB – Shall mean a solid reinforced, minimum 16 gauge wire, concrete block with a minimum depth of six inches inside a foundation footer.

SOLAR STRUCTURE - Any dwelling unit containing a passive or active heat storage device which is dependent on direct contact with the sun in order to operate, Such heat storage devices are commonly used to heat totally or partially water or building.

SPECIAL CONDITION - A Special Condition deals with special permission, granted only by the Planning Board by the issuance of a Special Condition Permit, to occupy land for specific purposes under special and specific conditions when such use is not permitted by right.

SPECIFIED ANATOMICAL AREAS – a.) less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the areola; b.) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – a.) human genitals in a state of sexual stimulation or arousal; b.) acts of human masturbation, sexual intercourse or sodomy; c.) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts

STORY - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between any floor and the ceiling next above it.

STORY, HALF - A story under a gable, hip or gambrel roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such story.

STREET - A public or private way which affords the principal means of access to abutting properties.

STREET LINE - A line coinciding with the road right-of-way line, or in areas where the road right-of-way boundary is in doubt, the street line shall be considered to be twenty-five (25) feet from the center of the paved cartway (except along State Routes 5 and 20

where the street line shall be considered to be thirty five (35) feet from the center of the paved cartway).

STRUCTURE - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. This shall include pre-manufactured buildings where erection or placement of such building is or on any lot in the Town of Portland, including inside a mobile home park.

TOWERS - A commercial or private structure rising over fifty (50) feet from the ground, designed and built for receiving and/or transmitting electronic, microwave and other signals, generally of a communications nature.

TOWN HOUSE - A dwelling unit designed to be occupied as a residence for one (1) family and one of a group of three (3) or more attached dwellings, placed side by side, separated by party walls, each containing one (1) or two (2) stories, and each having separate front and rear, or side and rear, or front and side entrances from the outside.

TRACT - A large piece of land under single ownership and developed or to be developed as a single entity for two (2) or more units of use.

TRASH - Glass, plastic, scrap metals, salvaged metals, rags, garbage, wastepaper, salvaged machines, appliances, or similar materials or items also including, but not limited to decaying woodpiles, discarded building materials, unusable farm machinery and similar items.

USE - Any purpose for which land or a building is designed, arranged, intended, or for which it is, or may be occupied or maintained.

VARIANCE - Permissive waivers from the terms of the ordinance, that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, so that the spirit of the Ordinance shall be observed and substantial justice done and granted by the board of appeals.

WIND ENERGY CONVERSION SYSTEMS OR (WECS) - Shall mean any mechanism designed for the purpose of converting wind energy into electrical energy. WECS may be:

1. Commercial - A WECS that is the prime use on a parcel of land and supplies electrical power for off-site use.
2. Non-Commercial - A WECS that is incidental and subordinate to another use on the same parcel and supplies electrical power for on-site use, except that when a parcel on which a non-commercial WECS is installed also receives electrical power supplied by a utility company, excess electrical power generated by non-commercial (WECS) and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by the company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power.

WIND ENERGY FACILITY – Shall mean any collection of structures, buildings, infrastructures, electric lines, substations, access roads, and other elements necessary to convert kinetic energy in the wind into useable energy for whatever purpose i.e. electrical, mechanical as more particularly described in “ARTICLE 600 - SPECIAL CONDITIONS” Section 647.

WINDMILL – A private or commercially operated structure whose major purpose is the generation of power, pumping of water, and other similar uses through the use of blades which are moved by the wind or air movement.

YARD, FRONT - The area extending across the entire width of the lot between the building line, or the front main wall of a building and the front property line (street line) and into which space there shall be no extension of building parts in any district, or parking space(s) (including any enveloping wall, fence or hedge around the parking area) in any non-industrial or non-commercial districts.

YARD, REAR - The area extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for parking loading and unloading space and garages or carports.

YARD, SIDE - The area extending from the front yard to the rear yard between the side wall of the principal building and the side line of the lot, and unoccupied except for parking loading and unloading space and garages or carports.

ZONING BOARD OF APPEALS OR BOARD OF APPEALS - Shall mean the Zoning Board of Appeals of the Town of Portland.

ZONING MAP - The map or maps incorporated into this Ordinance as part hereof, designating Zoning Districts. The originals of which are on file with the Zoning Officer.

ARTICLE 300 - ESTABLISHMENT OF DISTRICTS

Section 301 - Creation and Enumeration of Districts

For the purpose of promoting the public health, safety, morals and general welfare in the Town of Portland, the Town is hereby divided into the following types of districts:

Section 401 -	FP District:	Flood Plain
Section 402 -	GD District:	Gravel District
Section 410 -	CR District:	Conservation - Residential
Section 411 -	R1 District:	Low Density Residential
Section 412 -	R2 District:	Medium Density Residential
Section 412(A) -	R3 District:	Residential
Section 413 -	AG District:	Agriculture
Section 413(A) -	AG-R District:	Agriculture - Residential
Section 420 -	NC District:	Neighborhood Commercial
Section 421 -	HC District:	Highway Commercial
Section 422 -	LC District:	Lakeshore Commercial
Section 430 -	LI District:	Light Industrial

Section 302 - Zoning Map

Said districts are bounded as shown on a map entitled "Zoning Map of the Town of Portland", and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance.

Section 303 - Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines, shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

3. Where district boundaries are so indicated that they are approximately parallel to the center lines, or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from, as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
5. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the Town of Portland unless otherwise indicated.
6. Any flood plain boundary shown on the Zoning Map indicates general location only. The precise location of flood plain boundaries shall be established by the Zoning Officer after consulting with the U.S. Corp of Engineers.

Section 304 - Regulations

Unless otherwise noted, the regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land. No building, structure or land shall hereafter be used and no building, structure or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified.

ARTICLE 400 - DISTRICT REGULATIONS

Section 401 - FP District: Flood Plain

NO STRUCTURE OF ANY KIND MAY BE CONSTRUCTED IN A FP DISTRICT.

Section 402 – GD District: Gravel District

GRAVEL DISTRICT – Shall include all of the Town of Portland below 850 feet of elevation above sea level.

1. No Quarry, sand pit, or gravel pit shall be permitted in the Gravel District, unless it is currently permitted by the NYS Department of Environmental Conservation.
2. No currently permitted Quarry, sand pit or gravel pit shall be expanded after the date this Local Law is effective.
3. Nothing herein shall prevent the use by the owner of gravel from their own property upon their own property.
4. No gravel shall be given away by a property owner from land located in a gravel district.

03-02-10 This Local Law shall take effect upon filing with the Secretary of State of New York State.

Section 410 - CR District: Conservation Residential

1. Uses Permitted by Right:

Animal hospitals, animal shelters, dog kennels and facilities for raising insects.

Forestry, lumbering and reforestation (excluding mill structures)

Limited Agriculture on lots less than ten (10) acres

Mobile home parks in accordance with Section 801 of this Ordinance.

Nurseries, orchards, greenhouses, vineyards

Outdoor recreational uses, including tennis courts, parks, individual campsites, picnic groves, golf courses, swimming, fishing and boating facilities (but, excluding archery courses, rifle ranges, skeet facilities, hunting reserves and uses with similar safety hazards.)

Planned unit residential development and planned unit development (maximum overall residential density 4.8 dwelling units per acre) in accordance with Sections 501, 502, 503, 505, and 506 of this Ordinance;

Planned unit light industrial development in accordance with Sections 501, 502, 503, and 507 of this Ordinance.

Public uses, excluding the storage of road materials, road equipment and garages; also excluding incinerators

One and Two Family Dwelling Units

Unlimited agriculture

Wildlife sanctuaries, woodland preserves, arboretums

Essential services, gas and oil wells (In accordance with Section 808)

Accessory Uses

Home Occupations

Fruit & Vegetable processing

2. Use upon Special Condition:

Airstrips and airports

Club, lodge, meeting halls

Archery courses, rifle ranges, skeet facilities, hunting reserves and similar uses

Gravel pits and mill structures

Camping park

Semi-public uses

Radio and television towers

Vehicle motor, bodywork and upholstery

General repair shop

Carpenter and cabinetmaker

Locksmith

Machine shop

Plumbing shop

Electrical shop

Masonry

Florist shop

Antique and Art shop

Farm equipment dealer

Sawmill

Noncommercial Wind Energy Conversion Systems (WECS)

Wind Energy Facilities in Accordance with Article 600 Section 647

3. Minimum Lot Area: 2 acres
4. Minimum Lot Width: 200 feet
5. Maximum Lot Coverage: 20%
6. Minimum Front Yard Dimension: 50 feet
7. Minimum Side Yard Dimension: 75 feet
8. Minimum Rear Yard Dimension: 50 feet
9. Maximum Building Height: 2 -1/2 stories
10. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800)

Section 411 - R1 District: Low Density Residential

1. Uses Permitted by Right:

Single Family Dwelling Units

Double Wides, excluding mobile homes

Mobile home parks in accordance with Section 801 of this Ordinance

Limited agriculture

Unlimited agriculture

Public uses (excluding the storage of road materials, road equipment and garages, incinerators and landfills of any type)

Cluster residential development, planned unit residential development and planned unit development (maximum overall residential density 4.8 dwelling units per acre) in accordance with Sections 501 to 506 of this Ordinance

Essential services

Accessory uses

2. Use upon Special Conditions:

Club, lodge, meeting halls

Semi-public uses

Accessory uses

Noncommercial Wind Energy Conversion Systems (WECS)

3. Minimum Lot Area: 43,560 square feet

4. Minimum Lot Width: 150 feet

5. Maximum Lot Coverage: 30%

6. Minimum Front Yard Dimension: 50 feet

7. Minimum Side Yard Dimension: 15 feet each

8. Minimum Rear Yard Dimension: 50 feet

9. Maximum Building Height: 2-1/2 stories

10. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width.

11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 412 - R2 District: Medium Density Residential

1. Uses Permitted by Right:

Single and Two (2) Family Dwelling Units

Double Wides, excluding mobile homes

Mobile Home parks in accordance with Section 801 of this Ordinance

Limited Agriculture

Unlimited Agriculture

Public uses (excluding the storage of road materials, road equipment and garages, incinerators and landfills of any type)

Cluster residential development, planned unit residential development and planned unit development (maximum overall residential density 4.8 dwelling units per acre) in accordance with Sections 501 to 506 of this Ordinance.

Essential services

Accessory uses

Home Occupations

2. Use upon Special Condition:

Club, lodge meeting halls

Semi-public uses

Accessory uses

Noncommercial Wind Energy Conversion Systems (WECS)

3. Minimum Lot area:

9,000 square feet with public water and sewer

21,780 square feet with either public water or sewer

43,560 square feet with no public utilities

4. Minimum Lot Width: 60 feet

5. Maximum Lot Coverage: 35%

6. Minimum Front Yard Dimension: 25 feet

7. Minimum Side Yard Dimension: 10 feet each

8. Minimum Rear Yard Dimension: 25 feet

9. Maximum Building Height: 2-1/2 stories

10. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width.
11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 412(A) - R3 District: Residential

1. Uses permitted by right:

Single Family Dwelling Units

Double Wides, excluding mobile homes

Cluster residential development, planned unit residential development (maximum overall residential density 4.8 dwelling units per acre) in accordance with Sections 501 to 506 of this zoning ordinance

Home Occupation

Public Park

Accessory use

Limited Agriculture

Unlimited Agriculture

Public Use

Essential Services

2. Uses by Special Use Permits:

Multiple Dwellings

Residence, Multi Family (Apartment houses, Condominiums, Town Houses)

Boarding Homes/Bed and Breakfast

Home Occupation

Golf Course

Camp Grounds

Restaurant

Antique Shops

Gift Shops

Club, Lodge, Meeting Hall

Hotel/Motel

Cabins, Cottages-Commercial

Noncommercial Wind Energy Conversion Systems (WECS)

Agricultural (Limited and Unlimited) related Businesses

3. Minimum Lot Area:

9,000 square feet with public water and sewer

21,780 square feet with public water or sewer

43,560 square feet with no public utilities

4. Minimum Lot Width: 60 feet
5. Maximum Lot Coverage: 35%
6. Minimum Front Yard Dimensions: 25 feet
7. Minimum Side Yard Dimensions: 10 feet
8. Minimum Rear Yard Dimensions: 25 feet
9. Maximum Building Height: 2-1/2 stories
10. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width
11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 413 - AG District: Agriculture

1. Uses Permitted by Right:

Animal hospitals, animal shelter, dog kennels, stables and facilities for raising insects, birds and fur bearing animals

Farms

Forestry, lumbering and reforestation (excluding mill structures)

Game farms, fish hatcheries and fishing reserves

Nurseries, orchards, greenhouses, vineyards

Outdoor recreational uses, including tennis courts, parks, individual campsites, picnic groves, golf courses, swimming, fishing and boating facilities; but excluding archery courses, rifle ranges, skeet facilities, hunting reserves and uses with similar safety hazards.

Planned unit residential development and planned unit development (maximum overall density of 4.8 units per acre) in accordance with Sections 501, 502, 503, 505, and 506 of this Ordinance; planned unit light industrial development in accordance with Sections 501, 502, 503, and 507 of this Ordinance.

Public uses, excluding the storage of road materials, road equipment and garages, and excluding incinerators

One and Two Family Dwelling Units

Wildlife sanctuaries, woodland preserves, arboretums

Mobile Home Parks (in accordance with Section 801)

Gas and oil wells (in accordance with Section 808)

Essential services

Accessory Uses

Home Occupations

Fruit & Vegetable processing

2. Uses upon Special Condition:

Airstrips and airports

Club, lodge meeting halls

Camping parks

Archery courses, rifle ranges, skeet facilities, hunting reserves and similar uses

Gravel pits

Mill structures

Semi-public uses

Radio and television towers
Vehicle motor and body work and upholstery
General repair shop
Carpenter and cabinetmaker
Locksmith
Machine Shop
Plumbing shop
Electrical shop
Masonry
Florist shop
Antique and Art shop
Farm equipment dealer
Sawmill
Noncommercial Wind Energy Conversion Systems (WECS)
Commercial Wind Energy Conversion Systems (WECS)
Wind Energy Facilities in accordance with Article 600 Section 647

3. Minimum Lot Area: Two acres (except no minimum acreage required when land is used solely for Limited Agriculture)
4. Minimum Lot Width: 200 feet
5. Minimum Lot Depth: 200 feet
6. Maximum Lot Coverage: 20%
7. Minimum Front Yard Dimension: 50 feet
8. Minimum Side Yard Dimension: 75 feet amended
9. Minimum Rear Yard Dimension: 50 feet
10. Maximum Building Height: 2-1/2 stories
11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 413(A) - AG-R District: Agriculture-Residential

1. Uses Permitted by Right:

Animal hospitals, animal shelter, dog kennels, stables and facilities for raising insects and birds.

Farms

Nurseries, orchards, greenhouses, vineyards

Outdoor recreational uses, including tennis courts, parks, individual camp sites, picnic groves, golf courses, swimming, fishing and boating facilities; but excluding archery courses, rifle ranges, skeet facilities, hunting reserves and uses with similar safety hazards.

Planned unit residential development and planned unit development (maximum overall density of 4.8 units per acre) in accordance with Sections 501, 502, 503, 505, and 506 of the Zoning law

Public uses, excluding the storage of road materials, road equipment and garages, and excluding incinerators

One and Two Family Dwelling Units

Wildlife sanctuaries, woodland preserves, arboretums

Gas and oil wells (in accordance with Section 808)

Essential services

Accessory Uses

Home Occupations

Fruit and Vegetable processing

Limited or unlimited agriculture

2. Uses upon Special Condition:

Airstrips and Airports

Club, lodge meeting halls

Camping parks

Archery courses, rifle ranges, skeet facilities, hunting reserves and similar uses

Gravel pits

Mill structures

Semipublic uses

Radio and televisions towers

Vehicle motor and body work and upholstering

General repair shop
Carpenter and cabinet maker
Locksmith
Machine shop
Plumbing shop
Electrical shop
Masonry
Florist and Art shop
Antique and Art shop
Farm equipment dealer
Sawmill
Noncommercial Wind Energy Conversion Systems (WECS)
Wind Energy Facilities in accordance with Article 600 Section 647

3. Minimum Lot Area: one acre (except no minimum acreage required when land is used solely for Limited Agriculture)
4. Minimum Lot Width: 150 feet
5. Minimum Lot Depth: 200 feet
6. Maximum Lot Coverage: 20%
7. Minimum Front Yard Dimension: 50 feet
8. Minimum Side Yard Dimension: 25 feet
9. Minimum Rear Yard Dimension: 50 feet
10. Maximum Building Height: 2-1/2 stories
11. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width.
12. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 420 - NC District: Neighborhood Commercial

1. Uses Permitted by Right:

One Family Dwelling Units or Double Wides, excluding mobile homes

Stores selling convenience goods including food products, hardware, newspapers, magazines, drugs, variety items, apparel, beer and liquor

Eating establishments maximum floor area 3,000 square feet

Personal service establishments, including beauty, barber, shoeshine, cleaning and laundry facilities

Offices

Banks and financial establishments

Essential services

Accessory uses

Home Occupations

2. Uses upon Special Condition:

Motor vehicle service stations in accordance with Section 803 of this Ordinance

A retail sales or service establishment exceeding 2,000 square feet of floor area

Noncommercial Wind Energy Conversion Systems (WECS)

3. Maximum Floor Area: 3,000 square feet

4. Minimum Lot Area: 10,000 square feet

5. Minimum Lot Width: 75 feet

6. Maximum Lot Coverage: 20%

7. Minimum Front Yard Dimension: 25 feet

8. Minimum Side Yard Dimension: 12 feet each

9. Minimum Rear Yard Dimension: 25 feet

10. Maximum Building Height: 2-1/2 stories

11. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width

12. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 421 - HC District: Highway Commercial

1. Uses Permitted by Right:

Agricultural implement sales and services

Antique and art shops

Automobile sales and related sales or service facilities

Baker, confectionery and ice cream shops including the baking and processing food products when prepared for retail use on premises only

Banks and financial institutions

Beverage stores including the sale of beer and liquor

Building materials, retail sales

Catalog store

Club, lodge or meeting halls

Department and variety stores

Drug stores

Eating and drinking establishments

Feed and seed stores

Florist shops

Food stores and food lockers

Furniture and appliance sales and service, but not including assembly or manufacture

Gift and novelty stores

Hardware, paint, glass and wallpaper stores

Hotels, motels and camping parks

Indoor and outdoor recreation including bowling alleys, pool halls, dance halls, amusement centers, amusement parks, miniature golf and driving ranges

Laundries, laundrettes, cleaning and pressing establishments

Libraries, museums and galleries

Mobile home and trailer sales and service

Monument sales

Mortuaries and funeral parlors

Motor vehicle service station in accordance with Section 803 of this Ordinance

Newsstand

Nurseries, greenhouses and garden supplies

Offices

Off-street parking

Pet stores

Personal services

Photography studios

Plumbing, heating and roofing supply retail sales

Public uses excluding the storage of road materials, road equipment and garages, incinerators and landfills of any type.

Repair services of household items

Rental stores

Rooming and boarding houses

Schools or places of instruction for music, dancing, reading, languages, elocution and similar subjects

One Family Dwelling Units

Double Wides, excluding mobile homes

Theaters

Retail sales and service establishments not more objectionable by reason of noise fumes, vibration or lights than any permitted use listed above

Essential services

Accessory uses

Home occupations

2. Use upon Special Condition:

Animal hospitals and shelters

Dog kennels

Accessory uses

Noncommercial Wind Energy Conversion Systems (WECS)

3. Minimum Lot Area: 21,780 square feet

4. Minimum Lot Width: 200 feet

5. Minimum Lot Coverage: 45%

6. Minimum Front Yard Dimension: 60 feet

7. Minimum Side Yard Dimension: 15 feet

8. Minimum Rear Yard Dimension: 50 feet
9. Maximum Building Height: 2-1/2 stories
10. All Dwelling Units in this district shall have a minimum square footage of 500 feet and be a minimum of 18 feet in width
11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance.

Section 422 - LC District: Lakeshore Commercial

1. Uses permitted by Right:

Marinas

Establishment selling water recreation goods, including bait, tackle, water recreation equipment and supplies, boats and boat equipment

Boat repair and boat building facilities

Facilities for servicing boats

Stores selling food products

Eating and drinking establishments

Hotels, motels and camping parks

Boathouses, boat launches, piers, wharves, docks, bulkheads, jetties, dolphins, groins and similar structures

Indoor and Outdoor recreational uses

Essential services

Accessory uses

One Family Dwelling Units

Double Wides, excluding mobile homes

2. Use upon Special Condition:

Public and semi-public uses

All of the above uses permitted by right which would protrude beyond the natural shoreline

Accessory uses

Noncommercial Wind Energy Conversion Systems (WECS)

3. Minimum Lot Area: 21,780 square feet

4. Minimum Lot Width: 100 feet

5. Minimum Lot Coverage: 45%

6. Minimum Front Yard Dimension: 30 feet

7. Minimum Side Yard Dimension: 15 feet each side, except when a side yard abuts the lakeshore such side yard need not meet a minimum dimension

8. Minimum Rear Yard Dimension: 15 feet except when the rear yard abuts the lake-shore such rear yard need not meet a minimum dimension

9. Maximum Building Height: 2-1/2 stories
10. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width
11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800).

Section 430 - LI District: Light Industrial

1. Uses Permitted by Right:

Automobile painting, upholstering, motor and body work

Bottling works

Building materials sales yard

Building contractor shops

Carpenter and cabinet maker

Electronic and small parts assembly and/or manufacture

Laboratories and research facilities

Locksmith

Machine shop

Manufacture, compounding, processing or treatment of such products as: bakery goods, confectioneries, cosmetics, dairy products, drugs, ice, perfumes, pharmaceuticals, toiletries and food products (except the following: fish, sauerkraut, pickles, vinegar, yeast and the rendering of oils and fats)

Manufacture, fabrication, compounding, assembling, treatment, processing of articles of merchandise from the following previously prepared materials: cellophane, ceramics, cloth, film, fiber, glass, leather, paper and paper board, plastic, precious textiles, yarn or paint

Metalsmith

Public uses

Radio and television towers

Repair shop

Storage of materials, supplies and equipment in accordance with Section 807

One Family Dwelling Units

Double Wides, excluding mobile homes

Planned unit light industrial development in accordance with Section 507

Wholesale business

Essential services

Accessory uses

2. Use upon Special Condition:

Airports, airstrips

Gravel-pits

Accessory uses

Noncommercial Wind Energy Conversion Systems (WECS)

Wind Energy Facilities in accordance with Article 600 Section 647

3. Minimum Lot Area: 43,560 square feet
4. Minimum Lot Width: 200 feet
5. Maximum Lot Coverage: 50%
6. Minimum Front Yard Dimension: 60 feet
7. Minimum Side Yard Dimension: 15 feet
8. Minimum Rear Yard Dimension: 50 feet
9. Minimum Building Height: 2-1/2 stories
10. All Dwelling Units in this district shall have a minimum square footage of 500 square feet and be a minimum of 18 feet in width.
11. **Note:** Also see General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance

ARTICLE 500 - CLUSTER AND PLANNED UNIT DEVELOPMENT

Section 501 - Purpose

1. The purpose of the procedure, standards and controls for the cluster residential development is to provide a means to take advantage of natural physical features of an area by permitting reductions in bulk and area requirements for individual lots and to provide compensating areas of open space ancillary to dwelling units.
2. The purpose of the procedures, standards and controls for planned unit residential development is to encourage innovation in residential development which will provide housing of greater variety in type, design and site planning including the conservation of maximum open space ancillary to the housing unit. Control is primarily achieved through the establishment of an overall density in terms of a maximum number of dwelling units per acre.
3. The purpose of the procedures, standards and controls for planned unit development is to attain the same objectives as the planned unit residential development outlined in Sub-section Two (2) of this Section 501, while also permitting certain types of commercial and/or light industrial uses.
4. The purpose of procedures, standards and controls for planned unit industrial developments is to provide industrial parks. Because of the proximity of such uses to residential and commercial uses, restrictions are imposed to insure both attractive and useful surroundings. Building site locations are an essential aspect of such parks and must be carefully integrated into a "park-like" setting.

Section 502 - Procedure

1. Application for establishment of cluster and all types of planned unit developments shall be made to the Zoning Officer. The Zoning Officer shall refer the application to the Planning Board for consideration.
2. The Planning Board shall require the applicant to submit documentation indicating conformance to all design and improvement standards required by this Ordinance. Such documentation shall include, but not be limited to the following:
 - A. Overall development plans showing:
 - a.) Kind, location, occupancy capacity of structures, bulk and uses;
 - b.) General floor plan of buildings;
 - c.) Location and identification of open spaces, streets and all other means for pedestrian and vehicular circulation, parks, recreational areas, and other non-building areas; provisions for automobile parking and loading;
 - d.) General landscape plan;
 - e.) General location and nature of public and private utilities (including underground utilities) and other community facilities and services (including maintenance facilities).

The applicant shall include such other pertinent information as the Planning Board shall prescribe.

- B. Written statements of:
 - a.) Facts concerning the suitability of the site, the proposed density, proposed uses, and facilities for the development in accordance with the provisions of this Ordinance.
 - b.) Procedures and plans for the provision of services, maintenance, and continued protection of the cluster or planned unit development and the adjoining territory.
 - c.) Disposition of open-space lands and provisions for maintenance and control of the open-space land (financial responsibility for such open-space land must be clearly indicated); and
 - d.) Phasing of construction, or timing regarding each development area.

The applicant will include such other pertinent information as the Planning Board shall prescribe.

3. In reaching its decision on the proposed development, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

4. The Planning Board shall approve, approve with conditions, or disapprove the application; and shall report its decision to the Town Board. If the application is disapproved, the Zoning Officer shall inform the Applicant of the disapproval and shall submit to the Applicant a written statement of the reasons for the disapproval.
5. If the Planning Board approves, or approves with conditions, the application; the application shall be forwarded to the Town Board for its endorsement.
6. The Town Board shall consider the recommendation of the Planning Board, hold a Public Hearing, and decide whether to issue or not to issue the building permit. No building permit for a cluster or any of the planned unit developments shall be issued by the Zoning Officer until the Planning Board and the Town Board have approved (or approved with conditions) the application.

Section 503 - Overlap Districts

In the event a cluster or planned unit development is proposed on a tract or parcel of land under the requirements and regulations of two applicable zoning districts, the requirements of the most restrictive district shall prevail.

Section 504 - Cluster Residential Development

1. Any owner of not less than five (5) contiguous acres of land located in a district permitting cluster residential development may request in writing to the Zoning Officer that the regulations of cluster residential development apply to his property.
2. Uses permitted shall be the uses permitted in the district in which the cluster residential development is located.
3. The regulations of the district in which the cluster residential development is located shall be observed and maintained with the following exceptions:
 - A. The minimum lot area as established in the district in which the cluster residential development is located may be reduced by fifty (50) percent;
 - B. The minimum lot width at the building line may be reduced by fifty (50) percent;
 - C. The minimum front yard may be reduced to not less than fifty (50) percent;
 - D. The minimum rear yard may be reduced by not more than five (5) feet where the lot abuts common open-space land;
 - E. The maximum lot coverage shall be increased by no more than five (5) percent of the resulting lot area;
 - F. The minimum side yards may be reduced by not more than three (3) feet per side;
 - G. All lots within the cluster residential development area shall face and be serviced by existing or new streets located within the cluster residential development area, but shall not face on collection-type or arterial-type streets;
 - H. Open space land shall be set aside for the common use and enjoyment of all residents in the cluster residential development. In general, the land set aside for permanent open-space shall be the area differential between the regulations and requirements of the district and Section 504 of this Ordinance. Access to the open-space lands must be convenient to all residents.
 - I. Applicable sections of General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance shall be followed.

Section 505 - Planned Unit Residential Development

1. Any owner of not less than ten (10) contiguous acres of land located in a district permitting planned unit residential development may request in writing to the Zoning Officer that the regulations of planned unit residential development apply to his property.
2. The following uses are permitted in a planned unit residential development:
 - A. Single family detached residences excluding mobile homes;
 - B. Two family residences;
 - C. Multi-family residences, including town houses and apartment houses;
 - D. Open space designed primarily for the benefit of the residents of the planned unit residential development;
 - E. Public and semi-public uses;
 - F. Essential services; and
 - G. Uses accessory to the above with the exception that home occupations are not permitted.
3. Within a planned unit residential development the following percentage of the total land area may be devoted to the specified uses:
 - A. A maximum of eighty percent (80%) for the residential uses and other permitted uses, excluding the common and public open space and the spaces devoted to streets and parking exclusively servicing such open space for recreation use. Said maximum shall include all of the recreational, playground, and athletic activity areas which are part of a school site.
 - B. A minimum of twenty percent (20%) for common or public open space. This area shall include space devoted to streets and parking, provided such facilities are within and service exclusively an open space area.
4. Within the planned unit residential developments the following regulations shall apply:
 - A. The overall density of the land within the planned unit residential development shall not exceed dwelling units per acre as stated under the regulations for the district in which the development is located.
 - B. Areas designated for multi-family residences shall be developed at a density not to exceed eighteen (18) dwelling units per acre.
 - C. In residential area, streets shall be so designed as to discourage through traffic.
 - D. Open space land shall be set aside for the common use and enjoyment of all residents of the area. Open space must be designed so that access to the open space lands is convenient to all residents of the planned unit residential development.

- E. No building shall exceed fifty (50) feet in height in residential areas. .
 - F. The minimum front yard requirement shall be twenty-five (25) feet for multi-family residences and twenty (20) feet for all other types of residences.
 - G. Residential buildings shall be designed to avoid monotonous patterns of construction, or repetitive spaces or modules between buildings.
5. Additional requirements that apply to town houses and apartment houses;
- A. There shall be no continuous group of town houses consisting of more than ten (10) dwelling units.
 - B. For the purpose of avoiding developments resembling what are customarily referred to as “row houses”, there shall be within any contiguous group of town house units, at least three (3) architectural designs having distinctly different floor plans and exterior elevations. No more than four (4) continuous town house units shall have the same front setback. Variations in front setbacks shall be at least four (4) feet.
 - C. The length of an apartment house shall not exceed four (4) times its width.
6. The following regulations shall apply to sewage disposal and water:
- A. All sewage shall be discharged into a central sewer system approved by the Chautauqua County Department of Health.
 - B. All areas of the planned residential development shall be connected to a central water supply system.
7. Applicable sections of the General Provisions (Article 700) and the Supplemental Regulations (Article 800) of this Ordinance shall be followed.

Section 506 - Planned Unit Development

1. Any owner of not less than forty (40) contiguous acres of land in a district permitting planned unit development may request in writing to the Zoning Officer that the regulations of planned unit development (including commercial and light industrial development) apply to his property.
2. The following uses are permitted in a planned unit development (including commercial and light industrial development):

Residential:

Single Family detached residences, excluding mobile homes.

Two family residences

Multi-family residences including town houses and apartment houses

Open space designed primarily for the benefit of the residents of the planned unit development

Public and semi-public uses

Essential services

Uses accessory to the above uses with the exception that home occupations are not permitted

Commercial:

Stores selling convenience goods including food products, hardware, newspapers, magazines, drugs, variety items, apparel, beer and liquor

Motor Vehicle service stations in accordance with Section 803 of this Ordinance

Eating and drinking establishments

Personal service establishments including beauty, barber, shoeshine, cleaning and laundry facilities

Offices

Banks and financial establishments

A single retail establishment not exceeding 2,000 square feet of floor area

Uses accessory to the above commercial uses

Industrial:

Laboratories and research or development facilities

Electronic and small parts assembly and manufacture

Pharmaceutical production

Plastics production and assembly

Precision instrument manufacture and assembly

Research equipment and research model manufacture and assembly

Offices

Enclosed storage of products for the above uses

Accessory uses for the above industrial uses

3. Area limitations for various uses. Within a planned unit development the following percentage of the total land area may be devoted to the specified uses:
 - A. A maximum of eighty percent (80%) for the residential uses and other permitted uses excluding the common and public open space and the other spaces devoted to streets and parking exclusively servicing such open space.
 - B. A minimum of twenty percent (20%) for common or public open space. This area shall include space devoted to streets and parking, providing such facilities are within and service exclusively an open space area.
 - C. A maximum of ten percent (10%) for commercial uses as permitted in paragraph two (2) of Section 506. Said maximum shall include the streets, parking and service areas exclusively servicing such facilities.
 - D. A maximum of fifteen percent (15%) for industrial uses as permitted in paragraph two (2) of Section 506. Said maximum shall include the streets, parking and service areas exclusively servicing such facilities.

4. Within the planned unit development the following residential regulations shall apply:
 - A. The overall density of the residential land within the planned unit development shall not exceed dwelling units per acre as stated under the regulations for the district in which the development is located.
 - B. Areas designated for multi-family residences shall be developed at a density not to exceed eighteen (18) dwelling units per acre.
 - C. In residential areas, streets shall be so designed as to discourage through traffic.
 - D. Open space land shall be set aside for the common use and enjoyment of all residents of the area. Open space must be designed so that access to the open space lands is convenient to all residents.
 - E. No building shall exceed fifty (50) feet in height in residential area
 - F. The minimum front yard requirement shall be twenty-five (25) feet for multi-family residences and twenty (20) feet for all other types of residences.
 - G. Residential buildings shall be designed to avoid monotonous patterns of construction, or repetitive spaces or modules between buildings.

5. Additional requirements that apply to town houses and apartment houses:
 - A. There shall be no continuous group of town houses consisting of more than ten (10) dwelling units.

- B. For the purpose of avoiding developments resembling what are customarily referred to as “row houses”, there shall be within any contiguous group of town house units, at least three (3) architectural designs having distinctly different floor plans and exterior elevations. No more than four (4) continuous town house units shall have the same front setback. Variations in front setbacks shall be at least four (4) feet.
 - C. The length of an apartment house shall not exceed four (4) times its width.
6. The following regulations shall apply to each area containing commercial uses within the planned unit development:
- A. Each area within the planned unit development containing commercial uses shall contain at least two (2) contiguous acres and shall be developed as a single entity.
 - B. No single unit of use shall exceed 2,000 square feet of floor space.
 - C. Each commercial area tract shall have a minimum width of 200 feet.
 - D. The tract coverage shall not exceed a maximum forty percent (40%).
 - E. The minimum front yard dimension shall be seventy (70) feet.
 - F. The minimum side yard dimensions for the tract shall be forty (40) feet each.
 - G. The minimum rear yard dimension shall be sixty (60) feet.
 - H. The maximum building height shall be fifty (50) feet.
 - I. The minimum distance between buildings shall be twenty-five (25) feet.
 - J. The maximum length of a building shall be 160 feet.
 - K. The minimum distance between highway access points and curb cuts shall be 140 feet.
7. The following regulations shall apply to each area containing industrial uses within the planned unit development:
- A. Each area within the planned unit development containing industrial building lots and uses shall contain at least six (6) contiguous acres and shall be developed as a single entity.
 - B. No building lot area shall be less than 15,000 square feet.
 - C. Each industrial area shall have a tract width of 300 feet.
 - D. The tract coverage shall not exceed a maximum forty percent (40%)
 - E. The minimum side yard dimensions for the tract shall be forty (40) feet each.
 - F. The minimum rear yard dimension shall be sixty (60) feet and the maximum building height shall be fifty (50) feet.
 - G. The minimum distance between buildings shall be thirty (30) feet.
 - H. The maximum building length shall be 240 feet.

- I. The minimum distance between highway access points and curb cuts shall be 200 feet.
8. The following regulations shall apply to sewage disposal and water:
 - A. All sewage shall be discharged into a central sewage system approved by the Chautauqua County Department of Health.
 - B. All areas of the planned unit development shall be connected to a central water supply system.
 9. Applicable sections of the Supplemental Regulations (Article 800) and The General Provisions (Article 700) of this Ordinance shall be followed:
 - A. Any owner of not less than forty (40) contiguous acres of land in a district permitting planned unit light industrial development may request in writing to the Zoning Officer that the regulations of planned unit light industrial development apply to his property. Every planned unit light industrial development shall contain two or more units of permitted use.
 - B. The following uses are permitted in a planned unit light industrial development:
 - a.) Automobile painting, upholstering, motor and body work
 - b.) Bottling works
 - c.) Building materials sales yard
 - d.) Building contractors shops
 - e.) Carpenter and cabinetmaker
 - f.) Electronic and small parts assembly and/or manufacture
 - g.) Laboratories
 - h.) Locksmith
 - i.) Machine shops

Section 507 - Planned Unit Light Industrial Development

1. Any owner of not less than forty (40) contiguous acres of land in a district permitting planned unit light industrial development may request in writing to the Zoning Officer that the regulations of planned unit light industrial development apply to his property. Every planned unit light industrial development shall contain two or more units of permitted use.
2. The following uses are permitted in a planned unit light industrial development:
 - Automobile painting, upholstering, motor and body work
 - Bottling works
 - Building materials sales yard
 - Building contractors shops
 - Carpenter and cabinet maker
 - Electronic and small parts assembly and/or manufacture
 - Laboratories
 - Locksmith
 - Machine shops
 - Manufacture, compounding, processing or treatment of such products as bakery goods, confectioneries, cosmetics, dairy products, drugs, ice, perfumes, pharmaceutical, toiletries, and food products except the following: fish, sauerkraut, pickles, vinegar, yeast and the rendering of oils and fats.
 - Manufacture, fabrication, compounding, assembling, treatment, or cutting of articles of merchandise from the following previously prepared materials: cellophane, ceramics, cloth, film, fiber, glass, leather, paper and paperboard, plastic, precious stones, shell, straw, textiles, yarn or paint.
 - Metal smiths
 - Motor vehicle service stations in accordance with Section 803 of this Ordinance
 - Motor vehicle terminals and storage
 - Public uses
 - Radio and television towers
 - Repair shop
 - Indoor storage of materials, supplies and equipment
 - Wholesale businesses
 - Essential services
 - Uses accessory to the above industrial uses

3. A minimum of thirty percent (30%) of the tract in the planned unit light industrial development shall be in common open space or public uses.
4. A maximum of seventy percent (70%) of the tract in the planned unit light industrial development shall be devoted to industrial building lots. This percentage includes all required parking, loading and open spaces between buildings.
 - A. The minimum tract width shall be 1,000 feet.
 - B. The maximum tract coverage shall be fifty percent (50%).
 - C. The minimum tract area shall be forty (40) acres.
 - D. The minimum tract side yard dimension shall be 100 feet each side
 - E. The minimum tract front yard dimension shall be 100 feet.
 - F. The minimum tract rear yard dimension shall be 100 feet.
 - G. The minimum distance between buildings shall be forty (40) feet.
 - H. The minimum industrial building lot area shall be 43,500 square feet (1 acre).
 - I. The maximum building height shall be three (3) stories.
 - J. The maximum building length shall be 400 feet.

The minimum distance between highway access points and curb cuts shall be 400 feet.

5. All sewage shall be discharge into a central sewage system.
6. Water Supply: All areas of the development shall be connected to a central water supply system.
7. **Note:** Applicable sections of General Provisions (Article 700) and Supplemental Regulations (Article 800) of this Ordinance shall be followed.

ARTICLE 600 - SPECIAL CONDITIONS

Section 601 - General Provisions

The Special Condition uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, if they satisfy the “special” requirements and standards set forth in this article as well as all the other “regular” requirements of this Ordinance. All Special Condition uses are hereby declared to possess characteristics of such a unique and special form that each specific use shall be considered as an individual case.

Section 602 - Required Plan

A plan for the proposed development of a site for a Special Condition shall be submitted with an application for a Special Condition permit, and such plan shall show the location of all buildings, lots, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the Planning Board deems necessary.

Section 603 - Standards

The location and size of the Special Condition Use: the nature and intensity of the operation involved; and the size and location of the site with respect to the existing or future streets giving access to it, shall be in harmony with the orderly development of the zoning district.

The location, nature, and height of buildings, walls and fences shall not discourage the appropriate development and use of the adjacent land and buildings, nor impair the value of such adjacent land or buildings.

The operations in connection with any Special Condition use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or light than would be associated with the operations of any permitted use in the zoning district.

Section 604 - Conditions

In the granting of a Special Condition permit, the Planning Board may attach such conditions and safeguards, as it deems appropriate under this Ordinance.

Section 605 – Expiration

A Special Condition permit shall be deemed to authorize only one particular use and shall expire if the Special Condition use shall cease for more than six (6) months for any reason.

Section 606 - Existing Violations

No permit shall be issued for a Special Condition use for a property where there is an existing violation of this Ordinance. (See Article 900 - Non-Conforming Uses in Structure).

Section 647 - TOWERS AND WINDMILLS

- A. **PURPOSE** - All towers and windmills shall be regulated for the purpose of assuring safe installations which are properly located and which have the least adverse impact on the neighborhood and community.
- B. **CONDITIONS** - The following conditions shall be considered for inclusion in the Tower/Windmill permit.
1. **Location** - Shall be removed from surrounding residential structures and residential districts sufficiently so as to not cause a nuisance due to appearance, or other factors. As a minimum the base of a tower/windmill shall be at least 100 feet or 30% of the tower height, whichever is greater, from all property lines.
 2. **Buffer** - The placement or retention of buffers shall be required where they would improve the compatibility of the use with the surrounding area.
 3. **Safety** - The base shall be sufficiently protected from entry either by design or by protective fences, etc. Where guy wires are utilized, the anchor points shall be sufficiently protected to minimize the possibility of hitting the guy wires when passed by a recreation vehicle, tractor or motor vehicle. Additionally, a sign shall be conspicuously placed near the base and it shall generally state that danger exists and that no unauthorized access is permitted.
 4. **Lighting** - The minimal amount of lighting necessary to meet State and Federal regulations shall be required. The FAA regulations shall be met. Light pollution and/or light spill over shall be minimized to the greatest degree possible. The applicant shall fully disclose methods and plans for protecting nearby and distant properties from light spill over.
 5. **Aesthetic Impact** - The base and any accessory buildings shall be appropriately screened relative to the type and design of uses in the area. Landscaping and materials used for accessory structures shall be specified. The entire facility must be reasonable compatible with the surrounding environment.
 6. **Co-location** - In order to minimize proliferation, communication tower applicants must show proof that they have exhausted all reasonable alternatives for sharing space upon existing structures.
 7. **Inspections** - Periodic inspections will be required to ensure structural integrity. The frequency of inspections shall be specified, with five year intervals recommended. Inspections shall be conducted by a licensed engineer. Based upon the results of an inspection, repair or removal may be required.
 8. **Abandonment** - Owners shall remove all structures that have not been used for a twelve (12) month period. Removal shall be within 6 months of written notification from the Zoning Officer. Owners may request a Special Use Permit hearing to ask for an extension of the removal time bases on just cause, i.e. financial hardship.

9. State Environmental Quality Review Act - In complying the SEQR, the “visual addendum” shall be utilized to assist in the review of all proposals.
 10. Each applicant upon being granted a permit shall post a performance and damages bond in the sum of \$100,000 which shall be forfeit to the Town upon owners’ failure to comply with the terms of its permit and upon notification of such violation by the Zoning Enforcement Officer. Owner may, within ten (10) days of such notification, request a hearing before the Board of Appeals to contest such notice. A new performance bond shall be filed with the Town Zoning/Enforcement Officer within five days of such notice of forfeiture.
 11. Other Regulations - State and Federal regulations governing structures subject hereto must be complied with by applicant.
- C. PREEXISTING STRUCTURES - Structures subject to this section existing at the time of its enactment shall be required, as necessary, to comply with parts B-1, B-2, B-3, B-4, B-5, B-7, B-8, B-9, B-10 and B-11. A special use permit hearing, upon due notice, will be held to specify which conditions must be met and the time frame within which the conditions must be met.
- D. NEW BUSINESS - March 8, 2001 - The Portland Town Board on the above date increased the fee for towers to \$3,000 each, and the fee for co-antennas to \$1,000 each.
- E. NEW BUSINESS - April 11, 2001 - The Portland Town Board on the above date increased the fee for any tower builder to post a \$100,000 bond to the Town of Portland, in the event it is abandoned, which would be used to restore the property to its original condition.

SECTION 647A – WIND ENERGY FACILITIES

A. PURPOSE

The Town Board of the Town of Portland adopts this Section to promote the effective and efficient use of the Town’s wind energy resource through wind energy conversion systems (“WECS”), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

B. AUTHORITY

The Town Board of the Town of Portland adopts this Section under the authority granted by:

1. Article IX of the New York State Constitution, § 2(c)(6) and (10).
2. New York Statute of Local Governments, § 10(1),(6), and (7).
3. New York municipal Home Rule Law, § 10(1)(i)and (ii) and §10(1) (a)(6),(11),(12) and (14).
4. The supersession authority of New York Municipal Home Rule Law, § 10(2)(d)(3).
5. New York Town Law, Article 16(Zoning).
6. New York Town Law § 130(1)(Building Code), (3)(Electrical Code),(5)(Fire Prevention),(7)(Use of streets and highways),(7-a)(Location of Driveways), (11)(Peace, good order and safety),(15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(building lines).
7. New York Town Law § 64(17-a)(protection of aesthetic interests) and (23)(General powers).

C. FINDINGS

The Town Board of the Town of Portland finds and declares that:

1. Wind Energy is an abundant, renewable and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
2. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases, existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or on-site consumption can be reduces.
3. Regulation of the siting and installation of wind turbines is necessary for the purpose of protection the health, safety, and welfare of neighboring property owners and the general public.

4. Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects.
5. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility sites and access roads and harm farmland through improper construction methods.
6. Wind Energy Facilities may present a risk to bird and bat populations if not properly sited.
7. If not properly sited, Wind Energy Facilities may present risks to the property values of adjoining property owners.
8. Wind Energy Facilities are significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
9. Construction of Wind Energy Facilities can create traffic problems and damage local roads.
10. Wind Energy facilities can cause electromagnetic interference issues with various types of communications.

D. PERMITS REQUIRED

- A. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Portland except in compliance with the Section.
- B. No WECS shall be constructed, reconstructed, or modified, or operated in the Town of Portland except in a Wind Overlay Zone, pursuant to an application for rezoning and special use permit approved pursuant to this Section.
- C. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Portland except pursuant to a Special Use Permit issued in accordance with this Section.
- D. No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Portland except pursuant to a Wind Energy Permit issued pursuant to this Local Law.
- E. Notwithstanding any other provision of the Zoning Law, Special Use Permits for WECS shall be issued by the Town Board.
- F. This Section shall apply to all areas of the Town of Portland.
- G. Transfer - No transfer of any Wind Energy Facility or Special Use Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), will occur without prior approval of the Town, which approval shall be granted upon written acceptance of the transferee of the obligations of the transferor under this Section, and the transferee's demonstration, in the sole discretion of the Town Board, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor nor of any other party under this Section unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.

- H. Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when 1.) There will be no increase in total height; 2.) No change in the location of the WECS; 3.) No additional lighting or change in facility color; and 4.) No increase in noise produced by the WECS.

E. DEFINITIONS

As used in this Section, the following terms shall have the meanings indicated:

AGRICULTURAL OR FARM OPERATIONS - means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a “commercial horse boarding operation: as defined in subdivision thirteen of New York Agriculture and Markets Law §301. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

EAF - Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

RESIDENCE - means any dwelling suitable for habitation existing in the Town of Portland on the date SEQRA for the specific application is completed, including seasonal homes, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, senior housing, schools or other buildings used for educational purposes. A residence may be part of a multi-dwelling or multipurpose building, but shall not include correctional institutions.

SEQRA - the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SITE - The parcel(s) of the land where the Wind Energy Facility is to be placed. The site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement and received the required variance shall not be considered off-site.

SMALL WIND ENERGY CONVERSION SYSTEM - (“Small WECS”)-A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 10kw and which is intended to primarily reduce consumption of utility power at that location.

SOUND PRESSURE LEVEL - means the level which is equaled or exceeded a stated percentage of time. An L 10-50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures.

TOTAL HEIGHT - The height of the tower and the furthest vertical extension of the WECS.

WIND ENERGY CONVERSION SYSTEM - (“WECS”) - a machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”).

WIND ENERGY FACILITY - Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND OVERLAY DISTRICT/ZONE - A district or zone which encompasses one or more underlying zones and that establishes requirements for Wind Energy Facilities.

F. APPLICABILITY

- A. The requirements of this Section shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Section.
- B. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of the Section, shall not be required to meet the requirements of this Section; provided, however, that:
 1. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of 12 months shall meet the requirements of this Section prior to recommencing production of energy.
 2. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Section.
 3. Any Wind Measurement Tower existing on the effective date of this Section shall be removed no later than 24 months after said effective date, unless a Special Use Permit for said Wind Energy Facility is obtained.
- C. Wind Energy Facilities may be either principal or accessory uses. A different existing use or an existing structure on the same Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on such Site. Wind Energy Facilities constructed and installed in accordance with this Section shall not be deemed expansions of a nonconforming use or structure.

G. CREATION OF WIND OVERLAY ZONES

- A. Wind Overlay Zones may be created in the Agricultural; Conservation; Residential; Ag Residential and Light Industrial Zone.
- B. Initial requests for Wind Overlay Zones shall be submitted with applications for WECS Special Use Permits. No Wind Overlay Zone may be initially created without specific requests for WECS.

- C. Once a Wind Overlay Zone has been created, new WECS or accessory structures or facilities may be added in that zone by grant of a Special Use Permit pursuant to the requirements of this Section.

H. APPLICATIONS FOR WIND ENERGY CONVERSION SYSTEMS

A. A joint application for creation of a Wind Overlay Zone and Special Use Permit for individual WECS shall include the following:

1. Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Name and Address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Address, or other property identification, or each proposed tower location, including Tax Map section, block, and lot number.
4. A description of the project, including the number and maximum rated capacity of each WECS.
5. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following.
 - a.) Property lines and physical dimensions of the Site.
 - b.) Location, approximate dimensions and types of major existing structures and uses on Site, public roads, and adjoining properties within 500 feet of the boundaries of the proposed Wind Overlay Zone.
 - c.) Location and elevations of each proposed WECS.
 - d.) Location of all above ground utility lines on the Site or within one radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
 - e.) Location and size of structures above 35 feet within a 500 foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas, and slender or open lattice towers are not considered structures.
 - f.) The zoning designation of the subject and adjacent properties as set forth on the official Town Zoning Map.
 - g.) Proposed boundaries of the Wind Overlay zone.

- h.) To demonstrate compliance with the setback requirements of this Section, circles drawn around each proposed tower location equal to:
 - 1.) One and a half times the tower height radius.
 - 2.) 500 foot radius.
 - 3.) 1,200 foot radius.
 - i.) Location of residential structures within 1,200 feet of each proposed tower. The distance from the center of the tower to any off-site residence within 1,200 feet shall be noted.
 - j.) All proposed facilities, including access roads, electrical lines, substations. Storage or maintenance units, and fencing.
6. Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.
 7. Landscaping Plan depicting vegetation describing the area to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
 8. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
 9. List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed Wind Overlay Zone. The applicant may delay submitting this list until the Town Board calls for a public hearing on the application.
 10. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include: 1.) the anticipated life of the WECS; 2.) the estimated decommissioning costs in current dollars; 3.) how said estimate was determined; 4.) the method of ensuring that funds will be available for decommissioning and restoration; 5.) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and 6.) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. The Plan shall include the Decommissioning Bond required by this Section.

11. Complaint Resolution: The application will include a complaint resolution process to address complaints from nearby residents. The process shall use an independent mediator or arbitrator and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
12. An application shall include information relating to the construction/ installation of the wind energy conversion facility as follows:
 - a.) A construction schedule describing commencement and completion dates;
AND
 - b.) A description of the routes to be used by construction and delivery vehicles, and the gross weights and heights of those loaded vehicles.
13. Completed Part 1 of the Full EAF.
14. Applications for Special Use Permits for Wind Measurement Towers subject to this Section may be jointly submitted with the WECS.
15. For Each proposed WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
16. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Town Board shall issue a positive declaration of environmental significance.
17. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement ("DEIS") prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with the application
18. Tower design information sufficient to demonstrate compliance with wind-loading requirements.
19. Analysis of potential ice-throwing and damage from blade throw impacts.
20. A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.

I. APPLICATION REVIEW PROCESS

- a.) Applicants may request a pre-application meeting with the Town Board, or with any consultants retained by the Town Board for application review. Meeting with the Town Board shall be conducted in accordance with the Open Meetings Law.
- b.) Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of the application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

- c.) Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Section is included in the application.
- d.) If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.
- e.) Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board. The applicant shall post the completed application and any accepted environmental impact statements on the Internet. The application shall be referred to the Planning Board in accordance with this Section and the Zoning Law.
- f.) The Town Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 500 feet of the boundaries of the proposed Wind Overlay Zone, and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
- g.) The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
- h.) Notice of the project shall also be given, when applicable, to 1.) the Chautauqua County Planning Board, if required by General Municipal Law §§239-l and 239-m and 2.) to adjoining Towns under Town Law §2641.
- i.) SEQRA Review: Applications for WECS are deemed Type I projects under SEQRA. The town shall conduct its SEQRA review in conjunction with other agencies, and the record of review by said agencies shall be part of the record of the Town's proceedings. The Town may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a Statement of Findings, which Statement may also serve as the Town's decision on the applications.
- j.) Upon receipt of the report of the recommendation of the County planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with condition, or deny the applications, in accordance with the standards in this Section.

J. STANDARDS FOR WECS

a.) The following standards shall apply to all WECS, unless specifically waived by the Town Board as part of a permit.

1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
2. No television, radio, or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the telecommunications facilities provisions of the Town Zoning Code. Applications may be jointly submitted for WECS and telecommunications facilities.
3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Site plan. Security lighting shall be designed to minimize light pollution, including the use of light hoods, low glare fixture, and directing lights at the ground.
5. All applicants shall use measures to deduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECSs within a Wind Overlay Zone shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the zone, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
6. The use of guy wired is prohibited.
7. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major Axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Special Use Permit for the specific WECS or WECSs causing the interference.
8. All solid waste, hazardous waste, and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

9. WECSs shall be designed to minimize the impacts land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority whenever possible
10. WECSs shall be located in a manner that minimizes significant negative impacts on rare, endangered, and threatened animal species in the vicinity, particularly bird and bat species.
11. Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.
12. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations.
13. The maximum Total Height of any WECS shall be 420 feet.
14. Construction of the WECS shall be limited to the hours of 8 a.m. to 8 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.
15. Substations required to serve WECS are an Essential Public Service under this Zoning Code. Substations shall be screened from public view.
16. The town of Portland shall be named as an additional insured under the general liability policy of the applicant, the amount of which insurance shall be no less than an amount to be determined by the Town Board given the nature and scope of the project proposed by the applicant.
17. Any construction or ground disturbance involving agricultural land shall be done according to the NYS Department of Agriculture and Markets' publication titled Guidelines for Agricultural Mitigation for Wind Power Projects.

K. REQUIRED SAFETY MEASURES.

- a.) Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blades so it does not exceed the design limits of the rotor.
- b.) Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety needs dictate. The entrances to entrance roads shall be gated and kept locked.
- c.) Appropriate warning signs shall be posted. AT least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hour, 7 day week coverage. The Town Board may require additional signs based on safety needs.

- d.) No climbing pegs or tower ladders shall be located closer than 12 feet to the ground level at the base of the structure for freestanding single pole.
- e.) The minimum distance between the ground and any part of the rotor or blade system shall be 20 feet.
- f.) WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.
- g.) Accurate maps of the underground facilities shall be filed with the town and with "Dig Safely New York (1-800-962-7962)" or its successor.

L. TRAFFIC ROUTES

- a.) Construction of WECS poses potential risks because of the large-size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include 1.) Minimizing traffic impacts from construction and delivery vehicles; 2.) Minimizing WECS related traffic during times of school bus activity 3.) Minimizing wear and tear on local roads; and 4.) Minimizing impacts on local business operations. Permit conditions may require remediation during construction, may limit WECS-related traffic to specified routes, and may include a plan for dissemination of traffic route information to the public, and all applicable state, county, and municipal highway authorities and superintendents whose roads are included in the WECS traffic routes plan. Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips, and the dates and time periods of expected use of designated traffic routes.
- b.) The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads.
- c.) If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.

M. SETBACKS FOR WIND ENERGY CONVERSION SYSTEMS

- A. The statistical sound pressure level generated by a WECS shall not exceed $L_{10} - 50$ dBA measured at any residence existing at the time of completing the SEQRA review of the application. If the ambient sound pressure level exceeds 48 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.
- B. In the event audible noise due to WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph A of this subsection shall be reduced by five dBA. A pure tone is defined to exist if the 1/3 octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five dBA for center frequencies of 500 Hz and above, by eight dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to one hundred and 125 Hz.
- C. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches, and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project Site are sufficient to allow Wind Turbine operation, provided that the wind velocity does not exceed 30 mph at the ambient noise measurement location.
- D. Any noise level falling between two whole decibels shall be the lower of the two.
- E. Each WECS shall be setback from Site boundaries, measured from the center of the WECS, a minimum distance of:
 - 1. 500 feet from the nearest Site boundary property line.
 - 2. 500 feet from the nearest public road.
 - 3. 1,200 feet from the nearest off-Site residence existing at the time of application, measured from the exterior of such residence.
 - 4. One and a half times the Total Height of the WECS from any non-WECS structure or any above-ground utilities.
 - 5. 100 feet from state-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses and other factors.
 - 6. 500 feet from gas wells, unless waived in writing by the property owner.

N. NOISE AND SETBACK EASEMENTS

A. In the event the noise levels resulting from a WECS exceed the criteria established in this Section, or any setback requirement is not met, a waiver will be granted from such requirement by the Town Board in the following circumstances:

1. Written consent from the affected property owners has been obtained stating that they are aware of the WECS and the noise and/or setback limitations imposed by this Section, that they wish to be part of the Site as defined in this Section, and that their consent is granted to 1.) Allow noise levels to exceed the maximum limits otherwise allowed or 2.) Allow setbacks less than required; and
2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon wither the completion of the decommissioning of the benefited WECS in accordance with this Section, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.
3. In any case where written consent in not obtained, a variance from the Zoning Board of Appeals shall be required.

O. CREATION OF WIND OVERLAY ZONES AND ISSUANCE OF SPECIAL USE PERMITS

- A. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this Section and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval, or disapproval fully stated.
- B. If approved, the Town Board will direct the Town Clerk to modify the Official Map to reflect the creation of the Wind Overlay Zones, and direct Town staff to issue a Special Use Permit for each WECSs upon satisfaction of all conditions for said Permit, and direct the building inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Section.
- C. The decision of the Town Board shall be filed within five (5) days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- D. If any approved WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

P. ABATEMENT

- A. If any WECS remains non-functional or inoperative for a continuous period of one year, the applicant agrees that, without any further action by the Town Board, it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- B. Non-function or lack of operation may be proven by reports to the public Service Commission, NYSERDA, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.
- C. Decommissioning Bond or Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Town for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York-licensed financial institution. All costs of the financial security shall be borne by the applicant.

Q. LIMITATIONS ON APPROVALS; EASEMENTS ON TOWN PROPERTY

- A. Nothing in this Section shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Section shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- B. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state law or this Section.

R. PERMIT REVOCATION

- A. Testing Fund - A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this

Section and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.

- B. Operation - A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.
- C. Notwithstanding any other abatement provision under this Section, and consistent with §647-P a.) and § 647 b.), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, 1.) order either remedial action within a particular timeframe, or 2.) order revocation of the Special Use Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

Wind Measurement Towers

S. WIND SITE ASSESSMENT

The Town Board acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also know as anemometer (“Met”) towers, shall be permitted as a Special Use in the Agricultural, Conservation, Ag-Residential & Light Industrial Zone.

T. APPLICATIONS FOR WIND MEASUREMENT TOWERS

- A. An application for a Wind Measurement Tower shall include:
 - 1. Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - 2. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Address of each proposed tower Site, including Tax Map section, block, and lot number.
4. Site Plan.
5. Decommissioning Plan, based on the criteria in the Section for WECS, including a security bond or cash for removal.

U. STANDARDS FOR WIND MEASUREMENT TOWNERS

- A. The distance between a Wind Measurement Tower and the property line shall be at least the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
- B. Special Use permits for Wind Measurement Towers may be issued by the Town Board for a period of up to two years. Permits may be renewed if the facility is in compliance with the conditions of the Special Use Permit.

Small Wind Energy Conversion Systems

V. PURPOSE, INTENT AND FINDINGS

The purpose of this Small WECS Section is to promote the safe, effective and efficient use of private small wind energy systems installed primarily to reduce the on-site consumption of utility supplied electricity and to provide standards for small wind energy conversion systems designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of this Small WECS Section is to encourage the development of small wind energy systems and to protect the health, safety, and community welfare.

The Town of Portland finds that wind energy is a renewable energy resource and that its conversion to electricity will reduce out dependence on non-renewable energy resources and decreases the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind systems also make the electricity supply market more competitive by promoting customer choice.

The State of New York has enacted a number of laws and programs to encourage the use of small-scale renewable energy systems including rebated, net metering, property tax exemptions, and solar easements (as appropriate).

Therefore, we find that it is necessary to standardize and streamline the proper issuance of building permits for small wind energy systems so that this renewable energy resource can be utilized in a safe cost-effective and timely manner.

W. APPLICATIONS

- A. Applications for Small WECS Wind Energy permits shall include:

1. Name, address, and telephone number of the applicant. If the applicant will be represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
2. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application..
3. Address of each proposed tower location, including Tax Map section, block, and lot number.
4. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
5. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
6. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.'
7. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the supplication, to connect the system to the electricity grid.
8. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage pints. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

X. DEVELOPMENT STANDARDS

A Single small wind energy system shall be a permitted use in all zoning classifications where structures of any sort are allowed subject to certain requirements as set forth below and all small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Local Law that are not in conflict with the requirements contained in this section.

- A. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.

- B. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Section.
- C. Small Wind energy systems shall be used primarily to reduce the on-site consumption of electricity.
- D. Tower Heights may be allowed as follows:
 - 1. Sixty-five (65) feet or less on parcels between one and five acres is a permitted use in the Town of Portland.
 - 2. One hundred forty (140) feet or less on parcels of five or more acres requires a Special Use Permit.
 - 3. Any tower greater than one hundred forty (140) is presumed to be for commercial use.
 - 4. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
- E. The maximum turbine power output is limited to 10 kW.
- F. The system's tower and blades shall be painted a rust-resistant, non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- G. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
- H. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- I. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- J. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, both the system operator and the individual receiving interference shall promptly mitigate the harmful interference or cease operation of the system. No small wind energy system shall cause permanent and material interference with television or other communication signals.
- K. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a

system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

- L. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - 1. Tower-climbing apparatus locate no closer than 12 feet from the ground
 - 2. A locked anti-climb device installed on the tower.
 - 3. A locked, protective fence at least six feet in height that encloses the tower.
- M. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
- N. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
- O. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- P. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provision of the Uniform Fire Prevention and Building Code.
- Q. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- R. Each small wind energy system or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
- S. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base, and footings. An engineering analysis of the structure showing compliance with the Codes and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.
- T. Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a

determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

- U. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- V. Prior to initial start-up operations of the small wind energy system, the CEO Town shall inspect the structure and make a determination of Town compliance. A manufacturer's certification of compliance is also required.
- W. The small wind energy system shall be designed to prevent shadow flicker on or in any existing residential structure or roadway.

Y. STANDARDS

A Small Wind Energy System shall comply with the following standards.

- A. Setback Requirements - A small WECS shall not be located closer to a property line than one and a half times the Total Height of the facility.
- B. Noise - Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed the 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

Z. ABANDONMENT OF USE

- A. A Small wind energy system which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town.
- B. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

Waivers

AA. WAIVERS

- A. The Town Board may, after a public hearing (which may be combined with other public hearings on Wind Energy Facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this Local Law if, in the opinion of the Town Board, the grant of said waiver is in the best interests of the Town. The Town Board may consider as reasonable factors in evaluating the request, which may include, when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties, the benefit to the applicant, feasible alternatives, and the scope of the request.
- B. The Town Board may attach such conditions as it deem appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.

Miscellaneous

BB. FEES

- A. In addition to any fee schedule adopted by the Town of Portland Town Board, there shall be non-refundable Application fees as follows:
 1. Wind Overlay Zone rezoning: \$500 per zone.
 2. WECS Special Use Permit: \$50 per megawatt of rated maximum capacity.
 3. Wind Measurement Towers: \$200 per tower
 4. Wind Measurement Tower Special Use Permit renewals: \$50 per Wind Measurement Tower.
 5. The cost of all legal notices and mailings shall be assessed to the applicant.
- B. Building Permits.
 1. The Town believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be increased y administrative costs which shall be \$100 per permit request, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.
 2. The applicant shall, prior to the receipt of a building permit demonstrate that the proposed facility meets the system reliability requirements of the New York Independent System Operator, or provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and/or the applicable Transmission Owner.
- C. Nothing in this Section shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.
- D. The Town Board may amend these fees, by resolution after a properly noticed hearing.

CC. TAX EXEMPTIONS

The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law § 487, pursuant to the authority granted by paragraph 8 of that law.

DD. ENFORCEMENT; PENALTIES AND REMEDIES FOR VIOLATIONS

- A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce the Section.
- B. Any person owning, controlling, or managing any building, structure, or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of the Section or in noncompliance with the terms and conditions of any permit issued pursuant to this Section, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$350 or imprisonment for a period of not more than fifteen (15) days, or subject to both such fine and imprisonment for a first offense, for a second offense (both within a period of five (5) years), a fine not less than \$350 nor more than \$700, or imprisonment not to exceed six months, or both, and for a Third or more offense (all of which occurred within five years), a fine not less than \$700 nor more than \$1,000 or imprisonment not to exceed six (6) months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amounts set forth herein for each violation and each week said violation continues shall be deemed a separate violation.
- C. In case of any violation or threatened violation of any of the provisions of this Section, including the terms and conditions imposed by any permit issued pursuant to this Section, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

Section 4: Severability

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

Section 5: Effective Date

This Local law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

ARTICLE 700 - GENERAL PROVISIONS

Section 701 -Access to Public Street

Every building shall be constructed or erected upon a lot, or parcel of land which abuts upon a public street unless a permanent easement of access to a public street was of record prior to the adoption of this Ordinance.

Section 702 - Contiguous Parcels

Two or more contiguous parcels of land (held in one ownership) shall be used as a lot for only one permitted use if each separate parcel is too small to meet the area of dimension requirements of the zoning district

Section 703 - Corner Lots

Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements.

Section 704 - Height

1. The height limitation of this Ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes (not used for human occupancy); nor to chimneys, ventilators, skylights, water tanks, bulk head, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area twenty percent (20%) of the ground floor area of the building.
2. The provisions of this Ordinance shall not prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five (5) feet.

Section 705 - Lots of Parcels of Land of Record

Any single lot or parcel of land which was of record at the time of the adoption of this Ordinance 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 or areas.

Section 706 -Top Soil

A person, firm, or corporation shall not strip, excavate, or otherwise remove topsoil for use other than on the premises unless it is replenished or sufficient amounts are left to support future development needs. No stripping, excavation, or other removal of topsoil shall be such that steep slopes are created, ground water runoff is trapped, or erosion is caused.

Section 707 - Visibility

On a corner lot in any residential district no fence, wall, hedge or other structure or planting more than three and one-half feet in height shall be erected, placed, or maintained within the triangular area formed by the intersecting center lines and a straight line joining the center lines at points measured fifty (50) feet along each center line from their points of intersection. The requirements of this Section shall be deemed to prohibit the construction of any necessary retaining wall.

Section 708 -Yards

A paved terrace shall not be considered in the determination of yard sizes or lot coverage unless it is roofed or has walls, parapets or other forms of enclosure. A paved terrace may have, however, an open guard railing not over three (3) feet high. No paved terrace shall project into any yard to a point closer than four (4) feet from any lot line.

Any open or enclosed porch shall be considered a part of the building in the determination of the size of yard or lot coverage.

The space in any required yard shall be open and unobstructed except for the ordinary projection of window sills, brick courses, cornices, eaves, and other architectural features—provided, however, that such features shall not project more than two (2) feet into any required yard.

Bay windows, including their cornices and eaves may project into any required yard not more than two (2) feet.

Open fire escapes may extend into any required yard not more than four (4) feet six (6) inches.

Section 709 - Interpretation of Permitted Uses

When a use is not specifically listed as a use by right or a use by Special Condition within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Planning Board that said use is similar to permitted uses and not inherently a nuisance, menace or danger to the health, safety, or welfare of the residents of the Town of Portland.

Section 713 - Water and Sewage Systems

Chautauqua County Department of Health must issue a certificate that the water is of suitable quality for human consumption and that the sewage system complies with the requirements of the Chautauqua County Department of Health prior to the Zoning Officer issuing a Certificate of Occupancy. (Cross reference to Section 1003)

Section 715 - Special Permit - Lot or Acreage, Distance from Boundary Lines

Notwithstanding any other provision of the Zoning Ordinance of the Town of Portland, any owner or owners of property lacking the proper footage or acreage to allow additions to substandard lots, existing at the time of the adoption of the original Ordinance on January 10, 1978, shall be issued a building permit by the Zoning Officer, provided however, no construction shall be authorized closer than five (5) feet from the boundary line.

Section 717 - Mobile Home Setup Requirements

NO mobile home shall be placed on a lot outside of a mobile home park unless it complies with the following:

- A. Securely anchored
- B. Shall be completely immobilized and placed upon a full foundation
- C. The joining together of two (2) mobile homes is prohibited. This prohibition is not intended to prohibit pre-manufactured modular units intended to be joined together as one unit
- D. Excluding add-ons have a minimum floor space of 760 square feet according to the original specifications and be at least 14 feet wide
- E. Provide off-street parking spaces pursuant to Article 800.
- F. No mobile home shall be placed upon a lot unless the owner can demonstrate that the mobile home meets the requirements of applicable Local Codes, Ordinances and the New York State Fire and Building Code and State Code for construction and installation of mobile homes;
- G. Or complies with the National Mobile Home Construction and Safety Standards Act of 1974

Section 718 - Inspection of Mobile Homes

The Zoning Officer shall inspect all mobile homes sixty (60) days after placing to ascertain if the mobile home is properly placed on concrete blocks or concrete pilings, securely anchored, and whether or not it is properly skirted. The Zoning Officer shall have the authority to remove any skirting necessary to check the proper setup and securing of the mobile home.

Section 719 - Airports - Airstrips

All airstrips and airports must comply with all federal and state regulations and be approved by the Commissioner of Transportation for New York State.

Section 720 – Foundations

All Modular, Double Wides and Prefabricated Dwelling Units shall be completely immobilized and placed upon a full foundation.

Section 721 - Snow Load Requirements

All Dwelling Units hereafter constructed, erected or placed in the Town of Portland shall have a snow load roof equal to or greater than thirty-five (35) pounds per square foot.

Section 722 - Accessory Uses - Setback - Side and Rear Yard

The minimum distance from the side and/or rear yard property lines for accessory uses shall be 10 feet in all districts.

ARTICLE 800 - SUPPLEMENTAL REGULATIONS

Section 801 - Mobile Home Parks

1. A Mobile Home Park can only be established or created upon a tract of land used or intended to be used for the parking of at least 50 mobile homes together with the necessary improvements and facilities upon the land. No lot or berth shall be rented or leased for residential use of a mobile home in any such park except for periods of thirty (30) days or more.
2. The following standards shall be applicable in all mobile home parks and mobile homes:
 - A. No mobile home shall be admitted to any mobile home park unless the owner can demonstrate that it meets the requirements of applicable local codes, ordinances and the New York State Fire and Building Code for construction and installation of mobile homes.
 - B. Skirting -Attractive, fire resistant skirting affixed either to pressure treated wood, to prevent rotting, or a metal framework shall be installed within 60 days of when the mobile home is placed on the lot.

Area and Bulk: Each mobile home lot shall meet the area and bulk requirements of the district in which it is located, except in the CR District the minimum lot area shall be 8,250 square feet, the minimum lot width shall be 75 feet, the maximum lot coverage thirty-five percent (35%), the minimum front yard dimension 25 feet, the minimum side yard dimension 10 feet each, the minimum rear yard dimension 25 feet and the maximum building height shall be 2-1/2 stories.

Green Belt: A mobile home park shall be surrounded by a landscape green belt of at least fifty (50) feet from each property line. The required green belt shall not be included in the yard requirements for the individual mobile home lot or berth.

Interior Drives: Interior drives shall be designed so as to prevent blockage of vehicles entering or leaving the site. Drives may be one-way or two-way. All access ways to any public street or highway shall be located at least 200 feet from the intersection of any street lines and shall be maintained in a manner conducive to safe ingress and egress.

Joining of Two Mobile Homes: The joining of two mobile homes together is prohibited in all mobile home parks where mobile homes are allowed. This prohibition is not intended to prohibit pre-manufacture modular units intended to be joined together as one unit.

Roadway Width: All mobile home lots or berths shall abut upon a road with a right-of-way 50 feet having a paved all-weather cartway of not less than 36 feet in width for a two-way street or not less than 24 feet in width for a one-way street.

Recreation: A recreation area equal to at least 40,000 square feet for each mobile home berth shall be set aside and improved according to an approved recreation plan and shall not be located in any required setback yard or green belt area.

Service Buildings: All accessory service buildings on the mobile home park site shall be connected to all mobile home berths by a walkway of not less than three feet in width. Service buildings shall be provided with emergency sanitary facilities of one lavatory and one flush toilet for each sex.

Mobile Home Stand: Each mobile home lot or berth shall contain a mobile home stand which will not heave, shift or settle unevenly under the weight of the mobile home as a result of any frost action, poor drainage, vibration or other such forces. The material used in constructing the stand should be durable and capable of supporting the expected load regardless of the weather. Reinforced concrete is recommended but well compacted gravel or bituminous concrete materials properly used are suitable.

Soil and Ground Cover Requirements: Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screening, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

Lights: All driveways and walkways shall be lighted at night with shielded electric lamps of not less than 100 watts each, spaced at intervals of not more than 100 feet.

Sewage: No on-lot sewage disposal system shall be permitted. All waste from showers, bathtubs, flush toilets, urinals, lavatories, washing machines, and slop sinks in mobile homes and service buildings shall be discharged into a central sewerage system.

Skirting: Each mobile home owner shall be required to enclose the bottom portion of the mobile home with fire resistant skirting affixed either to pressure treated wood, to prevent rotting, or to a metal framework, properly ventilated, within sixty (60) days after arrival in the park.

Fuel Supply and Storage: All fuel oil storage tanks or cylinders shall be securely fastened in place and shall be located at the rear of the mobile home and not located less than five (5) feet from any mobile home exit. Supports or standards for fuel oil storage tanks must be of a non-combustible material.

Fires: Fires shall be allowed only in stoves, incinerators, and other equipment specifically designed for such purposes. Open fires are not permitted.

Water: All mobile homes, service and accessory buildings shall be connected to a central water system. Fire hydrants, if provided, shall be located at least within 500 feet of any mobile home, service building or other accessory structure.

Electric: Each mobile home berth shall be provided with an approved electrical connection system. Underground cables are recommended where feasible.

Rubbish: All organic rubbish or storage shall be contained in vermin proof containers which shall be screened from view of any public right-of-way or abutting property. Refuse containers shall be located not more than 150 feet away from any mobile home berth. Rubbish collection must be not less than once weekly.

3. Permits:

- A. It shall be unlawful for any person to construct, alter or extend any mobile home park unless he holds a valid permit issued by the Zoning Officer in the name of the person for which the specific construction, alteration or extension is proposed.
- B. All applications for permits shall be made to the Zoning Officer and shall contain the following:
 - a.) The name and address of the applicant.
 - b.) Interest of the applicant in the mobile home park.
 - c.) Location and legal description of the mobile home park, including a map showing the physical characteristics of the property, including topography vegetation and wet-lands.
 - d.) Complete plans and specifications of the proposed park showing:
 - 1. The area and dimensions of the tract of land;
 - 2. The number, location, and size of all mobile home lots;
 - 3. The location of service buildings and any other proposed structures;
 - 4. The location and width of roadways and walkways;
 - 5. The location of water and sewer lines and riser pipes;
 - 6. Plans and specifications of all buildings constructed or to be constructed within the mobile home park;
 - 7. Plans and specifications of the water supply, refuse disposal, and sewer disposal facilities;
 - 8. The location and details of lighting and electrical systems;
 - 9. The phasing of the development, if any;
 - 10. Such other information as may be required by the Planning Board.

All applications shall be accompanied by a deposit of a fee of \$25.00. The Planning Board shall approve, approve with modifications, or disapprove such application and shall report its reasoned decision to the Zoning Officer. When, upon review of the application, the Planning Board and the Zoning Officer are satisfied that the proposed plan meets the requirements of this Ordinance, a permit shall be issued.

- 4. Licenses: It shall be unlawful for any person to operate any mobile home park within the limits of the Town of Portland unless he holds a valid license issued annually by the Zoning Officer in the name of such person for the specific mobile home park. All applications for licenses shall be made to the Zoning Officer who shall issue a license upon compliance by the applicant with the provisions of this ordinance and regulations issued hereunder and of other applicable legal requirements. Every person holding a license shall give notice in writing to the Zoning Officer within 24

hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park.

Upon application in writing for transfer of the license and deposit of a fee of \$25.00, the license shall be transferred if the mobile home park is in compliance with all applicable provisions of this Ordinance and regulations issued hereunder. Application for original licenses shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of \$25.00 and shall contain: the location and legal description of the mobile home park and a site plan of the mobile home lots, structures, road, walkways, and other service facilities. Application for renewals of licenses shall be in writing by the holders of the licenses, shall be accompanied by the deposit of \$25.00 and shall contain any change in the information submitted since the original license was issued or the latest renewal was granted.

Whenever upon inspection of any mobile home park, the Zoning Officer finds that conditions or practices exist which are in violations of any provision of this Ordinance or regulations issued hereunder, the Zoning Officer shall give notice in writing to the person to whom the license was issued that unless such conditions or practices are corrected within a reasonable period of time, specified in the notice by the Zoning Officer, the license shall be suspended. At the end of such period the Zoning Officer shall re-inspect the mobile home park and, if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. Upon receipt of such suspension, such person shall cease operation of such mobile home park.

Any person whose license has been suspended, or who has received notice from the Zoning Officer that his license will be suspended unless certain conditions or practices at the mobile home park are corrected may request and shall be granted a hearing on the matter before the Board of Appeals, provided that when no petition for such hearing shall have been filed within ten days following the day on which notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of the ten-day period.

5. Inspection of Mobile Home Parks:

The Zoning Officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Ordinance and regulations issued hereunder. The Zoning Officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this Ordinance and regulations issued hereunder. The Zoning Officer shall have the power to inspect the Register containing a record of all residents of the mobile home park.

It shall be the duty of the owners or occupants of mobile home parks and mobile homes contained therein, or of the person in charge thereof, to give the Zoning Officer free access to such premises at reasonable times for the purpose of inspections.

It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this Ordinance and regulations issued hereunder, or with any lawful order issued pursuant to the provisions of this Ordinance, or with the requirements of the State code for construction and installation of mobile homes.

6. Miscellaneous Requirement:

A. Responsibilities of the Park Management

The person to whom a license for a mobile home park is issued shall operate the park in compliance with this Ordinance and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

The park management shall notify park occupants of all applicable provisions of this Ordinance and inform them of their duties and responsibilities under this Ordinance and regulations issued hereunder.

The park management shall supervise the placement of each mobile home on its mobile home stand, which includes installing all utility connections.

The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.

B. Responsibilities of Park Occupants

The park occupant shall comply with all applicable requirements of this Ordinance and regulations issued hereunder and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

The park occupant shall be responsible for proper placement of his mobile home on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

C. Restrictions on Occupancy

A mobile home shall not be occupied for dwelling purposes unless it is property placed on a mobile home stand and connected to water, sewerage and electrical facilities.

D. Numbering

Each mobile home in a mobile home park shall have on said mobile home reflecting numbers, a minimum of three (3) inches in height, designating the mobile home number corresponding to the plot map filed at the time the mobile home park permit was obtained from the Zoning Officer. The number shall be so it can be read while going in either direction on the roadway passing in front of the mobile home lot.

Any mobile home in existence on the 1st day of July, 1982, shall have until the renewal of its license by the Zoning Officer of the Town of Portland to install said numbers. No license shall be renewed unless said numbers are installed.

Section 802 - Private Swimming Pool as an Accessory Use

A private swimming pool capable of holding at least 1500 gallons of water which is installed or maintained as an accessory use in a residential district shall meet the following requirements:

1. Any in-ground pool shall be completely enclosed by a security fence not less than four (4) feet in height, with all fence gates or doors equipped with self-closing and self-latching devices capable of keeping fence gates or doors securely closed at all times when not in actual use.
2. Pools equipped with an integral filter system and filter pumps or other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort and repose of the occupants of any adjoining property.

Section 803 - Public Garages and Motor Vehicle Service Stations

1. No public garage or motor vehicle service station or private garage for more than five (5) cars shall have a vehicular entrance closer than two hundred (200) feet to an entrance to church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street if the entrances are on the opposite sides of the street and along the street frontage if both entrances are on the same side of the street or within the same block.
2. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed, as to require all servicing on the premises and outside the public way. No gasoline pump shall be placed closer to any side property line than fifty (50) feet.
3. No inoperative motor vehicles shall be kept on the premises of motor vehicle service stations for longer than two (2) weeks.
4. All waste material, motors and motor parts will be stored within a structure or enclosed within fencing so as not to be visible from off the property.

Section 804 -Off-Street Parking

1. Off-street parking, space(s) with a proper and safe access shall be provided within a structure or in the open to serve adequately the uses on each lot within the district. Any application for a building permit for a new or enlarged building, structure or change in use shall include with it a plot plan drawn to scale and full dimensions, showing any parking or loading and unloading facilities in compliance with the regulations of this Ordinance.
2. A required off-street parking space shall be an area of not less than one hundred and sixty-two square, nor less than eight and one-half feet wide by nineteen feet long (exclusive of access drives or aisles, ramps, columns or office and work areas) accessible from streets, alleys, for the storage or parking of passenger automobiles or commercial vehicles under one and one-half ton capacity. Aisles between vehicular parking spaces shall not be less than twelve feet in width when serving automobiles- parked perpendicular to the aisles and accommodating two-way traffic.

At Least One Parking Space for Each of the Following:

USES	CLUSTER & ALL TYPES PLANNED UNIT DEVELOPMENT	IN ALL OTHER AREAS
One Family Residence	½ Dwelling Unit	Dwelling Unit
Two Family Residence	½ Dwelling Unit	Dwelling Unit
Multi-Family Residence	½ Dwelling Unit	Dwelling Unit
Church	3 Fixed Seats	5 Fixed Seats
Hospital & Home for Aged	In-Patient Bed	In-Patient Bed
Elementary School	15 Students	20 Students
High School & College	10 Students	12 Students
Library, Museum	50 sq. ft. floor area	100 sq. ft.

At Least One Parking Space for Each of the Following: Continued

USES	CLUSTER & ALL TYPES PLANNED UNIT DEVELOPMENT	IN ALL OTHER AREAS
Industrial	Employee (maximum work shift	2 Employees (maximum work shift
Places of Assembly (including Convention Hall, Dance Hall, Skate Rink, Theater)	100 sq ft used for assembly	200 sq ft
Club, Lodge (Without Sleeping Arrangements)	2 Members	4 Members
Places Providing Sleeping Accommodations (Including Hotels, Motels, Tourist Homes)	Sleeping Unit	Sleeping Unit
Mortuaries or Funeral Parlors	1/12 Viewing Room + 1 for each employee	1/8 Viewing Room + 1 for each employee
Offices, Banks	200 Sq Ft Floor Area	400 Sq Ft Floor Area
Food Market	100 Sq Ft Floor Area	200 Sq Ft Floor Area
Eating & Drinking Establishments	4 Seats or 1 for Each 100 Sq Ft Floor Space, Whichever is greater	4 Seats or 1 for Each 100 Sq Ft Floor Space, Whichever is greater
Bowling Alley	½ Alley	½ Alley
Other Commercial	150 Sq Ft Floor Area	3 Sq Ft Sales Area
Other Uses not Listed Above	500 Sq Ft Floor Area	500 Sq Ft Floor Area

3. Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will at least interfere with the movement of traffic. No driveway or entrance in any district shall exceed twenty-five (25) feet in width.

4. No parking space (nor portion thereof) established on the same zoning lot with a building shall be located within a required front yard area except in an established driveway. No parking spaces nor portion thereof established on a lot without a building shall be located closer to any street line than the front yard setback required for the district in which the parking lot is located. Further, any wall, fence or hedge developed around any parking area shall be subject to the front yard setback requirements of this Ordinance in the same manner as a building or structure.
5. All open off-street parking space, except those accessory to single-family dwelling, shall be improved with a compacted macadam base and surfaced with some all-weather dustless materials.
6. The parking space requirements for each use which is erected, enlarged or altered following the date this Ordinance becomes effective shall be in accordance with the preceding table; and shall be provided and satisfactorily maintained by the owner of the affected property.

Section 805 - Loading and Unloading

1. Off-street loading and unloading spaces for commercial and/or industrial vehicles while loading and/or unloading shall be provided on each lot where it is deemed that such facilities are necessary to serve the use or uses on the lot. The number of loading and/or unloading spaces required for commercial and/or industrial vehicles while loading or unloading shall be in addition to the off-street parking requirements listed in the section above. Each loading and/or unloading space shall be at least fourteen (14) feet wide, sixty (60) feet long; shall have at least a fifteen (15) foot vertical clearance; shall have a sixty (60) foot maneuvering area; shall have an all-weather surface to provide safe and convenient access during all seasons; and shall not be constructed between the street right-of-way line and the building setback line.
2. Required off-street parking space shall not be used for loading and/or unloading purposes except during hours when business operations are suspended.
3. Loading and/or unloading facilities shall be designed so that trucks need not back in or out of, nor park in, any public right-of-way.
4. No truck shall be allowed to block a right-of-way, an automobile parking area, or in any way prohibit the effective flow of persons or vehicles.
5. At least one (1) off-street loading and/or unloading space shall be provided for all commercial and industrial establishments in excess of 3,500 square feet of floor area.

Section 806 – Signs

- A. Purpose -The intent of this section is to preserve and enhance the Town of Portland by permitting signs in character and scale with the District and with individual buildings to avoid a chaotic, unsafe or unattractive clutter of signs and to prohibit signs or advertising devices which are inappropriate in size, number, or type to a District's character.
- B. Administration
1. Permits Required - Except as listed in paragraphs 2 and 3, a Zoning permit shall be required before an outdoor sign is created, altered, relocated, or enlarged. A permit shall not be issued until all applicable sign regulations are met. All requests for permits must be accompanied by a plan drawn to scale showing the exact size, shape, location, and type of sign.
 2. Exempt Signs -The following signs shall be exempt from all regulations of this Section: public signs such as directional, street or road right of way, traffic, and personal identification not more than 2 square feet in size.
 3. Signs Requiring No Permit -The following signs shall be subject to all regulations of this section but shall be exempt from obtaining a permit as required above:
 - a.) Temporary Signs to include contractor signs, political signs and fruit stand signs (See C3e below).
 - b.) Non-illuminated, indoor signs;
 - c.) Realty signs; and
 - d.) Household sale signs. (See C3d below).
- C. Specific Regulations by Sign Type -Specific regulations shall take precedence over the more general sign regulations.
1. Signs Attached to Buildings:
 - a.) No sign shall project more than 12 inches from the building wall on which it is attached.
 - b.) No sign shall project higher than the roof line.
 - c.) No sign shall be permitted to be mounted on the roof of a building above the roof line.
 - d.) No sign shall extend higher than 18 feet in height as measured from the ground.
 - e.) No sign shall be so located as to overhang above a walkway or a right-of-way.

2. Freestanding Signs -Freestanding signs where allowed shall be in accordance with the following:
 - a.) Height -A maximum height of 18 feet from the ground to the top of the sign shall be allowed.
 - b.) Setback- Freestanding signs shall be set back a minimum of 25 feet from the road edge.
3. Temporary Sign Regulations -The following specific regulations shall apply to temporary signs:
 - a.) Contractor signs shall be allowed during periods from when job commences and is completed. The sign must be removed if substantial progress on the job is not taking place. The maximum size shall be 10 square feet.
 - b.) Political signs up to 10 square feet in size shall be allowed 4 weeks before and 1 week after the election and shall be the responsibility of the candidate to comply with this regulation. Permission from the property owner must be received prior to sign placement.
 - c.) Sandwich Signs, in Business Districts, shall be allowed when located on premises, when located within 3 feet of the building, and when there is at least nine feet of clearance between the sign and the edge of road or curb. The size of the sign shall not exceed 3 x 5 feet in size.
 - d.) Household sale signs shall be permitted in accordance with the following regulations:
 1. Maximum size - No more than 4 feet high by 4 feet wide.
 2. Maximum number - No more than 2 signs shall be used and permission must be received from property owners where off premise signs are located.
 3. Location - Signs shall not be placed on "off premise" tree or utility poles.
 4. Signs shall not be illuminated.
 5. Time - Household signs may be erected on the day the sale starts and must be removed on the last day of the sale.
 - e.) Seasonal -On Premise Roadside Stand Signs shall be allowed in accordance with the following conditions:
 1. Maximum size - No more than 4 feet high by 4 feet wide.
 2. Maximum Number - No more than 2 signs shall be used per property with more signs requiring a permit.
 3. Location - Signs shall not be placed on off premise trees or utility poles.
 4. Illumination - Signs shall not be illuminated.
 5. Time - Roadside stand signs shall only be permitted during the season in which the agricultural product being sold is available.

6. Permits - No permit shall be required for seasonal on premise roadside stand signs.
 - f.) Real estate signs up to 10 square feet in size shall be allowed until 1 month after the sale is finalized.
 - g.) Signs for quasi-public uses to include churches, schools, libraries, hospitals, and nursing homes shall be a maximum of 25 square feet in size, and shall require a Special Use Permit. If the sign is freestanding, it shall be set back 15 feet from the road edge.
4. Billboards - No Billboards will be allowed in an R1, R2, or CR District.

Billboards shall be allowed in Neighborhood Commercial and Light Industrial Districts and are prohibited in all other districts. They must comply with the following standards:

 - a.) Area – Billboards shall not exceed 250 square feet, including the base or apron and trim supports, excluding other structural elements.
 - b.) Height – A Maximum height of 18 feet from the ground to the top of the sign shall be allowed.
 - c.) Setback – Billboards shall be set back a minimum of 25 feet from the street or road right of way and 10 feet from all side property lines.
 - d.) V-type billboards, which consist of two separate facings placed at angles to each other oriented in different directions at an angle not to exceed 45 degrees, shall be permitted.
 - e.) A back-to-back billboard, consisting of two sign facing oriented in opposite directions, shall be permitted.
 - f.) The minimum separation of billboards shall be 500 feet as measured along the center of the street right of way.
 - g.) There shall not be any illumination of billboards.
 - h.) All billboards shall be designed and constructed per codes of New York State and shall bear the seal of a New York State registered engineer or architect.
5. Interior Illuminated Window Signs - Inside illuminated signs shall be a maximum of 2 square feet each and no more than 5% of the front window area can contain such a sign. No permission is required. More than these maximum limits would require a Special Use Permit.
6. Residential Development Signs - One sign with a maximum of 50 square feet shall be allowed by Special Use Permit for a subdivision or multiple-family development. The sign shall not be illuminated.
7. Home Occupation Signs - See Supplemental Section on Home Occupations.

D. General Regulations for Business Signs -The following general regulations shall only apply to signs for which regulations covered herein are not covered in other more specific subsections.

LEGEND: R - By Right NA - not allowed

Notes:

1. The sign size provided represents the maximum square feet allowed per business.
2. Or 20% of the store front, whichever is greater.
3. Sign proposed to be located 100 feet or less from a Residential District shall require a Special Use Permit.

<u>District</u>	<u>Permit Type for Business Signs</u>		<u>Sizes of Signs Maximum Sq. Ft.</u>	
	<u>On Premises</u>	<u>Off Premises</u>	<u>On Premises</u>	<u>Off Premises</u>
R1	R	NA	20 (3)	NA
R2	R	NA	32	NA
R3	R	NA	32	NA
CR	R (3)	NA	50 (2)	NA
LI	R (3)	NA	50 (2)	NA
AG	R (3)	NA	50 (2)	NA
NC	R (3)	NA	50 (2)	NA
HC	R (3)	NA	50 (3)	NA
Floating	R (3)	NA	50 (3)	NA

NUMBER OF SIGNS ALLOWED:

<u>District</u>	<u>Primary</u>	<u>Secondary</u>
R1, R2, R3	1	0
CR, LI, AG	2	2
HC, NC	2	2
Floating	2	2

Note: More signs shall be allowed by Special Use Permit with conditions attached if it can be accomplished in good character with the neighborhood and do not exceed size requirements.

E. General Construction Regulations

1. Construction

- a.) Every permitted sign must be constructed of durable materials and kept in good condition and repair.
- b.) Every sign which is allowed to become dilapidated may be removed by the municipality at the expense of the owner or lessee of the property on which it is located.

2. Location

a.) Traffic

1. No sign shall be so located that the sign might interfere with traffic, be confused with or obstruct the view or effectiveness of any official traffic sign, signal, or marking.
2. No sign shall be stapled, pasted or otherwise attached to utility poles or trees within a road or street right-of-way.

b.) Ingress, Egress

1. No sign shall be located which shall prevent free ingress or egress from any window, door, or fire escape.
2. No sign shall be so placed that it will obscure light and/or air movement from a building.

3. Illumination

- a.) No off premise neon signs are permitted. Any existing off premise neon sign must be removed within 6 months from the date of this ordinance.

- b.) Illuminating arrangements for signs shall be such that the light is concentrated on the sign with a minimal spillage cast on the street, sidewalk, or adjacent properties.
- c.) Signs which contain, include or are illuminated by any flashing, intermittent or moving lights are prohibited.

4. Moving Parts

- a.) No sign shall utilize moving parts.
- b.) Pennants, banners, flags, bunting whirligigs, or other similar attention- getting devices shall not be permitted where its purpose is to advertise or bring attention to a commercial business operation. This provision does not apply to the displaying of a national, state, or other flags not intended for advertising.

F. Cessation

1. If a use ceases for a period of 6 months, all detached signs must be removed.
2. Such signs may be removed by the municipality at the expense of the owner or leases of the property on which the sign is located if the sign has not been removed after 30 days notice. All state laws will be complied with in causing removal of any sign.

G. NYS Regulations

1. New York State Highway regulations related to outdoor advertising shall also apply where applicable.

H. Preexisting Signs

1. General Regulations Covered - Legally existing nonconforming sign shall be required to comply with the following general paragraphs:
 - a.) Part E 1.b., Dilapidation; and
 - b.) Part F, Cessation
2. Compliance - Sign owners notified of a violation shall respond within 30 days of receipt of notice of violation on how they intend to comply. Compliance shall take place within 3 months of notification.

Section 807 -Performance and Design Standards for and Commercial and Industrial Uses

The following regulations shall be observed for commercial and industrial uses:

FIRE AND EXPLOSIVE HAZARDS: All activities and all storage of flammable and explosive material shall be provided with adequate safety devices against the hazards of fire and explosion; and, adequate fire-fighting and fire-suppression equipment and devices shall be required.

RADIOACTIVITY OR ELECTRICAL DISTURBANCES: There shall be no activities which emit radioactivity onto adjoining property. There shall be no electrical disturbance adversely affecting the operation of any equipment other than that of the creator of the disturbance.

SMOKE: There shall be no emission from a chimney or other device for longer than five (5) minutes in any hour visible gray or visible smoke of any other color with a shade darker than No.3 of the Standard Ringleman Chart as issued by the U.S. Bureau of Mines.

SMOKE, ASH, DUST, FUME, VAPOR, GASES AND OTHER FORMS OF AIR POLLUTION: There shall be no emission at any point from any chimney or other device, which can cause any damage to health, to animals, to vegetation, or other forms of property; or which cause any excessive soiling at any point.

LIQUID AND SOIL WASTES: There shall be no discharge at any point, into any public sewerage system, or stream, or into the ground of any materials in such a way or of such a nature as can contaminate or otherwise cause the emission of hazardous materials.

NOISE AND VIBRATION: There shall be no vibration or noise level at the property line greater than the average noise level occurring on adjacent streets.

GLARE: No direct or sky-reflected glare, whether from floodlights or from high temperature process shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.

ODOR: There shall be no emission or odorous gases or other odorous matter in such quantities as to be offensive on adjoining streets or adjacent lots.

OPERATION: All primary operations shall be conducted entirely within closed building

SCREENING: A planted visual barrier (or landscape screen) shall be provided and maintained by the owner (or lessee) of a property between any district and contiguous residentially zoned district, except where natural or physical man-made visual barriers exist. This screen shall be composed of plants and trees arranged to form both a low level and a high level screen. The high level screen shall consist of trees planted with specimens no younger than three (3) years in age, and planted at intervals of not more than ten (10) feet. The low level screen shall consist of shrubs or hedges planted at an initial height of not less than two (2) feet and spaced at intervals of not more than five (5) feet. The low level screen shall be placed in alternating rows to produce a more effective barrier. All plants not surviving three (3) years after planting must be replaced.

Any existing business affected by these regulations at the time of passage of this Ordinance, shall not be required to comply with the above screening requirements except in case of enlargement or major alteration of such business. Similarly, for any zoning district boundary change after the passage of this Ordinance initiated by a residential developer abutting a commercially or industrially zoned property for which these regulations apply, these screening requirements shall not be imposed upon such commercial or industrial property.

STORAGE: All materials will be stored inside an enclosed (but not necessarily roofed) structure. All organic rubbish or storage shall be contained in vermin-proof containers which shall also be screened from public view.

LANDSCAPING: Any part or portion of the site which is not used for buildings, other structure, loading, or parking spaces and aisles, sidewalks, and designated storage areas shall be planted and maintained with an all-season ground cover or mown lawn. This shall be done in accordance with an overall landscape plan and shall be in keeping with natural surroundings. A replacement program for non-surviving plants shall be included.

The plot plan must show a satisfactory method of irrigating all planted areas. This may be either by a permanent water system or by hose. Any single parking area with fifty (50) or more spaces shall utilize at least five (5%) percent of its area in landscaping, which shall be in addition to the open area requirements of the district.

SHOPPING CART STORAGE: Any establishment which furnishes carts or mobile baskets as an adjunct to shopping, shall provide definite areas within the required parking space areas for storage of said carts. Each designed storage area shall be clearly marked for storage of shopping carts.

LIGHTING: All parking areas, driveways and loading areas shall be provided with a lighting system which shall furnish a minimum of thirty-five (35) foot candles at any point during hours of operation, with lighting standards in parking areas being located not farther than one hundred (100) feet apart. All lighting shall be completely shielded from traffic on any public right-of-way and from any residential district.

BUILDING DESIGN: Buildings shall be designed to take advantage of the natural terrain and shall not be physically located to unnecessarily concentrate activity in one portion of the lot. At least one entrance way shall be maintained at ground level. All pedestrian entrances shall be paved with an all-weather surface. A curbing strip shall be provided to separate parking areas, streets, and driveways.

VEHICLES: Any movable structure, trailer, automobile, truck or parts of these items or any other items of similar nature, allowed to remain on the premises a longer time than that required to load, unload or otherwise discharge its normal functions, shall be considered subject to all regulations set forth in this Ordinance for buildings and structures as defined herein.

BUFFER STRIP: A one hundred fifty (150) foot wide "greenbelt" of maintained all-season ground cover, mown lawn or landscaping of trees and scrubs shall be required along the zoning boundary lines in the industrial district. This buffer strip can be waived in writing by the Planning Board if a natural, physical, visual barrier exists.

Section 808 - Oil and Gas Wells

All oil or gas wells and commercial gas and oil storage facilities shall be located in accordance with the yard requirements of this Ordinance. In addition, they shall not be located within two hundred (200) feet of any existing dwelling or structure which is used to store farm products or house livestock or poultry. They shall not be nearer than three hundred (300) feet from any public building or area which may be used as a place of assembly, education, entertainment, lodging, trade, manufacture, repair, storage, or occupancy by the public. They should not be nearer than seventy-five (75) feet to the traveled part of any public street, road, or highway; nor closer than fifty (50) feet from any public stream, river or other body of water. In addition, all laws and regulations enforce by the Oil and Gas Division of the New York State Department of Environmental Conservation shall be met.

Section 809 - Gravel and Sand Operations

No gravel or sand operations shall be permitted unless such operations adhere to the following regulations:

1. No excavation or stockpiling of materials shall be located within one hundred-fifty (150) feet of any public road or property line, unless a permit is granted by the Town Board for the improvement of the property.
2. No power-activated sorting machinery or equipment shall be located within six hundred (600) feet of any occupied dwelling and all such machinery shall be equipped with operating dust elimination devices.
3. All excavation slopes shall be adequately fenced as determined by the Zoning Officer.

Section 810 - Airports and Airstrips

The airspace above any registered airport or registered airstrip and the area within six thousand (6,000) feet in width extending in every direction from the boundaries of such airport or airstrip shall be subject to the following restrictions:

1. There shall be one approach area extending from each end of each landing strip situated within a distance of 6,000 feet from each end of each landing strip. Each approach area shall be a trapezoid 500 feet in width at the end of each landing strip and broadening to a width of 2,200 feet at a distance of 6,000 feet from the end of each landing strip.
2. The center line of each approach area shall be a continuation of the center line of the landing strip.
3. Turning areas shall consist of all portions of airspace not included within the approach areas.
4. Within the approach areas, no building, structure, or other object shall be erected, altered, or reconstructed such that the height above the elevation of the landing strip would exceed one-tenth ($1/10^{\text{th}}$) of the shortest horizontal distance to the landing strip. No building, structure, or object situated in the approach area shall have a height in excess of 150 feet.
5. Airport buildings, boundary zones, flood light mountings and other airport appurtenances may not be of such height nor so located as to constitute obstructions with any turning area. Within the turning areas no buildings or structures shall hereafter be erected, altered, or reconstructed such that the height above the elevation of the portion of the landing area nearest said object is more than one-seventh ($1/7^{\text{th}}$) of its distance from such landing area or from the nearest boundary of any approach area, whichever distance is shorter. Where alternate computations within the meaning of this definition can be made the height shall be determined to be that which is more restrictive. No object or structure within a distance of 6,000 feet from any landing area shall have a height in excess of 150 feet.
6. Notwithstanding any other provision of this Ordinance, use shall not be made of land which will create interference with radio communications or signaling between the airport or airstrip and aircraft, cause difficulty in distinguishing airport or airstrip lights, result in glare, impair visibility in the vicinity of the airport, or otherwise interfere with the safe landing, taking off or maneuvering of aircraft.
7. Where the height limitation in any airport or airstrip area conflict with those specified for a use district with which it is combined, the more restrictive regulations shall govern.

Section 811 - Lake shore Regulations

- A. Within seventy-five (75) feet of the shoreline of any lake the following regulations shall apply. In case of conflicts with other regulations the most stringent shall apply.
1. No principal building or structure shall be permitted within seventy-five (75) feet of the shoreline.
 2. The only accessory buildings and structures that shall be permitted within seventy-five (75) feet of the shoreline shall be automobile parking or storage and water oriented structures, including boathouses, boatlaunches, piers, wharves, docks, bulkheads, jetties, dolphins and groins.
 3. No boathouse shall protrude beyond the natural shoreline.
 4. Any water line that varies from the natural water line and is interconnected to a lake must be bulkheaded to the satisfaction of the Zoning Officer.
 5. No overhanging structure or part of a structure may extend more than twenty (20) feet over the water.
 6. No wharf, dock, pier, jetty or other type of structure of a permanent character shall extend into the navigable water for a distance of more than forty (40) feet from the shoreline, or to a depth of water not greater than four feet at the outer end of the proposed structure, as measured at the ordinary low stage of such body of water.
 7. All docks and/or floating rafts must be securely anchored to the lake bottom or shoreline.
- B. At the request of any property owner between Route 5 and Lake Erie, the Zoning Officer shall inspect the premises and make a written report to be filed with the Town Clerk's Office to determine if a structure located on property between Route 5 and the low water mark of Lake Erie shall be:
1. In danger of being undermined
 2. Undermined
- Upon the filing of said written report and inspection by the Zoning Officer determining that a property is in danger of being undermined or is undermined, the property owner shall be authorized to relocate the structure on its present lot regardless of setback restrictions or move the structure to any other substandard lot existing as of January 10, 1978, without a variance or special permit. Provided, however, the lot owner shall be required to comply with all County and State sewer and water regulations.
- C. Property on the lakefront between Route 5 and Lake Erie, consisting of substandard lots, shall have a side yard dimension of five (5) feet and front and back dimensions of twenty (20) feet.

Section 812 -Garage Sales

In order to preserve the character of the neighborhoods, garage and other similar type of noncommercial sales (lawn sales, flea markets, etc.) shall be subject to the following conditions:

1. **Frequency:** Sales shall be limited to three (3) periods of three (3) days each per year per property owner. More sales than this maximum shall require a Special Use Permit or a variance where such sales are not allowed.
2. **Signs:** A maximum of six (6) temporary signs shall be permitted with a maximum size of six (6) square feet. Signs shall be removed within twenty-four (24) hours of completion of the sale.
3. **Permits:** Garage sales shall not be subject to permit requirements of fees
4. **Exempt Sales:** All public or semi-public non-profit organization shall be exempt from the requirements of this section.

Section 813 -Trash Storage in Private Yards

1. Quantity Allowed (New Trash)

- a.) Trash originating from the parcel on which it is placed shall be allowed temporarily up to 1,000 cubic feet. However, if it is determined by the Zoning Officer amended to read, with reasonable certainty, that a health and/or safety problems exists, then the landowner has thirty (30) days, weather permitting, from the notification in which to remove the trash in violation.

2. Buffers (Locations)

- a.) All new accumulations of trash created after the enactment of this law shall be out sight of highways and adjacent properties to the greatest degree possible. Additionally, new accumulations of trash shall be placed a minimum of 200 feet from any parcel boundary or public roadway.
- b.) Pre-existing accumulations of trash that are clearly visible from reasonable locations on adjacent properties or pose a safety or health problem, shall be removed, covered or screened within 90 days, weather permitting, from the date of enactment of this law.

Section 814 - Junk Vehicles on Private Property

1. Except as provided for in statute or other regulations, two or more inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises outside a structure, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled outside a structure.
2. A vehicle of any type is permitted to undergo overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed for and approved by the State of New York or the Zoning/Building Code Enforcement Officer, for such purposes.

Section 816 -Fence/Walls

- A. Regulations - Fences and walls as defined in Section 202 (Definitions) shall be allowed by permit in any district and shall conform to the regulations which follow:
1. Exempt Fencing - Fencing used for agricultural purposes on farms shall be exempt from all regulations except for maintenance requirements detailed below. Additionally, non-boundary fencing located more than 25 feet from any property line shall be exempt.
 2. Permits - Fences shall be allowed up to 4 feet in height by right. Fence above 4 feet in height shall require a Special Use Permit and consideration will be given to visibility from adjacent properties, light and air movement, etc.
 3. Setback from Road - Fences shall be set back a minimum of 10 feet from the edge of the road and shall not be located within legal highway rights-of-way.
 4. Proximity to neighboring Properties - All fences, walls and/or hedges shall be located no closer than 2 feet from adjacent property lines. This rule can be waived if agreed to in writing by adjacent property owners.
 5. Finished Sides - The finished sides of all fences must face adjacent properties. This rule can be waived if agreed to in writing by adjacent property owners.
 6. Materials - Only durable materials, generally used and accepted by the industry, shall be used for fences.
 7. Maintenance -All fences and setback area shall be maintained structuring and visually.

Section 817 - Home Occupations

A. Purpose - To preserve the residential; character of neighborhoods, Home Occupations shall be controlled to various degrees dependent upon the density of development of a Neighborhood and the planned use of the area as designated by the Zoning District.

B. Applicability - Distance in Feet Home Occupations to adjacent owners.

District Name	Parcel	Most Limited	Limited	Moderately Limited	Least Limited
R1	0+	X			
R2, R3	Less than 100	X			
	100+	X			
CR	Less than 50	X			
	50 - 149	X	X		
	150+	X	X	X	X
AG	Less than 40	X	X		
	40 - 99	X	X	X	
	100 +	X	X	X	X
NC, HC	Less than 40	X	X		
	40 - 99	X	X	X	
	100 +	X	X	X	X
LI	Less than 40		X	X	
	40 - 99	X	X	X	
	100 +	X	X	X	X
Floating	Less than 40	X			
	40 - 99	X	X	X	
	<u>100 +</u>	X	X	X	X

C. Conditions

CATEGORY OF HOME OCCUPATION

<u>Condition</u>	<u>Most Limited</u>	<u>Limited</u>	<u>Moderately Limited</u>	<u>Least Limited</u>
Floor Area – Maximum, (% of Living Space)	10%	10%	20%	25%
Use of Accessory Building Existing Building Only	No	No	Yes	Yes
New Building	No	No	No	Yes
Use of Land Outside of Structure (% Lot)	0%	0%	½%	1%
Use of Non-household Equipment	No	No	Yes	Yes
On Premise Sale of Goods to Client	No	No	Yes	Yes
On Premise Service to Client	No	Yes	Yes	Yes
Max # of Clients at One Time	0	1	15	No Limit
Number of Employees (Non-family)	0	1	10	No Limit
Outside Display of Goods	No	No	Yes	Yes
Signs Allowed	No	Yes	Yes	Yes
Location		On Dwelling	Anywhere	Anywhere
Size (Sq. Ft.)		5	15	25
Number		1	1	2
Hours of Operation May be Specified	Yes	Yes	Yes	Yes
Parking Required (Sufficient for Peak Demand)	None	Yes	Yes	Yes
Minimum Spaces Required	0	1	2	3
Effects on Character Neighborhood (Nuisance, etc.)	None	Minimal	Minimal	Some
Permit Required	None	By Right Permit	Special Use	Special Use

D. Pre-existing Home Occupations - Home occupations legally existing at the time of enactment of this Law shall not generally be required to comply with the above conditions. However, where there is clear evidence that a nuisance is present due to an increased level of activity or a substantial change in the nature of the home operation, then the use shall be subject to a Special Use Permit proceedings and any of the above conditions may be imposed on the use where reasonably possible. Compliance shall take place within the period specified by the Permitting Board but shall be no less than 6 months.

Section 819 - ADULT ENTERTAINMENT FACILITIES

A. **PURPOSES AND CONSIDERATIONS:** The Town Board of the Town of Portland recognizes that there are some uses, including adult entertainment facilities, which by their very nature have deleterious effects on adjacent areas. The Town Board further recognizes that the Town of Portland is predominantly rural, agricultural and residential, and desires to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood or land uses. Finally, the Town Board recognizes that the location of these uses in regard to areas where the Town's youth may regularly assemble and the general atmosphere encompassing their operation is of tremendous concern to the Town.

B. **DEFINITIONS:**

1. **Adult Book/Video/Media Store** – An establishment having as its stock-in-trade, books, magazines, videos and other periodicals which are distinguished or relating to specified sexual activities or specified anatomical areas, as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
2. **Adult Entertainment Facilities** – Means and refers to “adult news-racks”, “adult book/video/media stores, adult motion picture theaters” and “exotic cabarets”.
3. **Adult Motion Picture/Video Theater** – An enclosed building or room used for presenting material distinguished or characterized by an emphasis on matter depicting describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by persons within the building or room.
4. **Adult News Rack** – Andy machine or device, whether coin operated or not, which dispenses material which is distinguished or characterized by emphasis depicting, describing or relating to the “specified sexual activities” or “specified anatomical areas” defined herein.
5. **Exotic Cabaret** – A nightclub, bar or restaurant or similar commercial establishment which regularly features: 1.) persons who appear nude or semi-nude; or 2.) live performance which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities” or 3.) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas”.
6. **Specified Sexual Activities** – a.) human genitals in a state of sexual stimulation or arousal; b.) acts of human masturbation, sexual intercourse or sodomy; c.) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
7. **Specified Anatomical Areas** – a.) less than completely and opaquely covered human genitals, public region, buttocks and female breasts below a point

immediately above the areola; b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- C. LOCATION – Adult Entertainment Facilities shall be restricted to Light Industrial Districts upon special permit, and then only in conformance with the requirements of this Code, codes of the State of New York, Chautauqua County and the following:
1. An adult entertainment facility shall not be located within a 1,000 foot radius of any area zoned for residential use.
 2. An adult entertainment facility shall not be located within a 1,000 foot radius of any school, church, or other place of religious worship, park, playground or playing field.

Section 820 - TOWN OF PORTLAND SITE PLAN REVIEW LAW

1. Title

This local law shall be known as cited as the “Town of Portland Site Plan Review Law”

2. Findings: Legislative Intent

The Town Board of the Town of Portland (hereafter the Town Board) hereby finds that in order to ensure that future land use, development and construction activities within the Town of Portland (hereafter the Town) will have a harmonious relationship with the existing or permitted use of contiguous land and with surrounding neighborhoods, and to other wise promote the health, safety, general welfare, comfort and convenience of the Town and its residents, site plans for new land use, development and construction activities proposed within the Town should be subject to Town Planning review.

It is, therefore, the intent of the Town Board, and the purpose of this local law, to establish a procedure for site plan review for new land use development and construction activities proposed within the Town consistent with and pursuant to Section 276 of the Town Law of the State of New York, and to authorize the Planning Board to review and provide it with appropriate standards in its review of all site plans for compliance with certain site plan elements, which include, where appropriate, those relating to parking, traffic, screening, lighting, signs, landscaping, architectural features, location and dimension of building, adjacent land uses and physical features meant to protect adjacent buildings and land use, as well as any additional site plan elements specified herein.

3. Activities requiring site plan review: approval required,

A. Except as otherwise provided in this law, the following applications for land use, development and construction activities within the Town shall require site plan review and approval. Fees outlined and adopted by the Town Board will apply to all site plan reviews.

B. Except as otherwise provided in this Law, site plan approval shall be required:

- 1.) For new construction of commercial or industrial uses.
- 2.) For the erection or enlargement (over 20% of total floor space) of all buildings except one or two family structures.
- 3.) For all new construction of multiple-family dwellings and adding dwelling units to existing multiple-family dwellings.
- 4.) Mobile home parks.
- 5.) For any application for a rezoning.
- 6.) For all other uses, buildings and structures that require site plan review and approval by this Law.

4. Procedure for Review and Approval

A. The application and appropriate fees for site plan review shall be submitted to the Town Zoning Enforcement Officer. The content of the site plan shall be reviewed by the Town Zoning Enforcement Officer prior to filing and distribution to the Planning Board to ensure completeness. The applicant shall submit twelve (12) copies of all plans and supplementary information to the Town Zoning Officer, additional copies may be requested for additional review agencies. The Planning Board will distribute copies of the plan for review, report and recommendations to the following:

- 1.) Department of Public Works
- 2.) Fire Department
- 3.) Town Board
- 4.) Town Attorney
- 5.) County Planning Department
- 6.) Other agencies, departments or persons as may be required by law and the Planning Board or Zoning Enforcement Officer may deem appropriate.

B. Any agency may submit a report to the Planning Board seven days prior to the scheduled Planning Board meeting. The Planning Board shall review the application, site plan and supporting data and, after a public hearing, and at a regular meeting or special meeting of the Board and after determining that all requirements have been met, shall approve, or approve with modifications or conditions: or disapprove the site. The Planning Board's action shall be in the form of a written report of approval or disapproval of the site plan. In approving the site plan, conditions limiting the use and the occupancy of the land or proposed buildings consistent with the intent and purposes of this law and other applicable laws may be imposed on the development. If the site plan is denied approval, the Planning Board shall state its reasons for disapproval.

C. Approval of any site plan shall remain in effect for a period of not more than twelve (12) months from the date of approval by the Planning Board unless a successful application for a zoning permit has been made within that period. One six (6) month extension may be granted to obtain the zoning permit.

5. Submission of Site Plan and Additional Information

The site plan shall include the following information, as deemed appropriate by the Zoning Enforcement Officer. The Zoning Officer may waive requirements set forth in this section as deemed appropriate; unless the Planning Board determines that said requirements(s) is necessary for its review. The plan shall be prepared by a licensed engineer, architect, landscape architect or surveyor as appropriate and shall include the following:

A. Completed application form.

- B. Title of drawings, including the name of the development, name, telephone number and address of applicant and the name of the person who prepared the drawings.
- C. Key plan, North point, professional stamp, scale (1"=20' or other appropriate scale) and date.
- D. Zoning, land use and ownership of all adjacent properties, and any other properties within 500 feet of the proposed development for which site plan approval is sought, and the location of structures shall be shown on such properties.
- E. A boundary survey of the proposed development, plotted to scale and existing topographic features including contours, spot elevations, large trees, buildings, structures, streets, property lines, utility easements, right-of-ways and land use.
- F. Layout, number and dimensions of any proposed lots.
- G. The dimensions of all proposed lots, including , cut not limited to, lot frontage, lot area, building coverage, lot coverage, front yard, side yard, rear yard, building heights and floor area ratio, where applicable.
- H. All improvement dimensions, including, but not limited to access roads, snow removal/storage areas, parking areas, walkways, building, etc.
- I. Existing and proposed streets, sidewalks and pedestrian paths immediately adjoining and within the proposed site and the names of all proposed streets.
- J. Location and dimensions of all parking, loading and stacking areas and access drives.
- K. Paving, including typical cross sections and profiles of proposed streets, pedestrian walkways and bikeways.
- L. Location, proposed use, height, building elevations, floor plans and finished floor elevations of all structures.
- M. Colors, materials, dimensions, access and rooftop plans of all structures.
- N. Location and proposed development of all open spaces, including parks, playgrounds, etc.
- O. Existing and proposed watercourse, direction of flow and the impact on the watershed.
- P. Drainage plan showing existing and finished grades, stormwater management plan and the impact on the watershed.
- Q. Water supply plan, including existing and proposed location of fire hydrants.
- R. Sewage disposal method.
- S. Landscape plan indicating location, type and size of existing trees and vegetation, identifying those to be preserved or removed as well as the location, type and size of the trees, vegetation and amenities to be provide.
- T. Location and design of outdoor lighting facilities.

- U. Location and dimension of all signs.
- V. Garbage screening and enclosures.
- W. Methods of barrier-free access.
- X. Applicable pollution control.
- Y. Size and location of hazardous storage areas.
- Z. Location of bus stops and shelters.
- AA. Proposed easements, restrictions, covenants and provisions for homeowners' associations and common ownership.
- BB. Estimated construction schedule and phasing plan for building, earth work and landscaping.
- CC. Tentative budgeting and financing sources.

6. Additional Information Requirements; Payment of Costs

In addition to the required site plan and supporting data indicated in "Site Plan Review", the Planning Board may request review and report from its consulting engineer or other professional or expert as it may deem necessary to complete the review of the proposed site plan and the cost incurred by the Planning Board shall be charged to the applicant to pay the Town in advance the estimated cost for such professional or expert review of the site plan.

7. Criteria for the Review and Recommendations:

In considering and action upon site plan review and approvals, the Planning Board shall consider the public health, safety, welfare and comfort and conveniences of the public in general, the residents of the proposed development and the residents of the immediate surrounding area. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the following:

- A. Vehicular access: the number of proposed access points are not excessive, all access points are adequate in width, grade alignment and visibility, access points are not located too close to intersections or places of public assembly and similar safety considerations are reviewed for all site plan approvals.
- B. Parking: adequate off-street parking, queuing and loading spaces are provided to minimize the number of cars parked or standing on public roads.
- C. Pedestrian circulation: the interior circulation system is adequate to provide safe accessibility to all parking areas and ensure adequate separation of pedestrian and vehicular traffic.
- D. Landscaping and screening: all parking. Storage, loading and service areas of properties adjacent to residential areas are reasonably screened, and the general landscaping of the site reflects the character of the neighborhood and surrounding area.

- E. Natural features the proposed use is compatible with geologic, hydrologic and soil conditions of the site and adjacent areas, and the existing natural scenic features are preserved to the greatest possible extent.
- F. Public facilities: the public facilities that serves the proposed use including water, sanitary sewer, drainage, roads and related facilities, parks and open space are adequate for the intended level use.
- G. Avoidance of nuisance: the proposed use will not create noise, odor, dust or smoke as to create a nuisance or be detrimental to adjoining properties.

8. Review Public Hearing and Decision on Site Plan.

- A. The site plan and supporting information shall be reviewed to ensure the plan is to conformance with the chapter, the approved development plan, if one exists, and all other applicable laws. Within 30 days of its receipt of the application for site plan approval, the County Planning Board and other review authorities shall review the plan and notify the Planning Board in writing of their comments or recommendations.
- B. Within 63 days of its receipt of the application for site plan approval or renewal, the Planning Board shall hold a public hearing; this time period may be extended by mutual consent of the applicant and Planning Board. In determining the action, the Planning Board may seek advice from additional agencies deemed appropriate.
- C. The public hearing and decision procedures set forth on Town Law 276, as may be amended from time to time shall be followed by the Planning Board.

9. Performance Bond as Condition of Approval.

For all commercial and industrial uses the Planning Board may require, as a condition of site plan approval, the property owner to file a performance bond or other security in such amount and form as determined by the Town Board to ensure that the proposed development is built in compliance with the approved plans.

10. Planning Board Procedure.

- A. The Planning Board shall adopt rules and regulations deemed necessary to administer the article, and all applications for site plan approval shall be submitted and reviewed in compliance with the submission requirements and review procedures of the Town of Portland Planning Board and the requirements of this article.
- B. The Planning Board shall have such further powers as set forth in Town Law 276, as may be amended from time, and the Planning Board decisions shall be revisable by court as set forth in Town Law 276.
- C. The Planning Board may waive any requirements of the site plan review as authorized by Town Law 276 where such requirements are found not to be requisite in the interest of public health, safety or general welfare or regarded inappropriate to a particular site plan. The Planning Board may set forth appropriate conditions to granting such waiver.

TOWN OF PORTLAND

**LOCAL LAW NO. 1 OF 2017
A LOCAL LAW ENACTING REGULATIONS FOR SOLAR ENERGY SYSTEMS**

Be it enacted by the Town of Board of the Town of Portland, County of Chautauqua and State of New York, as follows:

SECTION 1. AUTHORITY.

This local law is promulgated pursuant to the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(10);
2. New York Statute of Local Governments, §10(1) and (7);
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a), (11), (12), and (14);
4. New York Town Law §130 (11)(peace, good order and safety), (15)(promotion of public welfare);
and
5. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(general powers).

SECTION 2. SOLAR ENERGY SYSTEM REGULATIONS.

A new Section 821 is hereby added to the Town of Portland Zoning Code, which shall provide as follows:

Section 821 – SOLAR ENERGY SYSTEMS

A. Purpose.

The Town Board of the Town Portland, exercising the authority granted to under the Town Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Town of Portland does hereby enact this Section to regulate the construction, maintenance and placement of solar energy systems and equipment in the Town of Portland. The purpose of this regulation is to balance the potential impact on neighbors when solar collectors may be installed near their property, while preserving the rights of property owners to install solar collection systems without excess regulation. The Town of Portland recognizes the importance of solar systems in generating electricity for on-premise and off-premise use, the reduction of greenhouse gas emissions and support for emerging solar system economic development.

B. Definitions.

As used in this Section, the following terms shall have the meaning indicated:

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) - A solar energy system that consists of intergrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates and PV Glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings and roofs

COLLECTIVE SOLAR - Solar Installations owned collectively through subdivision homeowner associations, college student groups, "adopt a solar panel" programs similar arrangements or commercial entities.

GROUND MOUNTED SYSTEMS - A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

LARGE-SCALE SYSTEM - Solar energy systems located on land in the Town of Portland used primarily to convert solar energy into electricity for off-site consumption or sale and/or systems that have the capacity to produce more than 25KW per hour of energy.

NET-METERING - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

ROOF-MOUNTED SYSTEM - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the sun at an optimal angle. Roof mounted systems shall be located on a roof of a permitted principal use or accessory structure.

SMALL-SCALE SOLAR: Small Scale Solar means a solar energy system that installed and placed for the production of energy for consumption only on site, and that has the capacity to produce less than 25KW per hour of energy.

SOLAR EASEMENT- An easement recorded pursuant to the New York State Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT - Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY PRODUCTION FACILITY - Energy Generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR ENERGY SYSTEM - Includes a combination of both solar panels and solar energy equipment.

SOLAR PANEL - A device capable of collecting and converting solar energy into electrical energy.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.

SOLAR THERMAL SYSTEMS - Solar Thermal Systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

C. Applicability.

1. The requirements of this Section shall apply to all Solar Energy Systems installed or modified after the effective date of the local law by which it was adopted, excluding general maintenance and repair.

2. All Solar Energy Systems shall be designed, erected and installed or modified in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Town Code as well as the National Electrical Code (NEC), National Fire Protection Code 70 (NFPA 70), and local regulations.
3. Under SEQRA regulations, actions are classified as Type I, Type II, or Unlisted Actions. Type II Actions are exempt from review and include actions such as the construction, expansion or placement of minor or accessory structures. The Town of Portland considers Building-integrated solar components and Small-scale systems to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large Scale Systems and solar production facilities that meet thresholds contained in the SEQRA regulations and are considered more likely than others to have a significant adverse impact shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the permitting board on a case-by-case basis in accordance with the significance of the potential adverse environmental impact.

D. **Solar as an Accessory Use/Structure.**

This section governs the placement and installation of Small-scale Solar systems as defined herein. The installation of Small-scale Solar systems does require the applicant to obtain a building permit from the Town of Portland.

1. Roof-mounted Systems

Roof-mounted Systems are permitted as an accessory use in all zoning districts when attached to a lawfully-permitted principal structure and/or accessory structure, subject to the following requirements:

- a. **Height.** Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices and equipment.
- b. **Setback.** Solar energy systems are subject to the setback requirements of the underlying zoning district.
- c. **Aesthetics.** Solar energy equipment shall incorporate the following design requirements:
 - (1) Solar energy equipment shall be installed outside the primary residence or accessory structure and as close to a public utility electrical meter as possible.
 - (2) Roof-mounted Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (3) Access and Pathways (NFPA Section 324.7) Roof access, pathways, and spacing requirements for solar photovoltaic systems shall be provided in accordance with NFPA Sections R324.7.1 through R324.7.6

EXCEPTIONS:

- (a) Roof access, pathways and spacing requirements need not be provided where an alternative ventilation method has been provided, or where vertical ventilation techniques will not be employed.

- (b) Detached garages and accessory units.
- (4) Size of solar photovoltaic array (324.7.1). Each photovoltaic array shall not exceed 150 feet in any direction. (45,720 mm).
- (5) Roof Access Points (324.1.2). Roof access points shall be located:
 - (a) In areas that establish access pathways which are independent of each other and as remote from each other as practicable so as to provide escape routes from all points along the roof.
 - (b) In areas that do not require the placement of ground ladders over openings such as windows or doors or areas that may cause congestion or create other hazards.
 - (c) At strong points of building construction, such as corners, pilasters, hips, and valleys and other areas capable of supporting the live load from emergency responders.
 - (5) Where the roof access point does not conflict with overhead obstructions such as tree limbs, wires or signs.
 - (6) Where the roof access point does not conflict with ground obstructions such as decks, fences or landscaping.
 - (7) In areas that minimize roof tripping hazards such as vents, skylights, satellite dishes, antennas, or conduit runs.
- (6) Ground access areas (324.7.3). Ground access areas shall be located directly beneath access roofs and roof access points. The minimum width of the ground access area shall be the full width of the access roof or roof access point, measured at the eave. The minimum depth shall allow for the safe placement of ground ladders for gaining entry to the access roof.
- (7) Single ridge roofs (324.7.4). Panels, modules or arrays installed on roofs with a single ridge shall be located in a manner that provides two (2), 36 inches wide (914mm) access pathways extending from the roof access point to the ridge. Access pathways on opposing roof slopes shall not be located along the same plane as truss, rafter, or other such framing system that supports the pathway

EXCEPTIONS:

- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) and less.
- (b) Structures where an access roof fronts a street, driveway or other area readily accessible to emergency responders.
- (c) One access pathway shall be required when a roof slope containing panels, modules or arrays is located not more than 24 inches (610 mm) vertically from an adjoining roof which contains an access roof.

- (8) Hip roofs (324.7.5). Panels, modules and arrays installed on dwellings with hip roofs shall be located in a manner that provides a clear access pathway not less than 36 inches (914mm), extending from the roof access point to the ridge or peak, on each roof slope where panels, modules or arrays are located.

EXCEPTIONS:

- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.
- (b) Structures where an access roof fronts a street, driveway or other area readily accessible to emergency responders

- (9) Roofs with valleys (324.7.6), Panels and modules shall not be located less than 18 inches (457 mm) from a valley.

EXCEPTIONS:

- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.
- (10) Allowance for smoke ventilation operations (324.7.7). Panels and modules shall not be located less than 18 inches (457 mm) from a ridge or peak.

EXCEPTIONS:

- (a) Where an alternative ventilation method has been provided or where vertical ventilation methods will not be employed between the uppermost portion of the solar photovoltaic system and the roof ridge or peak.
- (b) Detached garages and accessory structures.

- d. Notification to the Fire Service. Notification in writing to the Fire Department having operational authority at the location where the system will be installed shall be made no later than ten (10) days following installation:

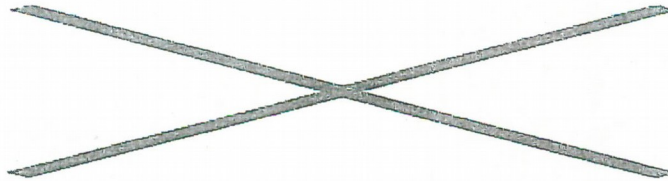
1. Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel is not available or familiar with the safe shut down operation of unit so as to have the ability to cut power from the solar panels.
2. In addition a proper written statement showing the method of shut down shall be posted inside the main electrical panel of the unit which can be readily accessible for and to firefighting personnel.
3. Notification shall be sent to the following address:

Portland Volunteer Fire Department
6481 West Main Street
P.O. Box 729
Portland, New York 14769

Brocton Fire Company
80 Lake Avenue
Brocton, New York 14716

2. Ground Mounted Systems

- a. Ground mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.
- b. All ground mounted solar panels in residential districts shall be installed in the rear yard. If a side yard installation is applied for, it shall be subject to all setback requirements of the underlying zoning district, and such an application for side yard shall require site plan review by the Town of Portland Planning Board.
- c. Setback(s): Ground mounted solar panels are subject to setback requirements of the underlying zoning district.
- d. Height: Solar panels are restricted to a height of fifteen (15) feet when located with a minimum set back distance of ten (10) feet from a lot line; a height of twenty (20) feet when located with a minimum set back distance of fifteen (15) feet from a lot line; and maximum height of twenty five (25) feet when located with a setback distance of twenty five (25) feet or greater. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.



- e. Lot Coverage: The surface area of ground mounted solar panels shall be included in lot coverage and impervious surface calculations and shall not exceed thirty percent (30%) of the lot size.
- f. Other:
 - (1) Any application for installation and placement of small scale solar energy system under this section in a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto.
 - (2) The site plan for such installation shall be reviewed by the Planning Board of the Town of Portland, and approval of the site plan for the placement in a side yard by affirmative vote of a majority of the Planning Board of the Town of Portland is required.

E. Solar as Principal Use.

- 1. Large Scale Solar Systems are permitted by the issuance of a special use permit by the Town Board within those parts of all zoning districts 850 feet above sea level except Flood Plain (FP), and those parts of all zoning districts north of the New York State Thruway (Interstate 90) and south of New York State Route 5 except in Flood Plain (FP), Medium Density Residential (R2), and

Agricultural Residential (AG-R) within 250 feet of NYS Route 5, subject to the requirements set forth in this section:

- a. Every application for a Large Scale System within the Town of Portland shall be made to the Town Board and shall be approved by a majority vote thereof.
 - b. Prior to Town Board review of the application it may refer said application to the Planning Board of the Town of Portland for site plan review, report and recommendation for approval or disapproval.
 - c. The Town Board shall hold a public hearing upon ten (10) days notice duly posted and published in the official newspaper of the Town and on the Town bulletin board, before granting the special use permit.
2. Special Use Permit Application Requirements. Every application for a Special Use Permit under this section shall contain the following information:
- a. Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
 - b. Name, address, and contact information of the applicant, property owner(s) and agent submitting the proposed project application.
 - c. If the property of the proposed project is to be leased, legal consent among all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
 - d. Blueprints showing the layout of the proposed system signed by a Professional Engineer or Registered Architect.
 - e. Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and invertors that are to be installed.
 - f. A property operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.
 - g. Decommissioning Plan:
 - i. To ensure the proper removal of large scale systems, the decommissioning plan shall include details regarding the removal of all infrastructures and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a Professional Engineer or contractor. Cost estimates shall take inflation into account. *In the case of a lease, the cost of decommissioning shall be borne by the entity or corporation that is leasing the property in question and not the landowner.*
 - ii. A form of surety, through escrow, bond or the equivalency of, shall be established prior to the commencement of construction to cover the cost of decommissioning the site. The amount of surety required may not exceed 125 percent of the estimated cost to decommission.

3. Special Use Permit Standards

- a. Height and Setback: Large scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district. Additional restrictions may be imposed during the special use permit process.
- b. Large scale systems shall be located on lots with a minimum lot size that is large enough to accommodate the proposed system and still meet the required setback requirements for the zoning district.
- c. All large scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the special use permit process.
- d. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility.
- e. The removal of existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar installation.

F. Solar Storage Batteries.

1. If solar storage batteries are included as part of the Solar Energy Collection system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. All solar storage batteries, their maintenance, placement, and location shall also comply with all applicable rules and regulations as promulgated by New York State Building Code and the National Electric Code.
2. When batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York and any applicable Federal or Local disposal rules or regulations.

G. Violations.

1. Any violation of any provisions of this section shall be punishable by penalty or a term of imprisonment as prescribed in Section 268 of the Town Law of the State of New York.
2. Notwithstanding the above, the Town Board of the Town of Portland hereby reserves the right to proceed to enforce the provisions of this section by civil action, injunction, and any other remedy afforded to it by the laws of the State of New York or the United States.

SECTION 3. VALIDITY AND SEVERABILITY.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

SECTION 4. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

ARTICLE 900 - NON-CONFORMING USES AND STRUCTURES

Section 901 - Continuation

The lawful use of any building or land existing at the time of the enactment of this Ordinance may be continued unchanged although such use does not conform with the provisions of this Ordinance.

Section 902 - Alteration of Structures

1. **UNSAFE STRUCTURES:** Nonconforming buildings damaged by fire, wind, and other catastrophic causes as well as structures declared to be unsafe due to general dilapidation may be restored or rebuilt for the nonconforming use it was used for last. Unsafe structures cannot be restored or rebuilt if it would result in a use which is more nonconforming than the structure was prior to becoming unsafe. When the unsafe condition was caused by fire, wind, or any catastrophic causes, the permit must be applied for within six (6) months from the date of the fire, etc. otherwise, the building permit need not be granted.
2. **ALTERATION OF STRUCTURES:** A nonconforming structure may be added to or altered during its life to an extent of up to 50 percent (50%) of the market value of the building. As long as the alterations do not cause the structure to be nonconforming. If the alterations are made to bring the building into conformity with all provisions of this law, then the 50 percent (50%) rule does not apply.

Section 903 - Nonconforming Junk Yard and/or Scrap Yard

1. FENCES: Dismantling or scrap yards shall be completely surrounded with a fence for screening and security purposes of at least eight (8) feet in height. A coniferous (evergreen) growth shall also completely surround the dismantling or scrap yard.
 - a.) There shall be located a gate in the fence which shall be kept locked at all times except when the dismantling or scrap yard is in operation.
 - b.) The fence shall be located a minimum of fifty (50) feet from adjacent public highways.
 - c.) All vehicles, parts, scrap and work on such vehicles, parts and scrap shall take place within the fence area.
2. OFF-STREET PARKING - shall be provided for customers.
3. FIRE SAFETY:
 - a.) Inside adjacent to and contiguous with the fence, a strip of land at ten (10) feet wide shall be kept clear of all dry grass or other combustible materials so as to provide a fire lane around the whole area.
 - b.) There shall be maintained at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
 - c.) The vehicles, parts and scrap shall be dismantled and/or disassembled by means other than burning. They shall be arranged in neat rows so as to permit easy and clear passage through the area.
4. VISUAL CONSIDERATION:
 - a.) There shall be no stacking of vehicles or scrap above eight (8) feet in height from the ground.
 - b.) Vehicles and scrap, which have been crushed, may be loaded onto the bed of a truck when they will be removed from the premises within a reasonable time period.
 - c.) An appropriate buffer will be established between adjacent properties
5. OTHER CONSIDERATIONS:
 - a.) Suitable sanitary facilities shall be provided in accordance with State Health Laws.
 - b.) Inspection of dismantling and scrap yards shall be allowed at any reasonable time to insure compliance with this and other laws.
6. TIME OF COMPLIANCE:
 - a.) Within one (1) year from enactment of this amendment, all non-conforming junk yards and/or scrap yards shall comply herewith .

Section 905 - Construction Approved Prior to Ordinance

Nothing herein contained shall require any change in plan, construction or designated use of a building for which a building permit has been issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit.

Section 906 - Restoration

No non-conforming building damaged by fire (or other causes) to the extent of more than fifty percent (50%) of its market value shall be repaired or rebuilt except in conformity with the bulk and area regulations of this ordinance. The building can be rebuilt for the use it contained prior to the damage by fire (or other causes) if a building permit is obtained from the Zoning Officer within six months of the destruction by fire or other calamity.

Section 907 - Abandonment

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Ordinance.

Section 908 - Changes

Once changed to a conforming use or conforming building, no building or use of land shall be permitted to revert to a nonconforming use or nonconforming building.

Section 909 - Displacement

No nonconforming use shall be extended to displace a conforming use.

Section 910 - District Changed

Whenever the boundaries of a district or zone shall be changed so as to transfer an area from one district or zone to another district or zone of a different classification, the foregoing provisions (of Article 900) shall apply to any new or pre-existing nonconforming uses therein.

ARTICLE 1000 - ADMINISTRATIVE PROVISIONS

Section 1001 - Enforcement

This Ordinance shall be enforced by the Zoning Officer who shall be appointed by the Governing Body of the Town of Portland. No Building Permit or Certificate of Occupancy shall be issued by him except where there is compliance with all provisions of this Ordinance.

Section 1002 - Duties of Zoning Officer

It shall be the duty of the Zoning Officer in connection with this Ordinance to do the following:

1. Make a record of nonconforming uses.
2. Issue Building Permits and Certificates of Occupancy or refuse to issue the same and give the reasons for such refusal to the applicant.
3. Keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved.
4. Receive all required fees and deposit them with the Town Clerk.
5. Keep the Town Board and Board of Appeals informed and advised of all matters, other than routine matters in connection with this ordinance.
6. Submit such reports as may deem necessary.
7. Whenever possible to advise and assist persons applying for Building Permits with the preparation of their applications.
8. Issue appearance tickets and/or secure warrants and prosecute violators of the provisions of this Ordinance.
9. Serve all notices that may be required to be served in connection with this Ordinance.
10. Make recommendations for keeping the Zoning Ordinance and accompanying map up to date.
11. Bring all applications to the Planning Board for its review and recommendation prior to the issuance of the building permit.
12. Inspect new construction during and/or after construction and inspect changes of use to insure conformity with the provisions of this Ordinance and the State Sanitary Code.

Section 1003 - Building Permits

No building or structure shall be erected, added to, or structurally altered, razed or demolished until a permit therefore has been issued by the Zoning Officer. A building permit shall also be required whenever the N.Y.S Uniform Building and Fire Code requires a permit for any action subject to said codes regulations. It shall be the responsibility of the property owner and the contractor to have said building permit issued by the Town Zoning Officer and to have said permit posted at the site before any construction is commenced.

The application for a building permit shall be made on a form obtained from the Zoning Officer. A copy of the required Health Department permit approving construction of septic system must be attached to the building permit application together with plot plan for approved well site when applicable. It shall include a statement of the material to be used, an estimate of cost, the location, the proposed use, and the sanitation facilities to be provided (if any are needed). Such permit shall be valid for a six (6) month period only. Building permits may, however, be extended for additional six month periods with the written approval of the Zoning Officer.

No permit shall be required for an owner or resident to maintain, or repair or replace existing windows, roofs, porches, provided they do not alter the outside dimensions of the structure. A permit is required to replace a roof, to install new windows, porches that are different in size from the one existing. Any construction to replace a window, roof, porch or steps that have been gone for more than six months shall be deemed new construction and require a permit.

All applications for building permits along with two (2) copies of a layout or plot plan (drawn to scale and showing the actual dimensions of the lot to be built upon); the exact size and location on the lot of all existing buildings and accessory buildings, or any buildings that are to be erected; the location of adjoining highway right-of-way lines; and, such other information as may be necessary to determine and provide for the enforcement of this Ordinance. The sanitation, sewerage, and waste disposal facilities shall comply with standards approved by the County and State Health Departments.

All applications for building permits for commercial and industrial buildings submitted to the Zoning Officer must contain information detailing drainage and landscaping plans, off-street parking, off-street loading, and any other data the Planning Board deems necessary to facilitate their review and recommendation.

One copy of the layout or plot plan shall be returned to the applicant when approved in writing by the Planning Board and a building permit shall then be granted by the Zoning Officer after receipt of a fee in an amount to be affixed by resolution of the Town Board of the Town of Portland.

The Zoning Officer shall attempt to notify at least two adjacent property owners when application for a building permit has been filed. Failure of such adjacent property owners to receive such notice prior to the Planning Board's review shall not be a basis for invalidating the building permit; nor of contesting the actions of the Zoning Officer, Town Clerk, Planning Board, Board of Appeals or the Town Board in regard to the issuance or withholding of such permit.

Section 1004 - Certificate of Occupancy

No building hereafter erected, altered, or extended shall be used, occupied, or changed in use; nor shall any land hereafter be occupied if changed in use, until a Certificate of Occupancy shall have been issued by the Zoning Officer stating that the building or proposed use complies with the provisions of this Ordinance.

No nonconforming use shall be maintained, renewed, changed, or extended without a Certificate of Occupancy having first been issued by the Zoning Officer.

Certificates of Occupancy shall be issued within ten (10) days after the erection, alteration, or change in use has been inspected and approved by the Zoning Officer as complying with the provisions of this Ordinance.

The Zoning Officer shall maintain a record of all Certificates of Occupancy and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

Section 1005 - Temporary Certificate of Occupancy

Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary Certificate of Occupancy for not more than ninety (90) days for a part of a building may be issued by the Zoning Officer.

ARTICLE 1100 - BOARD OF APPEALS

Section 1101 - Creation, Appointment, Organization

A. Board of Appeals is hereby created. Said Board shall be appointed and function in accordance with enabling law. Said Board shall consist of the number of members as shall be designated by resolution of the Town Board.

Section 1102 - Powers and Duties

The Board of Appeals shall have all the power and duties prescribed by law and by this Ordinance which are more particularly specified as follows:

1. INTERPRETATION:

To decide any question involving the interpretation of any provision of this Ordinance following an appeal filed by the aggrieved landowner from a decision made by the Zoning Officer or the Planning Board. This includes the determination of the exact location of any district boundary if there is uncertainty with respect thereto.

2. VARIANCES:

To vary or adapt the strict application of any of the requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or steep lots; or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship and would deprive the owner of the reasonable use of the land or building involved; but, for no other reason. No variance in the strict application of any provision of this Ordinance shall be granted by the Board of Appeals unless it finds:

- A. That there are special circumstances or conditions, fully described in the finding of the Board of Appeals, applying to such land or building and not applying generally to land or buildings in the neighborhood. The circumstances or conditions are such that strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or buildings for permitted uses in the Zoning district.
- B. That, for reasons fully set forth in the findings of the Board of Appeals, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Appeals is the minimum variance that will accomplish this purpose.
- C. That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

Section 1103 - Procedure

The Board of Appeals shall act in strict accordance with procedure specified by law and by this Ordinance. All appeals and applications made to the Board of Appeals 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 exception 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.

At least thirty (30) days before the date of the hearing required by law on an application or appeal to the Board of Appeals, the secretary of said Board shall transmit to the Planning Board a copy of the application or appeal. The Planning Board shall submit a report of an advisory opinion prior to the date of the Board of Appeals Hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board of Appeals on the particular case.

In addition to giving public notice as prescribed by Town Law, the Board of Appeals shall send notice by mail to all property owners as shown on the tax rolls of the Town of Portland who reside within 250 feet of all boundary lines of the premises on which application is made. In the absence of bad faith or deliberate intent, the failure to send notice to less than fifty percent (50%) of the property owners shall not invalidate the action of the Board of Appeals. If the applicant files with the Board of Appeals a signed consent for such special permit or variance signed by more than fifty percent (50%) of the affected property owners, or if the applicant files an affidavit that he has served notice by mail or in person to all such property owners, the Board of Appeals shall be relieved of the duty to mail or send notice to such property owners.

Section 1104 - Chautauqua County Planning Board

1. A referral shall be made to the Chautauqua County Planning Board before issuing a special exception permit or granting a variance affecting real property within a distance of five hundred (500) feet: of a boundary of Town of Portland; or from the boundary of any existing or proposed county or state park or other recreation area; or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or from the existing or proposed 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 existing or proposed boundary of any county or state owned land on which a public building or institution is situated -the matter shall be referred to the Chautauqua County Planning Board.
2. Within thirty (30) days after receipt of a full statement of such referred matter, the Chautauqua County Planning Board or an authorized agent of said Planning Board shall report its recommendations to the Board of Appeals, accompanied by a full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such period of thirty (30) days, or such longer period as may have been agreed upon by it and the Board of Appeals; the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproves the proposal, or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.
3. Within seven days after final action on a referral by the Board of Appeals, the Board of Appeals shall file a report of the final action with the Chautauqua County Planning Board.

Section 1105 - Fees

Any application for an Amendment, Variance, or Special Use Permit filed by, or on behalf of, the owner or owners of the property affected shall be accompanied by the appropriate fee set forth in a schedule adopted by resolution of the Town Board of the Town of Portland.

NOTE:

The schedule of zoning fees are set by the Town Board of the Town of Portland by resolution and are subject to periodic changes. A copy of the schedule of fees can be obtained at the Town of Portland from the Code Enforcement Officer or the Town Clerk.

ARTICLE 1200 - PLANNING BOARD

Section 1201 - Appointment

The Town Board shall appoint a Planning Board as prescribed by Section 271 of the Town Law; the number of members of the Planning Board shall be fixed by resolution of the Town Board. No appointment shall be valid unless the appointee is a resident and real property owner of the Town of Portland.

Section 1202 - Duties

The Planning Board for the Town of Portland shall have the following duties:

1. To investigate, study, hold hearings upon, and submit reports on all appeals and matters referred to it by the Board of Appeals, Zoning Office and/or Town Board.
2. To submit reports within thirty (30) days after reference to it of any appeal or other matter unless the time shall be extended by the Zoning Officer or Board making the reference.
3. To hold monthly meetings on a regularly prescribed date and time, and at such other times as the Chairman of the Planning Board may deem necessary. All meetings of the Planning Board shall be open to the public. The Secretary of the Planning Board shall keep minutes of all meetings.
4. To prepare and change the comprehensive master plan and map for the development of the entire area of the Town of Portland.
5. To approve plots in accordance with Section 276 of the Town Law.
6. To review, recommend and approve (prior to the issuance of a building permit or occupancy permit) site plans for mobile home parks, commercial, industrial, or multi-family building or uses. Such site plans shall be submitted through the Zoning Officer to the Planning Board at least ten (10) days prior to its next scheduled meeting and shall consist of the following:
 - a.) A survey drawn to scale prepared by an engineer or surveyor (registered by the State of New York) showing the exact size, shape, and dimensions of the lot to be built upon;
 - b.) The exact size and location on the lot of all existing buildings and structures;
 - c.) The exact size and location on the lot of the structure or building proposed to be erected, moved, repaired or altered;
 - d.) All adjacent streets or alleys with traffic flow patterns;
 - e.) The proposed parking facilities, including the size, arrangement and number of parking stalls and placement of lighting standards;
 - f.) The movement of all vehicles and ingress and egress drives for all off-street parking and loading areas (both front and rear) to insure the prevention or blockage of vehicles entering and leaving the site;
 - g.) Preliminary architectural and engineering sketches showing plan levels, elevations, landscape plan and any other necessary information related to water runoff control, slope, contours, type of building, etc.;

- h.) Areas to be utilized for storage of materials and type of architectural screen to be used;
 - i.) Such other information as may be required by the Planning Board to determine their recommendations or decision.
7. Special Condition Permits: To issue Special Condition Permits for any of the uses for which this Ordinance requires obtaining of such permits, the Planning Board may ask for recommendation by the Zoning Board of Appeals upon an application for a Special Condition Permit and the Zoning Board of Appeals has thirty (30) days from the date of the referral letter to respond affirmatively or negatively. In the event the Zoning Board of Appeals fails to respond within the thirty (30) day period, such failure to respond shall be deemed approval of the application for the Special Condition Permit.

ARTICLE 1300 - VIOLATIONS AND PENALTIES

Section 1301 - Violations

Whenever a violation of the Ordinance occurs, any person may file a complaint in regard thereto. All complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate.

Section 1302 – Penalties

Violation of any provision of this Ordinance by any person, corporation, or organization shall constitute an offense and such violators shall be subject to the punishments and remedies set forth in Section 268 of the Town Law of the State of New York as from time to time amended by the State Legislature.

ARTICLE 1400 - AMENDMENTS

1. The regulations, restrictions and boundaries established by this Ordinance may (from time to time) be amended, supplemented, changed, modified, or repealed by ordinance in accordance with procedures provided in Town Law. Such amendment, supplement, change, modification, or repeal can be made on a motion by the Town Board, or on petition, or on the recommendation of the Planning Board or the Board of Appeals, after public hearing and due notice thereof. Every proposed amendment shall be submitted to the Planning Board for a report and recommendation prior to a public hearing thereon.
2. Amendments shall be referred to the Chautauqua County Planning Board for recommendation if the Amendment to this Ordinance would change the district classification or the regulations applying to real property lying within a distance of five hundred (500) feet of any boundary of the Town of Portland; or from the boundary of any existing or proposed county or state park or other recreation area; or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or from the existing or proposed 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 existing or proposed boundary of any county or state owned land on which a public building or institution is situated: the matter shall be referred to the Chautauqua county Planning Board.
3. Within thirty (30) days after receipt of a full statement of such referred matter, the Chautauqua County Planning Board to which referral is made or an authorized agent of said agency shall report its full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such period of thirty (30) days or such longer period as may have been agreed upon by it and the referring agency t the municipal body having jurisdiction to act may do so without such report. If the Chautauqua County Planning Board disapproves the proposal, or recommends modification thereof, the Municipal agency having jurisdiction shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.
4. Within seven (7) days after final action by the Municipal agency having jurisdiction on the recommendations, modifications or disapproval of a referred matter, such Municipal agency shall file a report of the final action it has taken with the Chautauqua County Planning Board which had made the recommendations, modifications or disapproval.

ARTICLE 1500 - CONFLICTS, VALIDITY, REPEALER, EFFECT

Section 1501 - Conflicts

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety or general welfare. Whenever the requirements of this Ordinance are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 1502 -Validity

The invalidity of any provision of this Ordinance shall not invalidate any other part thereof.

Section 1503 - Repealer

Any previously adopted Zoning Ordinance or land use regulation of the Town of Portland, together with all changes and amendments thereto, is hereby repealed and declared to be of no effect.

Section 1504 - Effect

This Ordinance shall take effect ten (10) days after the date of its publication and posting as required by Town Law.

ARTICLE 1600 - ZONING MAP AMENDMENTS

- A. All R-1 District are hereby amended to be designated R-2 Districts. LL 82-4
- B. R-2 District immediately West of the Village of Brocton is hereby altered as follows:
The R-2 District shall be Westerly two hundred (200) feet Northerly and Southerly of the centerline of Route 20 to its point of intersection with Pecor Street and Fay Street; thence Northerly two hundred (200) feet from the centerline East and West of Pecor Street from Route 20 to its point of intersection with the Norfolk and Western Railroad tracks. The land North of Route 20 East of Pecor Street South of the railroad and West of West Avenue now designated R-2 District shall be designated as Agricultural District. LL 82-4

The Highway Commercial Zone at the corner of Prospect Road and Route 20 is hereby eliminated and the area previously designated Highway Commercial is hereby designated Agricultural. LL 85-1

The Neighborhood Commercial District in the Hamlet of Portland is extended from its termination at the intersection of Fay Street and Route 20, easterly & south of Rte 20, two hundred (200) feet to the West bounds of the Village of Brocton. LL 85-1

The Neighborhood Commercial District in the Hamlet of Portland is extended from Pecor Street and Route 20, Easterly and North of Route 20 to the West bounds of the Village of Brocton at a depth of two hundred (200) feet when measured by the edge of the pavement of Route 20 at right angles thereto. LL 91-1

The portion of the R-2 District beginning at the point of intersection of the West boundary of Church Street, extended with the centerline of Route 20; thence Northerly on an extension of the West bounds of Church Street, four hundred (400) feet to a point, thence Westerly and parallel to the edge of the pavement of Route 20 and four hundred (400) feet distance there from to a point of intersection with the centerline of Walker Road to the centerline of Route 20; thence Northeasterly along the centerline of Route 20 to a point of intersection of centerline of Cemetery Avenue; thence South along centerline of Cemetery Avenue to a point four hundred (400) feet from the edge of the pavement on the Route 20 intersection with the centerline of Cemetery Avenue; thence Northeasterly and parallel to the edge of pavement on Route 20 at a distance there from of four hundred (400) feet to the West bounds of Church Street; thence Northerly along West bound of Church Street to the centerline of Route 20 is hereby designated as a new R-3 District LL 91-1

Amend the R-2 District designation of U. S. Route 20, from the Town of Pomfret line to the Village of Brocton line, to a R-3 designation. LL 97-1

All of the following R-2, CR and LC Districts described as follows: Beginning at the point of intersection of the Westerly boundary of the Flood Plain Zone at the North end of Walker Road and the pavement edge of the North side of Route 5; thence North along the Flood Plain Zone Western boundary to the water's edge of Lake Erie; thence Westerly along the water's edge of Lake Erie to the Western boundary of the Town of Portland; thence Southerly along the Western boundary of the Town of Portland to the point of intersection of said boundary with the pavement's edge of

Route 5; thence Easterly along said pavement's edge to the point of beginning are hereby designated as new R-3 District. LL 91-1

1. By re-designating a part of the present Agriculture District hereinafter described as a new district designated Agriculture-Residential described as follows: Commencing at the point of intersection of the centerline of Swede Road with the centerline of Lake Road (Route 5) thence southerly along the centerline of Swede Road to the north boundary of the New York State Thruway; thence north easterly along the northerly bounds of the Thruway to the East bounds of the Town of Portland; thence northerly along the East boundary of the Town of Portland to the CR District; thence North Westerly along the CR District to the centerline of Lake Road (Route 5); thence southwesterly along the centerline of Lake Road (Route 5) to the point or place of beginning. LL 95-1
2. By re-designating a part of the present Agriculture District hereafter described as a Highway Commercial described as follows: Commencing at the point of intersection of the Southerly bounds of the New York State Thruway with the centerline of Slippery Rock Creek; thence Southeasterly along the centerline of Slippery Rock Creek to the point of intersection thereof with the Village of Brocton northerly bounds; thence Easterly along the Village's northerly bounds to the centerline of Lake Avenue; thence Northerly along the centerline of Lake Avenue to the point of intersection thereof with the South boundary of the Thruway; thence southerly along the southeasterly boundary of the Thruway to the point of beginning. LL 95-1
3. By re-designating a part of the present Agriculture District and a part of the Conservation Residential District hereafter described as a Light Industrial District, described as follows: Commencing at a point in the west bounds of Wenborn Road which point is two hundred-fifty (250) feet when measured at right angles from the centerline of Route 5, thence northeasterly parallel to and at a distance of two hundred-fifty (250) feet from the centerline of Rte 5 to the centerline of Swede Rd, thence southerly along the centerline of Swede Rd to the point of intersection with the northerly bounds of the New York State Thruway extended, thence southwesterly along the north bounds of the New York State Thruway and the extension thereof to the point of intersection of the northerly bounds of the New York State Thruway with the southwesterly bounds of Wenborn Road, thence Northwesterly along the Southwesterly bounds of Wenborn Rd to the point of beginning. LL 95-1
4. By re-designating a part of the present Agriculture District and a part of the Conservation Residential District hereafter described as Agriculture-Residential, described as follows: Commencing at the point of intersection of the centerline of Route 5 with the Southwesterly bounds of Wenborn Road; thence southeasterly along he Southwesterly bounds of Wenborn Road to a point on said southwesterly bounds of Wenborn Road; which point is two hundred-fifty (250) feet there from, when measured at a right angle to said centerline; thence northeasterly and parallel to and distant two hundred-fifty (250) feet from the centerline of Route 5, to a point in the centerline of Swede Road, which point is two hundred-fifty (250) feet from the point of intersection of the centerline of

Swede Road with the centerline of Route 5; thence north along the centerline of Swede Road two hundred-fifty (250) feet to a point, which point in the place of intersection of the centerline of Swede Road with the centerline of Route 5; thence southwesterly along the centerline of Route 5 to the place of beginning; intending not to change the designation of the parcel designated Highway Commercial on the southeasterly corner of the intersection of Lake Avenue and Route 5. LL 95-1

5. By re-designating parts of the present Agriculture District hereafter described as R3-Residential, described as follows: Commencing at the point of intersection of the centerline of Route 20 with the Centerline of Cemetery Avenue thence south two hundred-fifty (250) feet to a point; thence southwesterly parallel to the centerline of Route 20 and two hundred-fifty (250) feet distant there from, to a point in the West boundary of the Town of Portland; thence north along the West bounds of the Town of Portland five hundred (500) feet to a point; thence northeasterly parallel to the centerline of Route 20 and two hundred-fifty (250) feet, when measured at right angles to the centerline of Route 20; from the centerline of Route 20; thence south along the centerline of Walker Road to the point of intersection of the centerline of Walker Road with the centerline of Route 20; thence northerly along the centerline of Route 20 to the point or place of beginning. Also the premises described as follows: Commencing at the point of intersection of the centerline of Cemetery Avenue with the centerline of Webster Road; thence south along the centerline of Cemetery Avenue two hundred-fifty (250) feet to a point on said centerline; thence Easterly parallel to and two hundred-fifty (250) feet distant from the centerline of Webster Road to the point of intersection in the centerline of Old Mill Road extended; thence north along the centerline of Old Mill Road extended five hundred (500) feet to a point; thence Westerly parallel to and two hundred-fifty (250) feet distant from the centerline of Webster Road to a point, which point is two hundred-fifty (250) feet East from the centerline of Cemetery Avenue, when measured at right angles thereto; thence north parallel to the centerline of Cemetery Avenue and two hundred-fifty (250) feet distant there from, to a point, which point is two hundred-fifty (250) feet south of the centerline of Route 20; thence west five hundred (500) feet to a point, which point is two hundred-fifty (250) feet south of the centerline of Route 20; thence south parallel to and two hundred-fifty (250) feet distant from the centerline of Cemetery Avenue to a point in the centerline of Webster Road; thence East two hundred-fifty (250) feet along the centerline of Webster Road to the point or place of beginning. LL 95-1

C. a.) That portion of Pecor Street north of the CSX Railroad tracks n to the centerline of Route 5 (Lake Shore Road) for a distance of 250 feet either side of the centerline of Pecor Street shall be designated an R2 – Residential District.

b.) That portion of Walker Road north of the R 3 district north to US Route 5 (Lakeshore Road) for a distance of 250 feet either side of the centerline thereof, except that portion located west thereof which is located in the designated Flood Plain. LL 2011-01

MISCELLANEOUS

Other Local Laws and Resolutions Referenced in Zoning Book

Unsafe Buildings – Local Law 81-1

See Attached

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of PORTLAND
Town
~~Village~~
Local Law No. I of the year 19 81

A local law UNSAFE BUILDINGS
(Insert title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
~~City~~ of TOWN OF PORTLAND COUNTY OF CHAUTAUIQUA as follows:
Town
~~Village~~

A local law providing for the repair or removal of unsafe buildings and collapsed structures.

Be it enacted by the Town Board of the Town of Portland.

Section 1. Purpose. Unsafe buildings pose a threat to life and property in the Town of Portland. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein as well as point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this local law to provide for the safety, health protection and general welfare of persons and property in the Town of Portland by requiring such unsafe buildings be repaired or demolished and removed.

Section 2. This local law shall be known as "Unsafe Buildings Law" of the Town of Portland.

Section 3. Definitions. (1) "Building" means any building, structure or portion thereof used for residential, business or industrial purpose. (2) "Building Inspector" means the building inspector of the Town of Portland or such other person appointed by the town board to enforce the provisions of this local law.

Section 4. Investigation and Report. When in his own opinion or upon receipt of information that a building (1) is or may become dangerous or unsafe to the general public, (2) is open

at the doorways and windows making it accessible to and an object of attraction to minors under eighteen years of age, as well as to vagrants and other trespassers, (3) is or may become a place of rodent infestation, (4) presents any other danger to the health, safety, morals and general welfare of the public or (5) is unfit for the purposes for which it may lawfully be used, he shall cause or make an inspection thereof and report in writing to the town board his findings and recommendations in regard to its repair or demolition and removal.

Section 5. Town Board Order. The town board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.

Section 6. Notice; Contents. The notice shall contain the following: (1) a description of the premises, (2) a statement of the particulars in which the building is unsafe or dangerous, (3) an order outlining the manner in which the building is to be made safe and secure, or demolished and removed, (4) a statement that the securing or removal of such building shall commence within (30) days of the service of the notice and shall be completed within (60) days thereafter, unless for good cause shown such time shall be extended, (5) a date, time and place for a hearing before the town board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice and (6) a statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the town board is authorized to provide for its demolition and removal to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

Section 7. Service of Notice. The same notice shall be served (1) by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes (or tax collector) or of the county clerk; or if no such person can be reasonably found by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records and (2) by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found and (3) by securely affixing a copy of such notice upon the unsafe building.

Section 8. A copy of the notice served, as provided herein, shall be filed in the office of the County Clerk of the County of Chautauqua.

Section 9. Refusal to Comply. In the event of the refusal or neglect of the person so notified to comply with said order of the town board and after the hearing, the town board shall provide for the demolition and removal of such building or structure either by town employees or by contract. Except in emergency as provided in Section 11 hereof, any contract for demolition and removal of a building in excess of \$5,000.00 shall be awarded through competitive bidding.

Section 10. Assessment of Expenses. All expenses incurred by the town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in article fifteen of the Town Law for the levy and collection of a special ad valorem levy.

Section 11. Emergency Cases. Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the town board may by resolution authorize the building inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

Section 12. This local law shall take effect immediately upon filing thereof in the office of the Secretary of State.

Providing for the Administration and Enforcement of the Uniform Fire Prevention and Building Code - Local Law 86-1

See Attached

(Please use this form for filing your Local Law with the Secretary of State)
Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of PORTLAND
Town
~~Village~~

Local Law No. 1 of the year 19 86

A local law providing for the Administration and Enforcement of the Uniform Fire Prevention and (Insert title) Building Code.

Be it enacted by the Town Board of the (Name of Legislative Body)

~~County~~
~~City~~ of PORTLAND as follows:
Town
~~Village~~

SECTION 1. DEFINITIONS:

(a) The words and terms used in this local law shall have the same meaning as those contained in Executive Law, Article 18 as added by Chapter 707 of the Laws of 1981, unless the context may otherwise require.

(b) "Enforcement Official" shall mean the inspections officer(s) of the Town of Portland, authorized and empowered to administer and enforce the Zoning Law of the Town of Portland, the Uniform Fire Prevention and Building Code in the Town and all other Laws pertaining to buildings in the Town of Portland.

SECTION 2. AUTHORITY OF ENFORCEMENT:

(a) Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the enforcement official(s) shall administer and enforce all of the provisions of laws, ordinances, rules and regulations applicable to the plans, specifications or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, and the location, use and occupancy thereof.

(b) The enforcement official(s) may promulgate rules and regulations subject to the prior approval of the Town Board of the Town of Portland to secure the intent and purpose of this Law and a proper enforcement of the laws, ordinances, rules and regulations governing building plans, specifications, construction, alteration or repairs.

(c) The enforcement official(s) shall receive applications, approve plans and specifications, and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved, or such permits have been issued for the purpose of insuring compliance with laws, ordinances, rules and regulations governing building

(If additional space is needed, please attach sheets of the same size as this and number each)

(d) The enforcement official(s) shall issue in writing all appropriate notices or orders, to remove illegal or unsafe conditions (subject to the terms of the Unsafe Building Law of the Town of Portland), to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations, and such notices or orders may be served upon the property owner or his agent personally, or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction or alteration of such building, and by posting the same upon a conspicuous portion of the premises to which the notice applies. He shall make all inspections which are necessary or proper for the carrying out of his duties except that he may accept written reports of inspection from generally recognized and authoritative service and inspection bureaus or agencies, provided the same are certified by a responsible official thereof.

(e) Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules and regulations covering building construction or alteration, the enforcement official(s) may accept and rely upon written reports of tests in the field by experienced professional persons or by accredited and authoritative testing laboratories or service and inspection bureaus or agencies.

(f) The enforcement official(s) shall issue a Certificate of Occupancy where appropriate for a building constructed or altered in accordance with the provisions of the State Building Construction Code which certificate shall certify that the building conforms to the requirements of the State Building Construction Code.

(g) The enforcement official(s) shall not engage in any activity inconsistent with his duties, or with the interest of the Town of Portland; nor shall he, during the term of his employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for, or the supervisor of, the construction; alterations, demolition or maintenance of a building or the preparation of plans or specifications thereof within the Town of Portland, excepting that this provisions shall not prohibit any employee from engaging in any such activities in connection with the construction of a building or structure owned by him for his personal use and occupancy or for the use and occupancy of members of his immediate family, and not constructed for sale or rental.

SECTION 3. PERMITS:

(a) No person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal or demolition of any building or structure or any portion thereof without first having obtained a permit from the Enforcement Official of the Town.

(b) No such permit shall be required for any of the following:

(1) necessary repairs which are not of a structural nature and do not involve abatement of a violation of the Uniform Code.

(2) alterations to existing buildings provided the alterations (1) cost less than \$10,000, and (2) do not materially affect structure features, and (3) do not affect fire safety features such as smoke detectors, sprinklers, required fire separations, and exits, and (4) do not involve the installation

or extension of electrical systems and (5) do not include the installation of solid fuel burning heating appliances and associated chimneys and flues; (Note: all five conditions must be met for alteration to be exempt from requiring a permit) or

(3) All agricultural outbuildings and small non-commercial structures not intended or equipped for use by one or more persons as quarters for living, sleeping, eating or cooking, for example a small storage building.

(c) The form of the permit and application therefor shall be prescribed by a resolution of the Town Board. The application shall be signed by the owner or authorized agent of the building or work and shall contain at least the following: (1) the name and address of the owner; (2) identification or description of the land on which the work is to be done; (3) a description or use or occupancy of the land and existing or proposed building; (4) a brief description of the proposed work; (5) estimated value of the proposed work; and (6) statement that the work shall be performed in compliance with the Uniform Code and applicable state and local laws, ordinances and regulations.

(d) A duplicate set of plans, drawings and specifications (except for demolition or removal of a building or structure) shall accompany such application. A certified architect or engineer's stamp is required on plans for all multiple family dwellings and commercial buildings, and on plans for one and two story family dwellings if more than 1,500 square feet, excluding cellars and garages.

SECTION 4. FEES:

All fees to be fixed by resolution of the Town Board, Town of Portland.

SECTION 5. BUILDING INSPECTION:

(a) The progress of work for which a permit has been issued shall be inspected at such times and intervals as may be necessary and appropriate to determine whether the work is being performed in compliance with the Uniform Code and applicable regulations. Such inspection shall be carried out prior to enclosing or covering of the particular portion or phase of building construction, including but not limited to: excavation; foundation; structural elements; electrical, plumbing, heating, ventilation and air conditioning systems; fire protection and detection systems; and exit features.

(b) The inspection shall be made by the enforcement official except that electrical inspection shall be conducted by a licensed New York state electrical inspection company whose report shall be furnished to the enforcement official.

(c) It shall be the duty and responsibility of the owner or authorized agent to inform the enforcement official in (b) above that the work is ready for each phase of inspection.

SECTION 6. CERTIFICATE OF OCCUPANCY:

(a) A building or structure for which a permit has been issued shall not be used or occupied in whole or in part until a Certificate of Occupancy shall have been issued by the enforcement official. Such certificate of occupancy shall be issued when after final inspection it is determined that the construction and other work has been

Completed in compliance with the Uniform Code and other applicable laws, rules and regulations.

(b) A Temporary Certificate of Occupancy may be issued pending final completion of the work providing the use or occupancy of the building or structure shall not present a danger to any person or property.

(c) A Certificate of Occupancy may be issued for any building or individual dwelling unit at any other time after inspection thereof by request, determination of compliance and payment of the prescribed fee.

(d) A Certificate of Occupancy shall be valid for a period of eighteen (18) months from the date of issuance. Owners of one and two-family dwellings shall not be required to renew their certificates of occupancy. All other owners shall have a grace period of thirty (30) days following the expiration of a Certificate of Occupancy in which to arrange for the inspection and to obtain the issuance of a new Certificate of Occupancy within the grace period shall constitute a violation.

(e) Certificates of Occupancy or Certificates of Compliance shall be required for all buildings which are converted from one general occupancy classification to another as such classifications are defined in Part 701 of Title 9 of the Official Compilation of Codes, Rules and Regulations.

SECTION 7. FIRE PREVENTION AND SAFETY INSPECTION:

(a) All dwelling units in a building consisting of more than two such units, shall be inspected for the purpose of determining compliance with the safety requirement of the Uniform Code, at least once in every eighteen (18) months. Inspection of the common areas of such building such as halls, foyers, staircases, etc., shall be so inspected at least once in every twelve (12) months. A fee to be fixed by resolution of the Town Board per dwelling unit shall be charged to the owner of the building or dwelling unit for each such inspection and a fee to be fixed by resolution of the Town Board shall be charged for inspection of the common areas of such building. The fee shall be paid by such owner within 45 days of the date of the statement therefor.

(b) One and two-family dwellings shall be exempt from inspection required by this Section.

(c) All other buildings, used and occupancies shall be inspected at least once in every twelve (12) months. A fee to be fixed by resolution of the Town Board per floor shall be charged to the owner of a hotel, motel, rooming house, dormitory for each such inspection and a fee to be fixed by resolution of the Town Board shall be charged for inspection of the lobby, hall-ways, foyers and common areas of such building.

(d) A fee to be fixed by resolution of the Town Board, shall be charged to the owner of a factory, industrial building, public garage, warehouse, community service building, retail or wholesale business establishment, gasoline station, theatre, meeting hall, including areas of public assembly defined in Part 606 of Title 9 of the Official Compilation of Codes, Rules and Regulations, professional and business office building for each inspection and a fee to be fixed by resolution of the Town Board shall be charged for inspection of the lobby, hall-ways, aisles, foyers and common areas of such building. The fee shall be paid by such owner within 45 days of the date of the statement therefor.

(e) An inspection of building or dwelling unit shall be performed at any other time upon (1) request of owner or authorized agent, (2) receipt of a written statement specifying ground upon which the subscriber believes a violation of the Uniform Code exists or (3) other reasonable and reliable information that such violation exists.

(f) Such inspection shall be performed by the enforcement official.

SECTION 8. RECORDS AND REPORTS:

(a) The Enforcement Official(s) shall keep permanent official records of all transactions and activities conducted by such official(s) including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated with the prior approval of the Town Board, violations and abatement actions, and notices and orders issued. All such records shall be public records open to public inspection during normal business hours.

(b) The Enforcement Official(s) shall, annually, submit to the Town Board on or before March 31st a written report and summary of all business conducted by him/them, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

SECTION 9. VARIANCE AND REVIEW:

A request for a variance from the Uniform Code and an appeal to review determination of or failure to render a determination by the enforcement official shall be processed with the appropriate board of review as provided in 19 NYCRR 440.

SECTION 10. REMEDIES AND PENALTIES:

In addition to the remedies prescribed by Executive Law Sec. 382, any person, corporation, association, firm or partnership that fails to remedy the condition found to exist in violation of the Uniform Code and this local law shall be subject to a fine of not more than \$500.00 or imprisonment for a period not exceeding fifteen (15) days or to both such fine and imprisonment. Each violation that continues to exist beyond the date fixed in the order of the enforcement official to remedy the violation shall be deemed a separate offense.

SECTION 11. ABATEMENT OF VIOLATION:

Appropriate action and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises and these remedies shall be in addition to penalties herein or otherwise prescribed by law.

SECTION 12. SOLID FUELED HEATING APPLIANCES:

A permit for installation of a solid fuel burning heating appliance, chimney and flue in any dwelling unit shall be obtained as provided in Section 3 of this local law. If the enforcement official, after inspection, determines that the installation is in compliance with the Uniform Code, he shall issue a Certificate of Compliance on a form to be prescribed by resolution of the Town Board. A violation of this section and of subdivision 5 of Section 378 of the Executive Law shall be punishable as provided in such subdivision 5.

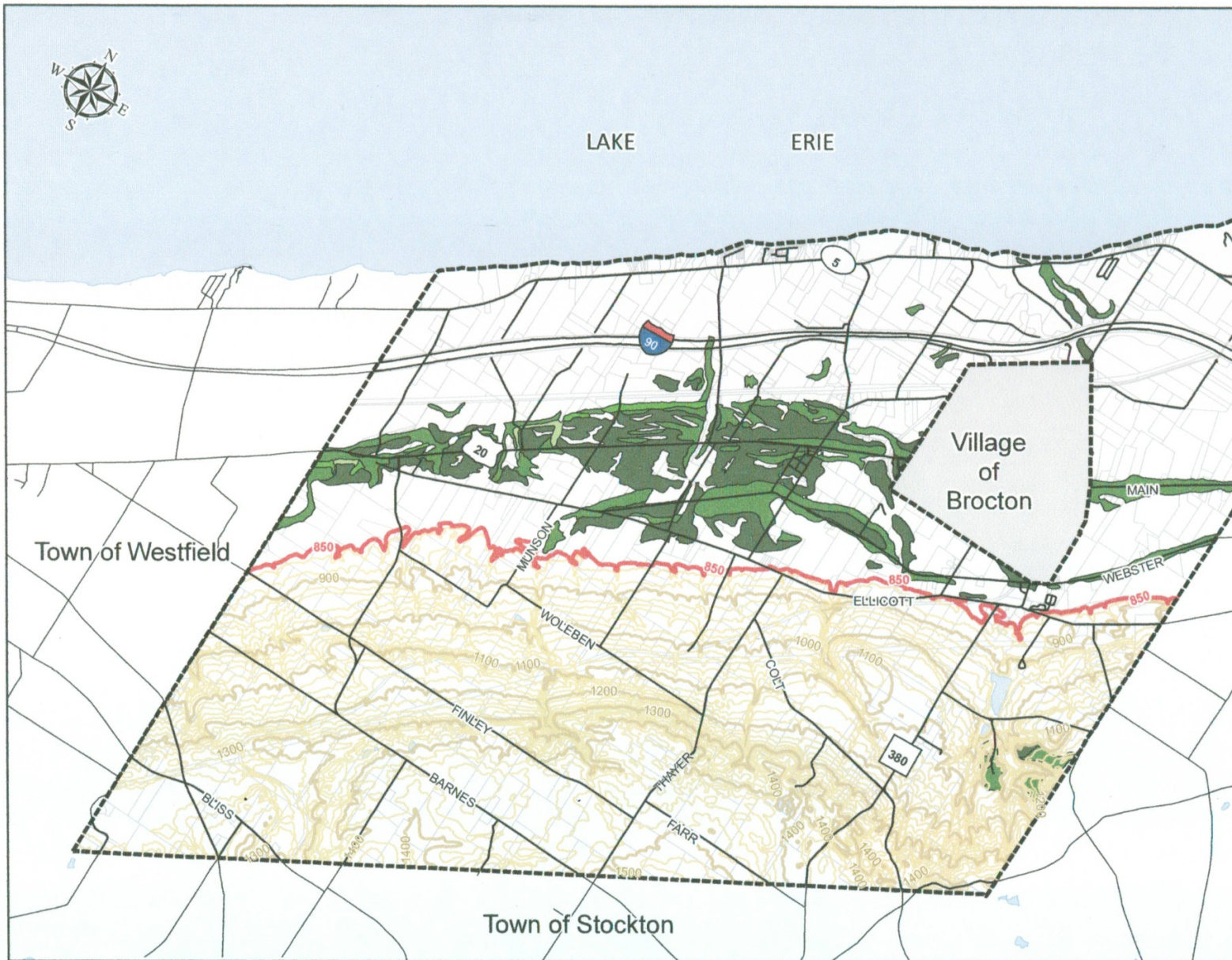
SECTION 13. EFFECTIVE DATE:

This local law shall take effect immediately upon filing in the office of the Secretary of State.

Reference Map of Section 402: GRAVEL DISTRICT - Local Law 2010-02

See Attached

REFERENCE MAP OF SECTION 402: GRAVEL DISTRICT (LL 2010-02)



LAKE ERIE

Village of Brocton

Town of Westfield

Town of Stockton



Reference Map

Legend

- Soils**
- CnA
 - CnB
 - CnC
 - CnE
- 850ft_Contour
 - 100' Intervals
 - 20' Intervals

0 3,050
1 inch

SOUTHERN
Creation

Fee Schedule for Building Permits – Resolution 111- 07

RESOLVED to change the fees for Building Permits on the recommendation of the Planning Board. This will be effective immediately.

See Attached

TOWN OF PORTLAND FEE SCHEDULE FOR BUILDING PERMITS

(ALL FEES ARE NON-REFUNDABLE)

Single, Two Family or Multiple Family Homes	\$0.08 Square Foot
Sheds - Up to 144 Square Feet	\$20.00
Any accessory buildings over 144 square feet - Including carports	Minimum \$35.00 or \$0.08 sq.ft. (whichever is greater)
Decks & Porches	Minimum - \$35.00 Plus \$0.08 over 150 sq. ft.
Pools	\$35.00
Wood Stoves & Solid Fuel Burning Appliances	\$35.00
Demolition Permits	\$25.00
Non-Agricultural Fences	\$35.00
Farm Buildings	\$10.00
Electrical Permit	No Charge
Conversions, alterations, additions & repairs Applicable only when a Building Permit is required for, but not limited to any of the following: replacement of rafters, replacement or alteration of bearing walls or floor/ceiling joists, foundation reinforcement, or the construction, alteration or replacement of stairs, porches and decks. Building Permit cost includes Certificate of Occupancy Fee	Minimum \$35.00 or \$0.08 sq.ft. (whichever is greater)
Requested Inspection outside of normal Town Business Hours (no Saturdays or Sundays)	\$25.00 per hour (after 4:30 pm)
Certificate of Occupancy	No charge if building permit is in effect, otherwise 50% of the schedule of fees
Temporary Certificate of Occupancy	Residential - \$10.00 Commercial - \$20.00
New Construction or Alteration for Commercial (Includes Farm Retail)	Minimum \$35.00 or \$0.08 sq. ft. (whichever is greater)
Truss Placard (Required by State in Commercial Bldg.)	\$50.00
Plan Review for any new construction, repair Or Alteration, Commercial Only Non-Refundable	Up to 10,000 sq. ft. floor area \$40.00 or \$0.04 x sq. ft. floor area Whichever is greater 10,001 - 50,000 sq.ft. floor area \$0.02 x sq. ft. floor area 50,001 - 100,000 sq. ft. floor area \$0.015 x sq. ft. floor area 100,001 sq. ft. floor area and up \$0.01 x sq. ft. floor area

FEE SCHEDULE FOR BUILDING PERMITS

(ALL FEES ARE NON-REFUNDABLE)

Permit Renewals (Renewal of permit granted only, if application is made prior to expiration of original permit. Otherwise, the full fee is required)	First Renewal is no charge. Subsequent renewals are 50% of original permit fee.
Annual Mobile Home Park License Renewal Fee	\$5.00 per Lot with a min. of \$50.00
Permits Requiring Public Hearing	\$40.00
Zoning Book Fee	\$20.00
Fire Safety Inspection	
One (1) or two (2) Family Residence (Only when requested by owner)	\$35.00 per dwelling unit
Multiple Residence Three (3) or more Dwelling units	\$35.00 flat fee per dwelling unit
All Other Occupancy	
0 - 5000 sq. ft.	\$50.00
5001 sq. ft. and over	\$100.00
Operating Permit	No Charge
Planning Board Site Review (Including any studies requested)	\$250.00

Wind Energy Conversion Systems (WECS)

A. In addition to any fee schedule adopted by the Town of Portland Town Board, there shall be non-refundable Application Fees as follows:

1. Wind Overlay Zone rezoning: \$500 per zone.
2. WECS Special Use Permit: \$50 per megawatt of rated maximum capacity.
3. Wind Measurement Towers: \$200 per tower
4. Wind Measurement Tower Special Use Permit renewals: \$50 per Wind Measurement Tower
5. The cost of all legal notices and mailings shall be assessed to the applicant

B. Building Permits

1. The Town believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for these facilities. Accordingly, the permit fees for such facilities shall be increased by administrative costs which shall be \$100 per permit request, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.