

County of Steuben
State of New York

VILLAGE OF AVOCA

LAND USE AND DEVELOPMENT LAW

Local Law No. 2-2000

As amended by

Local Law 2-2001 - 11/8/01

Local Law 2-2002 - 8/19/2002
7/24/2003

Local Law 1-2005 - 3/23/05

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

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

~~County~~
~~City~~ of Avoca
~~Town~~
Village

Local Law No. 2 of the Year 2000

A local Law Providing for Land Use and Development in the
Village of Avoca

Be it enacted by the Village Board of the
~~County~~ of Avoca as follows:

~~County~~
~~City~~
~~Town~~
Village

See attached,

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 2000 of the Village of Avoca was duly passed by the Village Board on January 13, 2000, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as Local Law No. ___ of 20___ of the Village of Avoca on ___, 20___, was (approved) (not approved) (repassed after disapproval) by the ___, and was adopted on ___, 20___ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as Local Law No. ___ of 20___ of the Village of Avoca was duly passed by the ___ on ___, 20___, and was (approved) (not approved) (repassed after disapproval) by the ___ on ___, 20___. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on ___, 20___, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as Local Law No. ___ of 20___ of the Village of Avoca was duly passed by the ___ on ___, 20___, and was (approved) (not approved) (repassed after disapproval) by the ___ on ___, 20___. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on ___, 20___, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a County elected on a County-wide basis or, if there be none, the chairperson of the County legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designed as Local Law No. _____ of 20__ of the _____ of _____, having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special (general) election held on _____, 20__, became operative.

6. (County Local Law concerning adoption of Charter.)

I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20__ of the County of Steuben, State of New York, having been submitted to the electors of the General Election of November _____, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said County as a unit and a majority of the qualified electors of the towns of said County considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding Local Law with the original on file in this Office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 1 above.

(Clerk of the County legislative body, City, Town or Village Clerk, or officer designated by local legislative body)

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney, or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Steuben County

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

VILLAGE OF AVOCA

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ARTICLE I SCOPE, TITLE, AUTHORITY, PURPOSE

100: SCOPE

This Local Law: (1) regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures, and the use of land in the Village of Avoca, and for said purposes divides the Village into zoning districts; (2) defines and regulates the process of land subdivision and the development of subdivisions in the Village; and, (3) defines and regulates the placement of mobile homes and the development and operation of mobile home parks in the Village.

101: TITLE

This Local Law shall be known and may be cited as, "The Land Use and Development Law of the Village of Avoca, New York."

102: AUTHORITY AND PURPOSE

This Local Law is enacted pursuant to the Municipal Home Rule Law of the State of New York, Article 2 [Section 10 (2)] and to the Village Law of the State of New York, Article 7 (Sections 7-700 through 7-712, and Sections 7-728 through 7-740) and Article 4 (Section 4-412). Its general purpose is to protect and promote public health, safety, comfort, convenience, economy, aesthetics, and the general welfare; and it has the following more particular purposes:

- A. To promote and effectuate the orderly, physical development of the Village in accordance with the Village's current planning studies.
- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
- C. To eliminate the spread of scattered or random business development and provide for more adequate and suitably located commercial facilities, eliminate many roadside hazards and add to the community attractiveness.
- D. To create a suitable system of open spaces and recreation areas, and to protect scenic areas, waterways, and flood plains.
- E. To regulate building densities in order to assure access of light and circulation of air; to aid in the prevention and fighting of fires; to prevent undue concentration of population; to lessen congestion on streets and highways; and to provide efficient municipal services.
- F. To improve transportation facilities and traffic circulation, to provide for adequate off-street parking, loading and unloading facilities.
- G. To assure privacy for residence and freedom from nuisances and noxious conditions harmful to the senses.

- H. To protect the community against unsightly, obtrusive and noisome land uses and operations.
- I. To prevent the development of lands subject to conditions hazardous to the public health and welfare.
- J. To ensure that new development includes proper facilities for storm drainage, water supply and sewerage; that such development be so laid out as to harmonize with the development pattern of neighboring lands; that new streets be built to accept standards and be laid out so as to form a convenient traffic circulation system, in conjunction with other existing and proposed streets, that shall accommodate the need for access by fire-fighting and other emergency vehicles.
- K. To otherwise carry out the objectives of the Village's Planning Studies.

ARTICLE II INTERPRETATION AND APPLICATION

200: INTERPRETATION

In their interpretation and application, the provisions of the Regulations contained in this Local Law shall be held to the minimum requirements adopted for the promotion of the public health, safety and the general welfare.

202: REPEALER

All ordinances or local laws or parts thereof which are in conflict with this Local Law, are hereby repealed to the extent necessary to give this Law full force and effect, and in particular, but not as a limitation, the Zoning Ordinance of the Village of Avoca of 1957, and Local Law #2 of 1983, concerning junk, abandoned and unlicensed vehicles are hereby repealed in their entirety.

205: SEPARABILITY

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

210: VIOLATIONS AND PENALTIES

A violation of these Regulations is an offense punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00) or by imprisonment for a period not exceeding sixty (60) days, or both. Each week of continued violation shall be a separate offense.

215: EFFECTIVE DATE

This Local Law shall take effect on October 1st, 1987, upon proper filing with the New York State Secretary of State.

ARTICLE III AMENDMENTS

300: PROCEDURE

The Village Board may from time to time on its own motion, or on petition, or on recommendation from the Planning Board, amend any of the regulations set forth hereinafter, after public notice and hearing in each case. All petitions for any amendment of the Regulations herein established shall be filed in writing on a form required by the Village Board.

310: ADVISORY REPORT BY PLANNING BOARD

Every proposed amendment unless initiated by the Planning Board, shall be referred to the Planning Board. The Village Planning Board shall report its recommendations thereon to the Village Board, accompanied by a full statement of the reasons for such recommendations prior to the public hearing. If the Planning Board fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Village Board, the Village Board may act without such report. If the Planning Board disapproves the proposed amendment or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution by a vote of a majority, fully setting forth the reasons for such contrary action.

315: PUBLIC NOTICE AND HEARING

The Village Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. Publishing a notice of the proposed amendment and the time and place of the public hearing in the official newspaper of the Village of Avoca, not less than ten (10) days prior to the date of public hearing.
- B. County Referral - By giving written notice of hearing to any required municipal, County or State agency in the manner prescribed by Article 12-B, Section 239-m of the General Municipal Law. If such County Planning agency disapproves the proposal or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by a majority vote plus one of all the members and upon the adoption of a resolution fully setting forth the reasons for such contrary action.

320: PROTEST BY OWNERS

If a protest against a proposed amendment of ARTICLES V through IX, below, is presented to the Village Board duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred feet (100') therefrom, or by the owners of twenty percent (20%) or more of the area of land directly opposite thereto, such amendment shall not be passed except by the favorable vote of a majority plus one of the members of the Village Board.

325: FILING AND EFFECTIVE DATE

Every amendment to these Regulations, upon adoption by the Village Board, shall within five (5) days or as soon as practicable after final printing be filed by the Village Clerk as follows: one (1) certified copy in the Clerk's office, one (1) certified copy in the office of the New York State Secretary of State. An amendment shall become effective upon its proper filing with the Secretary of State.

ARTICLE IV TERMS AND DEFINITIONS

400: TERMS

For the purpose of these Regulations, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Words used in the present tense include the future tense.

The singular includes the plural.

The word "shall" is mandatory.

The word "used" or "occupied" includes the words intended, designed, or arranged to be used or occupied.

The word "lot" includes the words "plot" or "parcel."

Words, terms, etc., not hereinafter defined, shall assume their normal dictionary meaning.

410: DEFINITIONS

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

ADULT ENTERTAINMENT: Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling business or occupation, goods, including books, magazines, pictures, slides, film, phonographic records, prerecorded magnetic or laser, video, or other media, and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity or any person, or in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or picture, symbol or representation having like meaning or implication is used in any advertisement.

AGRICULTURE: The use of land for agricultural purposes including tilling of the soil, dairying, pasture, apiculture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals.

ALTERATION, STRUCTURAL: Any change in the supporting members of building such as bearing walls, columns, beams or girders.

AQUIFER: An underground water bearing area of permeable rock, sand or gravel.

AQUIFER PROTECTION OVERLAY DISTRICTS: Those areas as defined below which contribute water to the Village of Avoca.

APOD #1: WELLHEAD PROTECTION AREA: The land area immediately around the well which contributes water to the public wells as shown on the attached aquifer Protection Overlay District Map. Water at the outermost boundary of a Wellhead Protection Area will reach the public wells within sixty (60) days.

APOD #2: AQUIFER RECHARGE AREA: The aquifer upgradient from the Wellhead Protection Area which contributes water to the Village of Avoca public wells as shown on the Aquifer Protection Overlay District Map.

APOD #3: WATERSHED TRIBUTARY AREA: The upland watershed which contributes water to the Aquifer Recharge Area as shown on the Aquifer Protection Overlay District Map.

AWNING: A shade structure supported by posts or columns and/or partially supported by a mobile home installed, erected or used in a mobile home lot.

BUILDING: Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks and similar projections.

BUSINESS, CONVENIENCE: Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services including, but not limited to, grocery stores (of less than 5,000 square feet in floor area), drug stores, beauty salons, barber shops, carry-out dry cleaning and laundry pickup stations.

CARPORT: An awning or shade structure for a vehicle or vehicles that may be free-standing or partially supported by a mobile home.

CLERK OF THE PLANNING BOARD: That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of these Regulations or, if none, the Village Clerk.

CLUB MEMBERSHIP: An organization catering primarily to members and their guests, including structures and premises for recreational or athletic purposes, which are not conducted primarily for gain, nor including any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

CLUSTER DEVELOPMENT: A development of residential lots each containing less than the minimum lot area required for the zone within which such development occurs, but maintaining the overall density limitations imposed by said minimum lot area through the provision of open space as part of the subdivision plan.

COLLECTOR STREET: A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

COMMERCIAL VEHICLE: A vehicle of more than one ton capacity used for the transportation of persons or goods primarily for gain or a vehicle of any capacity carrying or permanent affixed sign exceeding one square foot in area or lettering of a commercial nature.

COMMUNITY: The Village of Avoca.

DEAD-END STREET or CUL-DE-SAC: A street or a portion of a street with only one vehicular traffic outlet.

DEVELOPMENT: Any man-made change to improve or unimprove real estate, including but not limited to constructing or altering buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DRIVE-IN RESTAURANT: Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING: Any building or portion thereof designed or used as a residence or sleeping place of one (1) or more persons, excluding a mobile home.

SINGLE-FAMILY: A detached residential dwelling unit designed for and occupied by one family only.

TWO-FAMILY: A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

MULTIPLE-FAMILY: A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING UNIT: One room or rooms connected together constituting a separate, independent housekeeping establishment containing independent bathing, cooking and sleeping facilities, and physically separated from any other rooms or dwelling units which may be in the same structure.

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER: A person licensed as a professional engineer by the State of New York.

ESSENTIAL SERVICES: Erection, construction, alteration, operation, or maintenance by municipal agencies or public utility of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

GARAGE, COMMERCIAL: A building or premises used for the repair, rental, storage, servicing and/or sale of motor vehicles and/or retail sale of fuel and accessories for such vehicles.

GARAGE, PRIVATE: A residential accessory building used for the storage of vehicles owned and used by the occupants of the building in which it is accessory, provided that where such building exceeds the capacity for two cars, not more than one half the space may be rented for storage of vehicles by persons not resident on the premises.

HAZARDOUS SUBSTANCES: All substances defined in 6NYCRR Part 597 and all hazardous wastes as defined in 6NYCRR Part 371.

HEALTH AUTHORITY: A legally designated health authority or its authorized representative of the Village of Avoca.

INTERNAL STREET: A private way that affords principal means of access to abutting individual mobile home lots and community service buildings.

JUNK YARD: A lot, land or structure or part thereof used for the collection, storage, disassembly, packing, sorting, salvage, buying, selling or exchange of waste paper, rags, scrap or discarded material or machinery or parts of any sort, including house wrecking yards, used lumber yards, structural steel materials but not including used furniture, clothing, pawn shops, antique shops nor automobile junk yards as defined in the General Municipal Law, Section 136.

KENNEL: Any lot or premises on which four (4) or more domestic animals more than four (4) months of age are housed or kept.

LICENSEE: Any person licensed to operate and maintain a mobile home park under the terms of these Regulations.

LIVING AREA: The enclosed floor space including kitchen and bath facilities, available in a dwelling unit.

LOADING SPACE, OFF-STREET: Space logically and conveniently located for bulk pickups and deliveries scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

LOT: For the purposes of these Regulations, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall front on an approved public highway and may consist of:

- a) a single lot of record;
- b) a portion of a lot of record;
- c) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record;
- d) a parcel of land described in metes and bounds, provided that, in no case of division or combination, shall any residual lot or parcel be created which does not meet the requirements of these Regulations.

LOT, CORNER: A parcel of land at the junction of and fronting on two (2) intersecting streets.

LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of the lot adjacent to highways shall be considered frontage, and yards shall be provided as indicated under "YARDS" in these Regulations.

LOT OF RECORD: A lot which is part of a subdivision recorded in the Office of the Steuben County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT WIDTH: The distance between the two side lot lines measured at the required setback line.

MAJOR RECREATIONAL EQUIPMENT: See "RECREATIONAL EQUIPMENT, MAJOR".

MAJOR STREET: A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

MAJOR SUBDIVISION: Any subdivision not classified as a Minor Subdivision including, but not limited to, subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

MANUFACTURED HOME: See "MOBILE HOME".

MASTER or COMPREHENSIVE PLAN: A comprehensive plan, prepared by the Planning Board pursuant to Section 7-722 of the Village Law which indicates the general locations recommended for various functional classes of public works, places and structures, and for general physical development of the Village and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

MINOR STREET: A street intended to serve primarily as an access to abutting properties.

MINOR SUBDIVISION: Any subdivision containing not more than four (4) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, or Zoning Ordinance, if such exists, or the regulations.

MOBILE HOME or MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site and intended to be improved property.

MOBILE HOME LOT: A designated portion of a mobile home park designed for the accommodation of one (1) mobile home and its accessory buildings or structures for the exclusive use of the occupants.

MOBILE HOME STAND: That part of an individual lot which has been reserved and improved for the placement of the mobile home, appurtenant structures, or additions.

MOBILE HOME PARK or MOBILE HOME SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale, respectively.

MODULAR HOME: A structure that is not built on a permanent chassis and is designed to be used with a permanent foundation.

MOTEL: A motor inn where transient guests are lodged for hire, with automobile parking space provided for each accommodation, and where meals and legal beverages may or may not be provided.

MUNICIPAL PARKS: Parks and playgrounds established and operated by the Village of Avoca.

NON-CONFORMING USE: A building, structure or use of land lawfully existing at the time of enactment of these Regulations and which does not conform to the regulations of the district or zone in which it is located.

NURSERY SCHOOL: Any business, however designated, operated for remuneration for the purpose of providing daytime care or instruction for two or more children from two (2) to five (5) years of age inclusive, including kindergartens, day nurseries, and day-care centers.

NURSING HOME: Any establishment where three (3) or more persons suffering from, or afflicted with, or convalescing from any infirmity, disease or ailment are habitually kept or boarded or housed for remuneration. The term shall not include municipal or incorporated hospitals, or maternity homes.

OCCUPIED LOT: A mot

on the stand thereon.

PARK: A municipal park context, a mobile home p

l or proposed; also, in

PARKING GARAGES or l may be parked with or wit

on which automobiles

PERMITTEE: Any person mobile home park under ti

maintain or operate a

PERSON: Includes any association, or any other o

ration, partnership,

PETROLEUM BULK STORAGE REGULATIONS: New York State's standards and regulations of petroleum administered by the New York State Department of Environmental Conservation as defined in 6NYCRR Parts 611 through 614.

PLANNED UNIT DEVELOPMENT: An area of land, in which a variety of housing types and/or related commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards than would normally apply under these Regulations, the approval of which involves requirements in addition to those of the standard subdivision, such as building design and landscaping.

PLANNING BOARD or BOARD: The Planning Board of the Village of Avoca.

PRELIMINARY PLAT: A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, as specified in Section 1330 of these Regulations, submitted to the Planning Board for approval prior to submission of the Plat in final form, and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PROFESSIONAL OFFICES: The use of offices and related spaces for such professional services as are provided by medical practitioners, attorneys, architects, engineers and similar professions.

Village of Avoca

Local Law Numbered ____ of the Year 2020

A Local Law amending Local Law Number 2 of the year 2000, the Village of Avoca Land Use and Development Law.

Be it enacted by the Board of Trustees of the Village of Avoca as follows:

- 1) Local Law Number 2 of the year 2000 of the Village of Avoca is hereby amended in so that each denoted subsection reads it its entirety as follows:

a. **Article IV Terms and Definitions; Section 410 Definitions; Roadside Stand:**

Roadside Stand: A direct marketing operation with a temporary stand that only offers outdoor shopping. Such an operation offers only agricultural products, enhanced agricultural products (i.e. potato chips as enhanced potatoes), baked goods, prepared foods, and/or handmade crafts. All offered items are locally produced.

b. **Article VII Supplemental Regulations; Section 726: Roadside Stands:**

A. General Conditions

1. The roadside stand is not within the boundaries of a street or any public right of way.
2. The roadside stand is not nearer than 50 feet from any intersection.
3. Parking for stopped vehicles has been provided so as not to interfere with the safety of persons using the street.

B. Roadside Stands Permitted in all Districts

The following shall be permitted in any district without a permit:

1. A roadside stand located on property owned or controlled (e.g. leased) by the producer of the products offered for sale at that stand. Except this shall not apply to stands selling baked goods or prepared foods as the whole or a part of its sales.
2. A roadside stand located on property owned or controlled (e.g. leased) by an immediate family member to the producer of the products offered for sale at that stand. Except this shall not apply to stands selling baked goods or prepared foods as the whole or a part of its sales.
3. A roadside stand operated by a not-for-profit organization.

C. Permits for Roadside Stands

1. All roadside stands not specifically authorized in Section B above shall be permitted in any district but require a permit.
2. Notwithstanding any other fee schedule provided herein, the application fee for a special permit for a roadside stand shall be \$25.00, the permit shall be valid for a term of thirty days, and the renewal fee for each consecutive thirty-day term shall be \$10.00.
3. The application for the permit is to be submitted to the Village Clerk and is subject to approval or denial by the Zoning Officer, except

that an application for a fourth month of operation within a twelve-month period is subject to approval or denial by the Planning Board.

4. A permit may be revoked by the Zoning Officer, or an application denied by the Zoning Officer or Planning Board, if the Zoning Officer or Planning Board finds there is a violation of the Village's Zoning Law on the property or any violation of any local, state, or federal law related to the operation of the roadside stand.
5. In evaluating an application, the Zoning Officer or Planning Board may consider, in addition to compliance with laws and other factors relevant to the public welfare, any of the relevant considerations listed in Section 950 (B)(3) of this Local Law Number 2 of the Year 2000.
6. No permit shall be granted for a roadside stand to sell baked goods or prepared foods unless a Health Department Permit or a Department of Agriculture and Markets Home Processor Permit is provided with the application.
7. The roadside stand must be removed within one week of the expiration of the permit.

c. **Article IV Terms and Definitions; Section 410 Definitions; Yard Sale:**

Yard Sale: Any yard sale, garage sale, rummage sale, barn sale, or household sale of personal property located within any parcel in the Village of Avoca.

d. **Article VII Supplemental Regulations; Section 735: Yard Sales:**

A. Number and Time of Year

Residents are allowed to have as many yard sales as they deem appropriate, within the outlined provisions below, from April 1st through October 15th of any given year. Household sales conducted completely within the confines of the structure shall be exempt for this date restriction and can be held any time during the year.

B. Days of Operation

Yard sales may be conducted for any consecutive 3-day period between the dates as outlined in (A) above. After the third day, there shall be a minimum of a four-day break where no yard sale is being conducted on the same parcel of property. During the break, all merchandise shall be removed from public view on the property so it is not visible from any public street or public sidewalk.

C. Hours

Yards sales may only be conducted from the hours of ½ hour after sunrise to ½ hour before sunset.

D. Merchandise

Items to be sold at any yard sale within the Village of Avoca shall be personal property of the Village resident of the property where the sale is held or personal property of immediate family members of that

resident. No new merchandise other than items hand-crafted by that resident or his or her immediate family members shall be sold in a quantity of more than 3 items at any given yard sale.

E. Signage

Advertisement of a yard sale conducted with the Village of Avoca may be advertised through media such as newspapers, social media or other media outlets. Signage for the yard sale shall be limited to a 3 foot by 3 foot sign on the property where the sale is being held and up to two other Village properties with the consent of the property owner(s) and the sign shall be taken down when the sale is completed. No sign shall be lit or otherwise displayed to interfere with any traffic on any Village street. No signs shall be placed on any public utility pole or other public right of way advertising the sale.

F. Permit

No permit will be required for any yard sale held by a property owner within the Village.

G. Zoning

Notwithstanding any other provision of this Land Use and Development Law, a yard sale may be conducted by the property owner on any parcel of property located within the Village of Avoca in any zoned area.

H. Exemptions

Charities, churches, school organizations and not-for-profit organizations, as well as Village-held events, such as Christmas in the Park and Village Wide Yard Sales, are exempt from the restrictions set forth in sections A, B, C and D above.

- 2) This Local Law shall take effect immediately upon filing with the Secretary of State.

Village of Avoca

3 Chase Street
Post Office Box 462
Avoca, NY 14809

607-566-8511
Fax 566-2301

PUBLIC HEARING

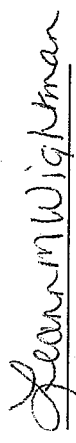
The Village of Avoca Board of Trustees shall conduct a Public Hearing at the below stated date, time and location.

DATE: August 13, 2020

TIME: 7:15 PM

PLACE: TOWN/VILLAGE CONFERENCE ROOM
3 CHASE STREET
AVOCA, NY 14809

The purpose of the hearing is to solicit public input relative to the proposed Local Law #1 for the year 2020 concerning amending Local Law # 2 of 2000, the Village of Avoca Land Use and Development Law as it pertains to Roadside Stands and Yard Sales


Léann M. Wightman
Clerk / Treasurer

PRODUCE MARKET: A market for the sale of farm products at retail.

QUASI-PUBLIC USE: Churches, Sunday Schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic nature.

RECREATION EQUIPMENT, MAJOR: Shall include travel trailers, campers, pickup coaches, motorized homes, boats, boat trailers, snowmobiles and motorcycles.

RESTAURANT: Any establishment, however, designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises, excluding public and quasi-public institutions.

ROADSIDE STANDS:

VEGETABLE STAND: Any area, with or without a wholly or partially enclosed structure, devoted primarily to the sale of agricultural products.

FLEA MARKET: Any area where individual stands or spaces are assigned to two (2) or more individuals for the purpose of selling, buying or exchanging goods.

GARAGE SALES: Any sale of used household goods or merchandise by one or more people that is conducted within or adjacent to a private garage, patio or porch.

YARD SALES: Any sale of goods or merchandise conducted in any front or side yard of any building. Tables or benches with or without waterproof covers or umbrellas may be used.

SERVICE STATION: Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage, nor a body shop.

SETBACK: The minimum allowable distance from the street line or a lot line to the part of the structure nearest the line, measured at right angles to the line, not including cornices, or open piazzas, porches or entrance steps.

SIDE YARD: An open unobstructed space on the same lot with a building, between the building and the side line of the lot, extending from the front setback to the rear yard.

SIGN: Any letter, pictorial, representation, symbol, flag, emblem, illuminated or animated device displayed in any manner whatsoever, which directs attention of persons off the premises on which the sign is displayed to any object, subject, place, person, activity, product, service, institution, organization, or business.

SKETCH PLAN: A sketch of a proposed subdivision showing the information specified in ARTICLE V, Section 1 of these Regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these Regulations.

SMALL ANIMAL HOSPITAL: A structure where small pets are medically treated, including escape-proof pens which may be located outside of the structure, provided that no nuisance is created thereby.

SPECIAL PERMIT USES: A use which, because of its unique characteristics, requires individual consideration in each case by the Planning Board, before a permit therefor may be issued.

START OF CONSTRUCTION: The initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

STREET: Includes streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.

STREET PAVEMENT: The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH: The width of right-of-way, measured at right angles to the center line of the street.

STRUCTURE: Includes anything constructed, erected, or placed, the use of which requires temporary or permanent location or support of the soil or in the soil, and which is attached to anything on the soil.

STRUCTURE, AGRICULTURAL: Customary non-residential farm structures including barns, silos, storage sheds, corn cribs, grain bins, milk houses, animal pens and similar structures when used in connection with agricultural activities.

SUBDIVIDER: Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION PLAT: A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these Regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Register.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the actual cash appraised value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

SURFACE AREA (of a sign): The surface area of any sign is the entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems, or other figures, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Structural members bearing no sign copy shall not be included.

SURVEYOR: A person licensed as a land surveyor by the State of New York.

STRUCTURE: A swimming pool, laundry facilities, service buildings, recreation building, or other buildings.

TRAVEL TRAILER: See "RECREATIONAL EQUIPMENT, MAJOR."¹⁰

TRAILER: Also see "MOBILE HOME". Any mobile structure, or structure originally constructed to be mobile and moved by another vehicle on wheels.

PART A

ARTICLES V - IX

ZONING

REGULATIONS

Village of Avoca

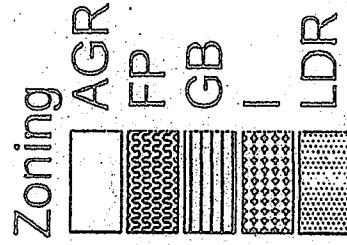
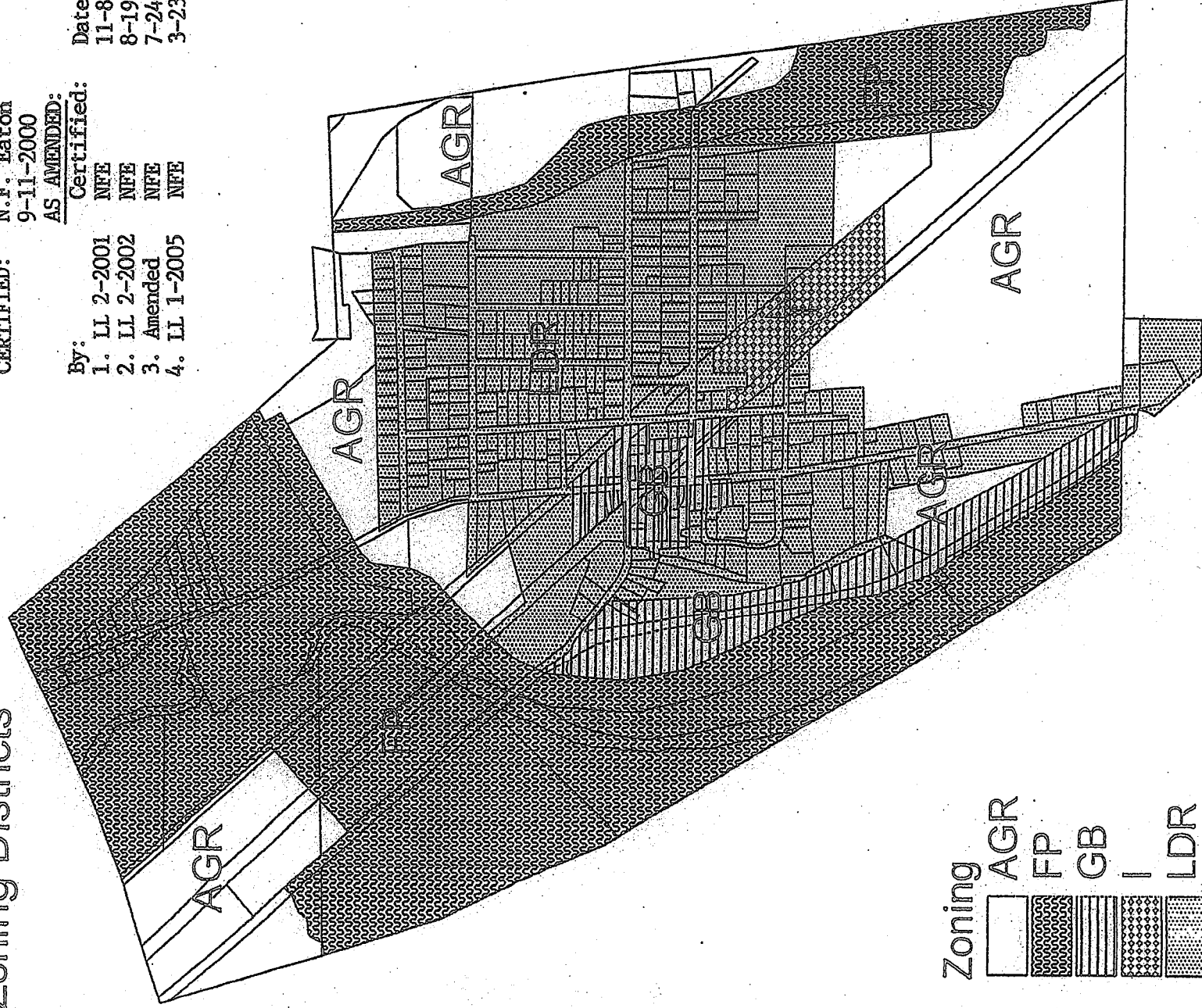
Zoning Districts

THIS IS TO CERTIFY THAT
this is the official Zoning Map
referred to in Section 501 of
Local Law No. 2-2000
of the Village of Avoca,
Steuben County, New York, which
was adopted on 9-11-2000.

CERTIFIED: N.F. Eaton
9-11-2000

AS AMENDED:

By:	Certified:	Date:
1. LL 2-2001	NFE	11-8-01
2. LL 2-2002	NFE	8-19-02
3. Amended	NFE	7-24-03
4. LL 1-2005	NFE	3-23-05



ARTICLE V ESTABLISHMENT OF DISTRICTS

500: ESTABLISHMENT OF DISTRICTS

For the purpose of promoting the public health, safety and welfare and otherwise carry out the objectives of these Regulations, The Village of Avoca is hereby divided into the following zoning districts:

AG-R	Agricultural - Residential
LDR	Low Density Residential
GB	General Business
I	Industrial

501: ZONING MAP

Said districts are shown and bounded on the official Zoning Map, which Map together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of these Regulations. Said map shall show the effective date of these Regulations and of each subsequent amendment to said Map, and shall be duly certified and filed by the Village Clerk.

502: INTERPRETATION OF ZONING MAP

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

- A. Where boundaries are indicated as approximately following the center lines of streets or highways, such center lines shall be construed to be such boundaries.
- B. Where boundaries are so indicated that they approximately follow platted lot lines, such lot lines shall be construed to be said boundaries.
- C. Where boundaries are so indicated that they are approximately parallel to the center lines of streets or the center lines of rights-of-way lines of highways, such boundaries shall be construed as being parallel thereto and at such distance therefrom, as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on the Zoning Map.
- D. Where the boundaries follow a railroad line, such boundary shall be deemed to be located in the middle of the main track of such railroad line.
- E. Where the boundaries follow a shoreline of a stream, lake or other body of water, said boundary shall be deemed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.

F. Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered herein, the Zoning Board of Appeals shall interpret the boundaries.

503: EXPLANATION OF PORTIONS OF THE ZONING MAP

- A. One of the GB, or General Business Districts shall be that the area along NYS Route #415 beginning at the present (as of August 1, 1990) lot and property at the northwest corner of South Main Street and NYS Route 415 and extending along NYS Route #415 at a depth of 200 feet from the easterly boundary line of NYS Route #415 and along NYS Route #415 to the present (as of August 1, 1990) lot and property at the northwest corner of the intersection of NYS Route #415 and River Street.
- B. One of the GB, or General Business Districts shall be that area along NYS Route #415 beginning at the intersection of NYS Route #415 and the southerly edge of U.S. Corps of Engineers constructed dike of the Conhocton River and the Flood Plain Zone, and southerly along NYS Route #415 to the southern boundary line of the Village of Avoca; and in depth, the entire distance from the westerly boundary line of NYS Route #415 to the U.S. Corps of Engineers constructed dike, and the Flood Plain Zone.

ARTICLE VI DISTRICT REGULATIONS

600: APPLICATION OF REGULATIONS

These minimum regulations shall apply uniformly within each District to each kind of structure or land, as follows:

- A. No structure shall hereafter be erected and no structure shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any structure or land be used for any purpose other than those included among the uses listed as permitted uses in each district, and meeting the density requirements set forth in the Zoning Schedule (Section 620). No open space next to any building shall be reduced in any manner, except in conformity to the area requirements, off-street parking requirements, and all other regulations designated in Articles VI and VII. In the event of any such unlawful reduction, such building shall be deemed to be in violation of these Regulations.
- B. Any lawful use existing prior to the enactment of these Regulations which does not conform to the requirements herein, may continue as a non-conforming use as provided in ARTICLE VII, below.
- C. No lot or setback existing at the time of passage of these Regulations shall be reduced in dimension or area below the minimum requirements set forth in Section 620. Lots created after the effective date of this regulation shall meet such minimum requirements.

610: DISTRICT REGULATIONS

A. Agricultural-Residential (AG-R)

- 1. Intent -To preserve agricultural land, encourage continued agricultural use, preserve open space and natural resources, reduce land use conflicts, and otherwise carry out the objectives of these Regulations and the Planning Studies.

In this District, no structure shall be erected or altered, and no structure or land shall be used, except for one or more of the following specified uses:

- 2. Permitted Principal Uses
 - Customary agricultural uses and structures
 - Single- and two-family dwelling (excluding mobile homes or trailers)
 - Municipal park and playground
 - Monument and marker
 - Essential services
 - Commercial greenhouse

3. Accessory Uses

Private garage

Customary residential storage structure

Other customary residential accessory structure; such as private swimming pool, fireplace, trellis, lamp post, car-port, private non-commercial greenhouse, and similar uses

Home occupation

Other uses customarily accessory to a permitted principal use.

4. Special Permit Uses

Church, parish house, convent and similar places of worship

Historical museum

Oil and gas well

Membership club

Veterinarian hospital, kennel

Professional office

Roadside stand

Air strip

Drive-in restaurant, tavern

Produce warehouse

B. Low Density Residential (LDR)

1. Intent - To permit establishment of low density residential areas, to avoid congestion, and otherwise carry out the objectives of these Regulations.

In this District, when an existing mobile home not located in a mobile home park, is removed by its owner from its lot or its position on a parcel of land, its replacement is not permitted. However, if a mobile home is unintentionally removed, (i.e., by fire or act of God, etc.), there will be a 90-day window for replacement by another mobile home. A replacement mobile home must comply with all applicable zoning regulations in effect at the time of its unintentional removal. If it does not and an application for replacement is denied, the provisions of ARTICLE IX, Section 940 (application for a variance) may be utilized by the applicant. ARTICLE IX, Section 940(B) Standards shall be strictly complied with by the Board of Appeals in considering the granting of any Variance. In this District, no structure shall be erected or altered, and no structure or land shall be used, except for one or more of the following specified uses:

2. Permitted Principal Uses

Single- and two-family dwelling (excluding mobile homes or trailers)

Municipal park and playground

Monument, markers

Essential services

3. Accessory Uses

Private garage

Customary residential accessory structure, fireplace, trellis, lamp post, car port, private non-commercial greenhouse, and similar structures
Home occupation

Other uses customarily accessory to a permitted principal use

4. Special Permit Uses

Professional office

Medical clinic, nursing home

Multiple-family dwelling

Churches, libraries

Nursery schools

Commercial greenhouses

C. General Business (GB)

1. Intent - It is the intent of this District to delineate the business districts to which the public requires frequent access, and to encourage survival and renewal of the village's historic business area. A variety of business, institutional, public, quasi-public, cultural, and other related uses are encouraged. Industrial uses are prohibited, as are other uses that would interfere with the continuation and viability of the business character of the area.

In this District, no structure shall be erected or altered, and no structure or land shall be used, except for one or more of the following specified uses.

2. Permitted Principal Uses

Multiple family dwelling (excluding mobile homes or trailers)

Retail store, conveniences business, service establishment

Business and professional office

Eating and drinking establishment

Theater, pool hall, bowling alley

Funeral home, church, medical clinic

Bus station

Parking lot

Printing shop, beauty shop

Radio and T.V. studio, commercial greenhouse

Laundromat, car wash

Hotel, motel, Bank of Avoca

Library, museum, historical monument and marker

Municipal park

Uses of the same general character as any of those above.

3. Accessory Uses

Building or use customarily incidental to a permitted use
Home occupation

Signs as provided in ARTICLE VII, below

Off-street Parking or loading space

4. Special Permit Uses

Dance hall, night club, skating rink, or similar place of entertainment

Essential services

Multiple-family dwelling

Membership club

Service station

D. Industrial (I)

1. Intent - To encourage development of manufacturing, processing and warehousing not requiring extensive community facilities.

To preserve community character, prevent traffic congestion and hazards, and otherwise carry out the objectives of these Regulations.

In this District, no structure shall be erected or altered, and no structure or land shall be used, except for one or more of the following specified uses:

2. Permitted Principal Uses

Agricultural use

Essential services

Automotive storage, major repair and body work

Rental or sales yard

Wholesale business or service

Manufacturing, research and laboratory facility

Fabrication, assembly and other handling of material

Transportation related facility

3. Accessory Uses

Off-street parking or loading space

Garage space for storage of commercial vehicles; signs

Other uses customarily accessory to a permitted use

4. Special Permit Uses

Adult Entertainment

E. Flood Plain Overlay District (FP)

There is hereby established a Flood Plain Overlay District, the boundaries of which are

delineated on the Zoning Map. Said District corresponds to areas identified as "areas of 100-year flood" by the Federal Insurance Administration and delineated on Village of Avoca Flood Insurance Rate Maps (FIRM) dated May 16, 1983, which maps and any revisions thereto are declared to be a part of this Local Law.

Special requirements for development within the defined Flood Plain Overlay district are set forth in Flood Damage Prevention, Village of Avoca Local Law No. 1 of 1987, which requirements are in addition to those contained in regulations for the underlying zoning districts, as set forth herein.

620: ZONING SCHEDULE

LOT, SIZE, YARDS, BUILDING HEIGHTS & LOT COVERAGE REQUIREMENTS*

VILLAGE OF AVOCA, NEW YORK

DISTRICT	MINIMUM LOT AREA sq. ft.	SETBACK FRONT**	BUILDING HEIGHT STORIES	MAXIMUM COVERAGE
AG-R* AGRICULTURAL RESIDENTIAL All Permitted Uses	20,000 100' 1/2 Acre	50'	2 1/2 35'	20%
LDR* LOW-DENSITY RESIDENTIAL All Principal Uses*** All Acc.****	10,000 80'	12' 50'	2 1/2 35'	30%
GB GENERAL BUSINESS Dwellings (Multiple) All Other Permitted Uses	10,000 80'	5'	35'	30%
	2,000 per dwelling unit	0'	50'	5
I INDUSTRIAL All Permitted Uses		10'	25'	35%

*The stated minimum lot size and setback, and maximum coverage, may be modified within the AG-R and LRR Districts, in the case of residential subdivisions developed pursuant to Section 1180, below.

**Front Yard Averaging: In any District where the frontage on the same side of the street in a given block is fifty percent (50%) or more developed, the required front yard depth for a new structure on said block need not be more than the average for the existing structures, provided such average dimension is not less than ten (10) feet. Otherwise, the requirements of the Zoning Schedule shall apply.

***In a Low Density Residential District, only one dwelling for habitation will be permitted on a lot or parcel of land of less than 15,000 square feet.

**** Refer to Section No. 712 on Page 27 for guidelines on locations of fences, hedges and walls.

***** Adult entertainment uses: Must be at least 500 feet from all and any schools, churches, or places of worship, any type of residences. Must have at least 500 feet separation from any other adult entertainment use.

ARTICLE VII SUPPLEMENTAL REGULATIONS

The provision of these Regulations shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

700: PROHIBITED USES

A. General. Any use of any structure or premises in such a manner that the health, safety or welfare of the community may be endangered is prohibited. In any district, the following standards for activities shall apply:

1. No offensive or objectionable vibration, odor, intense lighting, noise or glare shall be noticeable at or beyond the property line.
2. No activity or storage shall create a temporary or permanent physical hazard by reason of fire, explosion, radiation or other such cause, to persons or property in the same or adjacent district.
3. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin, or endangers health in any way.
4. The emission of smoke, fly ash, dust or other noxious gases which can cause damage to the health of persons, animals, plant life or to other forms of property shall be prohibited.
5. Reconstruction or clean-up of partially burned or destroyed buildings must commence within ninety (90) days of destruction; any decaying organic matter in connection therewith must be removed and properly disposed of within thirty (30) days of destruction.

701: PROHIBITED USES - JUNKED VEHICLES AND TRAILERS, ETC.

A. Specific - Junked Cars, etc.

1. It shall be unlawful for any person, firm, or corporation, either as owner, occupant, lessee, agent, tenant, or otherwise responsible for the care of any tract or land, to store or deposit, or cause to permit to be stored or deposited, an abandoned, junked, discarded, inoperable, or unlicensed motor vehicle or motor vehicles upon the surface of such land, except as provided in Section 701 A. Subsection 2 below. Storage of such vehicles shall be otherwise permitted only in completely enclosed structures except in the Industrial District. Such storage shall not be visible from the outside of the structure.
2. Application for permits for temporary storage of motor vehicles by the occupant of the property where the storage is to be may be obtained by and through the

Zoning Officer, under the following rules:

- a. Military Service - 1 year permit, renewable once
 - b. Sickness - 6 month permit, renewable once
 - c. College - 1 year maximum, renewable once
 - d. Seasonal Use - 6 month maximum, renewable, but only once per year
 - e. Sale of Vehicle - 30 days, renewable once
 - f. Vehicle being actively repaired - 3 month permit, not renewable. Not to be used for salvage purposes.
 - g. Permanent permits may be provided upon application for properly zoned automobile related businesses for temporary storage of a certain number of motor vehicles for repairs or sale. The number shall not exceed reasonable parking space available.
3. No trailer shall be used as and for permanent storage of any materials whether for designed for commercial purposes, nor any vacant mobile home, shall be stored on any property in excess of thirty (30) days, except in the Industrial District.
 4. Penalty - A violation or non compliance with subsection 2 of Section 701 A. shall constitute a violation punishable by a fine not to exceed \$100 or 15 days in jail or both. Each week of violation shall constitute a separate violation.

703: EXCAVATIONS

The taking of topsoil, earth or natural deposits of solid material found in or on the earth from the premises, or the moving of said materials from one part of the premises to another in quantities exceed twenty-five (25) cubic yards except for cultivation, shall be permitted only by special permit.

Any such excavations shall comply with the New York State Mined Land Reclamation Law, when applicable.

705: VISIBILITY AT INTERSECTIONS

On a corner lot in any residential district, nothing shall be erected, placed, planted or grown in such a manner as to block vision between a height of two and one-half and ten feet above the center line grades of the intersecting streets. This shall apply to the triangular area bounded by the street lines and a line adjoining points along said street lines, fifty feet (50') from the point of intersection.

707: BUILDING ORIENTATION

All new buildings shall be placed so as to have one axis parallel to a street, except where otherwise dictated by topographic features or subdivision design considerations.

709: ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

In any district, more than one structure housing a permitted principal use may be erected

on a single lot, provided that setbacks and other requirements of these Regulations shall be met separately for each such structure, and the lot could be subdivided so as to leave each such structure on a conforming individual lot.

711: ARCHITECTURAL PROJECTIONS

Structures such as porches, patios, balconies, carports, and similar architectural features shall be considered parts of the building to which they are attached and shall not project into required minimum setbacks.

712: FENCES, WALLS AND HEDGES

A. In any residential district, fences, walls and hedges are permitted with a zoning permit only as follows:

1. In any required front yard, no fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision across such yard between a height of two and one-half feet (2 1/2') and ten feet (10') nor in any manner that materially shuts out air, light or sun between such heights, and shall be set back two feet (2') from the Village sidewalk(s) on sides where applicable. On lots with no sidewalks, the Zoning Officer/Planning Board will advise the Village Board so they may determine where future sidewalk(s) may be laid.
 2. In side or rear yards, fences, walls or hedges which materially obscure vision or shut out light, sun or air may not be over six feet (6') in height. Fences not jointly owned and maintained shall be set back twenty-four inches (24") from the agreed property line.
 3. These restrictions shall not apply to retaining walls.
 4. Fences, walls and hedges existing at the date of enactment of this chapter are "grandfathered". Replacements will require a zoning permit.
 5. No fence or wall shall be erected, maintained or equipped with or having barbed wire, spikes, broken glass, sharp or dangerous devices or any electrical charge sufficient to cause a shock, except that business and public properties within the Village may be enclosed with fences having barbed wire barriers, provided that all such barbed wire is kept at least eight feet (8') above ground level.
 6. The finished side of any fence shall face the outside of the property it encloses.
- B. General repair and maintenance of all existing fences, walls or hedges will not require a zoning permit.

C. In any commercial or industrial district, there shall be no restriction on fences or walls, except on a residential district boundary line where such fences, walls or

hedges shall be limited to eight feet (8') in height and except where corner clearances are required.

713: PARKING, STORAGE OF MAJOR RECREATIONAL EQUIPMENT COMMERCIAL VEHICLES

In the LDR District, no major recreational equipment and commercial vehicles shall be parked or stored in the area between the principal building and the street frontage on a lot, for a total period of more than seventy-two (72) hours in one week.

715: OFF-STREET PARKING AND LOADING

A. Off-Street Parking

1. Required Spaces: In all districts, at the time any building is erected or enlarged, off-street parking spaces at least nine feet (9') by twenty feet (20') in size shall be provided in compliance with the following minimum requirements:

TYPE OF USE

PARKING SPACES REQUIRED

a. Residential:

Family Units of any type and apartments

Two (2) for each dwelling unit - garage space may be counted toward requirement

Hotels, motels, lodging houses and rooming houses

Two (2) for each dwelling unit - garage space may be counted toward requirement

b. Commercial:

Gasoline stations, automobile

One for each fuel pump and two (2) service stations which also for each service bay provide repair

Funeral parlors, mortuaries, and similar type uses

One for each one hundred (100) sq.ft. of floor area in reposing rooms, parlors or service rooms

Retail stores, banks

One for each four hundred (400) sq.ft. of floor area

Restaurants, taverns, night clubs

One for each two-and-a-half (2 ½) seats plus one for each two (2) employees

TYPE OF USE

PARKING SPACES REQUIRED

Drive-in banks
service window,

Three (3) spaces for each
full-time employee

Doctor/dentist offices &
other professional offices

One for each two hundred fifty
(250) sq. ft.) of floor area, plus
one for each practitioner

All other types of business
or commercial uses

Five-and-one-half (5-1/2) spaces
per each one thousand (1,000) sq. ft.
of gross floor area

c. Recreational
Bowling alleys

Five (5) for each alley, plus one
additional space for each one hundred
(100) sq. ft. of the area used for
restaurant, cocktail lounge, or similar
use

Outdoor swimming pools
public or membership only

One for each five (5) persons'
capacity

Auditoriums, sport arenas,
theaters & similar uses

One for each three (3) seats

Golf courses

Four (4) for each tee

Skating rinks

One for each two hundred fifty
(250) sq. ft. of skating rink

d. Institutional
Churches & places of
religious assembly

One for each five (5) persons'
capacity

Hospitals, sanitariums,
nursing homes, children's
homes & similar uses

One for each three (3) beds, plus
one for each employee

Medical & dental clinics

One for every two hundred (200)
sq. ft. of floor area

Libraries, museums, and
art galleries

One for each four hundred (400)
sq. ft. of floor area

e. Industrial

All types of manufacturing, storage and wholesale

One for every two (2) employees on the largest shift for which the building is designed plus one for each motor vehicle used in the business

Adult entertainment

One parking space for each 200 square feet of floor area, plus one for each employee.

2. Other Uses: For uses not specifically listed, the requirements for parking shall be determined by the Zoning Board of Appeals. For mobile home parks, see Section 1530.G.

B. Off-Street Loading

1. Required Spaces: One off-street loading space shall be provided and maintained on the same lot for every establishment requiring more than one truck delivery per day.

A loading space shall have a minimum dimension of not less than twelve feet (12') in width and fifty feet (50') in length, exclusive of driveways, aisles and other circulation areas. Height clearance shall not be less than fifteen feet (15'). Off-street loading areas shall not encroach on any required front or other setbacks, access way or off-street parking area, except that in the Business District, existing off-street parking areas may be used for loading spaces for not more than three (3) hours per day.

2. Number and Design: The location, number, size and design of loading spaces and access ways thereto, shall be approved by the Planning Board prior to the issuance of a building permit or certificate of occupancy by the Zoning Officer.

C. Development Standards

1. Surfacing and Drainage: The required parking and loading spaces shall be improved with acceptable wearing surface of a dust inhibiting nature. Proper drainage shall be provided to prevent ponding of water.

The property owner shall maintain parking and loading areas in good condition, free of holes, dust, trash and debris.

2. Landscaping: At least eight percent (8%) of the area of the lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three (3) or more spaces that abut a residential lot line and any parking lot for more than twenty (20) cars, shall be screened by at least a fence six feet (6') high and not more than eight

feet (8'), or a compacted evergreen hedge or a landscaped strip of trees and shrubs at least six feet (6') and not more than ten feet (10') wide or designed as to form a visual screen from the adjoining property. All parking and loading areas and landscaping shall be properly maintained thereafter, in a sightly and well-kept condition.

717: CORNER LOTS

Corner lots shall have full front yard setbacks on each street.

719: HIGHWAY ACCESS

A. General Requirements. Every building erected or moved from the effective date of this Local Law shall be on a lot with frontage on a public street or highway (except one provided in Section 1250.E), and be so located as to provide safe, convenient access for servicing, fire protection and off-highway parking. Curb-cuts and driveways will be carefully located and kept to a minimum in all cases. Parallel access roads or internal development roads will be required where appropriate to achieve this purpose.

B. Standards. Vehicular access to and from streets and highways shall consist of well defined, separate or common entrances and shall comply with the applicable regulations of the New York State Department of Transportation, or the Steuben County Highway Department, or the Village of Avoca, wherever applicable, and the following provisions, whichever is more restrictive:

Access drives shall not open upon any public right-of-way:

1. within fifty feet (50') of the nearest right-of-way line of any intersecting public street or highway; or,
 2. where the sight distance in either direction along the public thoroughfare would be less than five hundred feet (500') when the posted speed limit exceeds thirty-five (35) miles per hour; however, when the posted speed limit is thirty-five (35) miles per hour or less, the sight distance requirement may be reduced to two hundred fifty feet (250').
- C. Special Access Requirements. The following provisions shall not apply to access drives serving single or two-family dwellings, but shall apply in the case of all other uses:
1. Separate entrance and exit drives shall have a minimum width of twelve feet (12') and maximum width of twenty-two feet (22') measured at right angles to the driveway centerline; shall be separated by at least a ten foot (10') traffic island; and shall not intersect the public right-of-way at an acute angle of less than sixty (60) degrees.
 2. Combined exit-entrance drives and common drives serving more than one

establishment shall have a minimum width of twenty-four feet (24') and a maximum width of thirty feet (30') measured at right angles to the driveway center line and shall intersect the public right-of-way at an angle of not less than sixty (60) degrees.

3. In cases where the size of an existing lot of record at the effective date of these Regulations is such that the strict application of these requirements would prohibit highway access to the property, a plan for access which shall provide the greatest traffic safety possible under the circumstances shall be submitted to and approved by the Planning Board prior to the issuance of a permit.

721: PRIVATE SWIMMING POOLS

Private swimming pools shall be allowed in any district, provided they are in compliance with the following requirements:

- A. Above-Ground Pools. Shall be equipped with a latching gate, fold-up stairs or other device to prevent uncontrolled access by children and animals.
- B. In-Ground Pools. The pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access by children and animals. Said fence shall not be less than six feet (6') or more than eight feet (8') in height and maintained with a self-closing and self-latching gate of equal height to the fence.
- C. Location. The pool shall not be located closer than fifteen feet (15') to any lot line or ahead of the back wall of the house.

723: ESSENTIAL SERVICES

A. Location

1. Such facilities shall not be located on a residential street, unless no other site is available and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
2. The location, design and operation of such facility shall be such as to not adversely affect the character of the surrounding area.

B. Standards

1. Fences, barriers and landscaping shall be provided as required by the Planning Board.
2. Noise from such installation shall not be of such nature or volume as to be objectionable to adjoining properties.

725: HOME OCCUPATIONS

A. General Conditions. Where home occupations are permitted by these Regulations, the following conditions shall be mandatory:

1. A home occupation shall be defined as an accessory use of a service character that is carried on wholly within a dwelling unit or other structure accessory to a dwelling unit; and
2. Is carried on by a member of the family or under the direction of a family member residing in the dwelling unit; and
3. Is clearly incidental and secondary to the residential use of the dwelling unit.

B. Standards

1. No such occupation shall involve sales of products, goods or merchandise except as incidental to services provided.
2. There shall be no exterior display, no exterior sign (except one sign not exceeding two (2) square feet in area), no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations on line voltage off the premises.
3. No traffic shall be generated by such home occupations in substantially greater volume than normal in the neighborhood and any need for parking generated by such occupation shall be provided off-street other than in the required setback area.

727: ANIMALS AND POULTRY

Kennels, housing, pasturing or keeping of poultry or livestock, placement of feeding equipment or structures therefor, and outdoor storage of odor or dust-producing materials are prohibited except in the AG-R District. In the AG-R, such uses may be permitted except within two hundred feet (200') of a lot line or three hundred feet (300') of any existing dwelling on an adjoining lot.

729: AUTOMOTIVE SERVICE STATIONS

In any district where permitted, a service station shall be subject to the following requirements:

A. Set-Backs

1. Structures and areas for use by motor vehicles, except access drives, shall not encroach upon any required setback area.

2. No fuel pump shall be located closer than twenty-five feet (25') from the center line of the street or ten feet (10') from the street right-of-way, whichever is greater.
3. No access drives shall be within two hundred feet (200') of and on the same side of the street as a school, public library, theater or fire station or any other public gathering place, unless a street fifty feet (50') or more wide lines between such service station and such building or use.

B. Operating Conditions

1. Exterior display of accessory goods for sale shall be limited to the pump island and the building island only. Tire racks are permitted subject to Planning Board approval.
2. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building, except for those being repaired.
3. Where each service station abuts a residential zone, they shall be screened by buffers of densely planted evergreens, solid fencing or combination of both. Failure to maintain such screen in good condition shall constitute a violation of these Regulations.

731: DRINKING WATER SUPPLY AND SEWAGE DISPOSAL

- A. Drinking Water Supply.** In all Districts, drinking water facilities shall be connected to the public water supply system of the Village of Avoca.

B. Sewage Disposal

1. Any new structure containing bathroom facilities shall be equipped with a system or facility for the separate disposal of water-borne sewage or trade wastes in accordance with standards for such facilities as recommended by the New York State Department of Health, published as "Waste Treatment Handbook - Individual Household Systems."
3. Where said standards are not applicable due to inadequate percolation rates, topography problems, rock formation or other circumstances, a sewage treatment system shall be designed according to standards set forth in the Public Health Service publication, "Manual of Septic Tank Practices" or other generally accepted standards.

733: SIGNS AND BILLBOARDS

A. Prohibited Devices. In any district, the following sign devices are expressly prohibited:

1. No sign shall be permitted which is an imitation of or in any way resembles official traffic devices, or which uses the words, "stop," "danger," "slow," predominantly or in any manner which implies the need of stopping or the existence of danger to motorists.
2. Any sign which obstructs from view of the motorists any official traffic control device or which reduces the clear view of oncoming vehicles to a distance of less than five hundred feet (500').
3. Any sign which produces glare in extent or directions which may affect highway safety.
4. Any sign containing flashing, pulsating, intermittent, rotating or moving lights, or simulation thereof, except as allowed temporarily (Sub-paragraph D.2, below).
5. Any sign containing or consisting of banners, pennants, ribbons, streamers, spinners, or other similar moving, fluttering or revolving devices, except as allowed temporarily (Sub-paragraph D.2, below).
6. Signs permanently affixed to or painted upon rocks, trees, utility poles or other such structures not intended for such use.

B. Signs Permitted in All Districts. The following signs shall be permitted in any district without a permit:

1. Signs advertising the sale, lease or rental of the premises upon which the sign is located; said sign shall not exceed nine (9) square feet in area.
2. Professional name plates and rooming house signs not exceeding two (2) square feet in area.
3. Signs denoting the name and address of the occupants, not exceeding two (2) square feet in area.
4. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, clubs or societies, which signs or bulletin boards do not exceed twelve (12) square feet in area and are located on the premises of such institution.

C. Signs Requiring Permits

1. The following signs are allowed in all districts, but require a zoning permit as provided for herein:

Any sign advertising a commercial enterprise, including real estate developments or subdivisions, which sign shall not exceed twelve (12) square feet in area and shall advertise only the names of the owners, trade names, products sold and/or the business or activity conducted on the premises on which the sign is located, provided that not more than two (2) signs shall be allowed for each such business or commercial activity.

2. Except for adult entertainment uses, the following signs are allowed in the General Business and Industrial Districts, but require a zoning permit, as provided for herein:
 - a. Those signs that are permitted in all districts;
 - b. Time and temperature signs with intermittent lighting and/or rotation only of that portion displaying time and temperature;
 - c. Signs or billboards no larger than one hundred (100) square feet, which shall not project more than thirty feet (30') above the average ground level at the base of the sign;
 - d. Projecting signs overhanging the sidewalk or street, which shall have a minimum clearance of fourteen feet (14') above the street and ten feet (10') above the sidewalk.

D. General Sign Regulations

1. The following requirements apply to all signs in all districts established by these Regulations:
 - a. For the purpose of these Regulations, the term "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or as required by law, ordinance or governmental regulation.
 - b. Number of Signs: Each building may have one sign oriented to each street on which the premises have frontage, identifying the building as a whole or its predominant use.
 - c. Projecting Signs: Except in General Business and Industrial districts, and not allowed for adult entertainment uses, no sign shall overhang the right-of-way of a public highway. No sign except on a canopy providing shelter, shall overhang more than one-third (1/3) of the sidewalk.

- d. Illumination: Signs shall be illuminated only by a steady, stationary, shielded light source directed solely at the sign or internal to it, without causing glare for motorists, pedestrians or neighboring premises. Illuminated signs shall not produce more than one foot-candle of illumination four feet (4') from the sign.
 - e. Roof Signs: No sign shall be placed on the roof of any building nor extended more than four feet (4') above the building, except that this shall not apply to painting a sign on the roof of a building, which painting a sign on the roof shall not be allowed for adult entertainment uses.
 - f. Only one side of a free-standing or projecting double-faced sign shall be included in calculating surface area, providing that the two (2) display surfaces are joined at an angle no greater than sixty (60) degrees. All sides of a multi-faced sign visible from any one street shall be included in the calculation of surface area.
2. Except for adult entertainment, the following signs are allowed temporarily, for a period of up to two (2) weeks without a permit:
- a. Construction Sign: One unlighted sign up to twenty (20) square feet identifying persons or firms involved in construction on the site of the sign. Also, one illuminated sign up to forty (40) square feet, identifying the owner and activity for which the building is intended. On application, such signs may be granted permits for the duration of a reasonable construction period.
 - b. A sign containing flashing or moving parts, banners, etc., used for non-commercial purposes, shall not be permitted for any additional period of time.
 - c. Event Sign: One unlighted sign up to thirty-two (32) square feet announcing a campaign, drive, or other civic or non-profit event.

734: DRINKING WATER PROTECTION

A. Statement of Purpose. The Village of Avoca depends solely on public wells that draw water from the unconsolidated sand and gravel aquifer underlying the Conchocton Valley. This aquifer is replenished by rainfall within the watershed and, in part, by the Conchocton River.

The Village of Avoca, with its residential, commercial, and other uses, overlies the recharge area for its public water supply. Contamination can be contributed to the ground water by improper handling and disposal of hazardous substances, petroleum products and other sources and by accidental spills along the nearby railroad which can lead to public and private losses and costs, business interruptions, damage to facilities and utilities.

The purpose of this Section is to protect the public health, safety and welfare of the people of the Village of Avoca by minimizing continued and future water supply contamination without applying burdensome regulations on land use. This purpose will be accomplished by regulating certain uses that have been determined to be potentially damaging to ground water quality, and by establishing minimum documentation and submittal requirements to ensure that other uses will not adversely affect the groundwater quality and quantity.

B. General. The following regulations apply to **ALL USES** within Aquifer Protection Overlay Districts (APODs) 1, 2, and 3:

1. Permitted Uses: Any use permitted in the portions of the APODs so overlaid shall be permitted subject to all the provisions of this Section. In any cases where conflicts arise between these supplemental requirements and any other existing requirements the more restrictive shall apply.
2. Discharge of Hazardous Substances: The discharge or disposal of any hazardous substance, petroleum, or radioactive material is prohibited, except as allowed by a valid permit per regulations promulgated under the NYS Environmental Conservation Law Articles 1, 3, 8, 15, 17, 19, 23, 27, 52 and 70, and the NYS Public Health Law Section 225 and amendments thereto. This includes:
 - a. The *USE* of septic system cleaners which contain toxic substances or hazardous materials.
 - b. The disposal of toxic substances or hazardous materials by means of discharge to a septic system.
 - c. Land spreading of septic waste without a valid permit from NYS DEC.
3. Leaks or Spills: Any spill, leak, or discharge or other release to the environment, actual or suspected, which must be reported to the New York State Department of Environmental Conservation Spill Hotline (800-457-7362) pursuant to New York State Chemical Bulk Storage Regulations (6NYCRR Part 595), and Petroleum Bulk Storage Regulations (6NYCRR 611-614), **MUST ALSO BE REPORTED** to the administrator within two (2) hours of the release.
4. Spill Response: Should a spill occur, the owner and/or operator must take immediate action to stop the spill and restore the environment in accordance with the Village of Avoca Emergency Spill Response Plan.
5. Production of Hazardous Materials: Any principal use that is the production or processing of any hazardous material or toxic substance.

6. Snow Disposal: The dumping or disposal of snow or ice collected off site from roadways or parking areas into any watercourse.

C. Regulations Applicable in Aquifer Area 1

1. Prohibitions:

- a. The open storage of pesticides, herbicides, or fungicides. All other storage of such material is also prohibited unless authorized has been obtained from the New York State Department of Environmental Conservation as provided in the New York State Environmental Conservation Law.
- b. Solid waste disposal facility.
- c. The bulk storage of coal or salts, except in a water-tight structure, or cover constructed on an impervious material.
- d. The dumping or disposal of snow or ice collected off-site from roadways or parking areas.
- e. All earth material extractive uses.

2. Other Regulations:

- a. All new development including single-family homes shall require a Special Use Permit.
- b. For any new development proposing on-site sewage disposal, a nutrient loading assessment shall be performed and the resultant value shall not exceed 7 milligrams per liter (mg/l) nitrogen).
- c. For any new development proposing stormwater management systems, such systems shall be designed to filter and remove contaminants from the collected runoff in accordance with NYS DEC stormwater management guidelines.

D. Regulations in APODs 2 and 3

1. Prohibitions:

- a. The open storage of pesticides, herbicides, fungicides and artificial fertilizers within one hundred feet (100') linear distance of any watercourse.
- b. The open storage of salt within one hundred feet (100') linear distance of any watercourse.

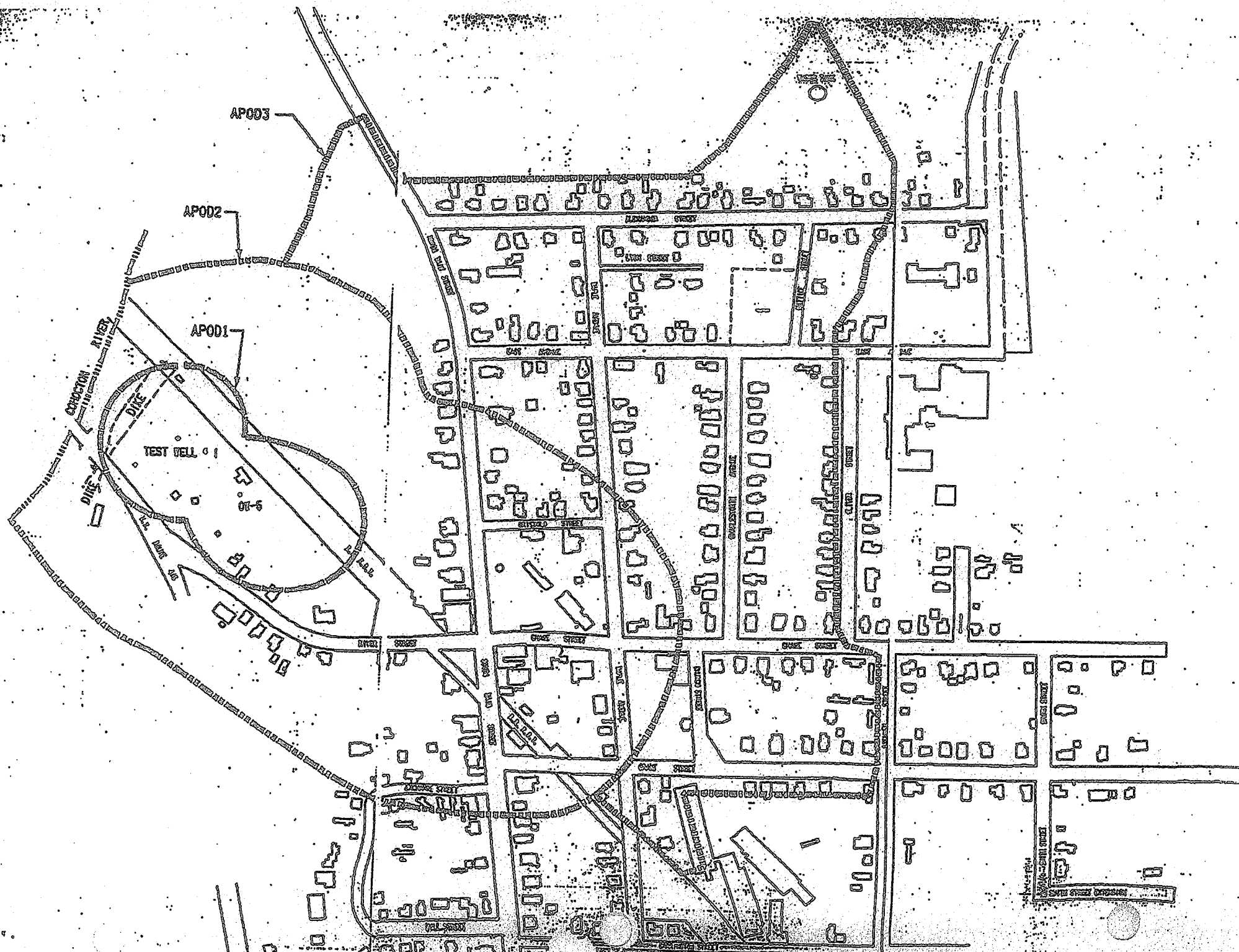
2. Other Regulations in APODs 2 and 3:

- a. Hazardous Materials Storage Compliance: All commercial and industrial uses and home occupations shall comply with all local, State and Federal requirements concerning storage, use and disposal of toxic substances, hazardous materials and hazardous wastes.
- (i) All commercial and industrial uses and home occupations shall provide to the administrator lists of all toxic substances, hazardous materials or hazardous wastes known to be used or stored on a lot together with sufficient detail to apprise the Town of the method of storage and the amount of toxic substances, hazardous materials, or hazardous wastes on the lots.
- (ii) In the case of existing uses, this information shall be supplied within six (6) months of enactment of this law. In the case of proposed use, this information will be supplied as part of the plans prepared for site plan approval.
- b. Petroleum bulk storage registration: Petroleum bulk storage facilities installed above or below ground shall comply with New York State Department of Environmental Conservation requirements.
- c. Abandoned Wells: All abandoned wells shall be properly closed to prevent groundwater contamination.
- d. Application of pesticides, herbicides or chemical fertilizers:
- (i) Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.
- (ii) Property owners who enlist the services of a commercial pesticide, fungicide or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Environmental Conservation.
- (iii) All agricultural landowners shall be encouraged to use Best Management Practices (BMPs) as suggested by the Steuben County Soil and Water Conservation District and associated farm agencies.
- e. Establishment of or protection from buffers/wetlands along waterways: All agricultural landowners are encouraged to establish or maintain vegetated buffers and/or wetlands along waterways to filter water from cropland before entering the stream. Recommended buffer width shall be one hundred feet (100'), depending upon nature of the streambank and adjacent land use. (Consult with the Steuben County Soil and Water Conservation District for information on cost-share programs, if available.)

f. Groundwater contamination potential: Whenever there is a question as to the groundwater contamination potential of a proposed USE, the expert opinion of the United States Environmental Protection Agency (U.S. EPA), the New York State Department of Environmental Conservation (NYS DEC), or the State Health Departments may be requested.

g. Outside storage: Any outside storage area shall be designed so as to prevent seepage and runoff from entering the groundwater or any watercourse.

E. Delineation of Aquifer Protection Overlay Districts: Upon delineation of any new or revised Aquifer Protection Overlay District boundaries within the Village of Avoca, they shall be subject to all applicable rules and requirements established herein.



ARTICLE VIII NON-CONFORMING CONDITIONS

800: NON-CONFORMING USES, STRUCTURES AND LOTS

A. Continuation. Lots, structures, uses of land and structures, and characteristics of use, which lawfully existed at the time of the enactment of these Regulations, and which would be prohibited or restricted under the terms of these Regulations, may be continued subject to the following provisions:

1. Intent: It is the intent of these Regulations to permit non-conforming uses to continue until they are removed, but not to encourage their survival.
2. Enlargement: No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these Regulations.
3. Displacement: No non-conforming use shall be extended to displace a conforming use.
4. Unsafe Structures: Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition. However:
 - a. A non-conforming structure shall not be reconstructed or structurally altered, exceeding in aggregate cost 50% of the full value of said structure, unless the structure shall be changed to a conforming condition; and,
 - b. A non-conforming structure damaged by fire or other causes to the extent of more than 75% of its full value, shall not be repaired or rebuilt except in conformity with the requirements of these Regulations.
5. Discontinuance: Whenever a non-conforming use shall have been discontinued for a period of six (6) months, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these Regulations.
6. Changes: Once changed to a conforming use, any structure or land so changed shall not be permitted to revert to a non-conforming use.
7. Moving: Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

8. Demolitions: Once a non-conforming structure is demolished or removed, or rendered unusable, it shall not be reconstructed except in compliance with these Regulations.

B. Undersized Lots of Record

1. Any recorded undeveloped lot held in single and separate ownership prior to the adoption of these Regulations, and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with these Regulations and no variance therefor shall be required, provided only that the lot meets the minimum setback requirements set by Section 620, above.
2. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.
3. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

ARTICLE IX ADMINISTRATION

900: ENFORCEMENT

A. Zoning Officer

1. Appointment: The duty of administering and enforcing these Regulations is hereby conferred upon the Zoning Officer, who shall have such powers as are conferred upon him by these Regulations. He shall be appointed by the Village Board, shall serve at the pleasure thereof, and shall receive such compensation, as said Board shall determine.
2. Authority: In accordance with Section 150 of the Criminal Law and Section 10 of the Municipal Home Rule Law of the State of New York, the Avoca Village Board authorizes the duly designated Zoning Officer to issue appearance tickets when a violation persists after a Notice of Discontinuance has been issued or when said Notice is refused by a violator. Upon issuance of an appearance ticket, the Zoning Officer shall notify the Village Mayor and Village Justice. The Zoning Officer shall simultaneously file an Information with the Justice to complete the appearance ticket procedure.
3. Duties: For the purpose of these Regulations, the Zoning Officer shall have the following duties:
 - a. To issue zoning permits and Certificates of Zoning Compliance in accordance with the provisions of these Regulations;
 - b. To receive and record fees with Applications pursuant to paragraph C, Section 915, below;
 - c. Upon finding that any provision of these Regulations is being violated, to notify in writing the person responsible for such violation, stating the action necessary to correct said violation;
 - d. To order discontinuance of illegal uses of land, buildings or structures;
 - e. To order removal of illegal buildings or structures, or illegal additions or structural alterations;
 - f. To order discontinuance of any illegal work being done;
 - g. To take any other action authorized by these Regulations to assure compliance with or prevent violations of these Regulations; and

- h. To submit a written monthly report to the Village Board describing and enumerating actions taken and permits issued, and accounting for and transmitting fees received.

910: PERMITS REQUIRED

A. Zoning Permit

1. Issuance: A Zoning Permit authorizes the start of construction or other work as described in the Application therefor. No building or structure shall be erected, moved, added to, altered, or enlarged, nor shall any use of buildings or land be established or changed, without a Zoning Permit therefor issued by the Zoning Officer in compliance with these Regulations, or pursuant to terms of a variance order issued by the Board of Appeals.

2. Expiration: If the work for which a Zoning Permit is issued has not begun within ninety (90) days from the date of issuance, said permit shall expire. If the work for which a Zoning Permit has been issued has not been substantially completed within two (2) years of the date of the permit, said permit shall expire.

B. Certificate of Zoning Compliance. A Certificate of Zoning Compliance shall be issued upon the satisfactory completion of all necessary work undertaken pursuant to a duly issued Zoning Permit. The Certificate allows the following:

1. Change in the use of an existing building; or,
2. Occupancy and use of buildings hereafter erected, altered, moved, or extended; or
3. Occupancy and use of vacant land, or change in the use of land (except for tilling the soil or similar customary agricultural use, for which permits are not required under these Regulations).

915: APPLICATIONS

Applications for Zoning Permits and Certificates of Zoning Compliance shall be submitted simultaneously to the Zoning Officer on forms provided by him. Such permits and Certificates shall be issued only in conformance with all the provisions of these Regulations.

**PERMITS ALSO MAY BE REQUIRED TO CONFORM WITH REQUIREMENTS
OF FLOOD DAMAGE PREVENTION, LOCAL LAW NO. 1 OF 1987.**

A. Contents

1. Each application shall set forth the purpose for which the structure is intended, or for which the land is to be used, and shall be accompanied by a plot plan, scale drawings, and/or sketches and descriptions of the lot showing existing and proposed conditions, including (as appropriate) the number of dwelling units and such other information as may lawfully be required by the Zoning Officer.
2. The original copy of such plans and/or illustrative and explanatory material shall be filed at the Village Hall.
- B. Inspection. The Zoning Officer shall make or cause to have made an inspection of each building, structure or lot for which a Certificate of Zoning Compliance has been applied before issuing such Certificate, in order to assure compliance with all terms of the Application and the Zoning Permit as issued.

C. Fees

1. The following schedule of fees shall be effective with the enactment of these Regulations. Fees shall be paid at the office of the Zoning Officer upon the filing of an application.

Application for Zoning Permit and Certificate of Zoning Compliance	\$ 5.00
Appeal (for a Variance) (for Administrative Review	25.00
Application for Special Permit	25.00
Application for Amendment of these Regulations or the Zoning Map	25.00

2. No action shall be taken on any application or appeal until all applicable fees have been paid.
3. The fees in this section may be changed from time to time by resolution and majority vote of the Village Board after referral to or from the Planning Board.

920: BOARD OF APPEALS

- A. Appointment and Organization. A Board of Appeals is hereby created. Said Board shall consist of three (3) members appointed by the Village Board, which shall designate a Chairperson and Deputy Chairperson; such designations shall run for a period of three (3) years. No person who is a member of the Village Board shall be eligible for membership on such Board of Appeals. Of the members of the Board first appointed, one shall hold office for the term of one year, one for the term of two (2) years, one for the term of three (3) years, one for the term of four (4) years, and one for the term of five (5) years.

Thereafter, each member shall hold office for a term of five (5) years, from and after the expiration of terms of their predecessors in office. If the vacancy shall occur other than by expiration of a term, it shall be filled by the Village Board by appointment for the unexpired term.

B. Powers and Duties. The Board of Appeals shall have all the powers and duties prescribed by the Village Law of the State of New York, Article VII, Section 7-712, and by these Regulations, which are more particularly specified as follows:

1. Administrative Review: The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or interpretation made by the Zoning Officer in the enforcement of these Regulations, when it is contended that there has been an error of procedure or of substance therein.
2. Variances: In particular cases, when it is contended on appeal that strict application of these Regulations would cause practical difficulties or unnecessary hardship, the Board of Appeals may vary or modify such regulations to the minimum extent needed to do justice while assuring the public safety and welfare.
3. Staff: The Board of Appeals may employ such staff assistance as may be necessary and prescribe their duties, provided that at no time shall expenses be incurred beyond the amount of the appropriations made by the Village Board for such use and then available for said purpose.
4. Rules: The Board of Appeals shall have the power to make and adopt such written rules of procedure, bylaws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of these Regulations.
- Such rules, bylaws and forms shall not be in conflict with nor have the effect of waiving any provision of these Regulations or any other regulations of the Village of Avoca.
5. Meetings: All meetings of the Board of Appeals shall be open to the public and shall be held at the call of the Chairman and at such other times as the Board may determine. The concurring vote of a majority of all members of the Board shall be necessary to decide any matter on which the Board is required to rule.
6. Records: The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote the minutes shall indicate such fact.

7. Board of Appeals Office: The office of the municipal clerk shall be the office of the Board of Appeals, and every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in said office.

8. Stay of Proceedings: An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Officer certified that by reason of facts, a stay would, in his opinion, cause imminent peril to life or property in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on an application, on notice of the Zoning Officer, and on due cause shown.

930: REVIEW PROCEDURES

A. Appeal

1. A person aggrieved by any interpretation, decision, order, or requirement of the Zoning Officer issued pursuant to his duties under these Regulations, may appeal therefrom to the Board of Appeals, within a time set by general rule of the Board.

2. An appeal shall be on forms prescribed by the Board and available from the Zoning Officer, and shall specify the grounds for such appeal and the particular relief sought. A copy thereof shall be filed with the Zoning Officer, and a copy with the Board of Appeals. The Zoning Officer shall give the Board the complete record of the action under the appeal.

B. Hearing

1. The Board shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing. Such notice shall be by the publication in the official newspaper of the Village of Avoca, at least ten (10) days in advance thereof, which shall briefly describe the nature of the appeal and time and place of the hearing. The appellant shall be notified by mail.

2. The public hearing shall be held. Any party may appear in person, or by agent or attorney. The Board shall decide the appeal within sixty-two (62) days following the close of the hearing.

3. The Board of Appeals' decision may modify, reverse or affirm, wholly or partly, the order, requirement, decision, or determination appealed from. In its decision, the Board shall resolve the matter in such a manner as in its opinion ought to be done under the circumstances. The decision shall be written, and copies thereof shall be delivered to the appellant, to the Zoning Officer, and filed with the Village Clerk.

C. Referral. In accordance with Section 239m of the General Municipal Law, at least ten (10) days prior to the date of any hearing by the Board of Appeals, upon an appeal for variance as provided in paragraph B.2 of Section 920 above, notice shall be given to the Steuben County Planning Board for any action affecting property within five hundred (500) feet of the boundary of the Village, or from the right-of-way of any County or State highway or expressway.

If the County Planning Board disapproves the proposal or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by vote of a majority plus one of the members thereof, and after the adoption of a resolution fully setting forth the reasons for such contrary action.

D. Relief. Any person or persons jointly or severally aggrieved by a decision of the Board of Appeals or any officer, department, board or bureau of the Village, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law & Rules. Such proceedings shall be instituted within thirty (30) days after filing of a decision in the office of the Village Clerk.

940: VARIANCES

A. Appeal. Any person who finds, in his opinion, that a decision of the Zoning Officer, applying or enforcing strictly any provision of these Regulations, would under the particular circumstances cause him great practical difficulties or unnecessary hardship, may appeal such decision as provided for in Section 930 above. The appeal shall specify the particular provision appealed from, and the nature and extent of relief sought.

B. Standards

1. The Board of Appeals shall have the power in granting an appellant relief, to vary or modify any provision of these Regulations relating to the use, construction, or alteration of buildings or structures, or the use of land, so that (1) the spirit of these Regulations shall be observed, (2) the public safety and welfare secured, and (3) substantial justice done.
2. No variance in the strict application of these Regulations shall be granted by the Board of Appeals unless and until it finds that each of the following facts and conditions exist:
 - a. That there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographic or other physical conditions peculiar to and inherent in the particular property; and that as a result of such unique physical conditions, there would arise practical difficulties or unnecessary hardships in complying strictly with the provi-

sions herein, and that the alleged practical difficulties or unnecessary hardships are peculiar to the land, structure or building involved and are not generally applicable to other lands, structures or buildings in the same district;

- b. That literal interpretation of these Regulations would deprive the applicant of rights commonly enjoyed by owners of other properties in the same district under the terms of these Regulations;
 - c. That the alleged special conditions and circumstances do not result from the actions of the applicant or by a predecessor in title;
 - d. That because of unique circumstances, the variance sought is necessary to enable the owner to realize a reasonable use and return from the property;
 - e. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;
 - f. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation involved;
3. In granting any variance, the Board may require such reasonable conditions and safeguards as it may deem necessary to implement the purposes of these Regulations.
 4. No non-conforming use of neighboring lands, structures or buildings in the same district and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance.
 5. Under no circumstances shall a variance be granted to allow a use not permissible under the terms of these Regulations in the particular district involved or any use expressly or by implication prohibited by the terms herein for said district.
 6. Any variance authorized by the Board of Appeals that is not exercised within one year from the date of issuance shall expire automatically without a further hearing by the Board.

950: SPECIAL PERMIT USES

- A. Purposes. Pursuant to Section 7-725 of Village Law of the State of New York, the Planning Board is hereby authorized to approve the establishment of "Special Permit Uses", as identified above in ARTICLE VI, in the regulations for the several

zoning districts. Such identified uses are considered generally appropriate for the districts indicated, but require particular attention to their manner of site development and operation in order to prevent or minimize undesirable effects on nearby properties or on the general welfare of the Village. No Special Permit Use shall be established or enlarged, except under the terms of a duly issued Special Permit. For such uses, a Special Permit shall serve the same function as a Zoning Permit for other uses.

B. Procedure

1. Application: A Special Permit Application shall be submitted to the Zoning Officer on forms provided by him. The Application shall be supplemented by a Site Plan comprising the following explanatory materials to the extent that and in such detail as the Zoning Officer shall deem applicable, considering the type, location, relative complexity, and general circumstances of the particular proposed Special Permit Use:

a. An area map showing the parcel under consideration for site review and all properties, subdivisions, streets and easements within two hundred feet (200') of the boundaries thereof.

b. A site map or maps showing:

- topography at no more than five (5) feet contour intervals. If general site grades have susceptibility to erosion, or there are areas of flood or ponding, contour intervals of not more than two feet (2') of elevation shall also be provided.
- title of drawing; name and address of applicant and person responsible for preparation of such drawing; north arrow, graphic scale, date of the drawing.
- boundaries of the property plotted to scale.
- existing watercourses, wetlands, waterbodies, rock out crops, major trees, and other natural significant features.
- proposed location, use and height of all buildings.
- grading and drainage plan, showing existing and proposed contours.
- location, design and construction materials of all parking and truck loading areas, showing access and egress.
- provisions for pedestrian access.
- location of outdoor storage, if any.
- location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- description of the method of sewage disposal and location, design and construction materials of such facilities.
- description of the method of securing public water and location, design and construction materials of such facilities (if applicable).

- location, design and construction materials of all energy distribution facilities, including electric, gas.
- location, size and design and construction materials of all proposed signs.
- location and proposed development of all buffer areas including existing vegetable cover.
- location and design of outdoor lighting facilities.
- designation of the amount of building area proposed for retail sales or similar commercial activities.
- general landscaping plan and planting schedule.
- other elements integral to the proposed development as considered necessary by the Zoning Officer, including identification of any State or County permits required for the project's execution.

2. Review: When the Zoning Officer has received a completed Application for a Special Permit, he shall transmit it to the Planning Board for its review and determination. The Board shall within sixty (60) days approve, approve with modification, or disapprove the application; such decision shall be filed with the Village Clerk. The reasons for any modification or for disapproval shall be stated in the record and copies shall be given to the applicant and the Zoning Officer. In approving an application with or without modification, the Planning Board may specify in the Permit such terms and conditions as in its opinion shall be appropriate means for securing the expressed intent of the particular Zoning district and the Purposes of these Regulations. A Permit shall be issued upon affirmative vote of a majority of the Board and signature by the Chairman or other designated officer; copies shall be given to the applicant and the Zoning Officer.

3. Considerations: Any Application for a Special Permit shall be considered by the Planning Board with particular regard for the adequacy of the following, as may be applicable in each case:

- a. Adequacy and arrangement of vehicular access and circulation, including intersections, road width, pavement surfaces, dividers, and traffic control;
- b. Adequacy and arrangement of pedestrian access and circulation, walkways, structures, control of intersections with vehicular traffic, and overall pedestrian convenience;
- c. Location, arrangement, appearance and sufficiency of off-street parking and loading;
- d. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs;
- e. Adequacy of stormwater and drainage facilities;

- f. Adequacy of water supply and sewage disposal facilities;
 - g. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between applicants and adjoining lands, including the maximum retention of existing vegetation;
 - h. In the case of multiple dwellings, the adequacy of usable open space for play areas and informal recreation;
 - i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features;
 - j. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants;
 - k. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
4. Consultation: In the course of its review, the Planning Board may consult with the Village Zoning Officer, Fire Commissioners, County Planning Board, other local and County officials, private consultants, in addition to representatives of Federal and State agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.

5. Hearing: In the course of its review, the Planning Board may hold a public hearing with regard to any Application for Special Permit, upon publication of notice in the Village's official newspaper at least five (5) days prior to the date thereof.

6. Referral: Upon receipt of any Application for Special Permit affecting a site within five hundred feet (500') of the Village boundary or within five hundred feet (500') of a County or State highway or expressway, such application shall be promptly referred by the Village Planning Board to the County Planning Board for its review and comment, pursuant to Section 239-m of General Municipal Law. If the County Planning Board fails to report its comments within thirty (30) days after such referral, the Village Planning Board shall act without such report. If the County Planning Board disapproves or recommends modification of the proposal, the Village Planning Board shall not act to the contrary, without the affirmative vote of a majority plus one of its membership on a resolution setting forth the reasons for such contrary action. Within seven (7) days, such decision shall be filed with the County Planning Board.

7. Other Matters: The following matters of procedure shall be observed where applicable:

- a. Reimbursable Costs: Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a Special Permit shall be charged to the applicant, not to exceed fifty dollars (\$50.00) per acre, or fraction thereof.
- b. Inspection of Improvements: The Zoning Officer shall be responsible for the overall inspection of site improvement, including coordination with other officials and agencies, as appropriate.
- c. Expiration: A Special Permit shall be deemed to authorize only one particular special use, and shall expire if the special use shall cease for more than six (6) months for any reason.
- d. Existing Violations: No Special Permit shall be issued for property where there is an existing violation of these Regulations.

980: VIOLATIONS

- A. Complaints. Whenever a violation of this regulation occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof, shall be filed with the Zoning Officer. Said Officer shall record properly all such complaints, immediately investigate, and take action thereon as provided herein.
- B. Notice. The Zoning Officer shall serve a Notice of Violation or order on the person responsible for the erection, construction, alteration, extension, repair, use or occupancy of any building, structure, or land in violation of the provisions of this regulation; or in violation of a permit or certificate issued under these Regulations; and such notice or order shall direct discontinuance of the illegal action or condition and abatement of the violation.

C. Abatement

1. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used, or any land is divided into lots, blocks or sites in violation of this act or of any local law or other regulation made under authority conferred thereby, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business, or use in or about such premises.
2. Upon the failure or refusal of the proper local officer, board or body of the Village to institute appropriate action or proceeding for a period of ten (10) days after

written request by a resident of the Village so to proceed, any resident of the Village wherein such violation exists, who is jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the Village is authorized to do.

D. Administrative Intent. It is the intent of this regulation that all questions of enforcement and interpretation shall first be presented to the Zoning Officer and that such questions shall be presented to the Board of Appeals only upon appeal from the decision of the Zoning Officer, and that recourse from the decision of the Board of Appeals shall be to the courts as provided by law.

PART B

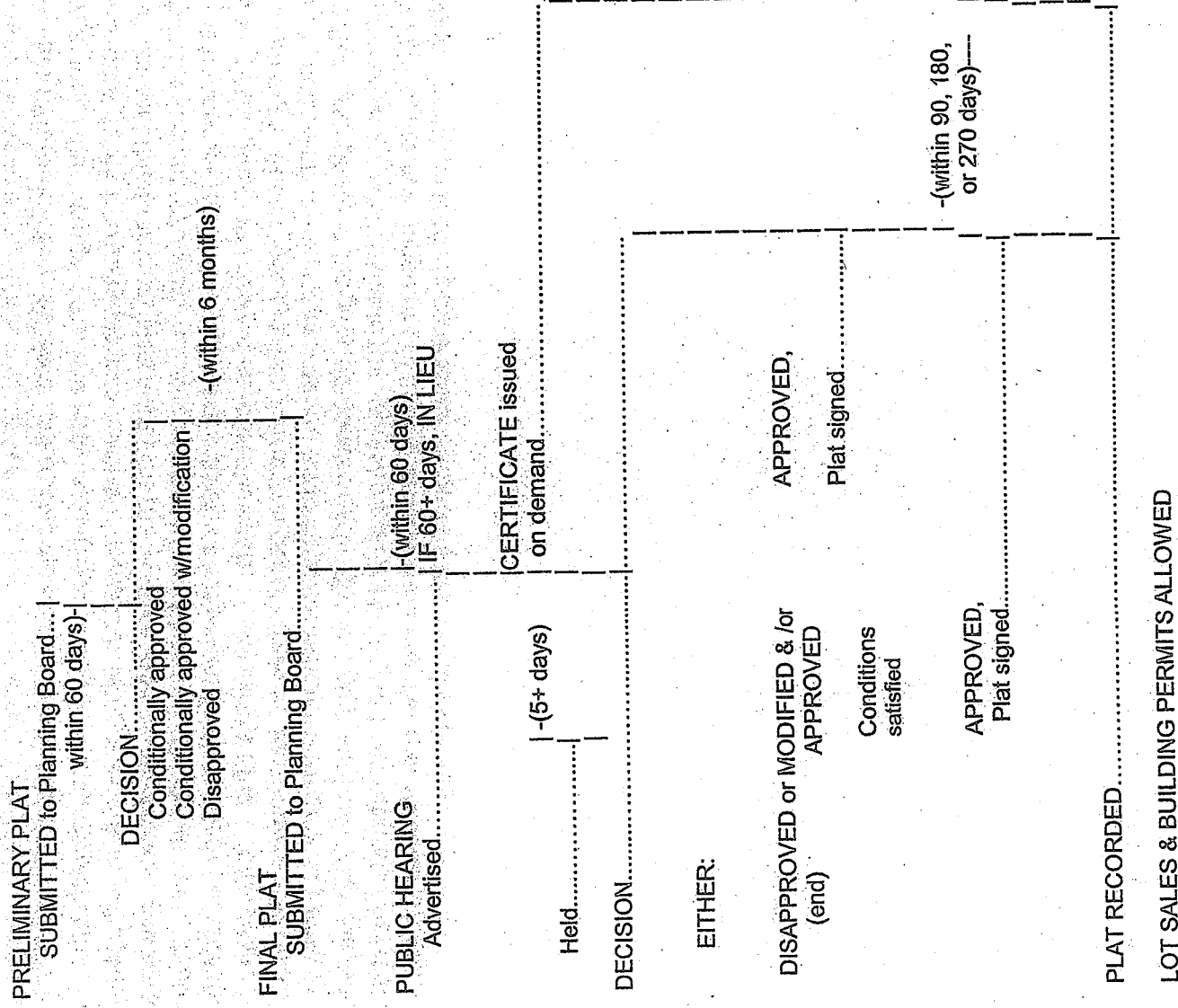
ARTICLES

X - XIV

LAND SUBDIVISION REGULATIONS

Subdivision Review Process

(Village Law, Sections 7-728 -- 7-732)



ARTICLE X SUBDIVISION POLICY

It is declared to be the policy of the Village of Avoca to consider land Subdivision Plats as part of a plan for the orderly, efficient and economical development of the Village. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists and shall be properly related to the proposals shown on the Concept Plan, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. Pursuant to such policies, the development of land subdivisions in the Village of Avoca shall be in accordance with the following procedures, standards and requirements.

ARTICLE XI SUBDIVISION PROCEDURES

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell, any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

1110: SKETCH PLAN

A. Submission of Sketch Plan. Any owner of land shall, prior to subdividing or re-subdividing land, submit to the Secretary of the Planning Board at least ten (10) days prior to a regular meeting of the Board two (2) copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of ARTICLE XIII Section 1310, for the purposes of classification and preliminary discussion.

B. Discussion of Requirements and Classification

1. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these Regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.
 2. Classification of the Sketch Plan is to be made at this time by the Planning Board as to whether it is a Minor or Major Subdivision as defined in these Regulations. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a Minor Subdivision comply with all or some of the requirements specified for Major Subdivisions. If the Sketch Plan is classified as a Minor Subdivision, the subdivider shall then comply with the procedure outlined in Sections 1120 and 1160 below, of this ARTICLE. If it is classified as a Major Subdivision, the subdivider shall then comply with the procedures outlined below in Sections 1130, 1140, 1150, 1160, and 1170.
- C. Study of Sketch Plan. The Planning Board shall determine whether the Sketch Plan meets the purposes of these Regulations and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

1120: APPROVAL OF MINOR SUBDIVISION

A. Application and Fee

1. Within six (6) months after classification of the Sketch Plan as a Minor Subdivision by the Planning Board, the subdivider shall submit an Application for approval of a Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board for re-classification. The Plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board. Said Application shall also conform to the requirements listed in ARTICLE XIII, Section 1320.
2. All Applications for Plat approval for Minor Subdivisions shall be accompanied by a fee of Two Dollars (\$2.00).
3. Five (5) copies of the Application for Subdivision Plat Approval shall be presented to the Clerk of the Planning Board.

B. When Officially Submitted. The time of submission of the Subdivision Plat shall be considered to be the date of a regularly scheduled meeting of the Planning Board, at least ten (10) days prior to which the application for plat approval, complete and accompanied by the required fee and all data required by Section 1320 of these Regulations, has been filed with the Clerk of the Planning Board.

C. Subdivider to Attend Planning Board Meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.

D. Public Hearing. A public hearing shall be held by the Planning Board following the submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing and a notice of hearing posted in at least three (3) prominent places at least five (5) days before such hearing.

E. Action on Subdivision Plat

1. Decision: The Planning Board shall, within sixty (60) days from the date of the submission, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the Subdivision Plat. Failure of the Planning Board to act within such time shall constitute approval of the Plat, and the Village Clerk shall on demand issue a Certificate to that effect which shall constitute valid evidence of approval in lieu of the Planning Board's endorsement thereof.

2. Conditional Approval: Upon granting conditional approval with or without modification to the Plat, the Planning Board shall empower a duly authorized officer to sign the Plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. The Plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed in his office, and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved Plat.
3. Final Approval: Upon completion of such requirements, the Plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a Plat shall expire ninety (90) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time, and the Plat recorded in the Office of the County Clerk. By mutual agreement, however, such time may be extended for not more than two (2) additional periods of ninety (90) days each.

1130: PRELIMINARY PLAT FOR MAJOR SUBDIVISION

A. Application and Fee

1. Prior to filing an application for approval of a Major Subdivision Plat, the subdivider shall file an Application for Approval of a Preliminary Plat of the proposed subdivision. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall, in all respects, comply with ARTICLE XIII, Section 1330 of these Regulations, except where a waiver may be specifically authorized by the Planning Board.
 2. The Application for Conditional Approval of the Preliminary Plat shall include a fee of Two Dollars (\$2.00), plus One Dollar (\$1.00) per lot for each lot in the proposed subdivision.
 3. Five (5) copies of the Application and the Preliminary Plat shall be presented to the Clerk of the Planning Board at the time of submission.
- B. When Officially Submitted. The time of submission of a Preliminary Plat shall be considered to be the date of a regular Planning Board meeting, at least ten (10) days prior to which the Application for Conditional Approval, complete in all respects, shall have been filed with the Clerk of the Planning Board.
- C. Subdivider to Attend Planning Board Meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

D. Study of Preliminary Plat. The Planning Board shall study the practicability of the Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Zoning Regulations, Articles V - IX above, the Planning Studies, and the Official Map, if such exist.

E. Conditional Approval of Preliminary Plat

1. Within sixty (60) days after receipt of a Preliminary Plat by the Clerk of the Planning Board, the Planning Board shall conditionally approve with or without modification, or disapprove, such Preliminary Plat, and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within said sixty (60) day period shall constitute conditional approval of such Preliminary Plat.
2. When granting conditional approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to:
 - a. the modifications to the Preliminary Plat,
 - b. the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals, and general welfare,
 - c. the amount of improvement or the amount of all bonds therefor which it will require as prerequisite to the approval of the Subdivision Plat.
3. Approval of a Preliminary Plat shall not constitute approval of the Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these Regulations.

Prior to approval of the Subdivision Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

1140: PLAT FOR MAJOR SUBDIVISION

A. Application and Fee

1. The subdivider shall, within six (6) months after the conditional approval of the Preliminary Plat, file with the Planning Board an Application for Approval of the

Subdivision Plat in final form, using an application blank on forms provided by the Clerk of the Planning Board, and otherwise complying with the requirements of ARTICLE XIII, Section 1340. If the final Plat is not submitted within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the final Plat and require re-submission of the Preliminary Plat.

2. All applications for Plat approval for Major Subdivisions shall include a fee of Two Dollars (\$2.00) per lot.
3. A subdivider submitting a proposed Subdivision Plat for the approval of the Planning Board shall provide the Clerk of the Board with a copy of the Application and three (3) copies (one copy in ink on linen or mylar, or an acceptable equal) of the Plat, the original and one true copy of all offers of cession, covenants, and agreements and two (2) prints of all construction drawings.

B. When Officially Submitted. The time of submission of the Subdivision Plat shall be considered to be the date of a regular meeting of the Planning Board, at least ten (10) days prior to which the Application for Subdivision Plat Approval, complete in all respects, shall have been filed with the Clerk of the Planning Board.

C. Endorsement of State and County Agencies. Water and sewer facility proposals shown on the Subdivision Plat shall be properly endorsed and approved by the New York State Department of Health, and certification thereof shall be secured by the subdivider before official submission of Subdivision Plat. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Village and State agencies.

D. Public Hearing. Upon receiving an Application for Subdivision Plat Approval, the Planning Board shall hold a public hearing thereon. This hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five (5) days before such hearing and a notice of hearing posted in at least three (3) prominent places at least five (5) days before such hearing.

E. Action on Proposed Subdivision Plat

1. Within sixty (60) days after receiving an Application for Subdivision Plat Approval, the Planning Board shall by resolution approve, modify and approve, or disapprove the Plat. Failure to take action on a final Plat within such time shall be deemed approval of the Plat, and a Certificate thereof shall be issued on demand by the Village Clerk and shall be sufficient evidence of such approval, in lieu of any written endorsement otherwise required herein.
2. In the resolution approving such Plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution, and a certified copy thereof shall be mailed to the subdivider. The copy mailed to the subdivider shall include a statement of such

requirements which, when completed, will authorize the signing and final approval of the Plat. Upon completion of such requirements the Plat shall be endorsed and signed by said duly authorized officer of the Planning Board.

3. Final Plat approval shall expire ninety (90) days after the date of the resolution granting such approval or of the issuance of a Certificate in lieu thereof, unless the Plat shall have been duly filed or recorded in the Office of the County Clerk. The Planning Board may, however, extend the time within which an approved Plat may be filed and recorded, if in its opinion such extension is warranted in the circumstances, for not to exceed two (2) additional periods of ninety (90) days each.

1150: REQUIRED IMPROVEMENTS

A. Improvements and Performance Bond

1. Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either sub-paragraph (a) or sub-paragraph (b) below:
 - a. In the amount set by the Planning Board, the subdivider shall either file with the Village Clerk a certified check to cover the full cost of any required improvements OR the subdivider shall file with the Village Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 7-730 of the Village Law and further, shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three [3] years) shall be set forth in the bond within which required improvements must be completed.
 - b. The subdivider shall complete all required improvements to the satisfaction of the Planning Board. For any required improvements not so completed the subdivider shall file with the Village Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvements not approved by the Planning Board. Any such bond shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety.
4. The required improvements shall not be considered to be completed until the installation of the improvements has been approved and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to sub-paragraph (b), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer.

However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in sub-paragraph (a), such bond shall not be released until such a map is submitted.

B. Modification of Design of Improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Chairman of the Village Planning Board that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Chairman of the Planning Board may authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Chairman of the Planning Board shall issue any such authorization in writing, and shall transmit a copy thereof to the Planning Board at their next regular meeting.

C. Inspection of Improvements. At least five (5) days prior to commencing construction of required improvements the subdivider shall pay to the Village Clerk an inspection fee as required by the Village Board, and shall notify the Village Board in writing of the time when he proposes to commence construction of such improvements. The Village Board may cause inspections to be made at appropriate times, to determine whether all Village specifications and the Planning Board's requirements shall have been met during the construction of such required improvements.

D. Proper Installation of Improvements. If the Planning Board shall be advised, as a result of such inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, the Planning Board shall promptly so report to the Village Board. The Village Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Village's rights under the bond. No Plat shall be approved by the Planning Department as long as the subdivider is in default on a previously approved Plat.

1160: FILING OF APPROVED SUBDIVISION PLAT

A. Final Approval and Filing. Upon completion of the requirements in Sections 1140 and 1150 above, and notation to that effect upon the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board. Thereupon, the Plat may be filed by the applicant in the Office of the County Clerk. Any Subdivision Plat not so filed or recorded within ninety (90) days of the date upon which such Plat was approved (or was considered approved and so Certified, for reasons of the failure of the Planning Board to act), shall become null and void, except that the Planning Board may extend such period for filing by not more than two (2) additional periods of ninety (90) days each. (See Section 1140.E.3.)

B. Plat Void if Revised After Approval. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

1170: PUBLIC STREETS, RECREATION AREAS

A. Public Acceptance of Streets. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Village of any street, easement, or other open space shown on such Subdivision Plat, and the endorsement of approval shall so state.

B. Ownership and Maintenance of Recreation Areas. When a park, playground, or other recreation area shall have been shown on a Plat, the approval of said Plat shall not constitute an acceptance by the Village of such area. The Planning Board shall require the Plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Village Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

1180: MODIFICATION OF ZONING REGULATIONS

The Planning Board is hereby empowered to modify applicable provisions of ARTICLES V through IX above, as authorized by Section 7-738 of the Village Law, for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands. The following procedure and standards are established to accomplish these purposes.

A. Request by Subdivider. A subdivider may submit a written request for the use of procedures authorized by Village Law Section 7-738. Such request shall be submitted simultaneous with or subsequent to presentation of the sketch plan as described in Section 1110 of this ARTICLE. Any such submission subsequent to conditional approval of a Preliminary Plat shall require a re-application for sketch plan review.

B. Sketch Plan. The subdivider shall present, as appropriate, a sketch plan reflecting his proposal for zoning modifications in accordance with the provisions of Village Law Section 7-738. He shall also present a standard sketch plan which is consistent with all the criteria established by these Regulations including, but not limited to, streets being consistent with the Street Specifications, and lots being consistent with the provisions of ARTICLES VI and VII, above.

C. Conditions

1. Plats embodying such modification of Village zoning regulations shall be proposed only for property within areas zoned AG-R or LDR.
2. Any such plat shall provide for development of no greater number of dwellings than could be developed in a standard subdivision of the property in full compliance with ARTICLES V through VIII above.
3. Any such plat may provide for development of any desired combination of single-family, two-family, and multi-family dwellings.

D. Plat Submission. Upon determination that such sketch plan is suitable for these procedures for zoning modification, the Planning Board may by resolution approve such sketch plan subject to appropriate requirements in support of the policies set forth in ARTICLE X above. Thereafter, a preliminary plat meeting all of the requirements of the resolution shall be presented to the Planning Board, and the Planning Board shall proceed with all other procedural requirements of these Regulations.

E. Hearing. The site plan for each plat, showing size, character and location of buildings; landscaping; parking areas, drives, and streets; and other physical features of such proposed plat, together with a specification of proposed zoning modifications, shall be subject to the public hearing provided for in Section 1140.D of this ARTICLE.

F. Park, Recreation, Open Space or Other Municipal Purposes. If the application of these procedures for zoning modification results in a Plat showing land available for park, recreation, open space, or other municipal purposes, directly related to the Plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth by the Planning Board. Such conditions shall be approved by the Village Board of Trustees, before such Plat shall be finally approved by the Planning Board.

G. Filing, Notation on Zoning Map. On the filing of a Plat approved pursuant to this Section, in the Office of the County Clerk, the subdivider shall file a certified copy thereof with the Village Clerk, who shall make appropriate notations and reference thereto in the Village Zoning Map, and shall notify the Zoning Officer thereof.

ARTICLE XII GENERAL REQUIREMENTS AND DESIGN STANDARDS

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth below. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in ARTICLE XIV herein.

1210: GENERAL

- A. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other natural hazard.
- B. Conformity to Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Village and shall be in harmony with the Comprehensive Plan, if such exists.
- C. Specifications for Required Improvements. All required improvements shall be constructed or installed to conform to Village specifications, which may be obtained from the Village Zoning Officer or Village Clerk.

1220: STREET LAYOUT

- A. Width, Location and Construction. Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the Comprehensive Plan, or, otherwise, to accommodate the prospective traffic and afford access for fire fighting, snow removal and other emergency and road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

B. Arrangement

- 1. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, these requirements may be modified.
- 2. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- 3. When a subdivision abuts or contains an existing or proposed major arterial

street, the Board may require marginal access streets, reverse frontage with screen planting without any access provided along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

C. Provision for Future Re-subdivision. When a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these Regulations.

D. Dead-End Streets or Cul-de-sacs. The creation of dead-end, cul-de-sac, or loop residential streets will be discouraged. In the case of dead-end streets, where needed or desirable, and permitted, the Board may require the reservation of a twenty foot (20') wide easement to provide for continuation of pedestrian traffic and utilities to the next street. In general, subdivision streets serving twenty (20) lots or more shall have at least two (2) connections with existing public streets, or streets shown on the Official Map, or streets on an approved Subdivision Plat for which bond has been filed. (See also Section 1230.B.2, below for further standards.)

E. Block Size. Blocks generally shall not be less than four hundred feet (400') nor more than one-thousand-two-hundred feet (1,200') in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred feet (800') in length, the Planning Board may require the reservation of a twenty foot (20') wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four foot (4') wide paved foot path be included.

F. Intersections

1. Minor or secondary street openings into such roads shall, in general, be at least five hundred feet (500') apart.
2. Street jogs with center line offsets of less than one-hundred-twenty-five feet (125') shall be avoided.
3. In general, streets shall join one another in such a way that for a distance of at least one hundred feet (100') the streets are approximately at right angles.

G. Relation to Topography. The street plan of a proposed subdivision shall bear a reasonable relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the

grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

H. Other Required Streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

1230: STREET DESIGN

A. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees, and fire hydrants, except where waivers may be requested, and the Village Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Village Planning Board. Such grading and improvements shall be approved as to design and specifications by the Village Planning Board.

1. Fire Hydrants: Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York or those of the Village as specified by the Planning Board.

2. Street Lighting Facilities: Lighting facilities shall be in conformance with the lighting system of the Village. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the Village Zoning Officer.

B. Street Widths

1. Streets shall have the following widths. (When not indicated on the Village Plan or Official Map, the classification of streets shall be determined by the Planning Board):

Minimum Right-of-Way	Minimum Pavement	
Major Streets	66 Feet	24 Feet
Minor Collector Streets	60 Feet	22 Feet
Local Streets	50 Feet	22 Feet

2. Where dead-end streets are specially permitted and are designed to be so permanently, they should, in general, not exceed five hundred feet (500') in length, and shall terminate in a circular turn-around having a minimum right-of-way radius of seventy-five feet (75') and pavement radius of fifty feet (50'). At the end of temporary dead-end streets a temporary turn-around with a pavement radius of fifty feet (50') shall be provided, unless the Planning Board approves an alternate arrangement.

C. Utilities

1. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
2. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least twenty feet (20') in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

D. Street Grades and Curves

1. Grades of all streets shall conform in general to the terrain, and not more than six percent (6%) for major or collector streets, or ten percent (10%) for minor streets in residential zones, but in no case more than three percent (3%) within fifty feet (50') of any intersection.
2. All changes in grades shall be connected by vertical curves of such length and radius as meet with the approval of the Village Planning Board, in accordance with specifications and standards established by the Village Superintendent of Streets. A combination of steep grades and horizontal curves shall be avoided.
3. All street right-of-way lines at intersections shall be rounded by curves of at least twenty feet (20') radius and the curbs shall be adjusted accordingly.
4. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection of two (2) new streets entirely within the subdivision, or of a new street with an existing street) which is within the triangular area formed by the intersecting street lines and a diagonal line connecting two (2) points on

such street lines fifty feet (50') from the intersection, shall be cleared and seeded with grass. If directed by the Planning Board, such area shall be graded as may be necessary to achieve visibility.

5. In general, street lines within a block, deflecting from each other at any one point by more than ten (10) degrees, shall be connected with a curve, the radius of which for the center line of street shall not be less than four hundred feet (400') on major streets, two hundred feet (200') on collector streets and one hundred feet (100') on minor streets.

E. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures. These shall comply with design specifications and standards established by Village Superintendent of Streets. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Village Planning Board and in no case less than twenty feet (20') in width.

F. Streets in Commercial Developments

1. In connection with lots designed for commercial use, paved rear service streets of not less than twenty feet (20') in width, or adequate off-street loading space in compliance with Section 715.B, above, shall be provided.
2. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to meet the standards of Section 1230.B.

1240: STREET NAMES

- A. Type of Name. All street names shown on a Preliminary Plat or Subdivision Plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.
- B. Names to be Substantially Different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety (90) degrees without a change in street name.

1250: LOTS

- A. Lots to be Buildable. The lot arrangement shall be such that in constructing a building in compliance with ARTICLES VI and VII, above, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots

should not be of such depth as to encourage the later creation of a second building lot at the front or rear.

- B. Side Lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- C. Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.
- D. Driveway Access. Driveway access and grades shall conform to specifications of Section 719, above. Driveway grades between the street and the setback line shall not exceed ten percent (10%).
- E. Access from Private Streets. Access to lots from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these Regulations.

1260: DRAINAGE IMPROVEMENTS

- A. Removal of Spring and Surface Water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Drainage Structure to Accommodate Potential Development Upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area whether inside or outside the subdivision. The subdivider's engineer shall accordingly design and size the facility based on anticipated run-off from the watershed during a "ten year" storm, under conditions of total potential development permitted by ARTICLES V - VII, above.
- C. Responsibility for Drainage Downstream. The subdivider's engineer shall also study the effect of the subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be presented to and shall be reviewed by the Village Planning Board. If the study shows that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a five (5) year storm, the Planning Board shall notify the Village Board of such potential condition.

In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

D. Land Subject to Natural Hazard. Land subject to flooding, or deemed by the Planning Board to be uninhabitable due to other natural hazard, shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property. Such land within the plat shall be set aside for such uses as shall not be endangered by such hazard, by or shall be improved in a manner consistent with provisions of Flood Damage Prevention, Village of Avoca Local Law No. 1 of 1987.

1270: PARKS, OPEN SPACES, AND NATURAL FEATURES

A. Recreation Areas

1. Where a proposed park, playground or open space shown on the Village Plan is located in whole or in part in a subdivision, the Board shall require that such area or areas be shown on the Plat. Such area or areas may be dedicated to the Village by the subdivider if the Village Board approves such dedication.
2. Where a subdivision does not contain any such area or areas shown on the Village Plan, the Planning Board shall require that the Plat show other sites of a character, extent, and location suitable for the development of a park, playground, or other recreational purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the Plat. The Board shall require that not less than three (3) acres of such recreation space be provided per one hundred (100) dwelling units shown on the plat. However, in no case shall the amount be more than ten percent (10%) of the total area of the subdivision. Such area or areas may be dedicated to the Village by the subdivider if the Village Board approves such dedication.
3. In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit to the Board, prior to final approval, three (3) prints (one on cloth) drawn in ink showing, at a scale of not more than thirty feet (30') to the inch, such area and the following features thereof:
 - a. The boundaries of the said area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
 - b. Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
 - c. Existing, and, if applicable, proposed changes in grade and contours of the said area and of area immediately adjacent.
4. a. In cases where the Planning Board finds that due to the size, topography, or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or, if in the opinion of the Board