

Town Of East Otto

Zoning Ordinance

December 1996
Revised June 2012

ZONING ORDINANCE

TOWN OF EAST OTTO

ARTICLE I ENACTING CLAUSE

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and for each of the purposes specified therein, the Town Board of the Town of East Otto, County of Cattaraugus and State of New York, has ordained and does hereby enact the following ordinances regulating and restricting the location, size and use of buildings and other structures and the use of land in the Town of East Otto.

ARTICLE II - SNORT TITLE

This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of East Otto, Cattaraugus County, New York".

ARTICLE III - INTENT AND PURPOSE

For the purpose of promoting the public health, safety, morals, comfort and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding flood losses in areas subject to periodic inundation; and facilitating adequate, but economical provision of public improvements, all in accordance with a comprehensive plan, the Town Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures; percentages of lot area which may be occupied; setback building lines; sizes of yards, courts, and other open spaces; and the use of land for trace, industry, residences, recreation or other purposes, and for such purpose divides the unincorporated area of the Town into districts or zones.

In the construction of this ordinance, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

4.1 Rules

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

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

4.2 Definitions, amended 11/16/93

ACCESSORY STRUCTURE OR USE - A use or structure on the same lot width and of a nature customarily incidental and subordinate to the principal use of structure.

AGRICULTURE - Land, excluding necessary structures, that has as its principal use the raising or keeping of livestock or the growing of crops in the open.

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

APPEAL - A request for a review of the CEO's interpretation of any provision of this ordinance or a request for a variance.

AREA BUILDING - 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.

AUTOMOBILE GRAVE - Any site containing three or more inoperative motor vehicles which are not licensed and which have been permanently removed from the use for which they were originally manufactured.

AUTOMOTIVE REPAIR - The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

BASE FLOOD - The floor having a one percent chance of being equaled or exceeded in any given year.

BILLBOARD - Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the Land upon which it is located.

BOARD - The Town of East Otto, County of Cattaraugus, New York.

BOARDING HOUSE - A dwelling in which more than three persons individual or as families are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed a boarding house.

BOARD OF APPEALS - The Zoning Board of Appeals of the Town of East Otto, County of Cattaraugus, New York.

BREAKAWAY WALLS - Any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which are not part of the structural support of the building and which are so designed as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

BUILDABLE AREA - The space remaining on a zoning lot after the minimum open space requirements of this ordinance have been complied with.

BUILDING - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

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 roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING SETBACK LINE - A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in the ordinance.

CABIN OR COTTAGE - Summer or winter cabins, cottages or camps and similar structures designed for non-permanent residence. Any utilities installed must meet all applicable codes. No certificate of occupancy will be issued unless the structure meets all codes required for a dwelling. Special Use Permit must be renewed biannually or upon transfer of deed, after inspection and approval by CEO. There will be no charge for these renewals.

CAMP - Any one or more of the following other than a hospital, place of detention or school offering general instruction.

Type 1 - Any area of land or water on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less living purposes, regardless of whether such structure or other accommodations actually are occupied seasonally or otherwise: or

Type 2 - Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes; and any of the foregoing establishments whether or not conducted for profits and whether or not occupied by adults or by children, either as individuals, families or groups.

CLUB OR LODGE - A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for a social, educational or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business.

CONFORMING USE - Any activity or purpose which agrees with the regulations set forth in this ordinance as permissible.

COVERAGE - That percentage of the plot or lot area covered by the building area.

DEVELOPMENT - Any man-made change to improve real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DOG KENNEL - A structure located in other than an Agricultural District used for the harboring of more than three dogs that are more than six months old is not a permitted use in the R-1 Residential District.

DUMP - A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means, and for whatever purpose of garbage sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste materials of any kind.

DWELLING - A building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units. Two-family dwelling units and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses.

DWELLING UNIT - A Building or portion thereof providing complete housekeeping facilities for one family.

ESSENTIAL SERVICES - The erection, construction, alteration, or maintenance by public utilities or governmental agencies of collection communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.

EXPANSION TO AN EXISTING MOBILE HOME PARK (OR MOBILE HOME SUBDIVISION) - The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

FAMILY - One or more persons living together in one dwelling unit and maintaining a common household, including domestic, servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this ordinance as an accessory use.

FARM - An area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and for the packaging of or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits, etc.

FENCE - Any artificially constructed barrier or vegetation barrier restricting passage or eliminating view.

FLOOD OR FLOODING - A general and temporary *condition* of partial or complete inundation of normally dry land areas from:

- (A) The overflow of inland or tidal waters.
- (B) The unusual and rapid accumulation or runoff of surface waters from any source.

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

FLOOR AREA GROSS - For the purposes of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor areas devoted to retailing activities, to the production of processing of goods, or to business or professional offices.

GASOLINE OR FILLING STATION - Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including major repairs, collision service, or painting.

HABITABLE FLOOR - Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

HOME OCCUPATION - An accessory use of a service character customarily conducted within a dwelling by the residents thereof which is clearly secondary to the use of the building for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate and in connection therewith there is not involved the keeping of stock in trade, provided that said use does not occupy more than one fourth of the floor area in said principal residential building or such equivalent in accessory building's and that not more than one paid assistant be therein employed. Mortuary establishments, stores, eating establishments, tourist homes and manufacturing establishments of any kind shall not be deemed to be home occupations.

HOME RETAIL AND SERVICE TRADE - An accessory use involving retail product sales, or product servicing, conducted on the premises by the residents thereof, and not more than one paid employee, which is clearly secondary to the use of the building for living purposes and does not change the character of the neighborhood. The product sales or services may be conducted in a basement on the first floor, attached garage not exceeding one-half the square footage of the residential ground floor, or a separate building whose square footage does not exceed the square footage of the main residential ground floor. Full line grocery stores, whether local or chain are specifically excluded, but specialty grocery products, natural foods and farm products may be sold. Sales and service of vehicles that require state registration and boats are specifically prohibited.

HOTEL. MOTEL INN. TOURIST OR AUTO COURT. - An establishment containing lodging accommodations designed for use by transients, or travelers or temporary guests, with no provision in said accommodations for cooking in any individual room or suite.

CODE ENFORCEMENT OFFICER (CEO) - The administrative officer appointed by the Town Board to enforce the provisions of this zoning ordinance.

JUNK YARD - A lot, land or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags, or similar materials, but not including pawn shops and establishments for the sale, purchase, or storage of used furniture, household equipment or clothing; purchase or storage of used motor vehicles or salvaged machinery to be used for the purpose for which originally manufactured.

KENNEL COMMERCIAL - Any lot or premises or portion thereof on which more than four dogs, cats and other household domestic animals, over four months of age, are boarded for compensation or kept for sale. Commercial kennels are not permitted in the R-1 Residential and B-1 Business Districts.

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

LODGING OR ROOMING HOUSE - A building with not more than three guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to public or overnight guests.

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 DEPTH - The horizontal distance between the front and the rear lot lines measured in the mean direction of the side lot lines.

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 Cattaraugus County.

LOT THROUGH - A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot, both the frontage areas shall be deemed to be front lot areas.

LOT WIDTH - The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the build able area.

MANUFACTURING - The making of goods and articles by hand or machine process.
Restricted manufacturing shall be considered to be any manufacturing or industrial processing which by the nature of the materials, equipment and process utilized is to a considerable measure clean, quiet, and free of any objectionable or hazardous element. All manufacturing permitted in any district shall comply with the performance requirements set forth herein.

MOBILE HOME - A portable, factory-made dwelling unit, built on its own chassis, designed to be transported on its own wheels or those of another vehicle, normally equipped with factory installed appliances and furniture, and intended, when connected to all required utility systems, to be suitable for year round occupancy. For the purposes of these regulations, mobile homes are divided into the following two (2) types:

Type 1 New and used mobile homes certified as meeting the Mobile Home construction and Safety Standards of the United States Department of Housing and Urban Development (have H.U.D. seal attached) and the relevant provisions of the New York State Uniform Fire Prevention and Building Code.

Type 2 - Mobile homes which do not meet the standards for Type 1 mobile homes but which were permanently and legally established on a premises prior to the adoption of this amendment.

The term "Mobile Home" shall not be construed to include a modular home or a recreational vehicle.

MOBILE HOME PARK- A plot or parcel of ground containing a minimum of eight (8) acres which is manifestly arranged and furnished to provide the space, facilities, and access for mobile homes as required in Section 9.14 of this Ordinance and the applicable Public Health Regulations of the State of New York and Cattaraugus County.

MODULAR HOME - A dwelling unit consisting of two (2) or more major segments constructed off-site, which comply with the New York State Uniform Fire and Building Code, and are designed to be transported to a site for assembly on a permanent masonry foundation with a continuous wall, constructed of masonry or concrete, around the main structure, in compliance with New York State Uniform Fire and Building Code. When assembled on any other type of foundation, these dwellings will be treated as a Type 1 mobile home, for the purposes of this ordinance, and all applicable permits and procedures shall apply.

NEW CONSTRUCTION - Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

NON-CONFORMING 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 or zone in which it is situated.

PARCEL -A single tract of land as described on the tax rolls of the Town of East Otto or as defined by deed description as filed with the Cattaraugus County Clerk's Office.

PLANNING BOARD - The Planning Board of the Town of East Otto, Cattaraugus County, New York.

PRINCIPAL USE - The main use of land or buildings as distinguished from a subordinate or accessory use.

PRIVATE OR COMMERCIAL RECREATION FACILITIES - To include, but not limited to swimming pools, golf courses, tennis courts and shooting facilities. When such facilities are designed and intended for personal use by -the property owner, a special use permit will not be required. All applicable health, safety and building codes and permits , shall still apply.

PUBLIC USE - Public parks, schools, and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY - Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public electricity, gas, steam, telephone transportation or water.

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

RECREATIONAL TRAILER PARK (CAMP) - A plot or parcel of ground containing a minimum of eight (8) acres which is manifestly arranged and furnished to provide the space, facilities, and access for Recreational Vehicles as required in Section 9.14 of this Ordinance and the applicable Public Health Regulations of the State of New York and Cattaraugus County.

RECREATIONAL VEHICLE - A vehicular, portable structure without a permanent foundation or supports, which can be towed, hauled or driven which is not designed for permanent connection to utility systems, and is primarily designed for use as temporary living accommodations for recreational, camping or travel purposes. Such vehicles include but are not limited to travel trailers, truck campers, camping trailers and self propelled motor homes.

ROADSIDE STAND - A structure for the display and sale of goods. Stands selling produce, 75% of which are produced on the premises shall not require a special use permit.

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

SEMI-PUBLIC USE - Churches, parochial schools, colleges, hospitals and other institutions of an educational, religious charitable or philanthropic nature.

SERVICE COMMERCIAL - A retail or wholesale business requiring office space, service and repair facilities, etc. Service commercial establishments are limited to the following and similar uses:

- (1) Automobile repairing, washing, sales and gasoline service stations
- (2) Bulk dry cleaning and laundry
- (3) Transportation and trucking services
- (4) Printing shops
- (5) Product assembly
- (6) Auto rental or storage lot
- (7) Wholesale business
- (8) Contractor's yard
- (9) Welding and light fabrication
- (10) Restaurants

All service commercial establishments shall be located on a lot not less than five (5) acres in area and three hundred (300) feet in width, while meeting all other lot requirements for the district, and shall be the only service commercial establishment on said five acre site.

SIGN - Any advertisement, announcement, direction of communication produced in whole or part by the construction, erection, affixing or placing of a structure on any land or other structure, produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, city, county or state agency for the purpose of showing street names, directions, regulations, or for other public purpose.

SPECIAL-FLOOD HAZARD AREA - That maximum area of the flood plane that, on the average, is likely to be flooded once every one hundred years (i.e. that has a one percent chance of being flooded each year- "one hundred year flood").

SPECIALIZED ANIMAL RAISING AND CARE- The use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses or other domestic animals of a similar nature.

SPECIAL USE - Any use of land or buildings, or both, described and permitted herein, subject to the provisions of Section 12.4.

START OF CONSTRUCTION - The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

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

STRUCTURAL ALTERATIONS - Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams, and girders.

STRUCTURE - Anything constructed or erected, the use of which requires location on the ground or under the ground or upon another structure or building.

SUBDIVISION - Any parcel of land divided into two (2) or more lots blocks or sites, with or without streets or highways. This definition shall be deemed to include developments where lands are held in common and no actual transfer of ownership is included. However, subdivisions with lots ten (10) acres or larger in size shall not be required to file a plat under these regulations. For the purposes of these, regulations, there shall be two classifications of land subdivision.

A subdivision as defined herein shall be considered a Minor Subdivision if it meets the following criteria:

- 1) The division of any parcel into four (4) or fewer lots within a period of three (3) years, or where all such lots are in excess of five (5) acres in area, and all such lots front on existing public highways, with the minimum lot width for the district.
- (2) All such lots are approved by the Health Department with regard to sewage disposal and water supply.
- (3) Subdivisions must be classified as an Unlisted Action with no significant adverse impact under SEQRA Regulations,

All other subdivisions as defined herein shall be considered Major Subdivisions.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State inventory of Historic Places.

USE - Any activity or purpose that a building, structure, lot or land or part thereof is put to any such use may be conforming use or a non-conforming use.

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

YARD - An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD FRONT - An open, unoccupied space on the same lot with a building situated between the street center line and a line connecting the parts of the building setting back from and nearest to such street center line and extending to the side lines of the lot.

YARD SIDE - The part of the yard lying between the nearest line of the principal building and side lot line and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard.

ZONING MAP - The map or maps incorporated into this ordinance as a part hereof, designating zoning districts. .

ZONING PERMIT - The permit issued by the Building Inspector authorizing the development, construction, extension or use of land and/or buildings.

ARTICLE V- GENERAL PROVISIONS

5.1 Interpretation

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

5.2 Application of Regulations

- (A) Application - Except as hereinafter provided:

- (1) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- (2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, specified herein for the district in which such a building is located.
- (3) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other space similarly required for another building.
- (4) No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this ordinance. If already less than the minimum required under this ordinance, said area dimension or capacity shall not be further reduced.

(B) Responsibility - The final responsibility for the conforming of buildings and use to the requirements of this ordinance shall rest with the owner or owners of such, building or use and the property on which it is located.

5.3 Lot Area and Dimension

(A) Contiguous Parcels - When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership they shall be used as one zoning lot for such use.

(B) Lots or Parcels of land of Record- Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this 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 of areas.

5.4 Access to Public Street

Except as otherwise provided for in this ordinance, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or platted street unless a permanent easement of access to a public street was of record prior to the adoption of this ordinance.

ARTICLE VI - ESTABLISHMENT OF DISTRICTS

6.1 Districts

For the purpose and provisions of this ordinance, the Town of East Otto is hereby divided into the following types of districts:

A-1 - Agricultural Forestry District R-1 -
Residential District
B-1 - Business District M-1 - Industrial
District F-1 - Special/Floodway F-2 -
Floodway Fringe District

6.2 Zoning Map

The boundaries of the aforesaid zoning districts are hereby established as shown on the map entitled, "Zoning District Map of East Otto, New York, dated June 8, 1983", which map accompanies and is made a part of this ordinance and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

6.3 District Boundaries

The district boundary lines shown on the zoning map are, unless otherwise indicated, intended to follow either highways, railroads, streets, alleys, easements or lot lines, and where the districts designated on the map are bounded approximately by such highway, railroad, street, alley easement or lot line shall be construed to be the boundary of the district. In the case of unsubdivided property, or in the event lot lines are not so indicated, the district boundary lines shall be determined by the use of the scale appearing on the zoning district map or by dimensions.

6.4 Zoning, of Streets, Alleys, Public-ways, Waterways and Rights of Way

'Where the center line of a street, alley, public-way, waterway, or railroad right-of-way serves as a district boundary, the zoning *of such* area, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to *such* center line.

The lawful use of land for agricultural purposes including farm ponds and the construction, enlargement, or use of non-residential buildings directly incident to the same agricultural use shall be permitted in all agricultural districts established by this ordinance and no zoning certificate shall be required for any such use or nonresidential building. Provided, however, that such non-residential buildings shall be required to observe the setback and yard requirements specified for the district in which they are located and further provided that a building permit for any structure be obtained as required in the building code of the Town of East Otto.

ARTICLE VII - DISTRICT USE REGULATIONS

7.1 Schedules of District Use Regulations

The requirements and limitations set forth in this article in tables entitled "District Use Regulations, Schedule A" and "District Use Regulations Schedule B", with all explanatory matter thereon, are hereby made a part of this ordinance and shall apply in the respective districts as indicated.

7.2

The uses which are permitted in the specified zoning districts and for which the building (zoning) inspector may use a permit, and the special uses requiring the approval and a permit from the PLANNING BOARD are set forth in the following table entitled "District Use Regulations, Schedule A" which is section 7:2 of this article. Uses not listed or interpreted by the ZONING BOARD OF APPEALS to be included categorically under this section shall not be permitted except by amendment to this ordinance.

Section 7,2 District Use Regulations, Schedule A, Amended 11/16/94

Permitted Uses	Special Uses, Requiring Planning Board Approval
<u>A- Agricultural District</u>	
<p>Agriculture Plant cultivation Forestry Single-Family Residences</p> <p>Two-Family Residences Parks Public Uses Semi-Public Uses Public Utilities Essential Services Accessory Uses Dog Kennel</p>	<p>Mobile homes ' Multiple dwellings Home Occupations Home Retail and Service Trade Service Commercial Nursery Schools Child Care Clinics Medical Centers Tourist Homes Professional Activities Rest Homes, Nursing Homes and Sanitariums Cemeteries Mobile Home Parks Recreational Trailer Parks Camps Cabin or Cottage Private and Commercial Recreation Facilities Motels and Hotels Airports Golf Courses Oil and Gas Wells, Tanks and Lines Mining, Quarrying, Sand and Gravel Extraction Sawmills Radio and television Towers Roadside Stands Drive In Theaters</p>
<u>RI RESIDENTIAL</u>	<u>DISTRICT</u>
<p>Single-family residences Two-family residences Parks Public Uses</p> <p>Semi-Public Uses Essential Services Accessory Uses Mobile Homes</p>	<p>Home Retail and service Trade Multiple dwellings Home Occupations Nursery Schools Child Care Centers Medical Centers Tourist Homes Professional; Activities Rest Homes, Nursing Homes and Sanitariums Cemeteries Fences</p>

Section 7.2 District Use Regulations, Schedule A, Amended 11/16/94

Permitted Uses	Special Uses, Requiring Planning Board Approval
<p style="text-align: right;"><u>B-1 Business</u></p> <p>Retail business Personal Services Business Services Professional Activities Commercial Schools Offices and Banks Restaurants Gas Stations Automotive Sales and Repairs Motels and Hotels Entertainment Facilities Mortuaries Public Uses Semi-Public Uses Essential Services Public Utilities Accessory Uses</p>	<p><u>District</u></p> <p>Multiple Dwellings Wholesale Businesses Drive In Commercial Uses Animal Hospitals or Clinics Lumber and Building Material Sales Outdoor Advertising Tourist homes</p>
<p style="text-align: right;"><u>M-1 Industrial</u></p> <p>Manufacturing Food Processing Research and testing Facilities Fuel Oil and Gasoline Storage Feed and Grain Storage Warehouses Lumber and Building material Storage and Sales Agriculture Public Uses Public Utilities Essential; Services Accessory uses Offices</p>	<p><u>District</u></p> <p>Wholesale Businesses Junk Yards (automobile salvage yards)</p>

Section 7.2 **District Use Regulations**, Schedule A, Amended 11/16/94

Permitted Uses	Special Uses, Requiring Planning Board Approval
<p style="text-align: right;"><u>F-I Special</u></p> <p>Agriculture Essential Services Forestry Parking Lots Plant Cultivation Water Related Uses</p>	<p><u>Floodway</u></p> <p>Private Recreation Public recreation Public Uses Roadside stands Signs</p>

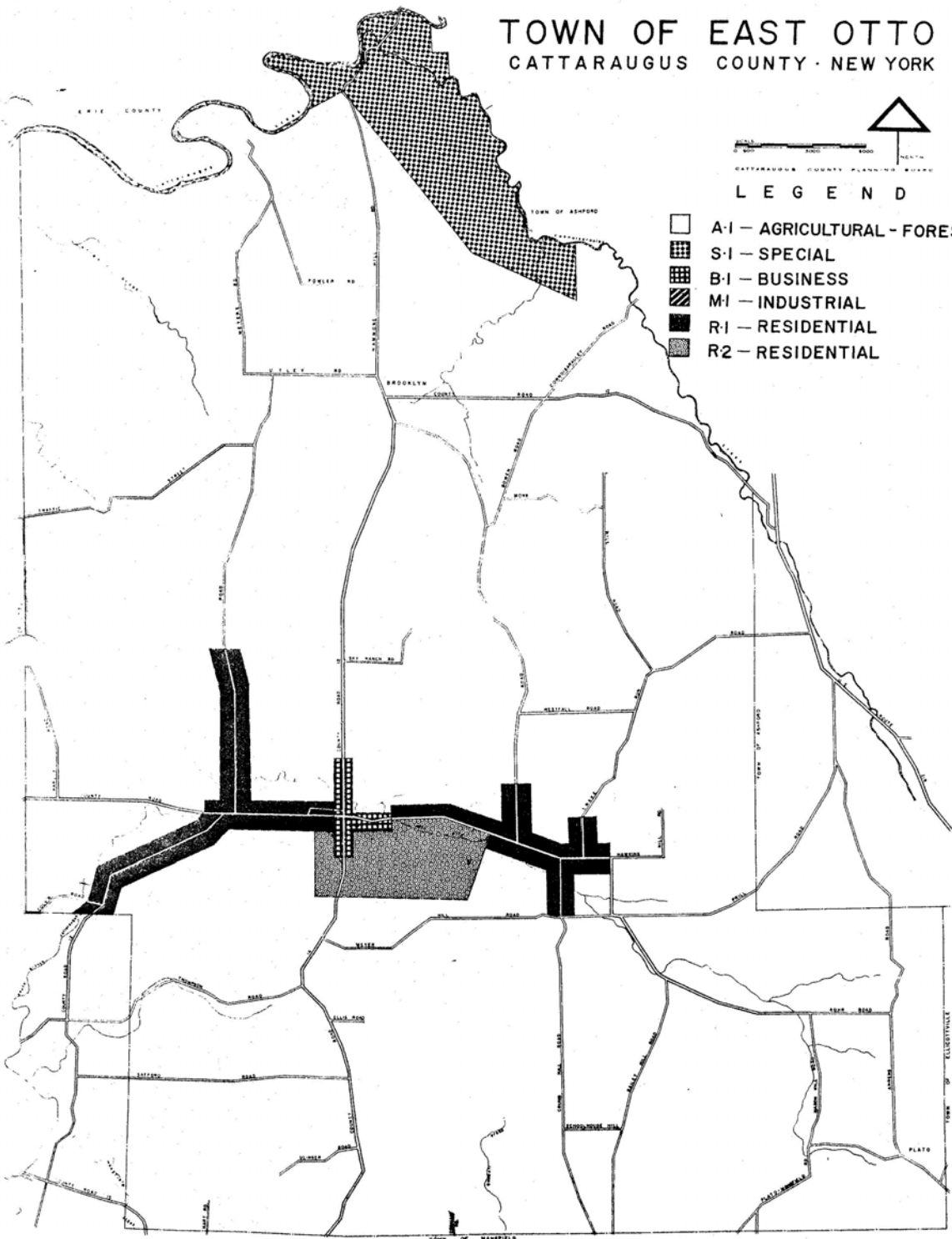
F- 2 Floodway Fringe District

Subject to most restrictive regulations in zone adjacent to it on zoning map plus supplementary

Local Law Number One, 1988, Flood Damage Prevention.

TOWN OF EAST OTTO

CATTARAUGUS COUNTY · NEW YORK



ZONING DISTRICT MAP

Section 7.3 District Use Regulations Schedule B. amended 10/1 1/93 The lot, yard, height, and area requirements and limitations set forth in the following table, with all explanatory matter, shall apply in the respective districts as indicated.

Districts	Minimum Lot Area Per Dwelling Unit (1),(2)	Minimum Lot Width	Minimum Set Back (Distance from centerline of road to nearest building) (3)
Agricultural Forestry A -1	3 Acres	250 ft.	125 ft.
Residential R-1	2 Acres	150 ft.	100 ft.
Business	1 Acre	100 ft.	100 ft.
Industrial M-1	5 Acres	300 ft.	200 ft.
Special floodway	Residences Not Same as Adjacent Permitted 450 ft. Districts Refer to Local Law Number 1, 1988, Flood Damage Prevention.		
Floodway Fringe	Subject to most restrictive regulations in zone adjacent to it on zoning map plus supplementary regulations, Local Law Number 1, 1988, Flood Damage Prevention.		

(1) The Cattaraugus County Board of Health may require a larger minimum size.

(2) Refer to Section 5.3, B, Lots or Parcels of Land of Record (pg. 15)

(3) Along any U.S. or State Highway and any designated primary County Highway, no residential or accessory building shall be located within 75 feet of the existing or proposed Right-of-way line.

Districts	Minimum Side Yard Dimensions			Maximum Height	Maximum Percent of Lot Coverage
	Dwelling	Non-dwelling	Rear		
Agricultural	40 ft. total	25 ft.	50 ft.	35 ft.	25%
Forestry <u>A-1</u>	15 ft. min.	Each side			
Residential <u>R-1</u>	40 ft. Total 15 ft. min.	25 ft.	50 ft.	25 ft.	25%
Business <u>B-1</u>	15 ft. Total 5 ft. Min.	(4)	(4)	30 ft.	50%
Industrial <u>M-1</u>	-----	50 ft. each side	50 ft.	60 ft.	25%
Special Floodway <u>F-1</u>	-----	225 ft.	180 ft.	40 ft.	25% I
Floodway Fringe <u>F-2</u>	Subject to most restrictive regulations in zone adjacent to it on the zoning map plus supplementary regulations. Number 1, 1988, Flood Damage Prevention.				

(4) Commercial uses shall not be located or conducted within 40 feet of any lot line in a Residential District.

ARTICLE VIII - NON-CONFORMING BUILDINGS AND USES

8.1 Continuance of Use

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

8.2 Discontinuous Use

- A) Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this ordinance, such premises shall not thereafter be used or occupied by a non-conforming use.
- 13) Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued, as evident by vacancy, for a period of twelve consecutive months, or whenever there is evidence a clear intent on the part of the owner to abandon a non conforming use, such use shall not after being discontinued or abandoned be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district.
- C) Where no enclosed building is involved, voluntary discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

8.3 Change OF Use

The non-conforming use of any building, structure or portion thereof may be changed, with the approval of the BOARD OF APPEALS, to a use of a more restrictive classification, and when so changed shall not thereafter be changed to a less restrictive classification.

8.4 Cessation of Certain Uses

Notwithstanding any other provisions of this ordinance, any automobile wrecking yard, private dump, or other junk or refuse yard in existence in any residential or special district, and all non-conforming signs, billboards and outdoor advertising structures in any district on the effective date of this ordinance shall, at the expiration of five (5) calendar years from such date, become prohibited and unlawful use and shall thereupon be discontinued; providing, however, that lawfully existing signs, accessory to an institutional building, or to a non-conforming business or industrial building shall not be subject to this regulation. .

8.5 Repairs and Alterations

Normal maintenance of a non-conforming structure is permitted. However, such structure may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost twenty-five (25) percent of the assessed value of the structure unless changed to a conforming use.

8.6 Extension

A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming structure designed or manifestly arranged for such use, which existed prior to the enactment of this ordinance, shall not be deemed the extension of such non-conforming use.

8.7 Restoration

No structure damaged by fire or other causes to the extent of more than sixty (60) percent of its assessed value shall be repaired or rebuilt except in conformity with the regulations of this ordinance.

8.8 District Changes

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

ARTICLE IX -,SUPPLEMENTARY REGULATIONS

9.1 Application

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

9.2 Performance Requirements

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition and a zoning permit shall not be issued there for unless the following performance requirements are observed to the satisfaction of and approved in writing by the TOWN PLANNING BOARD and the CATTARAUGUS COUNTY HEALTH DEPARTMENT.

9.3 Signs Outdoor ,Advertising Structures

With the exception of public road and highway signs, no signs or billboards shall be permitted in any district except as hereinafter provided.

- (A) Real estate signs not exceeding 12 square feet in area and advertising the sale, rental, or lease of the premises on which the sign is located shall be permitted on any property .
- (B) Announcement or professional signs for legitimate home occupations and professional activities and name of resident signs not exceeding more than 6 square feet in area shall be permitted in any district where such activities are permitted.
- (C) Bulletin boards and signs for a church, school, community or other public or semi-public institutional building shall be permitted provided that the area of such sign does not exceed 15 square feet in area and such signs are set back a minimum of 15 feet from the established right-of-way line.
- (D) Temporary signs not exceeding 50 square feet, announcing the erection of a building, the architect, builders, etc., may be erected for the period of 60 days plus construction period; provided, however, the same shall be removed from the premises upon the completion of the building.

(E) In a business district, each business shall be permitted to erect on flat or wall sign for the purpose of permanent advertising. The area of such sign for any single business enterprise shall be limited according to the frontage width of the structure or the frontage width of the part of the structure occupied by such enterprise. In computing the maximum size, each business enterprise may have a permanent sign of an area for each lineal foot of frontage width occupied, but in no case shall exceed a maximum area of 100 square feet. A free-standing pole sign of symbolic design not over 30 feet in height and not in excess of 40 square feet in sign area may also be permitted each business providing that:

(1) No part of such sign shall project into or over any public right-of-way.

(2) The pole support of such sign shall not be less than 40 feet from any lot in any residential district.

(F) In an industrial district, a sign may be erected which pertains to the specific use of the property upon which it is erected. The area of such sign shall not exceed more than 100 square feet in area, except that the BOARD OF ZONING APPEALS may approve signs of up to 200 square feet in area, provided they be at least 35 feet from any street line and 50 feet from any other lot line.

(G) In an "A-1" district, signs not exceeding 15 square feet in area may be erected advertising goods or services provided that:

(1) Written permission of the land owner is obtained by the advertiser.^R

(2) No part of the sign or its supporting structure or pole is within 5 feet of the highway right-of-way.

(3) No part of the sign or its supporting structure is within 50 feet of the boundary line of adjoining property.

Except as provided above, signs, and outdoor advertising structures where permitted, shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal use of such district.

9.4 Off Street Parking and Loading Requirements

In all districts in connection with every residential, commercial, industrial, institutional or other use, there shall be provided at any time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

- (A) Each off-street parking space shall have an area of not less than 160 square feet exclusive of access drives or aisles, and shall be of usable shape and condition.
- (B) There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a private or public access drive, an access drive of not less than eight (8) feet in width in the case of a dwelling and not less than eighteen (18) feet in width in all other cases leading to the parking area shall be required.
- (C) The number of off-street parking spaces to be provided shall not be less than the following:
SEE SCHEDULE C
- (D) No parking space or portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking spaces or portion thereof established on a zoning lot without a building shall be located closer to any street line than the front yard set back required for the district in which the parking lot is located.
- (E) Every building having a gross floor area of 10,000 square feet or more, requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof. Each loading space shall be not less than 10 feet in width, 25 feet in length and 14 feet in height.

SCHEDULE C

USE	PARKING SPACE REQUIRED
Bowling Alley	Five for each alley
Church or School	One for each eight seats in principal gathering room
Country club	One for each five members
Dance hall, assembly or exhibition hall, night club, cafe or similar recreation establishment	One for each 100 square feet of floor area
Restaurant	One for every four seats
Golf Course	Six for each hole
Hospital	One for every three beds and one for each two employees on the maximum working shift
Industrial uses	One for each two employees on the maximum working shift
Mortuary or funeral home	One for each 75 square feet of floor area
Offices, Clinics, Wholesale establishments & business services	One for every 300 square feet of floor space
Private club or lodge	One for each ten members
Public Swimming Pool	One for each 40 square feet of pool area
Motel, Hotel, Tourist home	One per rental room or unit
Residential	One per unit dwelling
Retail Store or Personal Service establishment	One for each 100 square feet of floor space
Sanitarium or Convalescent	One for every three beds and one for each two employees on the maximum working shift
Theater	One for every four seats

9.5 Sanitation

The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the TOWN BOARD and the CATTARAUGUS COUNTY DEPARTMENT OF HEALTH. Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of NEW YORK STATE and CATTARAUGUS COUNTY DEPARTMENT OF HEALTH. Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of such supplies.

9.6 Stripping of Topsoil

No person shall, without a special permit issued by the BOARD OF ZONING APPEALS, strip, excavate or otherwise remove topsoil for sale or use other than on the premises from which the same shall be taken except in connection with construction or alteration of a building or paved parking area on such premises and excavation or grading incidental thereto. When such excavation is permitted with a special permit, the owner of the land affected shall agree in writing prior to the issuance of the permit, to insure that such excavation will not adversely affect adjacent properties.

9.7 Automobile Salvage Yards and Junk Yards

Except as provide herein, the development, extension, maintenance or use of an automobile salvage yard, or junk yard shall be prohibited in the TOWN OF EAST OTTO. Any person or persons maintaining on their premises for abandonment, storage, disassembly, exchange and/or sale as a unit or as parts more than two disabled automobiles, refrigerators, washers, pieces of farm machinery or similar appliances or equipment, or parts thereof, shall be subject to the provisions of this section. When permitted as a special use with the TOWN PLANNING BOARD, approval, in an "M-1" industrial district, all automobile salvage yards and junk yards shall conform to the following requirements:

- (A) The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.
- (B) The permittee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to ' minimize the fire hazard there from and to prevent improper trespass thereon by children and others.
- (C) The permittee must erect and maintain in good condition a six foot (6) fence of close mesh or one made of wood or other acceptable material parallel to the right of way line of the road and set back seventy five (75) feet there from.

The area of the permittee's activity or business shall not be used as a dump area or as a place for the burning and disposal of junk or trash.'

The TOWN POLICE, the TOWN CLERK, or the TOWN BOARD or any of its representatives shall be granted access to the area of activity or business or the permittee at all reasonable hours to inspect the same for compliance herewith.

No person shall keep or maintain more than one junk yard at a single location by virtue of one permit.

Open fires may be prohibited at the discretion of the TOWN BOARD, and unattended fires shall not be permitted on any premises covered under this provision of the zoning ordinance.

The autos, parts and materials dealt in by the permittee shall be disassembled or dismantled by means other than by burning. They shall be piled less than seven (7) feet high and arranged in neat rows so as to permit easy, clear passage through the area.

There shall be maintained at each such place of activity or business for which a permit is issued at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.

Automotive salvage yards and junk yards existing on the effective date of this ordinance, in other than a residential or special district, may be permitted to continue providing that they fully conform to the standards set forth in items (A) through (I) above within a period of one (1) Year.

9.8 Temporary Structures or Trailers

Temporary structures or trailers, other than structures or trailers for living purposes, to be used in connection with construction work only, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of such work. Permits for temporary, non-residential buildings shall be used for a one year period and must be renewed for continued use.

9.9 Community Development Projects

This Section does not apply to the Special Floodway District or the Flood Way Fringe District.

In any Agricultural-Forestry or Residential District there may be developed, with the approval of the TOWN PLANNING BOARD and BOARD OF ZONING APPEALS, residential community development, projects of either a seasonal or permanent nature. In such projects a greater freedom of design may be permitted with respect to the use of land, area of lots, and depths of yards, even though compliance in all respects to the provisions of this ordinance is not maintained, providing:

- (A) A complete plan for the area has been approved by the TOWN BOARD and the CATTARAUGUS COUNTY HEALTH DEPARTMENT.
- (B) The track of land is to be developed in not less than fifteen (15) acres in area.
- (C) The adjacent property will not be adversely affected.
- (D) The plan is consistent with the intent and purpose of this ordinance.
- (E) Application, fees. The town shall require an application fee of \$250.00 or \$10.00/ dwelling unit, whichever is greater for projects reviewed as Community Development Projects. Fees are to cover public hearing, administrative, ' professional review, and overhead costs; as well as costs of reviewing and preparing Environmental Assessment Forms and related State Environmental Quality Review notices and determinations. Fees shall be paid to the TOWN CLERIC at time of submittal of application.
- (F) State Environmental Quality Review Act (SEQRA) Fees. SEQRA fees may be required by the Town. Pursuant to Section 617.17 of part 617 "State Environmental Quality Review" (SEQR) of the New York State Consolidated Rules and Regulations (NYCRR) and Subdivision 8-0109.7 of New York State Environmental Conservation Law (ECL), the Town Board, acting as lead agency, shall charge a fee to the applicant to cover the actual costs of preparing or reviewing an Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If the applicant prepares - the EIS, the Town Board shall charge the applicant for the actual cost of the review. If the applicant does not choose to prepare the EIS, The Town Board shall charge the applicant for the actual cost of preparing the EIS.
- (G) Legal Fees. The Town may require the applicant to pay as Fees the Town's legal costs in reviewing and approving or disapproving the applicant's proposal.

9.10 Corner Lots

On corner lots, no fence, wall hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines on such lots and a line drawn between two points thirty (30) feet distant from the intersection, measured along said street lines.

9.11 Burial of Remains

No land, lot or parcel in the TOWN OF EAST OTTO, other than approved cemetery, shall be used for the burial of human remains.

9.12 Conversion of Seasonal Residence

A seasonal residence shall not be converted to permanent use without the special approval of the ZONING BOARD OF APPEALS. Such approval shall require total conformity with all requirements for a new permanent residence of the zone in which such use is located.

9.13 Regulation for Special/ Floodway (F-1) and Floodway Fringe (F-2 District

(A) General Standards

- (1) All new construction and substantial improvements (including mobile homes)^R shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (4) Service Facilities. Any public facility including electrical and heating shall be constructed at or above the regulatory flood protection elevation for the particular area or flood proofed.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Review subdivision proposals and other proposed new development to determine whether such proposal will be reasonably safe from flooding.

(a) Subdivision should be reviewed to assure that:

(1) All proposals are consistent with the need to minimize flood damage. (2) All public utilities and facilities such as gas, sewer, electrical and water systems are located and constructed to minimize or eliminate flood damage.

(3) Adequate drainage shall be provided to reduce exposure to flood hazards.

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

(c) For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities, and pads equals 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has ° commenced and for mobile homes not placed in a mobile home park or subdivision require:

(1) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

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

(3) in the instance of elevation on pilings: (1) lots are large enough to permit steps (2) piling foundations are placed in stable soil no more than ten feet apart, and (3) reinforcement is provided for pilings more than six feet above the ground level.

(B) Specific Standards

Within A zones, in the absence of Federal Insurance Administration base flood elevation data, other available data must be considered as basis for elevating residential structures to or above the base flood level, and flood proofing or elevating non-residential structures to or above the base flood level must be considered for the purpose of determination of applicable flood insurance risk premium rate with such A zones.

- (2) Residential Construction New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to for above base flood elevation.

Non-residential Construction. New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official.

(4) Mobile Homes.

- (a) ___ No mobile homes shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.
- (b) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
- (1) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring on additional tie per side;
 - (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring one additional ties per side.
 - (3) All components of the structure system be capable of carrying a force of 4,800 pounds, and;

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

(C) The following regulations shall apply in all areas designated as F-1 Districts:

(1) No permanent structures shall be permitted in the F-1 District.

(2) Encroachments, including fill, new construction, substantial improvements and other developments, unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrences of the base flood discharge, is prohibited.

(D) Flood Control Facilities. With the construction of flood control facilities approved by the TOWN PLANNING BOARD and the NEW YORK STATE CONSERVATION DEPARTMENT, permits may be granted in the F-2 District for the same uses that are permitted in the non-floodway district nearest it on the zoning map.

(E) Standards for Areas of Shallow Flooding (AO Zones). Located within the areas of special flood hazard established in Article 3, Section B are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable anti indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM.

(2) All new construction and substantial improvements of non-residential structures shall:

(a) have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on. the FIRM, or

(b) together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Note: See Local Law Number One, 1988

9.14 Mobile Home Parks and Mobile Homes.

- (A) Mobile **Home** Parks - Where permitted in Section 7.2 of this ordinance, a mobile home court shall conform to the following requirements:

An application for a mobile home park permit shall be filed with and issued by the TOWN BOARD subject to approval of the CATTARAUGUS COUNTY HEALTH DEPARTMENT. The application shall be in writing, signed by the applicant and shall include the following:

- (a) Name and address of applicant.
- (b) Location and legal description of the park.
- (c) A complete plan of the park in conformity with the following:
 - (1) Shall be located on a well drained site, properly graded to insure rapid drainage.
 - (2) Shall contain a minimum of four (4) acres.
 - (3) Mobile home spaces shall be provided consisting of a minimum of 2500 square feet for each space which shall be at least 30 feet wide and clearly defined.
 - (4) There shall be at least a 20 foot clearance between individual mobile homes, and between mobile homes and any permanent structure on or adjacent to the park.
 - (5) All mobile homes shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street or highway. (6)
An adequate and tested supply of pure water for drinking and domestic purposes shall be supplied to all mobile home spaces within the park. (7)
No mobile home shall be located closer than 40 feet to any property line or 85 feet from street right-of-way line.
 - (8) A combined sewage treatment and disposal system shall be provided as recommended and approved by the CATTARAUGUS COUNTY HEALTH DEPARTMENT.
 - (9) Adequate garbage disposal facilities, as approved by the CATTARAUGUS COUNTY HEALTH DEPARTMENT, shall be provided.
 - (10) Every park shall have a fire protection plan approved by the Fire Department having local jurisdiction.
 - (11) Every park operator shall keep a complete register of occupants which shall be available for inspection at all times by the enforcement and health officials.
- (2) The TOWN BOARD may revoke any permit to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this ordinance.

(B) Mobile Homes. No mobile home, trailer or other habitable vehicle shall be permitted to locate in the Town in any district as specified under section 7.2 of this ordinance except under the following conditions:

(1) The mobile home shall be located as the principal use on a lot containing not less than the area required for the District in which it is located.

(2) The mobile home shall contain a minimum area of 600 square feet.

(3) Plans shall be submitted to the Cattaraugus County Health Department for approval, showing water supply, sewage disposal, drainage and refuse disposal.

(4) The mobile home shall be located in accordance the requirements of the District in which it is located.

(5) The mobile home shall be placed on a permanent type foundation with skirting or solid type material screening the space between the mobile home floor and ground.

(6) Dependent mobile homes other than recreational trailers with a special permit shall not be located within the Town.

(7) Recreation vehicles or trailers may be located and used in the Town with a 14 day permit obtained from the Town Code Enforcement Officer. Said permit ma* be renewed at the discretion of the Code Enforcement Officer. Individual recreation vehicles or trailers may be stored on the property of the owner for an unlimited time provided that no residence, storage, conduct of business or other use is made of the vehicle or trailer. Such vehicles or trailers shall, whenever practical, be screened from public view to reduce impact on adjoining properties.

(C) Recreation Trailer Camp Plan

(1) The recreation camp shall conform to the following requirements:

(a) Shall be located on a well drained site properly graded to insure rapid drainage. (b) Shall contain a minimum of 8 acres.

(c) Camping spaces shall be provided consisting of a minimum of 2500 square feet which shall be at least 40 feet wide and clearly defined.

(d) There shall be at least 20 feet clearance between individual trailers and any other trailer or permanent structure.

(e) Water supply, sewage treatment, garbage collection and other service facilities and buildings shall be included and maintained as requires by State and County health officials.

(z) The annual license fee for each recreation camp shall be as required by the current Fee Schedule of the Town of East Otto.

(3) Recreational or vacation trailers parked within the boundaries of an approved trailer camp shall not be subject to the special permit fee.

9.15 Fences

Fences shall be set back a minimum of thirty (30) feet from the centerline of any road or street and shall be located at least five (5) feet outside any legal right-of-way, whichever distance is greater. In all districts, fences shall be considered an accessory use.

ARTICLE Y - ADMINISTRATION AND ENFORCEMENT

10.1 Enforcement

This ordinance shall be enforced by a Building Inspector who shall be appointed by the TOWN BOARD to serve at their pleasure and at compensation by them. The powers and duties of the Building Inspector shall be as follows:

- (A) Examine and approve applications pertaining to the use of land, buildings or structures when the applications conform with provisions of this ordinance.
- (B) Issue all Zoning and Building Permits and keep permanent records thereof.
- (C) Conduct such inspections of buildings, structures, and uses of land as are necessary to determine compliance with the provisions of this zoning ordinance.
- (D) Receive, file and forward for appropriate action all applications for special use, variations, and amendments to this ordinance which may be filed in the zoning office.
- (E) Maintain permanent and current records of the zoning ordinance, including all maps, amendments, special uses and variations.
- (F) Collect, receipt and account for all fees chargeable under the provisions of this ordinance and pay all of the same into the Town General Fund.

10.2 Zoning Permit.

- (A) Except as provided herein, it shall be unlawful for an owner to use or to permit the use of any structure or land or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until an application is made to, and a Zoning Permit issued by the Building Inspector. Except upon a written order of the BOARD OF APPEALS, no such permit or certificate of occupancy shall be issued for any structure or land or part thereof hereafter created, erected, changed, converted or enlarged, wholly or partly, if such would be in violation of any provision of this ordinance.
- (B) There shall be submitted with all application for permits, two copies of the layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location of the lot, of the structure and accessory structures to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.

- (C) One copy of such layout or plot plan shall be returned when approved by the building inspector together with the permit to the applicant. The second copy with a copy of each application with accompanying plan shall become a public record after a permit is issued or denied.
- (D) All water supply and sewage disposal installations shall conform with the NEW YORK STATE DEPARTMENT OF HEALTH and local COUNTY HEALTH DEPARTMENT regulations. No plot plan shall be approved by the Building Inspector in any District unless such conformity is certified on the plans. Drainage affecting adjacent properties shall be considered by the Building inspector before issuing a permit, including possible run-offs to said property.
- (E) It shall be the duty of the Building Inspector to issue a permit, provided he is satisfied that all requirements of the ordinance have been satisfied, and that all other reviews and actions, if any, called for in this ordinance have been complied with and all necessary improvement secured therefore. All permits should be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workmen or other persons shall perform any building operation of any kind unless a permit covering such operation has been displayed as required by this ordinance, nor shall he perform building operations of any kind after notification for the revocation of said permit period.
- (F) When the Building Inspector is not satisfied that the applicant's proposed development will meet the requirements of this ordinance, he shall refuse to issue a permit and the applicant may appeal to the BOARD OF APPEALS for reversal of the Building inspector's decision.
- (G) A permit shall expire 2 years from the date of issuance unless the proposed structure or change in use has been completed.
- (H) If it shall appear, at any time, to the Building Inspector that the application or accompanying plot is in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the application filed with him under existing laws or ordinances, he may forth with revoke the permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Building Inspector. After the permit has been revoked, the Building Inspector, in his discretion, before issuing a new permit, may require the applicant to file an indemnity bond in favor of the Town for the sufficient surety conditioned for compliance upon this ordinance and all building laws and ordinances then in force and a sum sufficient to cover the cost of removing the building if it does not so comply.

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

10.3 Certificate of Occupancy.

- (A) No land shall be occupied or used and no structure hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Certificate of Occupancy shall have been issued by the Building Inspector, stating that the structure or proposed use thereof complies with the provisions of this ordinance.
- (B) All Certificates of Occupancy shall be applied for coincident with the application for a permit. Said Certificate shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of the ordinance.
- (C) The Building Inspector shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

ARTICLE XI - ZONING BOARD OF APPEALS

11.1 Organization and Procedure

ORGANIZATION. The Town Board, Town of East Otto, pursuant to the provisions of the Town Law applicable thereto, shall appoint a Zoning Board of Appeals consisting of five members. Their terms of office shall be five years, excepting that the first five members appointed shall serve terms of one, two, three, four and five years. Such Board of Appeals, subject to the provisions of the Town Law, shall determine its own rules procedure. The members of the Board of Appeals shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled in the same manner as the original for the unexpired term of any member whose term becomes vacant.

11.2 Powers and Duties.

With due consideration for the purpose and intent of the Zoning Ordinance, and Section 267 of the New York State Town Law, the ZONING BOARD of APPEALS shall:
Hear and determine appeals from and review any order, requirement, decisions or determination made by the Administration Official or Board charged with the enforcement of this ordinance.

Hear and decide all matters referred to it, or upon which it is required to pass under this ordinance.

Hear and pass upon applications for Area or Use Variances.
Insure that all actions comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations as codified in 6 NYCRR 617.

Submit to the Town Board a report and recommendations on each proposed ordinance for the amendment, supplement, change or repeal of the zoning ordinance as set forth herein, following the required public hearing by the PLANNING BOARD, if the ZONING BOARD of APPEALS deems such a report necessary.

11.3 Applications and Appeals

An Application or appeal to the Board of Appeals may be taken by any person affected by any decision of the Administration Official or Board with respect to the zoning provisions of this ordinance. The procedure for such an application or appeal and the responsibilities of the Board of Appeals in such action shall be as prescribed in the applicable sections of the Town Law of New York State. (Section 267)

A fee in the amount prescribed in the Town of East Otto fee schedule shall be chargeable and shall accompany all applications or petitions of appeal.

11.4 Variances.

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

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

In addition, variances in the F-1 and F-2 require the criteria enumerated in:

Local Law No. 1 . 1988, Flood Hazard Prevention, Section 6.0 Variance Procedure,

11.5 Court Review.

Any person or persons, jointly or severally aggravated by any decision of The Board of Appeals or any officer, department, board or bureau of the town may apply to the Supreme Court for review by proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision of the board in the office of the town clerk.

ARTICLE XII - PLANNING BOARD

12.1 Organization and Procedure

ORGANIZATION -The town board, Town of East Otto, pursuant to the provisions of the town law applicable thereto, shall appoint a planning board consisting of five members. The terms of office shall be five years, excepting that the first five members appointed shall serve terms of one, two, three, four and five years. Such planning board, subject to the provisions of the town law, shall determine its own rules of procedure. The members of the planning board shall be removable for cause by appointed authority upon written charges and after public hearing. Vacancies shall be filled in the same manner as the original for the unexpired term of any member whose term becomes vacant.

12.2 POWERS AND DUTIES - With due consideration for the purpose and intent of the zoning ordinance, and the applicable sections of the New York State town law, the planning board shall:

- A. Initiate, investigate and make reports on planning and development matters.
- B. May prepare a comprehensive master plan for adoption by the Town Board after a public hearing.
- C. Hear and decide all matters referred to it, or upon which it is required to pass under this ordinance.
- D. Approve subdivision plats:
 - 1. According to the provisions set forth in the Town of East Otto Subdivision Regulations, as adopted 4/4/72 (including subsequent amendments).
 - 2. Review and approve previously filed plats which were partially or totally undeveloped.
 - 3. Review and approve cluster developments pursuant to the resolution adopted by the East Otto town board on 11/16/93 and all applicable sections of the New York State town law.
- E. Review and approve, approve with modifications or disapprove site plans, as per the specifications set forth in Section 12.3 Site Plan Review.
- F. Review and approve, approve with modifications or disapprove special use permits, as per the specifications set forth in Section 12.4 Special Use Permits.
- G. Insure that all actions comply with the provisions of the State Environmental Quality Review Act under article eight of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR 617.

12.3 Site Plan Review - Prior to the issuance of a building or special use permit, the applicant shall submit to the planning board a site plan, prepared in accordance with the provisions of this section. Such site plan review shall be required for all special uses and permitted uses as described in section 7.2 of this ordinance, as amended; agriculture, plant cultivation, forestry, single-family residences, two-family residences, fences and accessory uses to the above listed items.

- A. Sketch Plan - A sketch plan conference may be held between the planning board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the planning board of his proposal prior to the preparation of a detailed site plan; and for the planning board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:
1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
 2. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets rights-of-way, properties, easements and other pertinent features; and
 3. A topographic or contour map of adequate scale and detail to show site topography.
- B. Application for site plan approval - An application for site plan approval shall be made in writing to the chairman of the planning board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the planning board at said sketch plan conference.

Site Map Checklist

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
2. North arrow, scale and date;
3. Boundaries of the property plotted to scale;
4. Existing watercourses;
5. Grading and drainage plan, showing existing and proposed contours;
6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;

7. Location, design and type of construction of all parking and truck loading areas showing access and egress;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
11. Description of the method of sewage disposal and location, design and construction materials of such facilities;
12. Description of the method of securing water and location design and construction materials of such facilities;
13. Location of fire and other emergency zones, including the location of fire hydrants;
14. Location, design and construction materials of all energy distribution facilities, including electrical, gas and other solar energy;
15. Location, size and design and type of construction of all proposed signs;
16. Location and proposed development of all buffer areas, including existing vegetative cover;
17. Location and design of outdoor lighting facilities;
18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
19. General landscaping plan and planting schedule;
20. An estimate project construction schedule;
21. Record of application for and approval status of all necessary permits from federal, state, and county officials;
22. Identification of any federal, state, or county permits required for the project's execution; and
23. Other elements integral to the proposed development as considered necessary by the Planning Board.

C. Review of Site Plan - The planning board's review of the site plan shall include, as appropriate, but is not limited to the following general considerations:

1. Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.
2. Adequacy and arrangements of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of storm-water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

- S. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants. 9. Special attention to the adequacy and impact of structure, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- D. Planning board action on site plan - Within sixty-two (62) days of the receipt of a completed application for site approval, the planning board shall render a decision, file said decision with the town clerk, and mail such decision to the applicant with a copy to the CEO. The time within which a decision must be rendered may be extended by mutual consent of the applicant and planning board.
1. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the planning board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant CEO, and file same with the town clerk.
 2. Upon disapproval of a site plan, the planning board shall inform the CEO and the CEO shall deny a building permit to the applicant. The planning board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the town clerk.
- E. Reimbursable Costs - Costs incurred by the planning board consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. Prepayment of fees for projects requiring extensive review will be arranged with applicant at the sketch plan meeting.
- F. Performance guarantee - No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the town board after consultation with the planning board, town engineer, town attorney and other appropriate parties.
- G. Inspection of Improvements - The CEO shall be responsible for the overall inspection of site improvements including coordination with the town engineer and other officials and agencies, as appropriate.
- H. Integration of Procedures - Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this zoning ordinance or other requirements of the town, the planning board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

12.4 Special Use Permits

The planning board may issue a special use permit for any of the special uses listed in Section 7.2 of this ordinance, provided such special use requirements enumerated elsewhere herein. Application for special use permits shall be made to the planning board through the Building Inspector and shall be accompanied by an application for the necessary zoning and/or building permits, site plan review documentation, and the fees prescribed in the town of East Otto fee schedule.

General Standard:

- A. A special use permit shall only be granted when the proposed use is of such a character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and not be detrimental to the orderly development of adjacent districts.
- B. The planning board shall hold public hearings for all special use permit [applications. in](#) accordance with the applicable sections of the New York State Town Law.
- C. Upon finding that such general standards and the special standards set forth in *Section 12.3, Site Plan Review*, have been fully met, the planning board may issue such special use permit and in so doing may impose any conditions that it may deem necessary to accomplish the reasonable application of said standards. Furthermore, it may deny any such application which in its judgment is not in accordance with said general or special standards.
- D. Any rejection of application can be appealed to the ZONING BOARD OF APPEALS.

12.5 Court Review

Any person aggrieved by a decision of the planning board or such other designated body or any officer, department, board or bureau of the town may apply to the supreme court for review by proceeding under article seventy-eight of civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by such board with the town clerk.

ARTICLE XII- AMENDMENTS

13.1 Amendments

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

14.1 Mandatory Referral

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

ARTICLE XV - VIOLATIONS AND PENALTIES '

15.1 Violations and Penalties

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

(B) Procedure for Abatement of Violations.

(1) In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, notification of the violation will be issued in writing by the BUILDING INSPECTOR and compliance of the ordinance must be met within a period of time specified by the BUILDING INSPECTOR in the Notice.

(2) After the specified number of days, the TOWN may by direction of the TOWN BOARD, in addition to other remedies provided, institute appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, and to prevent any illegal act, conduct, business or use in or about such premises.

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

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

ARTICLE XVI - SEPARABILITY

16.1 Severability

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

ARTICLE XVII - WARNING AND DISCLAIMER OF LIABILITY

17.1 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasion. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the TOWN BOARD OF EAST OTTO, or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE XVIII - EFFECTIVE DATE

This amended ordinance shall take effect on October 20, 1983.