

- h. For failure to repair leaky service lines after notice.

If any building is razed, moved or abandoned, it will be the responsibility of the owner or the authority which requires such razing, moving or abandonment by virtue of public improvement to notify the water department to remove the water meter. The owner may be required to discontinue the lateral line at the curb box by physically removing the service line connection at the curb box, under the supervision of the water department.

- 2. When for any reason the use of a service is discontinued, such service shall be shut off at the curb cock, and in case this section has not been complied with, such service may be so shut off, and all expense connected therewith shall be borne by the owner and chargeable against the property at which such service was discontinued regardless of whether or not such owner owned such property at the time that such service was discontinued. If the owner refused to reimburse the water department for service so rendered, the water will not be restored until payment is made.

[Note: § 62-16 amended by Local Law 7-1995 on 7-11-95.]

Chapter 65

ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 76-10-58; amended in its entirety 8-18-74. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 26.

Street construction — See Ch. 51.

Streets and sidewalks — See Ch. 52.

Subdivision of land — See Ch. 53.

ARTICLE I General Provisions

§ 65-1. Title; short title.

- A. The title of this chapter shall be: “An Ordinance Regulating the Location, Construction and Use of Buildings and Structures and Regulating the Use of Land in the Village of Port Dickinson, New York, and for Said Purposes Dividing the Village Into Districts.”

B. This chapter may be known and may be cited as the “Village of Port Dickinson Zoning Ordinance.”

§ 65-2. Purpose.

This chapter is enacted for the purpose of promoting the health, safety, morals and general welfare of the community by lessening congestion in the streets and securing safety from fire, panic and other dangers; by providing adequate light and air; by preventing the overcrowding of land; to protect and conserve the value of property by avoiding undue concentration of population; by facilitating the adequate provision of transportation, water, schools and other public requirements; and by regulating the location and use of buildings, structures and land for trade, residence and other purposes in accordance with the Comprehensive Plan.

§ 65-3. Definitions, word usage.

- A. Word usage. For the purpose of this chapter, words used in the present tense include the future; the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; the word “occupied” includes the words “designed for occupancy or intended to be occupied.”
- B. Definitions of words and terms. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING — A subordinate building or a portion of the main building of a lot, the use of which is customarily incidental to that of the main or principal building, except that Handicap Access Ramps shall not be deemed to be an accessory building. (See Accessory Permitted Uses in Schedule of Zoning Regulations for Residential Districts) [Amended 12-9-03 by Local Law 5-2003]

ACCESSORY USE — A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

BUILDING — Any structure on a lot resting upon a support or foundation and shall include any physical features other than a boundary wall or fence.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for fiat roofs, to the top line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE — A line parallel to the street line drawn between the points of the front yard setback as measured along each side lot line and/or the required setback from property lines to the building proper, front, sides and rear.

COVERAGE — The percentage of the plot or lot area covered by the building area.

CELLAR or BASEMENT — A story partly underground, the walls of which are used as the foundation and/or substructure for those remaining stories of the structure partially or completely above mean grade level.

DWELLING, MULTIPLE — A building or portion thereof containing three (3) or more dwelling units.

DWELLING, ONE-FAMILY — A detached building designed for or occupied exclusively by one (1) family.

DWELLING, TWO-FAMILY — A detached building designed for or occupied by two (2) families living independently.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one (1) family.

ELECTRICAL DISTRIBUTION SUBSTATION — An assemblage of equipment designed to receive energy from a high voltage distribution supply system, to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

FAMILY [Amended 4/10/01, L.L. 2-2001]

1. Any number of individuals related by blood, marriage or adoption, and their domestics and servants, if any, living and cooking together on the premises as a single housekeeping unit;

2. Not more than two (2) persons, not related by blood, marriage or adoption, together with their minor children by blood, marriage or adoption, living and cooking together on the premises as a single housekeeping unit though not related by blood, marriage or adoption; or

3. More than two (2) persons not related by blood, marriage or adoption, together with their minor children by blood, marriage or adoption, living together on the premises as a functional family unit subject to the issuance of a special permit by the Zoning Board of Appeals pursuant to the standards enumerated in Section 65-39 (B) (2A) of the Village Code.

FLOOD - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

FLOOD FRINGE - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

FLOODWAY - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

FLOOD, ONE-HUNDRED-YEAR - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

GROSS FLOOR AREA (GFA) — The total area of all floors within the exterior walls of the building, excluding basements, cellars, garages, open or screened porches, patios or awning overhangs.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. No person outside of the dwelling shall be employed in the home occupation. There shall be no external evidence of such use except an announcement or sign not over two (2) square feet in area.

LOT — A parcel of land occupied or capable of being occupied by one (1) building and accessory building and/or uses, including such open spaces as are required by this chapter.

LOT, CORNER — A lot situated at the junction of two (2) or more streets or highways.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines, measured from the street or highway right-of-way line to opposite rear lot lines.

LOT WIDTH — The mean width of a lot measured at right angles to its depth.

MOBILE HOME — Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems. This definition of “mobile home” includes all additions which are purchased and added thereto or additions made subsequent to installation. This definition does not include modular housing placed on a standard foundation or a travel trailer.

MOBILE HOME TRAILER PARK — Any parcel of land which is planned and improved for the placement of two (2) or more mobile homes which are used as dwellings and for occupancy of more than ninety (90) consecutive days.

MODULAR HOUSING — Prefabricated, modular or sectional housing units in excess of fourteen (14) feet in width, placed permanently on a standard foundation and which arrive on site in more than one component, and which meet all regulations of the New York State Building Code.

NONCONFORMING BUILDING — A building, structure or portion thereof, lawfully existing on the effective date of this chapter, or subsequent amendment thereof, which does not completely conform to the regulations applicable in the district in which it is located.

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

PARKING SPACE, OFF-STREET — An off-street space, area or berth, with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PROFESSIONAL OFFICES — An office located in the full-time residence of a professional, such as accountant, architect, dentist, medical doctor, engineer, insurance broker, lawyer, real estate broker, surveyor and the like. The office staff shall consist of no more than three (3) persons in addition to the professional and use a total area of no more than thirty-three percent (33%) of the combined gross floor area.

PUBLIC UTILITY STRUCTURE — A building, structure or lot used for or in connection with the transmission, distribution or regulation of water, electric, gas, telephone service or other public utility service.

QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING — A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation,

and exclusive of the process of excavation and grading a lot preparatory to the construction of a building for which application for a building permit has been made.

SIGN — A structure, part thereof or device attached thereto, or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as an announcement, designation, direction or display to advertise or promote any person, firm, group, organization, commodity, service, profession or enterprise when said display is placed out-of-doors in view of the general public.

- A. **ADVERTISING SIGN** — A sign which directs attention to a business, industry, profession, commodity, service, or entertainment not sold or offered upon the same premises where the sign is located.
- B. **BUSINESS SIGN** — A sign which directs attention to a business, industry, profession, commodity, service or entertainment sold or offered upon the same premises where the sign is located.
- C. **DIRECTIONAL** — A sign, which is not illuminated, used for the purpose of stating the name or location of a municipality, a municipal building, hospital, community center, church or school or the name or place of meeting of an official or civic body (e.g., Rotary, Lions or Kiwanis), with no advertising matter contained on such sign.
- D. **DOUBLE-FACED OR V-TYPE SIGN** — Any two-faced sign utilizing both faces or surfaces for display purposes.
- E. **FACING or SURFACE** — The surface of the sign upon, against or through which the message of the sign is exhibited.
- F. **GROUND SIGN** — A sign which is not attached to any building.
- G. **PROJECTING SIGN** — A sign which is attached to the wall of any building or structure and which extends beyond the surface of such wall a distance greater than twelve (12) inches. Projecting sign shall include marquees. See also Subsection I “wall sign.”
- H. **ROOF SIGN** — A sign constructed or supported upon the roof of any building or structure.
- I. **WALL SIGN** — A sign which is attached to the wall of any building or structure and which does not extend beyond the surface of such wall a distance greater than twelve (12) inches. See also Subsection G “projecting sign.”

TRAVEL TRAILER — A travel trailer is any portable vehicle which is designed to be transported on its own wheels; which is temporary living quarters for travel, recreational or vacation purposes, or for office use; and which may or may not include one (1) or all of the accommodations and facilities in a mobile home.

YARD, FRONT — An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

YARD, REAR — An open unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of said building and the rear lot line and extending the full width of the lot.

YARD, SIDE — An open unoccupied space on the same lot with the building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear or front line shall be deemed, a side lot line.

ARTICLE II
Establishment of Districts; Map

§ 65-4. Establishment of districts. [Amended 12-5-78 No. 1-1978]

For the purposes of this chapter, the Village of Port hereby divided into the following types of districts:

R District: Residential District
RM District: Multiresidential District
C District: Commercial District
I District: Industrial District
PUD District: Planned Unit Development District (Added 4/14/98, L.L. No. 2-1998)

§ 65-5. Zoning Map.

- A. Said districts are shown, defined and bounded on a map entitled “Zoning Map, Village of Port Dickinson,” adopted on June 10, 1958, updated on July 29, 1974, and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.
- B. The Village Clerk shall engage a qualified person (civil engineer, licensed surveyor, etc.) to make changes map as directed by the Village Clerk, which map shall be available for public inspection.

§ 65-6. Interpretation of district boundaries.

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

- A. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- B. Where district boundaries are indicated as approximately following the center lines of streets or highways, street, lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as may be indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where uncertainty exists in determining the precise location of any district boundary line, the Board of Appeals shall interpret the intent and purpose of the Zoning Map.

§ 65-7. Lots in more than one district.

Where a district boundary line divides a lot which is in single or joint ownership of record at the time such boundary line was established, the regulations for the less restricted portion of such lot shall extend not more than twenty (20) feet into the more restricted portion, provided the lot has frontage on a street or highway in the less restricted portion.

ARTICLE III
General Regulations

§ 65-8. Application of regulations.

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

§ 65-9. Nonconforming buildings and uses.

- A. Continuation of nonconforming buildings or uses. The lawful use of any building or use of land existing at the time of the enactment of this chapter may be continued, although such use may not conform with the provisions of this chapter, except as hereinafter provided.
- B. Changes. A nonconforming use may not be changed to a more intensive nonconforming use, nor shall a conforming use be changed to a nonconforming use. Any nonconforming use, when changed to a conforming use, shall not thereafter be changed back to a nonconforming use. A nonconforming use, building or structure shall not be enlarged.
- C. Restoration. No building which has been damaged by fire or other natural causes to the extent of fifty percent (50%) of its replacement cost shall be repaired or rebuilt except in conformity with the regulations of this chapter. However, single- or two-family dwellings shall be permitted to be rebuilt on the same foundation if practical difficulties make it a hardship to meet the yard setback requirements of this chapter.
- D. Alterations and extensions. No nonconforming building shall be altered, or nonconforming use of building or land extended, except as authorized by the Zoning Board of Appeals.
- E. Abandonment and discontinuance. Whenever a nonconforming use has been abandoned or discontinued for a period of one (1) year, any future use shall be in conformity with provisions of this chapter.

§ 65-10. Schedule of regulations. [Amended 12-5-78 by L.L. No. 1-1978]

Regulations relating to zoning districts are hereby created and established as shown on Attachments I through VII, entitled "Schedule of Zoning Regulations, Village of Port Dickinson," which schedule is hereby adopted as a part of this chapter and which, with all explanatory matter thereon, is hereby made a part of this chapter.

Section 65-10 A Appointment of Ad Hoc Members to Planning Board?

[Added 3-14-00 by Local Law 3-2000]?? A. The Mayor of the Village of Port Dickinson subject to the approval of the Board of Trustees may, in any year it deems necessary, appoint temporary ad hoc ? members to its Planning Board to serve as provided in this section.?

ARTICLE IV
Supplementary Regulations

§ 65-11. Application of Article.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as are provided by the supplementary regulations contained in this Article.

§ 65-12. Dwellings on small lots.

Nothing in this chapter shall prohibit the erection of a one-family dwelling on any lot of less than the required area, provided that all other provisions of this chapter are complied with, if, at the time of passage of this chapter, such lot was held under separate ownership or lesseeship from the adjoining lots.

§ 65-13. Visibility at intersections.

Clear vision on comer lots shall be maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty (20) feet distant from the point of intersection, measured along said street lines. In such area, no foliage, shrubbery, fence or other obstruction shall be permitted higher than three (3) feet, nor low foliage or branches of trees less than twelve (12) feet from the ground.

§ 65-14. Off-street parking requirements.

Each land user shall provide sufficient suitable on-site parking spaces with necessary ingress and egress to said spaces, as required by this chapter, in order to prevent any necessity for off-site parking. The number of parking spaces required per each use are defined on the attached "Schedule of Zoning Regulations."

§ 65-15. Off-street loading requirements.

Each business or industrial use hereafter erected shall provide off-street loading space, not located on a public street or highway, with necessary ingress and egress. The number of loading spaces required for nonresidential, commercial or industrial use are defined on the "Schedule of Zoning Regulations."

§ 65-16. Garages and filling stations.

Garages and filling stations shall be subject to the issuance of a special permit by the Board of Appeals and shall also be subject to the following conditions:

- A. No garage or filling station lot shall be located within two hundred fifty (50) feet from a lot or parcel occupied by a public school, public or private hospital, public library or a church. The measurement distance shall be from the closest lot line to the closest lot line.
- B. No repair work shall be performed out-of-doors.
- C. Pumps and lubricating or other devices shall be located at least twenty (20) feet from any street line or highway right-of-way.
- D. All fuel, oil or similar substances shall be stored at least thirty-five (35) feet distant from any street or lot line.¹
- E. All automobile parts, dismantled and/or unregistered vehicles and similar articles shall be stored within a building.²
- F. Any illumination shall be nonflashing, indirect or diffused, and shall be so constructed that the illumination shall not shine or reflect light into adjacent properties.

§ 65-17. Billboards and display signs.

No billboard, poster, panel, advertising sign or display sign shall be erected or maintained in any district except as hereinafter provided.

A. Residence districts.

(1) In residential districts, no advertising sign or structure, etc., will be permitted except:

- (a) One (1) small announcement or professional sign, not to exceed two (2) square feet in area, erected only in connection with a customary home occupation permitted in such district or districts.
- (b) One (1) sign, not to exceed three (3) square feet in area, for each tourist home, erected where permitted in such districts.
- (c) One (1) sign, not to exceed six (6) square feet, stating that the real property or a part thereof upon which said sign is located is for sale or rent.
- (d) One (1) sign, not to exceed sixteen (16) square feet in area, for each church or institutional building, erected where permitted in such districts.
- (e) One (1) temporary real estate development sign, not to exceed thirty-six (36) square feet, directing attention to the opening of a new subdivision. Such sign shall require a permit issued by the Ordinance Administrator. Said permit shall be issued for a period of twelve (12) months and may be renewed upon application.

(f) Directional or information signs, not exceeding two (2) square feet in area and not illuminated. Said signs may be used for the purpose of stating the name or location of a town, hospital, community center, church, school, or the name or place of meeting of an official or civic body (i.e., Lions Club). No advertising matter shall be contained on signs of this type.

(g) Advertising signs not exceeding thirty-two (32) square feet in area located on the interior wall of the fence surrounding the Community Association baseball diamonds located on the property of the Port Dickinson Community Association at the northwest corner of Phelps Street and New York State Route 7. Said signs shall not extend above the top of the fence and in no instance shall be higher than five (5) feet. [Added 12-7-76 by L.L. No. 6-1976]

(2) The signs or bulletin boards listed above shall be set back from the street line one-third (1/3) the distance of any required yard but shall in no instance be closer than eight (8) feet to any lot line.

(3) The signs or bulletin boards listed above shall be at least one (1) foot clear above the ground but shall not exceed a height of six (6) feet above the ground.

B. Commercial and Industrial Districts. Within Commercial C and Industrial I Districts, only one (1) single-faced or double-faced billboard, display sign, etc. (a double-faced sign shall be considered as single-faced in computing display area), shall be allowed on any building lot, and it shall:

(1) Not exceed two (2) square feet for every one (1) linear foot of street frontage on any lot upon which said billboard or display sign is located, but in no case shall any such billboard or display sign exceed three hundred (300) square feet in usable display area.

(2) Be located twenty-five (25) feet or more from any street or highway right-of-way line, shall be three (3) feet or more clear above the ground and shall be ten (10) feet or more from any lot line.

(3) Not exceed a height of twenty (20) feet above the ground.

(4) Be located at least one hundred fifty (150) feet or more from any public school, public park or playground, hospital, church or other similar places of public assembly. The distance shall be measured from building to building.

(5) Be located in such a manner so as not to be in the same line of vision as traffic control signals. If for some reason this alignment is not possible, no red, green or amber illumination or reflection shall be permitted.

(6) Be maintained by the owner or lessee to the satisfaction of the Ordinance Administrator or any other designated officer.

C. Within any district where a billboard, poster, panel, advertising sign, display sign, etc., is permitted, the illumination of such sign shall be nonflashing, indirect or diffused and shall be so constructed so that the illumination shall not shine or reflect light into adjacent properties.

D. Amortization of nonconforming signs. Any signs that are not in conformance with this chapter at the time of its enactment shall be brought into conformance with the chapter within two (2) years after enactment of the chapter.

§ 65-18. Waste disposal.

Dumping of refuse, waste materials and other substances is permitted subject to the issuance of a special permit by the Zoning Board of Appeals as provided in Article VIII, § 65-39. The dumping of refuse, etc., in districts where permitted shall not be allowed to become unsightly or constitute a menace to public health or safety. A permit from the Broome County Health Department shall be provided. The following regulations shall apply:

- A. Dumping shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m.
- B. Each day's dumping shall be covered with at least four (4) inches of clean fill dirt.
- C. The operator of the dump shall at all times keep fire hazard at a minimum.

§ 65-19. Private sewage disposal systems.

Private sewage systems shall be so located, constructed and maintained that they shall not be offensive and shall not by leakage or seepage offer a possible pollution of any water supply, adjacent surface waters or ground surfaces. Engineering evidence of compliance with this requirement shall be submitted by each applicant before the issuance of a building permit. A permit from the Broome County Health Department shall be obtained.

§ 65-20. Site plan review.

Notwithstanding other provisions of this chapter, a site plan shall be reviewed by the Planning Board and approved in writing thereon before a building permit is issued in all instances hereinafter stated, for the purpose of ensuring that the public welfare will be safeguarded by safe, adequate and sufficient ingress, egress, off-street parking and loading, surface water runoff control and open spaces required by this chapter.

- A. Site plan approval shall be required of:
 - (1) All nonresidential uses in R Districts.
 - (2) All multiple dwellings and nonresidential uses in RM Districts.
 - (3) All multiple dwellings and commercial uses in C Districts.
 - (4) All uses in I Districts.
 - (5) All uses in Planned Unit Development Districts. (Added 4-14-98, L.L. ?No. 2-1998)
- B. A site plan to be reviewed by the Planning Board shall be drawn to a scale of not less than one (1) inch equals twenty (20) feet and shall show:
 - (1) All proposed buildings and other structures.

- (2) All required off-street parking and loading spaces, driveways and points of access between the property or properties in question and any public roads.
 - (3) The existing topography, including contours with intervals not to exceed two (2) feet and any proposed regrading and structures to accommodate drainage of surface water.
- C. Prior to the issuance of a building permit by the Administrative Officer, the Planning Board shall review and recommend either approval, approval subject to modification or disapproval of said site plan within sixty (60) days after receipt thereof. In agreement with the applicant, additional review time may be extended beyond the sixty-day period. Failure of the Planning Board to respond to said application in the designated time will permit the Administrative Officer to act without the Planning Board's recommendation. The building permit shall be issued subject to regulations contained in Article VII, § 65-35.
- D. The Planning Board is required to find the following in determining if a site plan, properly submitted, shall be approved:
- (1) All buildings and other structures proposed meet the minimum requirements of this chapter.
 - (2) Off-street parking and loading spaces, the means of reaching them, points of access with public roads, and required planting and buffer strips will be adequate and sufficient to assure safe and uncongested traffic movements at the present time and in the future and that adjacent properties are safeguarded from excessive noise, glare, dust and drainage of water.
 - (3) The means shown to accommodate the drainage of surface waters from the property or properties in question are approved by the village (Engineer, Public Works Superintendent) in writing.

ARTICLE V
Flood Damage Prevention
[Added 4-7-87 by L.L. No. 2-1987¹]

§§ 65-21 through 65-22. (Reserved)

¹ Editor's Note: This local law also repealed former Article V. Flood Management District, added 641-77 by LL. No. 3-1977. ?

ARTICLE VI
Special Use Permits

§ 65-28. Standards.

Uses permitted after the issuance of a special permit by the Zoning Board of Appeals shall conform to the following:

- A. The provisions prescribed herewith for each special permit use.
- B. All other applicable provisions for the district for which said use is permitted, unless said provisions are waived by the Board of Appeals.

§ 65-29. Hotels and motels.

Special permits for hotels in RM Residential Districts may be granted by the Zoning Board of Appeals provided that other than guest room facilities (i.e., food and beverage services, newsstands, cleaning and laundry facilities, etc.) are intended primarily for the use of hotel residents and guests.

§ 65-30. Electrical distribution substations.

Electrical distribution substations and other utility structures of a similar nature may be permitted in any district in the village, provided that a permit has been obtained from the Zoning Board of Appeals. The permit shall be granted only after the Zoning Board of Appeals is satisfied that there will be substantial compliance with the following standards:

- A. The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
- B. Suitable landscaping shall be provided in conformity to the area.
- C. Landscaping at comers of street intersections shall be so arranged so as not to obstruct clear vision.
- D. In residential areas, sound from the transformers shall be kept to a tolerable level in accordance with accepted standards as determined by local health authorities in conformity with standards of the New York State Department of Health and/or the Public Service Commission.

§ 65-31. Mobile home trailers.

Special permits for mobile home trailers located in mobile home parks in RM Residential Districts may be granted by the Zoning Board of Appeals provided that the mobile home trailer comply with the regulations as outlined for a single-family residence in an R Residential District. The Zoning Board of Appeals may impose other controls which are deemed necessary as outlined in Article VIII, § 65-39.

§ 65-32. Professional offices.

A professional office may be permitted in residential districts provided that:

- A. The professional office staff shall consist of no more than three (3) people in addition to the professional, himself. The staff may include employees or associates.
- B. One (1) vehicle parking space, with a minimum dimension of ten by twenty (10 x 20) feet, with necessary ingress and egress to said parking space and not on any public right-of-way, shall be provided for each fifty (50) square feet of gross floor area.
- C. The professional office shall be an integral part of the full-time residence of the professional and shall contain no more than thirty-three percent (33%) of the combined gross floor area.
- D. Appropriate landscaping shall be provided in conformity with the district in which such office is located.

- E. The Zoning Board of Appeals shall review the site and make a determination that the use will not constitute a traffic hazard. The Zoning Board of Appeals may place conditions on use to alleviate such hazard.
- F. A professional, within the meaning of this section, shall be limited to the following: accountant, architect, dentist, doctor, engineer, insurance broker, lawyer, real estate broker and surveyor.

§ 65-33. Signs.

A special permit to exceed the requirements as set forth for permitted signs may be granted if the use for which such permit is sought will meet the requirements of Article IV, § 65-17.

ARTICLE VII
Administration and Enforcement

§ 65-34. Enforcing official.

This chapter shall be enforced by the Administrative Officer, a designated official appointed by the Village Board of Trustees who shall in no case, except under written order of the Zoning Board of Appeals, grant any building permit or certificate of occupancy for any building or premises, where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter.

§ 65-35. Building permit and site plan approval.

- A. No building shall be erected, added to or structurally altered, nor shall any land be used in any district, until a permit has been issued by the Administrative Officer in accordance with requirements of this chapter and as hereinafter set forth.
- B. All applicants for a building permit shall submit two (2) copies of either a plot plan or site plan approved by the Planning Board, or a plot plan or approved site plan accompanied by a written order of the Board of Appeals, where such approval is required by other sections of this chapter.
- C. A plot plan shall be drawn to scale, with all dimensions indicated, showing the exact location of all buildings and required driveways, parking areas, utilities and other appurtenances.
- D. Building permits shall expire one (1) year from the date of issuance. In the event that construction is not complete at the end of one (1) year, an extension of no more than six (6) months may be granted by the Administrative Officer.

§ 65-36. Permit fees.

A fee may be charged for every permit issued. The amount of such fee shall be as determined by the Village Board in Section 26-9 of this Code. [Amended by Local Law 5-1996.]

§ 65-37. Certificate of occupancy.

- A. A certificate of occupancy shall be applied for coincident with the application for a building permit. A certificate of occupancy shall be issued by the Administrative Officer upon completion of a structure erected or altered for the occupancy of the structure and the use designated in the permit for the building, provided that the structure and the premises actually comply with the provisions of this chapter. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this chapter.
- B. No nonconforming use shall be renewed, changed or extended except as authorized by Section 65-9 of this Code and until a building permit and a certificate of occupancy has been issued by the Administrative Officer. [Amended by Local Law 5-1996.]
- C. The Administrative Officer shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

ARTICLE VIII
Zoning Board of Appeals

§ 65-38. Creation; appointment; organization.

A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members, to serve for five-year terms expiring at the end of each official year, to be appointed by the Village Board. Vacancies shall be filled in the like manner; provided, however, that an unexpired term shall be filled for such unexpired term only. There shall be a Chairperson and an Acting Chairperson. The procedure of the Board and the conduct of its members shall be in conformity with § 7-712 of the Village Law and any rules of procedure adopted by said Board. [Amended by Local Law 5-1996.]

Section 65-38 A Appointment of Ad Hoc Members ? [Added 3-14-00
by Local Law 2-2000]

A. The Mayor of the Village of Port Dickinson subject to the approval of the Board of Trustees may, in any year it deems necessary, appoint temporary ad hoc members to its Zoning Board of Appeals to serve as provided in this section.

B. The number of temporary members so appointed pursuant to this section in any year shall not exceed three (3).

C. Each temporary member shall be appointed for one-year term of office.

D. The chairman of Zoning Board of Appeals shall assign the temporary members as necessary when absence of regular members of the Board or conflicts of interest of regular members of the Board would otherwise prevent five (5) members of the Board from considering any pending matter.

E. No more than two temporary members shall sit in determination on any pending matter.

F. The temporary members shall designated on a rotating basis in the manner provided in the general governing rules of the Zoning Board of Appeals so that each temporary member shall have the same powers and duties as regular members of the Board until that matter is concluded.

G. Once designated to serve on a particular matter before the Board, the temporary member shall have the same powers and duties as regular members of the Board until that matter is concluded.

H. Any determination by the Board consisting of temporary members shall have the same weight and be entitled to the same authority as the same authority as the act or deed of the regular Zoning Board of Appeals and all laws, statutes and ? regulations shall apply and be applied with equal force and effect.

§ 65-39. Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows.

- A. Interpretation. Upon appeal from a decision by an administrative official to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Use permits. To issue special permits pursuant to Village Law Section 7-725(b) for any of the uses for which this chapter requires the obtaining of such permits from the Zoning Board of Appeals, or for the extension of a building or use as such existed at the time of the passage of this chapter into a contiguous, more restricted district for a distance not exceeding thirty (30) feet, but not for any other use or purpose. [Amended by Local Law 5-1996.]
 - (1) No such special permit shall be granted by the Zoning Board of Appeals unless it finds that the use for which such permit is sought will not, in the circumstances of the particular case and under any condition that the Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (2) The Zoning Board of Appeals, after public notice and hearing, and on application, may issue a special permit for any use specified in Article VI, provided such special permit use complies with the general standards set forth as follows:
 - (a) Each special permit use must comply with the regulations of this chapter for the district within which it is to be located.
 - (b) Each special permit use shall be of such character, intensity, size and location that it will be in harmony with orderly development of the district in which it is to be located and will not adversely affect the neighborhood. [Amended by Local Law 5-1996.]
 - (c) Each special permit use may be located only in the district or districts permitted for such special permit use.
 - (3) In issuing a special permit, the Board shall impose reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit which it deems necessary (i.e., wall fencing, landscaping, etc.) to protect the value of adjacent properties and to provide for the orderly development of the surrounding area. [Amended by Local Law 5-1996.]
 - (4) The Board shall deny any application for a special permit which, in its judgment, is not in accordance with the general standards and would prove detrimental to adjacent properties.
 - (5) The Board may, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such

requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit. [Added by Local Law 5-1996.]

- (6) Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Board for an area variance pursuant to Section 7-712-b-3 of the Village Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. [Added by Local Law 5-1996.]
- C. Use variances. The Board, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this chapter. [Added by Local Law 5-1996.]
 - D. Finding of facts for use variance. No such variance shall be granted by the Board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located: [Added by Local Law 5-1996.]
 - (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) That the alleged hardship has not been self-created.
 - E. Granting of use variance. [Added by Local Law 5-1996.]
 - (1) The Board, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - D. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed together with all documents pertaining thereto in the office of the Village Clerk, by case number under one or another of the following headings: Interpretations; Special Permits; Variances. The Zoning Board of Appeals shall notify the Village Board of Trustees and the Village Planning Board of each special permit and each variance granted under the provisions of this chapter.

§ 65-41. Fees for special permits and variances.

A fee may be charged on all applications or appeals for special permits or variances. The amount of such fee shall be determined by the Village Board of Trustees.

ARTICLE IX Penalties

§ 65-42. Penalties for offenses. [Amended by Local Law 1-2003 adopted Jan.14, 2003]

- A. A violation of this chapter or regulation made thereunder is an offense, punishable as follows:
 - 1. For conviction of a first offense: A fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both.
 - 2. For conviction of a second offense both of which were committed within a period of five years: A fine of not less than three hundred fifty dollars not more than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
 - 3. For conviction of a third or subsequent offense all of which were committed within a period of five years: A fine of not less than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
- B. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Administrative Officer or from such date as may be designated in such written notice.
- C. Each week's continued violation shall constitute a separate additional violation.
- D. In the event that any building or structure is erected, constructed, reconstructed, altered, 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 ordinance or regulation made thereunder, in addition to other remedies, the Board of Trustees may institute any appropriate action or proceedings to prevent such unlawful act, to restrain, correct or abate such violation or to prevent any Illegal act thereunder.

§ 65-43. Complaints.

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Administrative Officer, or other enforcing officer, who shall properly record such complaint and immediately investigate and report thereon.

ARTICLE X
Amendments

§ 65-44. Initiation of amendments.

- A. The Village Board of Trustees may, from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter. Every such proposed amendment or change, whether initiated by the Village Board of Trustees or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for.
- B. Whenever the owners of fifty percent (50%) or more of the street frontage in any district, or any specified part thereof, shall present to the Village Board of Trustees a petition duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of the regulations prescribed for the Zoning Maps including said district or specified part thereof, it shall be the duty of the Village Board of Trustees to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed above.

§ 65-45. Public hearings.

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

- A. By publishing a notice once a week for two (2) consecutive weeks in at least one (1) newspaper of general circulation in the village.

- B. By mailing a notice thereof to every association of residents of the village which shall have registered its name and address for this purpose with the Village Clerk. The notice shall state the general nature of the proposed amendment as well as the text.

§ 65-46. Planning Board recommendations.

Any proposed amendment shall be submitted to the Planning Board for report and recommendation prior to any action thereon by the Village Board of Trustees. If the Planning Board recommends against the enactment of any proposed amendment, or a protest is lodged as described in § 7-708 of the Village Law, the amendment shall become effective only by a favorable vote of three-fourths (3/4) of the members of the Village Board of Trustees as provided in § 7-708.

ARTICLE XI
Planned Unit Development
[Added 12-5-78 by L.L. No. 1-1978]

§ 65-47. Purpose.

- A. The purpose of the Planned Unit Development classification is to provide for the rezoning of land residential, multiresidential, commercial, industrial and recreational development zones either jointly or separately in conformance with the Village of Port Dickinson Plan and also with the provisions and standards ensure compatibility among all the land uses, foster innovation in site planning and development and encourage sound design practices.
- B. Provisions are included for planned unit development (PUD) to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In Planned Unit Development Districts, land may be used and structures may be constructed and used for any lawful purpose in accordance with the provisions set forth herein. A planned unit development may be a development of diversified land uses integrated into a carefully considered plan. Any of the uses listed in the Schedule of Zoning Regulations may be permitted, subject to the requirements of that section. Industrial or obnoxious uses, however, shall not be allowed in established areas of PUD's if they are in conflict with overall character of the zone. Where development standards may be in conflict, or may be unnecessary due to the integrated nature of the plan, the Village Board may approve a PUD that does not meet all required standards, such as zero lot line developments, cluster housing, townhouses or such similar innovations, provided that a written explanation of the reasoning and efficiency of such modification is provided by the petitioner/developer/agent as part of the application.

§ 65-48. Procedure for zoning change.

The procedure for obtaining a change in zone for undertaking development within a Planned Unit Development District shall be as follows:

- A. The applicant/developer/agent shall have the opportunity to meet with the Village Planning Board at an informal preapplication session in order to discuss the proposed development plans in general, to present sketch plans thereof and to receive comments, procedural instructions to be followed, zoning ordinance requirements to be met and noncommittal pertinent information relative to the preparation of the formal preliminary development plan described below.

- B. The applicant or agent thereof, shall submit four (4) copies of a preliminary development plan to the Village Board as described in § 65-49 and an application for a change of zone. The Village Board shall refer the application and preliminary development plan to the Village Planning Board ten (10) days prior to the Planning Board's next scheduled meeting. Such referral shall be prior to the date of the public hearing required by law on any proposed amendment to the Zoning Ordinance and Zoning Map by the Village Board. In addition, the preliminary development plan shall be reviewed by the Broome County Department of Planning, which shall report its recommendation, in writing, to the Village Board, within thirty (30) days of written receipt thereof.
- C. The Planning Board shall discuss the application and shall review the preliminary development plan with the applicant/agent. The Planning Board shall prepare recommendations with regard to the preliminary development plan and the proposed change of zone.
- D. Within forty-five (45) days of receipt of the application and the preliminary development plan and at its regular meeting, the Planning Board shall transmit, in writing, to the Village Board its recommendation for approval, approval with conditions or modifications, or disapproval, in accordance with its findings as described in § 65-51. The Planning Board shall send a copy of its recommendations to the applicant/agent. Failure of the Planning Board to act within forty-five (45) days of receipt of the application shall permit, the Village Board to act without the Planning Board's recommendation.
- E. Within forty-five (45) days of receipt of the Planning Board's recommendation, public notice shall be given and public hearing held by the Village Board on the proposed change of zone, subject to the specifications of preliminary development plan.
- F. Within forty-five (45) days of the public hearing, the Zoning Ordinance may be amended so as to define the boundaries of the Planned Unit Development District, but such action shall have the effect only of granting permission for development of the approved preliminary development plan proposal in accordance with the Zoning Ordinance within the area so designated.
- G. If the preliminary development plan and change of zone are approved by the Village Board, an appropriate notation to that effect will be made on the face of four (4) copies of the preliminary development plan, and the Board's resolution of approval shall be attached thereto. One (1) copy will be retained by the Village Clerk, one (1) copy will be given to the Planning Board, one (1) copy will be given to the Administrative Officer and one (1) copy will be returned to the applicant/agent.
- H. In the event that the Village Board grants the change of zone subject to modifications in the preliminary development plan, the resolution granting the change of zone shall specify the required modification and shall specify the time period for completion of the final development plan, as specified in § 65-50E.
- I. In the event that the Village Board disapproves the application and preliminary development plan, it shall notify the applicant/agent, in writing, of the disapproval and of the reasons for such decision.
- J. Upon approval of the application on change of zone and the preliminary development plan, with or without required modification, the applicant shall submit for Planning Board review four (4) copies of a final development plan, as described in § 65-50, and the Planning Board shall take action within thirty (30) days after submission.

- K. When the Village Planning Board approves the final development plan as submitted, an appropriate notation to that effect will be made on the face of four (4) copies of the final development plan. One (1) copy will be retained by the Village Clerk, one (1) copy will be retained by the Planning Board, one (1) copy will be given to the Administrative Officer and one (1) copy will be returned to the applicant/agent.
- L. Prior to the issuance of a building permit, the Village Board shall approve as to the form and sufficiency of any performance bond obtained by the applicant and as to the acceptability of any offers of cession, deeds or restrictive covenants. In the event that the applicant desires change the use of the PUD from the original proposed use, a resubmittal of the final development plan shall be required.

§ 65-49. Preliminary development plan.

The applicant shall submit an application for a change of zone with a preliminary development plan at a scale of one (1) inch equals fifty (50) feet, which shall include the following:

- A. Site plan.
 - (1) For residential single-family development: a master site plan indicating individual lot layout, ten-foot contours, open spaces, land use areas, streets, utility easements, rights-of-way and adjacent land use.
 - (2) For all other development: a proposed site plan, including ten-foot contours, elevations, location and dimensions of proposed buildings, signs, open spaces, land use areas, streets, utility easements, rights-of way and adjacent land use.
- B. Location and dimensions of driveways and driveway intersections with streets and highways, proposed traffic circulation, parking and loading areas, pedestrian walks, lighting, landscaping and necessary screening.
- C. Proposed construction sequence for buildings, parking spaces and landscaping areas.
- D. Proposed public utilities plan, including water supplies, sewerage and stormwater drainage, with a letter of review from the Broome County Health Department.

§ 65-50. Final development plan.

- A. For site plan reviews in a PUD District, the applicant shall submit a final development plan at a scale of one (1) inch equals fifty (50) feet for review to the Village Planning Board prior to the issuance of a building permit. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by § 7302, as amended, of Article 147 of the Education Law of the State of New York, the seal of a licensed architect or licensed professional engineer.
- B. The final development plan shall include:
 - (1) A site plan showing location and dimensions of proposed buildings, signs, open spaces and land use areas, including any subdivision intended within the district.

- (2) Location and dimensions of driveways and their intersections with streets and highways, traffic circulation, required parking and loading areas, pedestrian walks and lighting.
- (3) A description, in writing, of the proposed use, including hours of operation, number of employees, expected volume of business and type and amount of traffic to be generated.
- (4) Landscaping plan, including site grading and type of landscape plantings and structures and necessary screening.
- (5) Final drawings of buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.
- (6) Final engineering plans, including street improvements, water supply, waste disposal and drainage system (approved by the County Health Department) and other public utilities. All improvements shall comply, where applicable, with construction standards outlined in the Village of Port Dickinson subdivision regulations.
- (7) Letters in appropriate cases directed to the Chairman of the Planning Board, signed by a responsible official of the agency, utility company, government authority or special district having jurisdiction in the area of public sewer, public water, telephone, electric or gas improvements, and a responsible and qualified official of the Fire Department and School Board, transmitting their findings concerning the plan.
- (8) Engineering feasibility studies for the solution of any anticipated problem which might arise due to the proposed development, as required by the Planning Board.
- (9) The need for a performance bond for the items in Subsection B(2), (4) and (6) above, and the bond amount shall be determined by and at the option of the Village Board (see § 65-50F).
- (10) Offers of cession and proposed restrictive covenants.
- (11) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas, as applicable.
- (12) Complete documentation of means for the continual maintenance of common open space and buildings.
- (13) Any environmental quality review as may be required by New York State, Broome County or the Village of Port Dickinson.

C. Building permits.

- (1) Building permits shall be issued by the Administrative Officer only in accordance with an approved site plan and by the Village Board, accurately representing the manner in which the project shall be constructed, and after receipt of a recommendation from the Planning Board. The Planning Board shall transmit the application with its written findings to the Administrative Officer within sixty (60) days. A failure to act within sixty (60) days of the receipt of the application will permit the Village Board to authorize the Administrative Officer to act without the recommendation of the Planning Board.
- (2) An applicant wishing to make substantial changes in a duly reviewed site plan shall make application for a new building permit.

- D. The final development for a PUD site shall be in general conformance with the approved preliminary development plan. Such approval for each phase shall be secured by the applicant/agent for each phase of the development. Such approval for each phase shall be valid for two (2) years, at which time, unless the proposed development has been completed or is in process, the final development plan approval shall terminate, and no additional building permits shall be issued. If five (5) or more lots with separate deeds are provided on the Planned Unit Development District, the final development plan shall be in such form as to be acceptable according to the subdivision regulations of the Village of Port Dickinson, as a final subdivision plat, and may be approved in accordance with the procedures and requirements of the subdivision regulations of the Village of Port Dickinson.
- E. Final approval of site plans in PUD Districts for each phase of development, if applicable, shall be secured by the applicant/agent for each phase. Such approval for each phase shall be valid for two (2) years, at which time, unless the proposed development has been completed or is in process, the development plan approval shall terminate, and no additional building permits shall be issued.
- F. Prior to construction and at the discretion of the Village Board, a performance bond may be required to ensure that final development plans and specifications are satisfactorily completed or to return the subject properties to a usable state within the intent of this Article.

§ 65-51. Requirements for preliminary plan approval.

The Planning Board, after determining that the requirements of the Zoning Ordinance dealing with Planned Unit Development Districts have been met, shall recommend the approval, approval with modifications, or disapproval of the preliminary development plan to the Village Board. The Planning Board shall enter its reasons for such action in its records and transmit its findings by resolution to the Village Board. The Planning Board may recommend the establishment of a Planned Unit Development District, provided that it finds that the facts submitted with the preliminary development plan established that:

- A. The uses proposed will not be detrimental to the natural characteristic of the site or to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any other district.
- B. Land surrounding the proposed development can be developed in coordination with the proposed development and be compatible in use.
- C. Land uses surrounding the proposed development will be adequately buffered from the proposed use, where necessary, by appropriate screening devices, such as a wall, fence or hedge. Where existing features of the property can serve this function, the design of the proposed development shall be such that these features are preserved for such purpose.
- D. The proposed change to a Planned Unit Development District is in conformance with the general intent of the Comprehensive Plan of the Village of Port Dickinson.
- E. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
- F. Existing and proposed utility services are adequate for the proposed development.

- G. Each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscapes and utility areas necessary for creating and sustaining a desirable and stable environment.

ARTICLE XII

Adult Uses

[Added 8-6-85 by L.L. No. 3-1985]

§ 65-52. Purpose.

The establishment of certain adult entertainment businesses in the Village of Port Dickinson will tend to result in the blighting and deterioration of the village. Accordingly, it is necessary that these businesses be regulated in such a manner as to prevent the erosion of the character of the village. It is necessary to regulate the establishment of such adult entertainment businesses within close proximity to residentially zoned areas, schools, churches, parks, playgrounds and day care centers so as to minimize the proliferation of criminal activity and a blighting and degrading effect upon surrounding neighborhoods and to prevent the erosion of the residential character of the village and its neighborhoods. (Amended 4-14-98; L.L. No. 2-1998)

§ 65-53. Definitions.

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

ADULT ENTERTAINMENT BUSINESS — As used in § 65-54 hereof, includes the following:

- A. ADULT BOOKSTORE — An establishment having as a significant portion of its stock-in-trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing ?sexual conduct or specified anatomical areas.
- B. ADULT MINI-MOTION-PICTURE THEATER — An enclosed building ?with a seating capacity of fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- C. ADULT MOTION-PICTURE ARCADE — Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or ?other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so ?displayed are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- D. ADULT MOTION-PICTURE THEATER — An enclosed building with a seating capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing ?sexual conduct or specified anatomical areas.
- E. ADULT ENTERTAINMENT CABARET — A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers and/or bottomless dancers, strippers, male or female impersonators or similar entertainers, or

employees appearing in a bottomless and/or topless manner of dress. (Added 4-14-98; L.L. No. 2-1998)

F. MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where any person, firm, association or corporation, engages in, carries on, or permits to be engaged in or carried on, any of the activities referred to in subparagraph (i) below. (Added 4-14-98; L.L. No. 2-1998)

(i) The activities referred to herein are any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in the practice of massage. (Added 4-14-98; L.L. No. 2-1998)

(ii) This article XII, Adult Uses, shall not apply to licensed hospitals, licensed nursing homes, or clinics or persons holding an unrevoked certificate to practice any of the healing arts under the law of the State of New York, or persons working under the direct supervision and in the presence of any such persons or in any such establishments, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession of business and holding a valid unrevoked license or certificate of registration issued by the State of New York. (Added 4-14-98; L.L. No. 2-1998)

G. SEXUAL CONDUCT — Includes the following:

1. The fondling or other touching of human genitals, pubic region, buttocks or female breasts.

2. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

3. Acts of masturbation, sexual intercourse, oral copulation, or sodomy. (Added 4-14-98; L.L. No. 2-1998)

4. Human genitals in a state of sexual stimulation or arousal. (Added 4-14-98; L.L. No. 2-1998)

H. SPECIFIED ANATOMICAL AREAS — Include the following: human genitals, pubic region, buttocks and female breasts below the top of the areola.

§ 65-54. Restrictions. (Amended 4-14-98; L.L. No. 2-1998)

A. LOCATION RESTRICTIONS — Adult uses, including but not limited to adult entertainment businesses, shall be permitted in a Planned Unit Development - Entertainment (PUD-E) District, subject to the requirements of the Zoning Ordinance of the Village of Port Dickinson, including the requirement of a Special Use Permit pursuant to § 65-33A, and subject to the following restrictions and regulations:

(i) No such adult use shall be located in any zoning district except a Planned Unit Development - Entertainment District, and in addition to the restrictions and regulations

contained in this Article, shall be subject to all zoning requirements of Planned Unit Development - Entertainment Districts.

- (ii) No adult entertainment business shall be located within 500 feet of any residential dwelling or building containing a residential dwelling or rooming units, or within 1,000 feet of any church, school, park, playground, day care center, amusement arcade or existing adult entertainment business.
- (iii) The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business or the conversion of an existing business location to any of the uses described in Section 65-53 hereof.
- (iv) A Site Plan review pursuant to § 65-20(A)(5) shall be required prior to the issuance of any Special Use Permit, to insure compliance with the above conditions.

B. REGULATIONS.

- A. There shall be no exposure of the interior of any adult entertainment business to the outside and no outside displays of products, wares, books, magazines or any stock in trade of any adult entertainment business.
- B. The legal age for admittance to any adult use establishment is 18 years of age.

§ 65-55. Registration. (Repealed and replaced with the following 4-14-98; L.L. ? No. 2-1998)

- A. The owner of a building or premises, his agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Village Clerk of the Village of Port Dickinson:
 - (1) The address of the premises.
 - (2) The name and address of the owner(s) of the premises and the names and addresses of the beneficial owners if the property is in a land trust.
 - (3) The name of the business or the establishment subject to the provisions of this Article XII.
 - (4) The name(s) and addresses of the owner, beneficial owner of the major stockholder(s) of the business or the establishment subject to the provisions of this Article XII.
 - (5) The date of initiation of the adult use.
 - (6) The nature of the adult use.
 - (7) If the premises or building is leased, a copy of said lease.
- B. DISPLAY OF REGISTRATION — The owner, manager or agent of a registered adult use shall display in a conspicuous place in the premises of the adult use a copy of the registration filed with the Village Clerk.

- C. VIOLATION — It is a violation of this § 65-55 for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Village Clerk.

§ 65-55A. Special Registration Use Permit. (Added 4-14-98; L.L. No. 2-1998)

- A. No use as described in this Article XII shall be established until the issuance of a special registration use permit by the Zoning Board of Appeals of the Village of Port Dickinson.
 - (1) Application for such special registration use permit shall be in writing to the Village Planning Board and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed, the full information required for Registration in § 65-55, and such additional information as shall be required by the Planning Board in order to hold a site plan review pursuant to § 65-20. Upon receipt of said application the Planning Board, upon notice to the applicant, shall hold a site plan review and within 30 days of said review shall transmit its findings and recommendations to the Zoning Board of Appeals.
 - (2) Upon receipt of the findings and recommendations of the Planning Board, the Zoning Board of Appeals shall call and conduct a public hearing pursuant to § 65-40 and as the same may be amended from time to time for the purpose of considering the request for a special registration use permit.
- B. A special registration use permit issued under the provisions of this section shall not be transferable.
- C. Upon the issuance of such special registration use permit, a fee in the sum of One Hundred (\$100.00) Dollars shall be paid by the licensee to defray the administrative costs thereof and the cost of inspecting the premises during the term of such permit to insure compliance with this section.
- D. Approval by the Zoning Board of Appeals and registration by the Village Clerk shall be permitted only upon full compliance with the provisions of this section.

§ 65-55B. Renewal/Revocation of Special Registration Use Permit. (Added 4-14-98; L.L. No. 2-1998)

- A. Such special registration use permit shall be effective from the date of its issuance until the 31st day of December of the year of such issuance. Applications for renewal permits shall be submitted in the December preceding the year for which such renewal permit is sought and may be issued, either upon the applicant's reaffirmation of his original application and a statement showing any variations therein, or upon a new application as described in § 65-55A. Said application for renewal shall be accompanied with a fee of Fifty (\$50.00) Dollars to be paid by the applicant to defray the administrative cost of said application.
- B. Such special registration use permit may be revoked, or renewal thereof denied, by the Board of Trustees after a public hearing thereon at which the holder of said permit shall have an opportunity to be heard.
- C. Said special registration use permit shall be revoked, or renewal thereof denied, based upon:

- (1) Conviction of the holder of said permit for violation of any section of Article 230 and Article 235 of the Penal Law of the State of New York.
- (2) Any violation of § 65-55B.

§ 65-55C. Penalty. (Added 4-14-98; L.L. No. 2-1998)

Failure to register said adult use with the Village Clerk as hereinbefore directed is an offense in violation of this section and upon conviction thereof, is punishable by a fine not to exceed Five Hundred (\$500.00) Dollars. Continuation of such violation for each subsequent period of one week shall be a separate offense punishable by an additional fine not to exceed Five Hundred (\$500.00) Dollars.

§ 65-55D. (Added 4-14-98; L.L. No. 2-1998)

The following properties situate off Phelps Street located in an Industrial (1) District as defined in the Village Code is hereby rezoned and designated Planned Unit Development - Entertainment under said Code, subject to all regulations created and established relative to said Planned Unit Development - Entertainment District:

Tax Map No.	Reputed Owner and Address
129-13-2 -9	Overnite Transportation

§ 65-56. Penalties for offenses.

Violation of this Article is punishable by a fine not exceeding five hundred dollars (\$500.) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each day during any portion of which any violation of this Article is committed, permitted or continued shall constitute a separate offense.

§ 65-57. Severability.

If any provisions or clause of this Article, or the application thereof to any person or circumstance, is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such validity shall not affect the other provisions or clauses or applications thereof, which can be implemented without the invalid provision, clause or application, and to this end, the provisions and clauses of this Article are declared to be severable.

§ 65-58. When effective.

This Article shall take effect immediately.

¹ Editor's Note: For additional provisions pertaining to the storage of flammable liquids, see Ch. 34, Fire Prevention.

² Editor's Note: See also Ch. 59, Vehicles, Abandoned.

INDEX INSTRUCTIONS

The main **INDEX**, beginning on page 1, will guide you to the legislation contained within the Code at the time the main **INDEX** was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some **INDEX** entries to become obsolete. **INDEX** entries to the new material will be provided for in the **SUPPLEMENTAL INDEX**, beginning on page SI-1.

The **SUPPLEMENTAL INDEX** should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main **INDEX**.

When received, **SUPPLEMENTAL INDEX** pages should be placed directly following this page and in front of the main **INDEX**, according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

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