

**National Grid
Five Mile Road Station Project**

Appendix E

**Copies of Local Laws
Town of Ischua
8 of 8**

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED JUL 14 1980

Enrollment
Secretary of State

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

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

~~County~~
~~City~~ of Ischua
~~Town~~
~~Village~~

Local Law No. 1 of the year 19 80

A local law providing for written notice of the Town Board of the Town of Ischua and to the Town Superintendent of Highways of the Town of Ischua with regard to defective and/or snow and ice conditions of highways and/or any other property owned by the Town of Ischua or any of its improvement districts

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

~~County~~
~~City~~ of Ischua as follows:
~~Town~~
~~Village~~ (see attached sheets)

Section 1. No civil action shall be maintained against the Town or the Town Superintendent of Highways or against any improvement district of the Town, for damages or injuries to person or property sustained by reason of any highway, bridge, culvert, sidewalk, crosswalk or any other property owned by the Town, or any property owned by any improvement district, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of the defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, sidewalk, crosswalk or any other property owned by the Town, or any property of any improvement district, was actually given to the Town Clerk or the Town Superintendent of Highways, and that there was a failure or neglect within a reasonable time after giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries sustained by person or property solely in consequence of the existence of snow or ice upon any highway, bridge, culvert, sidewalk, crosswalk or any other property owned by the Town or any property owned by any improvement district in the Town, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Town Superintendent of Highways, and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

Section 2. The Town Superintendent of Highways shall transmit in writing to the Town Clerk within ten (10) days after the receipt thereof of all written notices received by him pursuant to this Local Law.

Section 3. The Town Clerk shall keep an indexed record, in a separate book, of all written notices which she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any Town Highway, bridge, culvert, sidewalk, crosswalk or any other property of the Town or any property of any improvement district, which records shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom said notice is received. The record of each notice shall be preserved for a period of five (5) years after the date it is received.

Section 4. The Town Clerk shall within ten (10) days after receipt thereof, transmit in writing to the Town Superintendent of Highways all written notices received by her pursuant to this Local Law, after recording said notices pursuant to §3 of this Local Law.

Section 5. Nothing contained in this Local Law shall be held to repeal or modify or waive any existing requirements or statute of limitations which is applicable to these classes of actions, but on the contrary shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence or comparative negligence, nor to impose upon the Town and/or any of its improvement districts, any greater duty or obligation than that it shall keep its streets, sidewalks and other public places in a reasonably safe condition for public use and travel.

Section 6. If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be finally adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of any such section would have been adopted had any such provision not been included.

Section 7. This Local Law shall take effect immediately upon the filing thereof in the offices of the Secretary of State and of the Comptroller of the State of New York.

Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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. 1 of 19 80

~~XXXXXX~~
of the ~~XXXX~~ Town of Ischua was duly passed by the Town Board
~~XXXXXX~~
(Name of Legislative Body)
on July 9th, 1980 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
County _____
City _____
of the Town _____ of _____ was duly passed by the _____
Village _____ (Name of Legislative Body)
on _____ 19____ and was approved _____ by the _____
repassed after disapproval _____ Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19____, 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 19____
County _____
City _____
of the Town _____ of _____ was duly passed by the _____
Village _____ (Name of Legislative Body)
on _____ 19____ and was approved _____ by the _____
repassed after disapproval _____ Elective Chief Executive Officer *
on _____ 19____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive referendum, and received the affirmative vote of a majority of the qualified electors voting
general
thereon at the special election held on _____ 19____, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
County _____
City _____
of the Town _____ of _____ was duly passed by the _____ on _____
Village _____ (Name of Legislative Body)
on _____ 19____ and was approved _____ by the _____ on _____
repassed after disapproval _____ Elective Chief Executive Officer *
on _____ 19____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19____, 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with 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, designated as local law No. _____ of 19 _____ of the City of _____, having been submitted to referendum pursuant to the provisions of § 36 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 _____ 19 _____ 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 19 _____ of the County of _____ State of New York, having been submitted to the Electors at the General Election of November _____ 19 _____ 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 of 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
Town Clerk

Date: July 10th, 1980

(Seal)

~~(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 CATTARAUGUS

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
Town Attorney

Date: July 10th, 1980

COUNTY
ENX of Ischua
Town
XN1000

Original

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

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

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

APR 13 1990

County
City
Town of ISCHUA
Village

Local Law No. 1 of the year 1990

[Signature]
Secretary of State

A local law REGULATING SOLID AND LIQUID WASTE DISPOSAL IN THE TOWN
OF ISCHUA" (Insert title)

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

County
City
Town of ISCHUA as follows:
Village

(SEE ATTACHED SHEETS)

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

I. TITLE

This Local Law shall be known as the "Solid and Liquid Waste Disposal Law of the Town of Ischua."

II. INTRODUCTORY MATTERS

A. Findings of the Town Board

The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from solid and liquid waste disposal facilities such as landfills; ash falls; resource recovery or incinerator facilities. Among other factors, the Board finds as follows:

1. The inability of geological science to precisely ascertain the existence and flow of groundwaters and to map subterranean geology makes it impossible to determine the extent to which solid and liquid waste disposal may, or may not be, contaminating water supplies.

2. Moreover, the accumulated extent of hazardous waste disposal in solid and liquid waste disposal facilities cannot be measured or accurately determined because of state and federal regulations permitting disposal of residential or small user quantities of hazardous wastes.

3. The Town's needs for solid and liquid waste disposal are more than met by the Cattaraugus County Department of Public Works.

4. Future correction of pollution from sanitary landfills may be very expensive or impossible to achieve. Ground water pollution threatens the health and livelihood of Town residents who rely exclusively on ground water for human consumption and agricultural purposes.

5. The Town's existing community character will be adversely and unalterably impacted by the location and operation of any further solid waste management facilities within the Town.

6. Substantial scientific opinion questions the environmental and health effects of both "resource recovery" facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such facilities. Recent NYSDEC and federal Environmental Protection Agency studies indicate that such ash often demonstrates the characteristics of hazardous waste by the

leaching of heavy metals in toxic amounts.

7. Solid and liquid waste regulation under the New York Environmental Conservation Law (ECL) is inadequate to relieve the foregoing concerns.

B. Purposes of Local Law

The Town Board intends by this Local Law:

1. To restrict the operation of solid and liquid waste management facilities within the Town in order to preserve and promote a clean, wholesome, and attractive environment for the community.

2. To protect the residents of the Town from the effects of solid and liquid waste disposal, including

a. unaesthetic results, including odors, blowing litter, increased traffic, dust, and noise, and

b. deterioration in property values associated with adjacent or proximate disposal operation that may interfere with the orderly development of properties; and

c. threats to public health or the environment by contamination of air, land, surface waters, or groundwaters.

3. To exercise the Town's police powers under the Municipal Home Rule Law and Sections 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to restrict solid waste disposal operations within the Town that might otherwise be permitted under the Environmental Conservation Law (ECL). Section 27-0711 of the ECL specifically recognizes and authorizes the right and authority of a town to legislate stricter controls on solid and liquid waste disposal operations than state law requires.

III. DEFINITIONS

The following definitions shall apply to the corresponding words:

A. COMMERCIAL HAZARDOUS WASTE, TREATMENT, STORAGE OR DISPOSAL FACILITY - Any facility that solicits or accepts hazardous waste from third parties for the purpose of treating, storing or disposing of hazardous wastes.

B. HAZARDOUS WASTE - Waste meeting the definition set forth in 6 NYCRR Part 371.

C. 6 NYCRR - Title 6 of the New York Code, Rules and Regulations.

D. SOLID AND LIQUID WASTE MANAGEMENT FACILITY - any facility employed beyond the initial solid and liquid waste collection process and managing solid and liquid waste including, but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; processing facilities; landfills; ashfills; disposal facilities; solid waste incinerators; recycling facilities; and waste tire storage facilities.

E. SOLID WASTE - all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial, commercial and household waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue and construction and demolition debris. In addition:

1. a material is "discarded" if it is abandoned by being:

a. disposed of:

b. burned or incinerated, including being burned as a fuel for the purpose of recovering useable energy; or

c. accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of.

2. A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water.

F. INDUSTRIAL WASTE - any liquid, gaseous, solid, or waste substance or combination thereof resulting from any process of industry, manufacturing, trade, or business. It shall include but not be limited to, pesticides, lime, acids, chemicals, petroleum products, tar, and dye-stuffs.

G. COMMERCIAL WASTE - solid waste generated by stores, offices, warehouses and restaurants.

H. HOUSEHOLD WASTE - solid waste from residential sources.

I. CONSTRUCTION AND DEMOLITION DEBRIS - uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolition of structures, and from road building and land clearing. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, and metals that are incidental to any of the above.

J. LANDFILL, or SANITARY LANDFILL - any disposal area for solid wastes in or upon the ground.

K. ASHFILL - any landfill designed to accept ash, ash residue, bottom ash, combined ash, or fly ash.

L. ASH RESIDUE - all the solid residue and any entrained liquids resulting from the from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash, and the solid residue of any air pollution control device used at a solid waste incinerator.

M. BOTTOM ASH - the ash residue remaining after combustion of solid waste in a solid waste incinerator that is discharged through and from the grates or stoker.

N. COMBINED ASH - the mixture of bottom ash and fly ash.

O. FLY ASH - the ash residue from the combustion of solid waste that is entrained in the gas stream of the solid waste incinerator,

which includes, but is not limited to, particulates, boiler ash, cinders, soot, and solid waste from air pollution control equipment.

P. SOLID WASTE INCINERATOR - an incinerator in which household waste and non-hazardous industrial/commercial waste are combusted for energy.

Q. PERSON - any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political subdivision of the state, government agency, municipality, estate, trust, or any other legal entity whatsoever.

R. RECYCLING - means the reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

S. LIQUID WASTE - any untreated domestic sewage or septage, petroleum waste products, radioactive materials, free liquids, infectious wastes, liquid leachate, hazardous wastes, and any solid wastes in liquid form.

IV. EXEMPTIONS

The following are not subject to this Local Law:

A. Any disposal of manure in normal farming operations;

B. Any operation or facility which receives or collects only nonputrescible, nonhazardous solid waste and beneficially uses or reuses or legitimately recycles or reclaims such waste. Such exempt facilities would include citizen recycling programs, municipal recycling programs, municipal recycling operations, and bona-fide salvage dealers.

None of the above exemptions shall be construed to permit any activity contrary to existing building codes or other laws or as exempting persons engaging in any such activities from obtaining any other permits required by state or local law.

V. PROHIBITED ACTIVITY

A. No commercial hazardous waste treatment, storage, or disposal facility shall hereafter be permitted to commence operation or to expand operations with the Town.

B. No solid or liquid waste management facility (landfill, ashfill, solid waste incinerator, etc.) shall hereafter be permitted to commence operation or to continue operation within the Town.

C. Waivers from these prohibitions may be granted by the Town Board in its discretion, and on such conditions as it may reasonably establish, only for facilities located on an applicant's premises and serving only the applicant's waste products generated within the Town. Persons who believe they qualify for such a waiver shall apply to the Town Board and provide such information, proof of financial security, and such other documents as the Town Board may reasonably require. No person who qualifies for and receives this waiver shall accept, handle, import, transport, or handle any waste created or generated by any other party or from any location outside of the Town.

VI. ENFORCEMENT

A. Upon a violation of this Local Law by any person, the Town Board shall be entitled to obtain an injunction against such persons prohibiting further violations and, in addition, ordering that any solid or liquid waste disposed of in violation of hereof be removed from the Town, ordering that any land on which solid waste is disposed of in violation of this Local Law be restored as nearly as possible to its former condition by the removal of any waste illegally disposed of and by such other restorative measures as are available, and further ordering that the operator remedy any effects of the violation on surrounding or adjacent properties or resources, including, without limitation, air, crops, water bodies, wetlands, and groundwaters.

B. For any violation of this Local Law the violator shall be subject to a civil penalty of up to \$25,000 for each violation. Each day of non-compliance shall be a separate and distinct violation. The Town shall be entitled to recover such fines in an action at law in any court of competent jurisdiction.

C. Upon an action for injunctive relief or for a civil penalty hereunder, the Town shall be entitled to a further award and judgment for its costs, expenses, disbursements, and reasonable attorneys' fees in connection therewith.

D. If any person who obtained a waiver pursuant to Section V.C. violates any term or condition of the waiver then the Town, in addition to A, B, and C above, shall also be entitled to revoke the waiver.

VII. MISCELLANEOUS

A. This Local Law shall be deemed to supersede and repeal any other ordinances and local laws to the extent inconsistent therewith.

B. If any part of this Local Law shall be judicially declared to be invalid, void, unconstitutional, or unenforceable, all unaffected provisions hereof shall survive such declaration, and this Local Law shall remain in full force and effect as if the invalidated portions had not been enacted.

C. Nothing herein shall be deemed to be a waiver of or restriction upon any rights and powers available to the Town to further regulate the subject matter of this Local Law.

VIII. EFFECTIVE DATE

This Local Law shall become effective when it is filed with the Secretary of State pursuant to the Municipal Home Rule Law.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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. ... 1 ... of 19 90 ...
County
City
of the Town of ISCHUA was duly passed by the TOWN BOARD
Village (Name of Legislative Body)
on April 9 1990 in accordance with the applicable provisions of law.

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

~~I hereby certify that the local law annexed hereto, designated as local law No. ... of 19 ...
County
City
of the Town of ... was duly passed by the ...
Village (Name of Legislative Body)
on ... 19 ... not disapproved
and was approved by the ...
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on ... 19 ... 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 19 ...
County
City
of the Town of ... was duly passed by the ...
Village (Name of Legislative Body)
on ... 19 ... not disapproved
and was approved by the ...
repassed after disapproval Elective Chief Executive Officer*
on ... 19 ... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on ... 19 ... in accordance with the applicable provisions of law.~~

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

~~I hereby certify that the local law annexed hereto, designated as local law No. ... of 19 ...
County
City
of the Town of ... was duly passed by the ...
Village (Name of Legislative Body)
on ... 19 ... not disapproved
and was approved by the ...
repassed after disapproval Elective Chief Executive Officer*
on ... 19 ... Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of ... 19 ...
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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with 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, designated as local law No. of 19....
of the City of having been submitted to referendum pursuant to the
provisions of §36 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 election held on
19..... 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 19....
of the County of State of New York, having been submitted to the Electors at the
General Election of November 19..... 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 of 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 above.

George E. Farnest
Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Town Clerk

Date: April 9, 1990

(Seal)

(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 ...CATTARAUGUS.....

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.

James J. McLaughlin
Signature
TOWN ATTORNEY

Title

Date: April 11, 1990

CLERK
of
Town
of

ISCHUA

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 Ischua
Town
Village _____

Local Law No. # 1 of the year 2005

A local law For the Administration and Enforcement of
(Insert Title) State Uniform Fire Prevention Building
Code

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUL 31 2008
MISCELLANEOUS
NEW YORK

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

County _____
City of Ischua
Town
Village _____ as follows:

Please see attached sheets

(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. 1 of 20 08 of the (County)(City)(Town)(Village) of ISCHUA was duly passed by the TOWN BOARD of ISCHUA on July 8 2008, 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly 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 (County)(City)(Town)(Village) of _____ 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 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, designated as local law No. _____ of 20 _____ of the City 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 _____ State of New York, having been submitted to the electors at 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 _____, above.

Della Weisky
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 7/8/08

(Seal)

(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 Cattaraugus

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.

Mark A. Seay
Theresa M. Lowe
Harriet E. Emmons
Juan A. Curdin

[Signature]
Signature

Supervisor
Title

County _____
City of Tschua
Town _____
Village _____

Date: 7/8/2008

James I. McSherry, Town Attorney for
the Town of Tschua, July 8, 2008

**A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF
THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

Local Law # 1 of 2008.

Be it enacted by the Town Board of the Town of Ischua , in the County of Cattaraugus, as follows:

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS

In this local law:

Building Permit shall mean a permit issued pursuant to section 4 of this local law. The term Building Permit shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

Certificate of Occupancy/Certificate of Compliance shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

Code Enforcement Officer shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

Code Enforcement Personnel shall include the Code Enforcement Officer and all Inspectors.

Compliance Order shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

Energy Code shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

Inspector shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

Operating Permit shall mean a permit issued pursuant to section 10 of this local law. The term Operating Permit shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

Permit Holder shall mean the Person to whom a Building Permit has been issued.

Person shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

Stop Work Order shall mean an order issued pursuant to section 6 of this local law.

Temporary Certificate shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

Town shall mean the Town of Ischua.

Uniform Code shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy /Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy /Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy /Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and

property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law, however, the Code Enforcement Officer shall provide the opportunity for the Property Owners(s) to be present during an inspection;

(4) to issue Stop Work Orders;

(5) to thoroughly review and investigate complaints as well as diligently communicate with the Property Owners(s) of the complained of property;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings in accord with due process of law;

(10) in consultation with this Town Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law, including the exercise of reasonable and prudential judgment.

(12) A finding by a Court of competent jurisdiction that the Code Enforcement Officer negligently exercised his duties, may result in the Code Enforcement Office being held personally liable for what, if any, damages a property owner suffered as a result of said negligence.

(b) The Code Enforcement Officer shall be appointed by the Town board by a simple majority vote. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board (or through a Memorandum of Agreement with a neighboring municipality) to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder. Each Inspector is required to diligently communicate with the Code Enforcement Officer and the Property owner.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town of Ischua.

SECTION 4. BUILDING PERMITS.

(a) **Building Permits ARE Required.** Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer. Building permits are required to put a new roof on a house.

(b) **Exemptions.** No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or III(A) liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve

- (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
- (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
- (iii) the enlargement, alteration, replacement or relocation of any building system; or
- (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) **Applications for Building Permits.** Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Said form (or an attachment to the form) shall list what documentation and information is necessary for an application to be considered complete. The application shall be signed by the owner of the

property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. **A property owner has the civic duty to provide a complete application (discussed below) in a timely manner to the Code Enforcement Officer before the scheduled work is to commence. Failure to timely supply a completed application to the Code Enforcement Officer is a bar to any damages a property owner may suffer as a result of the delay in granting the permit.** The Code Enforcement Officer shall also provide a timely and rational determination whether to grant or deny the application. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which:
 - (i) define the scope of the proposed work;
 - (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit

will be issued. Where a Building Permit is required, Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. **The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work.** The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued. **Failure to advise the Code Enforcement Officer of a change may result in the Code Enforcement Officer denying the applicant or permit holder a Certificate of Occupancy or a Certificate of Compliance.**

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire Twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) **Revocation or suspension of Building Permits.** If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that:

- (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and
- (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection. The Code Enforcement Officer shall make every reasonable effort to perform timely inspections so as to not to unduly delay construction.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified in writing as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall:

- (1) be in writing,
- (2) be dated and signed by the Code Enforcement Officer,
- (3) state the reason or reasons for issuance, and
- (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE

(a) Certificates of Occupancy / Certificates of Compliance required. A Certificate of Occupancy / Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.

(b) Issuance of Certificates of Occupancy / Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy / Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy / Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(2) flood hazard certifications.

(c) Contents of Certificates of Occupancy / Certificates of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines:

- (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely,
- (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and
- (3) that all required means of egress from the building or structure have been provided.

The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such reasonable

period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Town of Ischua shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Town of Ischua shall be identified and addressed in accordance with the procedures established by Local Law Number 2 of 2008, as now in effect or as hereafter amended from time to time.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled Fire Code of New York State and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town of Ischua.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall diligently inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Duration of Operating Permits. Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every twenty-four (24) months or two (2) years, but in any event, no later than thirty-six (36) months or three (3) years.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained. Written notice shall be provided to the property owner of such an inspection, and the property owner shall have the right to be present during an inspection.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (OFPC) and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall timely review and thoroughly investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and
- (9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town of Ischua a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town of Ischua, on a form prescribed by the Secretary of State, a report of the activities of this Town of Ischua relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town of Ischua is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town of Ischua in connection with administration and enforcement of the Uniform Code.

SECTION 15: VIOLATIONS

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall

- (1) be in writing;
- (2) be dated and signed by the Code Enforcement Officer;
- (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law;
- (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity;
- (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
- (6) direct that compliance be achieved within the specified period of time; and
- (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the

name of this Town of Ischua in the Town of Ischua Court, or any Court of Competent Jurisdiction.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town of Ischua, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town of Ischua, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate written authorization from the Town Board of this Town of Ischua.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

SECTION 16: FEES

A fee schedule shall be established by resolution of the Town Board of this Town of Ischua. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of occupancy / Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by

this local law.

SECTION 17. INTERMUNICIPAL AGREEMENTS

The Town Board of this Town of Ischua may, by resolution, authorize the Town Board of this Town of Ischua to enter into an agreement, in the name of this Town of Ischua, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

SECTION 18. SEVERABILITY CLAUSE

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 19. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

087 286
A A

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

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

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED APR 18 1986

[Signature]
Secretary of State

~~Town~~
~~City~~ of ISCHUA
~~Village~~

Local Law No. 1 of the year 1986

"A local law PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE FIRE PREVENTION AND (insert title) BUILDING CODE"

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

County
City of ISCHUA
Town
Village as follows:

(SEE ATTACHED SHEETS)

Section 1. APPLICABILITY

This Local Law shall provide the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Town of Ischua, New York, and shall establish powers, duties and responsibilities in connection therewith.

Section 2. ADMINISTRATION

There is hereby designated in the Town of Ischua a public official to be known as the Building inspector, who shall be appointed by the Supervisor with the approval of the Town Board at a compensation to be fixed by it, to administer and enforce the New York State Uniform Fire Prevention and Building Code within the Town of Ischua.

Section 3. RULES AND REGULATIONS

A. The Town Board of the Town of Ischua shall promulgate rules and regulations to secure the intent and purpose of the local law and a proper enforcement of the laws, ordinances, rules and regulations governing building plans, specifications, construction, alterations or repairs.

B. The Town Board of the Town of Ischua shall publish all rules and regulations at least thirty (30) days prior to the effective date thereof in a newspaper of general circulation within the Town of Ischua.

Section 4. DUTIES OF INSPECTOR

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

B. The inspector shall receive applications for the erection and alteration of buildings and structures or parts thereof and shall examine the premises for which such application has been received, plans approved, or such permits have been issued for the purpose of insuring compliance with the laws, ordinances, rules and regulations governing building construction or alteration.

C. The inspector shall issue in writing to the municipality all appropriate notices or orders to remove all illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations, and such notices or orders which may be served upon the property owner or his agent personally by the Town of Ischua or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction or alteration of such building, and by posting the same upon a conspicuous place of the premises to which the notice applies. He shall make all inspections which are necessary or proper for the carrying out of his duties.

D. Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules or regulations covering building construction or alteration, he may in his discretion, accept and rely upon a written report of tests in the field by experienced, professional persons or by an accredited authoritative testing laboratory or service and inspection bureaus or agencies.

E. The building inspector may issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code which such certificate shall certify that the building conforms to the requirements of the State Uniform Code.

Section 5. BUILDING PERMITS

A. No person, firm or corporation shall commence the erection, construction, alteration, enlargement, improvement, conversion, or change in the nature of the occupancy of any building or structure, including mobile home placement, or cause the same to be done, without first obtaining a separate building permit from the building inspector for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature; alterations to existing buildings, provided that the alterations;

1. Cost less than \$3,000.00;
2. Do not materially effect structural features;
3. Do not effect fire safety features such as smoke detectors, sprinklers, required fire separations and exists;
4. Do not involve the installation or extension of electrical systems;
5. Do not include the installation of solid fuel burning heating appliances and associated chimneys and flues;

and small non-commercial structures not intended for use by one or more persons as quarters for living, sleeping, eating or cooking, for example, a small storage building.

B. Application for a building permit shall be made to the building inspector on forms provided by him and shall contain the following information:

1. A description of the land on which the proposed work is to be done;
2. A statement of the use or occupancy of all parts of the land and the proposed building or structure;
3. The valuation of the proposed work;
4. The signature of the applicant or agent;
5. The full name and address of the owner and of the applicant, and the full names and addresses of their responsible officers if any of them are corporations, and the name and address of the owner's authorized agent, if any;
6. A brief description of the work;
7. Such other information as may reasonably be required by the inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.

C. The application shall be made by the owner or by his agent, architect, engineer, or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application, and the affidavit shall contain a statement that the owner authorizes the applicant to permit the inspector to enter upon the premises without a search warrant.

D. Each application for a building permit shall be accompanied by duplicate copies of specifications, including a plot plan drawn to scale, showing location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to

be performed and the materials to be incorporated, distance from lot lines, walks, alleys, and, where required by the inspector, details of structural, mechanical, and electrical work including computations, stress diagrams and other essential data; plans and specifications, when required, shall bear the signature of the person responsible for the design and drawings.

E. Amendments, if any, to the application or the plans or specifications accompanying the same shall be filed with the building inspector and with the Town Clerk of the Town of Ischua and approval shall be received from the inspector prior to the commencement of such change of work.

F. The inspector shall examine or cause to be examined all applications for permits and the documents filed therewith. He shall then approve or disapprove the application.

G. Upon approval of the application and upon receipt of the fees therefor, the building inspector shall issue a building permit to the applicant upon forms prescribed by him.

H. If the application together with other documents filed therewith describe work which does not conform to all the requirements of the applicable building regulations, the inspector shall disapprove the same. Upon request of the applicant, the inspector shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

I. A building permit shall be effective to authorize the commencing of work for a period of six (6) months after the date of its issuance. For good causes the inspector may allow a maximum of two extensions for periods not exceeding three (3) months each. All work shall conform to the approved application, and shall be in accordance with the applicable laws, ordinances, rules and regulations.

J. A building permit shall be prominently displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.

K. The inspector may revoke a permit in the following instances:

1. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, or other documents on which the building permit was based;

2. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law;

3. Where he finds that the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application;

4. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the inspector.

Section 6. INSPECTIONS

A. Before issuing a certificate of occupancy, the building inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, alter, enlarge, repair or change the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the building inspector a record of all such inspections and examinations together with a record of findings of violations of law.

B. Existing building not subject to inspection under subdivision (A) of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.

C. If entrance to make an inspection is refused or cannot be obtained the Town Board of the Town of Ischua after being notified by the inspector of the situation, may apply for a warrant to make an inspection to any court of competent jurisdiction.

D. The periodic inspections to meet compliance with the above mentioned provisions shall be agreed upon between the Town Board and the building inspector.

Section 7. VIOLATIONS

In accordance with Section 383 of Article 18 of the Executive Law of the State of New York:

A. It shall be unlawful for any person firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of law, as well as any rule or regulations promulgated by the Town of Ischua in accordance with applicable laws, or fail in any manner to comply with a notice or directive or order of the Town of Ischua or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

B. Any person who shall fail to comply with a written order within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any person taking part or assisting in the construction or use of the building who shall knowingly violate any of the applicable provisions of law, or any lawful order, notice, directive, permit or certificate of the inspector made thereunder shall be punishable by a fine or imprisonment or both. Each week that a violation continues shall be deemed a separate offense.

C. Whenever the building inspector finds that there has been a violation of the State Uniform Code, this local law, or any rule or regulation adopted pursuant to this local law, a violation order shall be issued to the person or persons responsible by the Town of Ischua or by the building inspector.

D. Violation orders shall be in writing; shall identify the property or premises; shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance; and shall state the time within which an appeal may be taken.

E. Violation orders may be served by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.

F. In case the owner, lessor, occupant or the agent of any of them shall fail, neglect, or refuse to remove, eliminate or abate the violation within the time specified, legal action may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violations of any provision of the State Uniform Code or this local law, or any rule or regulation promulgated hereunder.

Section 8. PENALTIES

A. Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this local law, rules or regulations adopted pursuant to this local law, or a violation order shall be deemed a violation and the violator shall be liable for a fine of not less than ONE HUNDRED (\$100.00) DOLLARS or imprisonment not to exceed fifteen (15) days, or both, and each week such violation continues shall constitute a separate violation.

B. An action or proceeding in the name of the Town of Ischua may be

commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this local law, any rules or regulations adopted pursuant to this local law, or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

C. Except as otherwise provided by law, such violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.

Section 9. RIGHT OF ENTRY

The inspector, upon showing proper credentials and in discharge of his duties, shall be permitted to enter upon any building, structure or premises without interference, during reasonable working hours.

Section 10. FEES

A. Any duly appointed inspector who is hereby authorized by the Town Board of the Town of Ischua to make inspections and reinspections of all buildings and structures under construction, subject to the provisions of the New York State Fire Prevention and Building Code, and to approve and disapprove the same, will do so at no cost or expense to the Town of Ischua.

B. A copy of the fee schedule will be kept on file with the Town Clerk and a copy will be part of the application package.

C. When applicable the cost for professional engineers approval will be assumed by the applicant.

D. In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty (50%) percent of the fee paid, provided no work has commenced. If work has been started and the application is not approved the fees paid shall not be refunded.

E. The cost estimate for all existing buildings or structures subject to periodic fire prevention inspections will be reviewed with the Town Board of the Town of Ischua on an annual basis.

F. Payment schedule for the fees addressed above can be remitted quarterly, semi-annually, or annually as agreed upon.

Section 11. STOP ORDERS

Whenever the inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provision of the applicable building laws or ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe or dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work and to suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission for the construction of such building.

Section 12. CERTIFICATE OF OCCUPANCY

A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the building inspector.

B. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.

C. No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.

D. The owner or his agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the municipality an affidavit of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the construction and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with the approved plans and as erected complies with the law governing building construction or has a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.

E. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable laws, ordinances, rules or regulations, and also in accordance with the application, the building inspector shall issue a certificate of occupancy upon forms provided by him, if it is found that the proposed work has not been properly completed, the building inspector shall not issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

F. A certificate of occupancy shall be issued where appropriate within thirty (30) days after written application therefor is made.

G. A certificate of occupancy shall certify that the work has been completed, and the proposed use and occupancy is in conformity with the provisions of the applicable laws, ordinances, rules and regulations, and shall specify the use or uses and the extent therefor to which the building or structure or its several parts may be put to use.

H. Upon request, the building inspector may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portions as have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good causes a building inspector may allow a maximum of two extensions for a period not exceeding three (3) months each.

Section 13. REVIEW BOARD

A. A regional Board of Review for the New York State Uniform Fire Prevention and Building Code has been established pursuant to Title 19, Part 440 of the New York Code of Rules and Regulations for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variations shall be consistent with the spirit of the Code and shall not be inconsistent with Subdivision 2, Section 391 of the Executive Law.

B. The composition and the powers and duties of the Board of Review shall be as set forth in Part 440 of Title 19 of the New York Code of Rules and Regulations, a copy of which and any amendments thereto shall

be on file in the office of the Town Clerk.

Section 14. EFFECTIVE DATE

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

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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. 1 of 1986...
~~County~~
of the ~~City~~ Town of Ischua was duly passed by the Town Board
~~Village~~ (Name of Legislative Body)
on April 14 1986 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County _____
of the City of _____ was duly passed by the _____
Town of _____ (Name of Legislative Body)
Village _____
on _____ 19____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19____, 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 19_____
County _____
of the City of _____ was duly passed by the _____
Town of _____ (Name of Legislative Body)
Village _____
on _____ 19____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19____, in accordance with the appli-
annual
cable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County _____
of the City of _____ was duly passed by the _____ on _____
Town of _____ (Name of Legislative Body)
Village _____
_____ 19____ not disapproved
and was approved by the _____ on _____
repassed after disapproval Elective Chief Executive Officer *
_____ 19____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19____, 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with 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, designated as local law No. of 19..... of the City of....., having been submitted to referendum pursuant to the provisions of § 36 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 election held on 19..... 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 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, 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 of 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 above.

James M. Jorret
Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Town Clerk

Date: April 14, 1986

(Seal)

(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 CATTARAUGUS

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.

Jerome J. Harris
Signature
Town Attorney

Title

Date: April 16, 1986

County

City

of

Ischua

Town

Village

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, 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 use italics or underlining to indicate new matter.

DEPARTMENT OF NEW YORK
DEPARTMENT OF STATE
FILE

1991

~~CITY~~
~~CITY~~ of ISCHUA
Town
~~VILLAGE~~

[Signature]
Secretary of State

Local Law No. 1 of the year 1991

"A local law AMENDING LOCAL LAW NO. 1-1989 ENTITLED 'A LOCAL LAW EXEMPTING FROM TAXATION (Insert Title) A PORTION OF THE ASSESSED VALUATION OF REAL PROPERTY OWNED BY PERSONS SIXTY FIVE (65) YEARS OF AGE OR OVER'"
TOWN BOARD
Be it enacted by the of the
(Name of Legislative Body)

~~CITY~~
~~CITY~~ of ISCHUA as follows:
Town
~~VILLAGE~~

Section 1. The first sentence of Section 2-1 of Article II of Local Law No. 1-1989 adopted February 13, 1989 is hereby amended to read "Section 2-1: No exemption shall be granted if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of Nine Thousand Eight Hundred (\$9,800.00) Dollars."

Section 2. Except as hereinabove expressed, said Local Law No. 1-1989 shall remain in full force and effect.

Section 3. This Local Law shall take effect upon the filing thereof in the office of the Secretary of State of the State of New York.

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

(1)

(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. 1 of 1991 of the ~~(County)(City)(Town)(Village)~~ of Ischua was duly passed by the Town Board on August 12 1991, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____ in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____ in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

*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 chairman 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, designated as local law No. _____ of 19____ of the City 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 _____ 19____, 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 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____ 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 of 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.


Joyce E. Forrest
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
Town Clerk

Date: August 12, 1991

(Seal)

(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 Cattaraugus

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

TOWN ATTORNEY

Title

~~XXXXX~~
~~KN~~
Town
~~XXXXX~~

of ISCHUA

Date: AUGUST 14, 1991

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

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

Town
City of ISCHUA
Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 30 1992

Local Law No. _____ of the year 1992

Secretary of State

A local law for FLOOD DAMAGE PREVENTION

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.

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

Town
City of Ischua
Village, Cattaraugus County,

N.Y. as follows:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Ischua
finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Ischua and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

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

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

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

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before

the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

X "Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means 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 does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Start of construction" includes substantial improvement and means 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.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Ischua.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency (COMPLETE ONE THROUGH FIVE AS NECESSARY):

- (1) Flood Insurance Rate Map (single panel) No. _____, whose effective date is _____.
- (2) Flood Insurance Rate Map (multiple panels) Index No. 360079
0001-0015, whose effective date is Aug. 15, 1973.
- (3) A scientific and engineering report entitled "Flood Insurance Study, Town of Ischua, New York, Cattaraugus County" dated February 1978.
- (4) Flood Boundary and Floodway Map (single panel) No. _____, whose effective date is _____.
- (5) Flood Boundary and Floodway Map (multiple panels) No. 360079
0001-0015, whose effective date is Aug. 15, 1973.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Town Clerk's Office

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Ischua

from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

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

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of

protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$ 10.00. In addition, the applicant shall be responsible for reimbursing the Town of Ischua for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDEN-

TIAL STRUCTURES.

- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section

5.1-1 SUBDIVISION PROPOSALS.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or

to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals

and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the Town of Ischua agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Ischua

for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Ischua for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Ischua agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all

necessary data, analyses and mapping and reimburses the Town of Ischua for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Ischua for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in subsections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two

feet if no depth number is specified).

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:

- (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or

- (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

- (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

- (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)

- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (i) be on site fewer than 180 consecutive days,
- (ii) be fully licensed and ready for highway use, or
- (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:

- (i) outside of an existing manufactured home park or subdivision as herein defined;

- (ii) in a new manufactured home park or subdivision as herein defined;

- (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or

- (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone

A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (i) elevated in a manner such as required in paragraph 5.5(2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
 - (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Appeal Board as established by the Town of Ischua shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Appeal Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Appeal Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Appeal Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 26th day of October, 1992 by the
Town Board _____ of the Town of Ischua
Cattaraugus County,
New York, to be effective November 4, 1992.

James A. Dore, Supervisor
Jim Hlocum
Joe M. Amos
Robert L. Heekin
Ronald Farwell

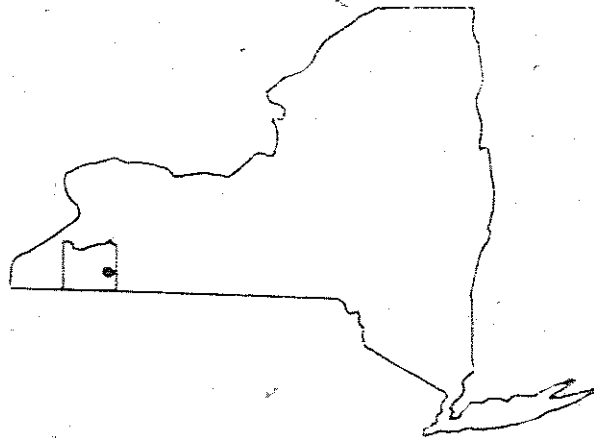
SEAL

Nancy Ames
ATTEST ISCHUA TOWN CLERK

FLOOD INSURANCE STUDY



TOWN OF ISGHUA,
NEW YORK
CATTARAUGUS COUNTY



FEBRUARY 1978

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION

24

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Exhibit 2 - Flood Boundary and Floodway Map

Panels 360079 0001B-0015B

PUBLISHED SEPARATELY:

Flood Insurance Rate Map Index

Flood Insurance Rate Map

Panels 360079-0001B-0015B

FLOOD INSURANCE STUDY
TOWN OF ISCHUA, NEW YORK

1.0 INTRODUCTION

1.1 Purpose of Study

The purpose of this Flood Insurance Study is to investigate the existence and severity of flood hazards in the Town of Ischua, Cattaraugus County, New York, and to aid in the administration of the Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973. Initial use of this information will be to convert the Town of Ischua to the regular program of flood insurance by the Federal Insurance Administration (FIA). Further use of the information will be made by local and regional planners in their efforts to promote sound land use, and flood plain development.

1.2 Coordination

At a meeting held July 31, 1975, with representatives of the FIA, the Town of Ischua, the Cattaraugus County Planning Board, the New York State Department of Environmental Conservation, the U. S. Army Corps of Engineers (COE), and the U. S. Department of Agriculture, Soil Conservation Service (SCS), the purpose of the Flood Insurance Study was explained.

A search for basic data was made at all levels of government. The SCS has sub-basin information in the Olean Creek Basin which was used as a base for the hydraulic and hydrologic analyses. The U. S. Geological Survey (USGS) was contacted to obtain contour maps for the area and flow information. Flow information was limited due to a lack of gaging stations in the area.

On November 17, 1976, a meeting was held with officials of the town to obtain additional local input. The final Consultation and Coordination meeting was held on February 15, 1977, to present the final draft of this Flood Insurance Study for review. Present at this meeting were town officials, interested local residents and representatives of the FIA and the New York State Department of Environmental Conservation. No comments requiring changes to the draft report were received.

1.3 Authority and Acknowledgements

The source of authority for this Flood Insurance Study is the National Flood Insurance Act of 1968, as amended.

The hydrologic and hydraulic analyses for this study were performed by the New York State Department of Environmental Conservation for the Federal Insurance Administration under Contract No. H-3856. This work, which was completed in March 1977, covered all flooding sources in the Town of Ischua.

2.0 AREA STUDIED

2.1 Scope of Study

This Flood Insurance Study covers the Town of Ischua. The area of study is shown on the Vicinity Map (Figure 1). Excluded from the study is the Oil Spring Indian Reservation located in the eastern portion of the town.

The limits of the detailed and approximate studies in the Town of Ischua, New York, were determined by the FIA after consultation with the community and the study contractor. Ischua Creek, with a total length of 6.15 miles within the community, was studied by detailed methods. This area was selected with priority given to all known flood hazard areas and areas of projected development and proposed construction for the next five years through March 1980.

Approximate methods of analysis were used to study those areas having low development potential and/or minimal flood hazards as identified at the initiation of the study. The scope and methods of study were proposed to and agreed upon by the FIA. Four small tributaries, totaling 1.07 miles in length and which have their confluence with Ischua Creek within the town boundaries, were to be studied by approximate methods. These include Tributaries 2, 3, 4, and 10 as designated on the maps. Approximate flood boundaries were delineated on eight additional small streams as shown on the FIA Flood Hazard Boundary Map (Reference 1).

2.2 Community Description

The Town of Ischua is located on the eastern edge of Cattaraugus County in western New York State, approximately 10 miles north of the City of Olean, and 70 miles southeast of the City of Buffalo.

Approximately half of the Oil Spring Indian Reservation is located in the eastern portion of the town. The town is bounded on the north by the Towns of Franklinville and Lyndon, on the east by the Town of Cuba, on the south by the Town of Hinsdale, and on the west by the Town of Humphrey.

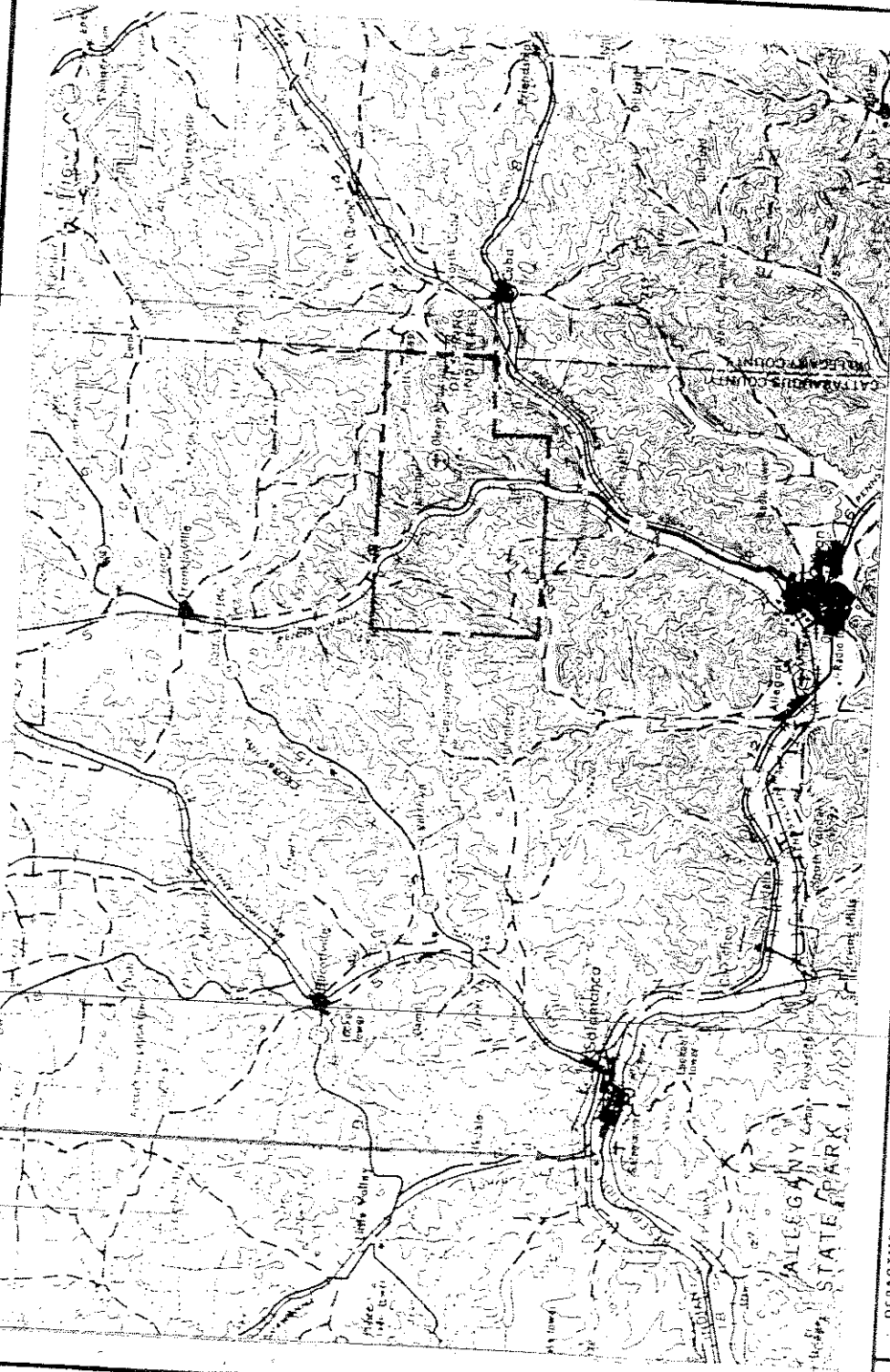
The town is generally agricultural in nature with a small residential center located in the hamlet of Ischua. The population of the town has remained fairly constant. At the time of the 1970 census (Reference 2), the population was 655, the same as it was five decades ago, although there have been several fluctuations in between.

Climate is typical of the temperate continental with some variations due to elevation differences. Average January and July temperatures are 25°F and 66°F, respectively, with an average annual temperature of 44°F. Precipitation averages 42" per year, of which approximately 23" becomes runoff. Monthly precipitation varies from an average of 1.7 inches in November to 7.8 inches in June.

Cattaraugus County is characterized by two distinct physiographic regions: the Northwestern Appalachian Plateau Border and the Allegheny Plateau (Reference 3). The Town of Ischua is located on the Northwestern Appalachian Plateau Border which is set off because of the smooth rolling topography and considerably lower elevations than those on the Allegheny Plateau. The southern boundary of the Plateau Border follows the trend of the Allegheny River but is four to six miles north of the river.

The soils within the town strongly show the effects of past glacial action. Along the valley bottoms the soils are well drained and fertile as a result of alluvial deposits. In the upland areas the soils have been formed from local materials deposited as glacial till, with the result that the upland soils are thin with numerous gravel lenses and rock outcroppings. The resulting soil is generally low in fertility, poorly drained, and strongly acidic.

The primary watercourse within the town is Ischua Creek, which is formed in the Town of Machias, Cattaraugus County, and flows in a southerly direction through the town to its junction with Oil Creek to form Olean Creek in the Town of Hinsdale. Flood plain use is primarily agricultural with some scattered residences located within the flood plains. Olean Creek continues flowing southerly

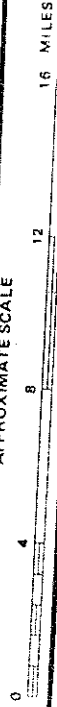


DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Federal Insurance Administration

TOWN OF ISCHUA, NY
(CATTARAUGUS CO.)

FIGURE 1

APPROXIMATE SCALE



VICINITY MAP



Figure 2 - Ischua Creek looking upstream at Old Dutch Hill Road Bridge.



Figure 3 - Ischua Creek looking downstream at Baxter's Mill Road Bridge.

to its junction with the Allegheny River in the City of Olean. The Allegheny River, which rises in Potter County, Pennsylvania, flows in a wide loop through a portion of New York State before joining with the Monongahela River at Pittsburgh to form the Ohio River.

Portions of Ischua Creek within the town are shown in the photographs which are Figures 2 and 3.

2.3 Principal Flood Problems

The main flood season for the Town of Ischua is usually January through April. Most of these floods are the result of heavy rains and snow melt. Large floods, however, may occur at any time.

Flood stage records and high water marks have been accumulated by the COE for the stream under study for the 1967 and 1972 floods and high water profiles have been plotted by that agency (Reference 4). There is not sufficient information on either of these events to allow an estimate of their recurrence interval.

The floods of 1967 were the highest of record on Olean Creek and Ischua Creek. At the two bridges (Farwell Road and Old Dutch Hill Road) in the Town of Ischua where flood observations were made, the flood crest for the 1967 flood did not reach the low chords of either.

2.4 Flood Protection Measures

There are no formalized flood protection measures and no flood control structures within the study area, nor are any proposed.

3.0 ENGINEERING METHODS

For the flooding source studied in detail in the community, standard hydrologic and hydraulic study methods were used to determine the flood hazard data required for this study. Floods having recurrence intervals of 10, 50, 100, and 500 years have been selected as having special significance for flood plain management and for flood insurance premium rates. The analyses reported here reflect current conditions in the drainage area of the stream.

3.1 Hydrologic Analyses

Hydrologic analyses were carried out to establish the peak discharge--

frequency relationships for floods of the selected recurrence intervals for the stream studied in detail in the community.

For Ischua Creek in the Town of Ischua a synthetic rainfall-runoff relationship method, based on a dimensionless unit hydrograph was used to develop flood flow-frequency relationships. The 24-hour rainfall amounts for frequencies up to 100 years, as obtained from the Rainfall Frequency Atlas (Reference 5) were plotted and the rainfall amount for the 500-year frequency was extrapolated from the resulting graph. The watershed of the stream was divided into subareas to evaluate the hydrologic effects of as many tributaries as would be significant.

The computer program TR-20, (References 6 and 7) developed by the SCS, was used to compute surface runoff. It takes into account conditions affecting runoff such as land use, type of soil (Reference 8), shape and slope of watershed, antecedent moisture condition, etc. It develops a hydrograph and routes the hydrograph through stream channels and reservoirs. The program is designed to combine the routed hydrograph with those from other tributaries and print out the total composite hydrograph peak discharges, and times of occurrence at each desired point in the watershed for each storm evaluated. From this data, frequency discharge, drainage area curves were plotted for each evaluation point.

Values of the 10-, 50-, 100-, and 500-year peak discharges were determined for the stream studied in detail. Drainage area peak discharge relationships for this stream are listed in Table 1, Summary of Discharges.

TABLE 1 - SUMMARY OF DISCHARGES

<u>FLOODING SOURCE AND LOCATION</u>	<u>DRAINAGE AREA</u> (sq. miles)	<u>PEAK DISCHARGES (cfs)</u>			
		<u>10-YEAR</u>	<u>50-YEAR</u>	<u>100-YEAR</u>	<u>500-YEAR</u>
ISCHUA CREEK					
Southern Corporate Limit	112.3	5,500	7,150	7,800	9,400
Northern Corporate Limit	97.4	4,700	6,400	7,000	8,700

Approximate studies were performed for Tributaries 2, 3, 4, and 10 using a flood-height drainage area relation developed by the USGS. Approximate flooding on the eight remaining small tributaries was delineated using the FIA Flood Hazard Boundary Map (Reference 1).

3.2 Hydraulic Analyses

Analyses of the hydraulic characteristics of the stream studied in detail in the town was carried out to provide estimates of the elevations of floods of the selected recurrence intervals along this stream.

Cross sections were located at close intervals above and below bridges, at control sections along the stream length, and at significant changes in ground relief, land use, or land cover. Cross section geometry was obtained through field survey as was the base line which was used for horizontal control. Locations of selected cross sections used in the hydraulic analyses are shown on the Flood Profiles (Exhibit 1). For stream segments for which a floodway is computed (Section 4.2), selected cross section locations are also shown on the Flood Boundary and Floodway Map (Exhibit 2).

For Ischua Creek, in the Town of Ischua, roughness coefficients (Manning's "n") were determined by field inspection and based on the National Engineering Handbook, Section 5 (Supplement B) (Reference 9). In arriving at a realistic value due weight was given to the natural materials of the channel, surface irregularity, variations in shape and size of cross sections, characteristics of obstructions such as debris deposits, stumps, exposed roots, boulders, fallen and lodged logs, type of vegetation, and degree of meandering. The roughness coefficients vary from 0.055 to 0.065 for the main channel, and 0.075 to 0.090 for the overbank areas.

Flood profiles were drawn showing computed water-surface elevations to an accuracy of 0.5 foot for floods of the selected recurrence intervals.

Flood profiles on Ischua Creek were calculated using the SCS WSP-2 Water-Surface Profiles Computer Program (Reference 10).

The SCS program which assumes unobstructed flow, uses the standard step method, with some modifications, to compute profiles between valley sections. All profiles are computed in the upstream direction. Therefore, only subcritical flow, a condition normally characteristic of natural streams, can be analyzed. For any super-critical flows encountered the program will assume critical depth and resume computations.

designed to assist communities in developing sound flood plain management measures.

4.1 Flood Boundaries

In order to provide a national standard without regional discrimination, the 100-year flood has been adopted by the FIA as the base flood for purposes of flood plain management measures. The 500-year flood is employed to indicate additional areas of flood risk in the community.

For the stream studied in detail, the boundaries of the 100- and the 500-year floods have been delineated using the flood elevations determined at each cross section; between cross sections, the boundaries were interpolated using topographic maps developed for this study at a scale of 1:4,800 with a contour interval of five feet (Reference 11). In cases where the 100- and the 500-year flood boundaries are close together, only the 100-year flood boundary has been shown.

Boundaries for the streams studied by approximate methods were delineated using these same 1:4,800 scale topographic maps.

The boundaries of the 100- and 500-year floods are shown on the Flood Boundary and Floodway Map (Exhibit 2). Small areas within the flood boundaries may lie above the flood elevations, and therefore, may not be subject to flooding; owing to limitations of the map scale or lack of detailed topographic data, such areas are not shown.

4.2 Floodways

Encroachment on flood plains, such as artificial fill, reduces the flood-carrying capacity, increases the flood heights of streams, and increases flood hazards in areas beyond the encroachment itself. One aspect of flood plain management involves balancing the economic gain from flood plain development against the resulting increase in flood hazard. For purposes of the Flood Insurance Program, the concept of a floodway is used as a tool to assist local communities in this aspect of flood plain management. Under this concept, the area of the 100-year flood is divided into a floodway and a floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights. Minimum standards

3.2 Hydraulic Analyses

Analyses of the hydraulic characteristics of the stream studied in detail in the town was carried out to provide estimates of the elevations of floods of the selected recurrence intervals along this stream.

Cross sections were located at close intervals above and below bridges, at control sections along the stream length, and at significant changes in ground relief, land use, or land cover. Cross section geometry was obtained through field survey as was the base line which was used for horizontal control. Locations of selected cross sections used in the hydraulic analyses are shown on the Flood Profiles (Exhibit 1). For stream segments for which a floodway is computed (Section 4.2), selected cross section locations are also shown on the Flood Boundary and Floodway Map (Exhibit 2).

For Ischua Creek, in the Town of Ischua, roughness coefficients (Manning's "n") were determined by field inspection and based on the National Engineering Handbook, Section 5 (Supplement B) (Reference 9). In arriving at a realistic value due weight was given to the natural materials of the channel, surface irregularity, variations in shape and size of cross sections, characteristics of obstructions such as debris deposits, stumps, exposed roots, boulders, fallen and lodged logs, type of vegetation, and degree of meandering. The roughness coefficients vary from 0.055 to 0.065 for the main channel, and 0.075 to 0.090 for the overbank areas.

Flood profiles were drawn showing computed water-surface elevations to an accuracy of 0.5 foot for floods of the selected recurrence intervals.

Flood profiles on Ischua Creek were calculated using the SCS WSP-2 Water-Surface Profiles Computer Program (Reference 10).

The SCS program which assumes unobstructed flow, uses the standard step method, with some modifications, to compute profiles between valley sections. All profiles are computed in the upstream direction. Therefore, only subcritical flow, a condition normally characteristic of natural streams, can be analyzed. For any super-critical flows encountered the program will assume critical depth and resume computations.

At any one road restriction, WSP-1 can compute head losses through one bridge opening or up to five culvert openings with different configuration.

For starting profile computations, the tailwater elevations on Olean Creek at the Town of Olean boundary, as supplied by the COE were used. These elevations were determined during the preparation of Flood Insurance Studies for other communities within the Allegheny Basin, which are contiguous to the Allegheny River itself.

Reach lengths for the channel were measured along the centerline of channel between sections and overbank reach lengths were measured along the approximate centerline of the effective out-of-channel flow area.

For Tributaries 2, 3, 4, and 10, studied by the approximate method, use was made of the Flood Height-Drainage Area relation for the 100-year flood which was developed by the Water Resources Division of the USGS and presented in an unpublished staff document. This method yields an approximate 100-year flood height as a depth of water above a contour crossing, or normal water-surface. The relationship used was developed for the Upper Genesee River Basin because no relationship has been developed for the Upper Allegheny Basin in New York State. The Upper Allegheny and Upper Genesee Basins are contiguous and are similar geographically, geologically, and in land use and cover. Approximate studies shown on the remaining tributaries were taken from the FIA Flood Hazard Boundary Map.

All elevations are referenced from the National Geodetic Vertical Datum of 1929 (NGVD), formerly referred to as Mean Sea Level with the 1929 general adjustment; elevation reference marks used in the study are shown on the maps.

The hydraulic analyses for this study are based upon unobstructed flow. The flood elevations on the profiles are valid only if hydraulic structures remain unobstructed, operate properly and do not fail.

4.0 FLOOD PLAIN MANAGEMENT APPLICATIONS

A prime purpose of the National Flood Insurance Program is to encourage state and local governments to adopt sound flood plain management programs. Each Flood Insurance Study, therefore, includes a flood boundary map.

of the FIA limit such increases in flood heights to 1.0 foot, provided that hazardous velocities are not produced. The floodway in this report is presented to local agencies as minimum standards that can be adopted or that can be used as a basis for additional studies.

The floodway presented in this study was computed on the basis of equal conveyance reduction from each side of the flood plain. The floodway presented for Ischua Creek, was computed using "HUD-15" Computer Program (Reference 12). Where special topographic features required it, the floodway was adjusted more toward one side of the stream as necessary. The results of these computations are tabulated at selected cross sections for each stream segment for which a floodway is computed (Table 2).

As shown on the Flood Boundary and Floodway Map (Exhibit 3), the floodway widths were determined at cross sections; between cross sections, the boundaries were interpolated. In cases where the boundaries of the floodway and the 100-year flood are either close together or colinear, only the floodway boundary has been shown.

The area between the floodway and the boundary of the 100-year flood is termed the floodway fringe. The floodway fringe thus encompasses the portion of the flood plain that could be completely obstructed without increasing the water-surface elevation of the 100-year flood more than 1.0 foot at any point. Typical relationships between the floodway and the floodway fringe and their significance to flood plain development are shown in Figure 4.

5.0 INSURANCE APPLICATION

In order to establish actuarial insurance rates, the FIA has developed a process to transform the data from the engineering study into flood insurance criteria. This process includes the determination of reaches, Flood Hazard Factors (FHF), and flood insurance zone designations for each flooding source affecting the Town of Ischua.

5.1 Reach Determinations

Reaches are defined as lengths of watercourses having relatively the same flood hazard, based on the average weighted difference in water-surface elevations between the 10- and 100-year floods. This difference does not have a variation greater than that indicated in the following table for more than 20 percent of the reach.

FLOODING SOURCE	PANEL ¹	ELEVATION DIFFERENCE ² BETWEEN 10% (100-YEAR) FLOOD AND			FHF	ZONE	BASE FLOOD ELEVATION ³
		10% (10 YR.)	2% (50 YR.)	0.2% (500 YR.)			
Ischua Creek Reach 1	0002B	-11.5	-0.5	+0.8	015	A3	Varies

¹ FLOOD INSURANCE RATE MAP PANEL
² WEIGHTED AVERAGE
³ ROUNDED TO NEAREST FOOT - SBC MAP

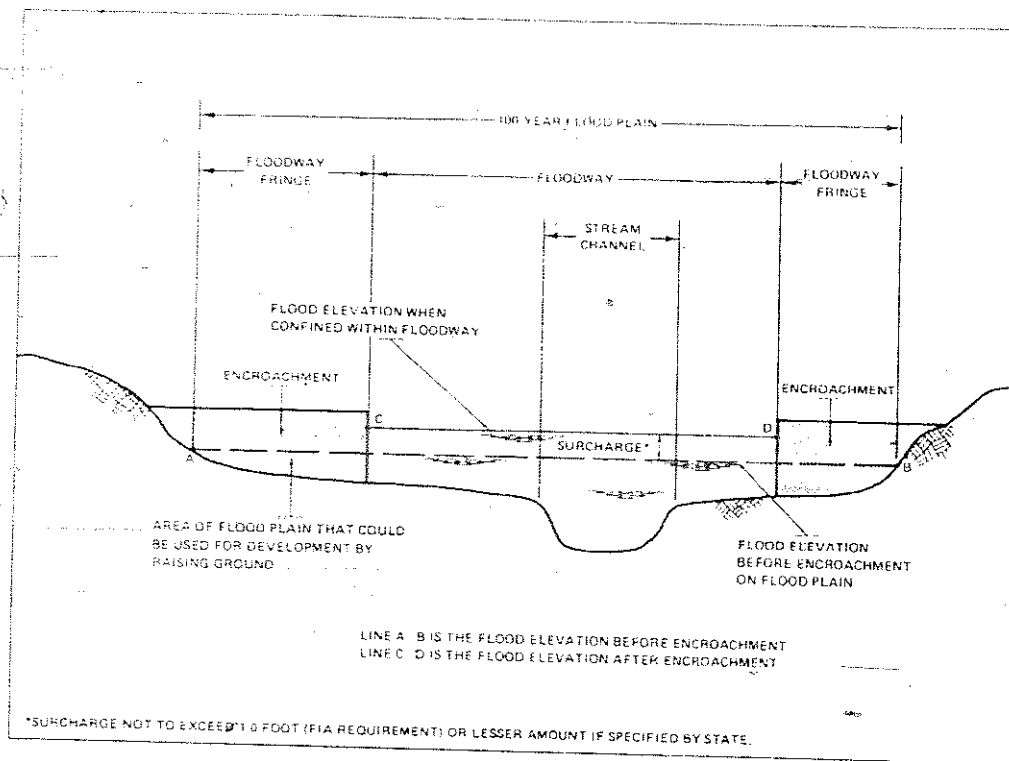
TABLE 3

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Federal Insurance Administration

TOWN OF ISCHUA, NY
(CATTARAUGUS CO.)

FLOOD INSURANCE ZONE DATA

ISCHUA CREEK



FLOODWAY SCHEMATIC

Figure 4

Average Difference Between
10- and 100-Year Floods

Variation

Less than 2 feet

0.5 foot

One reach meeting the above criterion was required on Ischua Creek to establish flood insurance zones for the Town of Ischua. The location of this reach is shown on the Flood Profiles (Exhibit 1).

5.2 Flood Hazard Factors

The FHF is the FIA device used to correlate flood information with insurance rate tables. Correlations between property damage from floods and their FHF are used to set actuarial insurance premium rate tables based upon FHF from 0.05 to 200.

The FHF for a reach is the average-weighted difference between the 10- and 100-year flood water-surface elevations expressed to the

nearest one-half foot, and shown as a three-digit code. For example, if the difference between water-surface elevations of the 10- and 100-year floods is 0.7 foot, the FHF is 005; if the difference is 1.4 feet, the FHF is 015; if the difference is 5.0 feet, the FHF is 050. When the difference between the 10- and 100-year water-surface elevations is greater than 10.0 feet, accuracy for the FHF is to the nearest foot.

5.3 Flood Insurance Zones

After the determination of reaches and their respective FHF's, the entire area of study was divided into zones, each having a specific flood potential or hazard. Each zone was assigned one of the following flood insurance designations:

- | | |
|----------|--|
| Zone A: | Special Flood Hazard Areas inundated by the 100-year flood, determined by approximate methods, no base flood elevations shown or FHF's determined. |
| Zone A3: | Special Flood Hazard Area inundated by the 100-year flood, determined by detailed methods; base flood elevations shown, and zones subdivided according to FHF's. |
| Zone C: | Areas of minimal flooding. |

Table 3, "Flood Insurance Zone Data," summarizes the flood elevation differences, FHF's, flood insurance zones, and base flood elevations for the flooding source studied in detail in the community.

5.4 Flood Insurance Rate Map Description

The Flood Insurance Rate Map for the Town of Ischua is, for insurance purposes, the principal result of the Flood Insurance Study. This map (published separately) contains the official delineation of flood insurance zones and base flood elevation lines. Base flood elevation lines show the locations of the expected whole-foot water-surface elevations of the base (100-year) flood. This map is developed in accordance with the latest flood insurance map preparation guidelines published by the FIA.

6.0 OTHER STUDIES

No other studies of flooding have been performed for the Town of Ischua. Flood Insurance Studies are currently underway by the New York State

Department of Environmental Conservation for other communities within the Allegheny Basin. The communities of the Town of Franklinville and the Town of Hinsdale are contiguous to the Town of Ischua and are being studied at this time. Hydraulic determinations have been coordinated to insure profile agreement between communities.

This study is authoritative for purposes of the Flood Insurance Program.

7.0 LOCATION OF DATA

Survey, hydrologic, hydraulic, and other pertinent data are on file for five years (until January 1, 1982) at the New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

8.0 BIBLIOGRAPHY AND REFERENCES

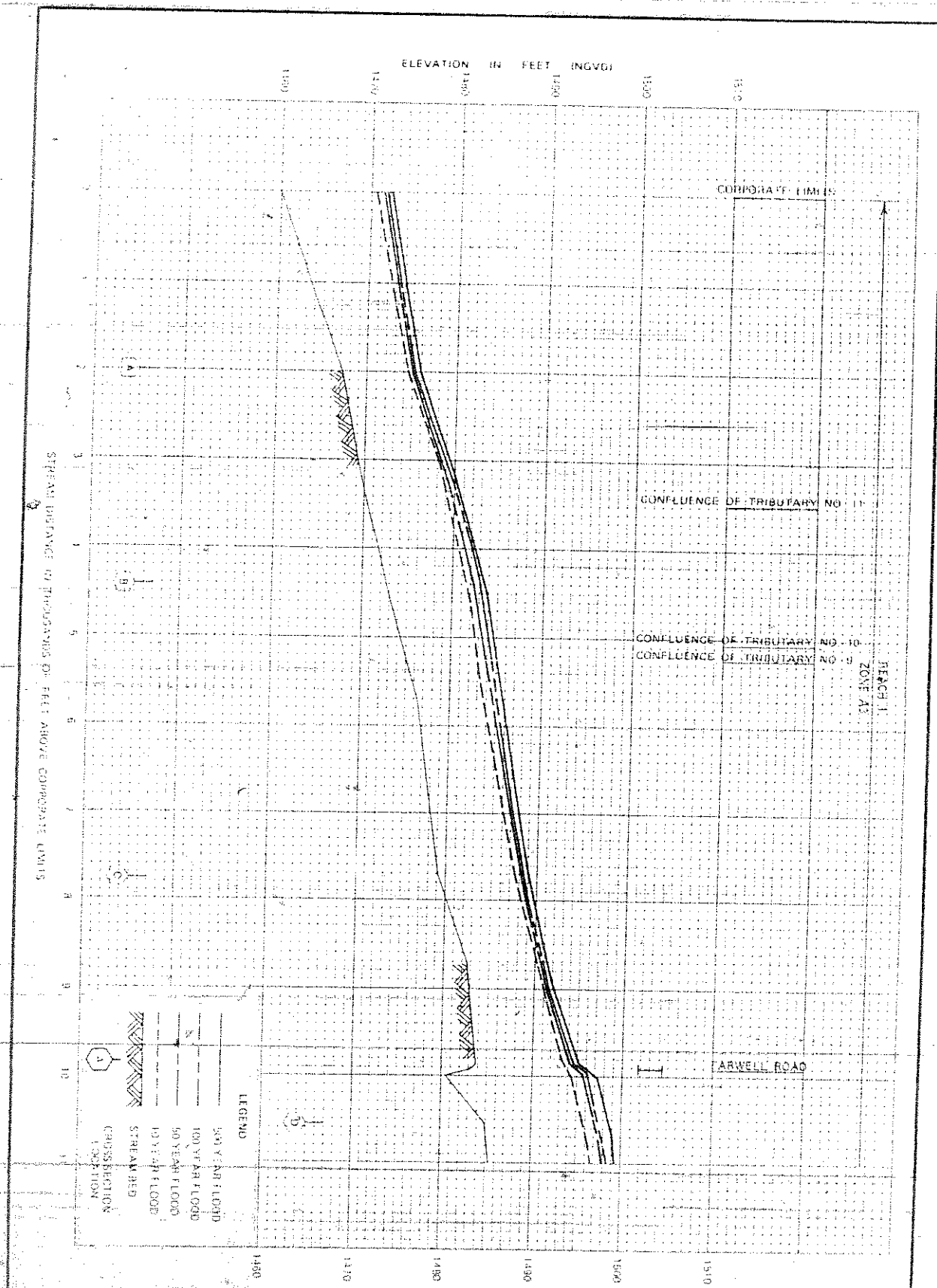
1. U. S. Department of Housing and Urban Development, Federal Insurance Administration, Flood Hazard Boundary Map H-01-08, Town of Ischua, New York (Cattaraugus County), May revised May 21, 1926.
2. New York State, Legislative Manual, 1975.
3. U. S. Department of Agriculture, Cattaraugus County Soil Survey, 1940.
4. U. S. Army Corps of Engineers, Pittsburgh District, Final Post Flood Report on Storm and Flood of 20-26 June 1972, October 1974.
5. U. S. Weather Bureau, Technical Paper No. 40: Rainfall Frequency Atlas of the United States, May 1961.
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7. U. S. Department of Agriculture, Soil Conservation Service, Engineering Division, TR-20 Computer Program, May 1965.
8. U. S. Department of Agriculture, Soil Conservation Service, Cornell University Agricultural Experiment Station, Generalized Soil Map of New York State, 1967.

9. U. S. Department of Agriculture, Soil Conservation Service, National Engineering Handbook, Section 4, Hydrology and Section 5, Hydraulics (Supplement B).
10. U. S. Department of Agriculture, Soil Conservation Service, WSP-2 Water Surface Profiles (Generalized Computer Program), May 1976.
11. Lockwood-Kessler-Bartlett, Aerial Photographs, Scale 1:4,800, Contour Interval 5 feet, 1975.
12. U. S. Department of Agriculture, Soil Conservation Service, Central Technical Unit, HUD-15 Computer Program, March 1974.

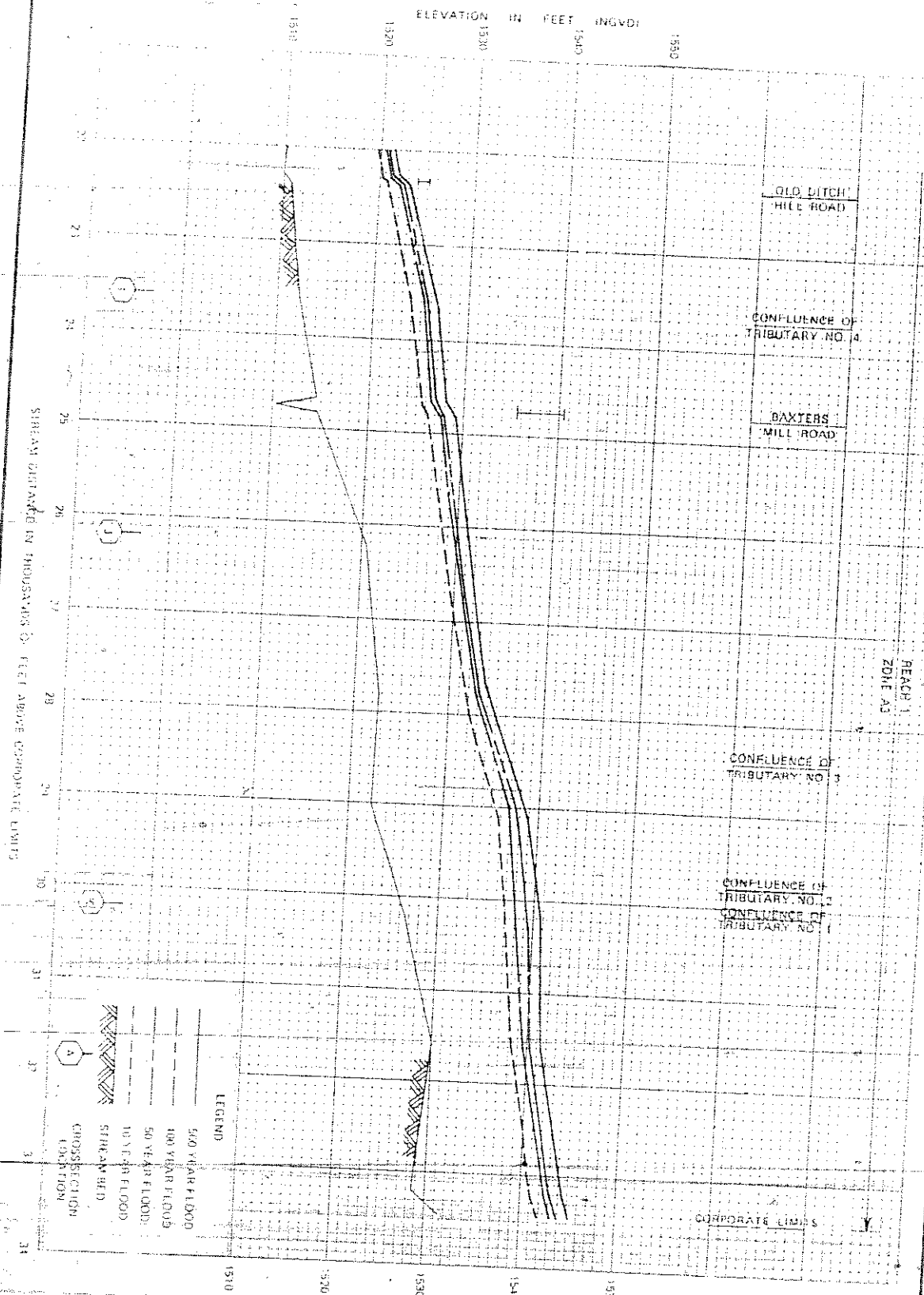
Allegheny River Basin Regional Water Resources Planning Board, Alternatives for Water Resources Development and Management, March 1971.

Allegheny River Basin Regional Water Resources Planning Board, Draft of Comprehensive Water Resources Plan for the Allegheny River Basin, May 1975.

U. S. Department of the Interior, Geological Survey, Surface Water Supply of the United States, Part 3, (Ohio River Basin), (Periodic Summary) (1976).



01P	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT Federal Insurance Administration	FLOOD PROFILES	
	TOWN OF ISCHUA, NY (CATTARAUGUS CO.)	ISCHUA CREEK	



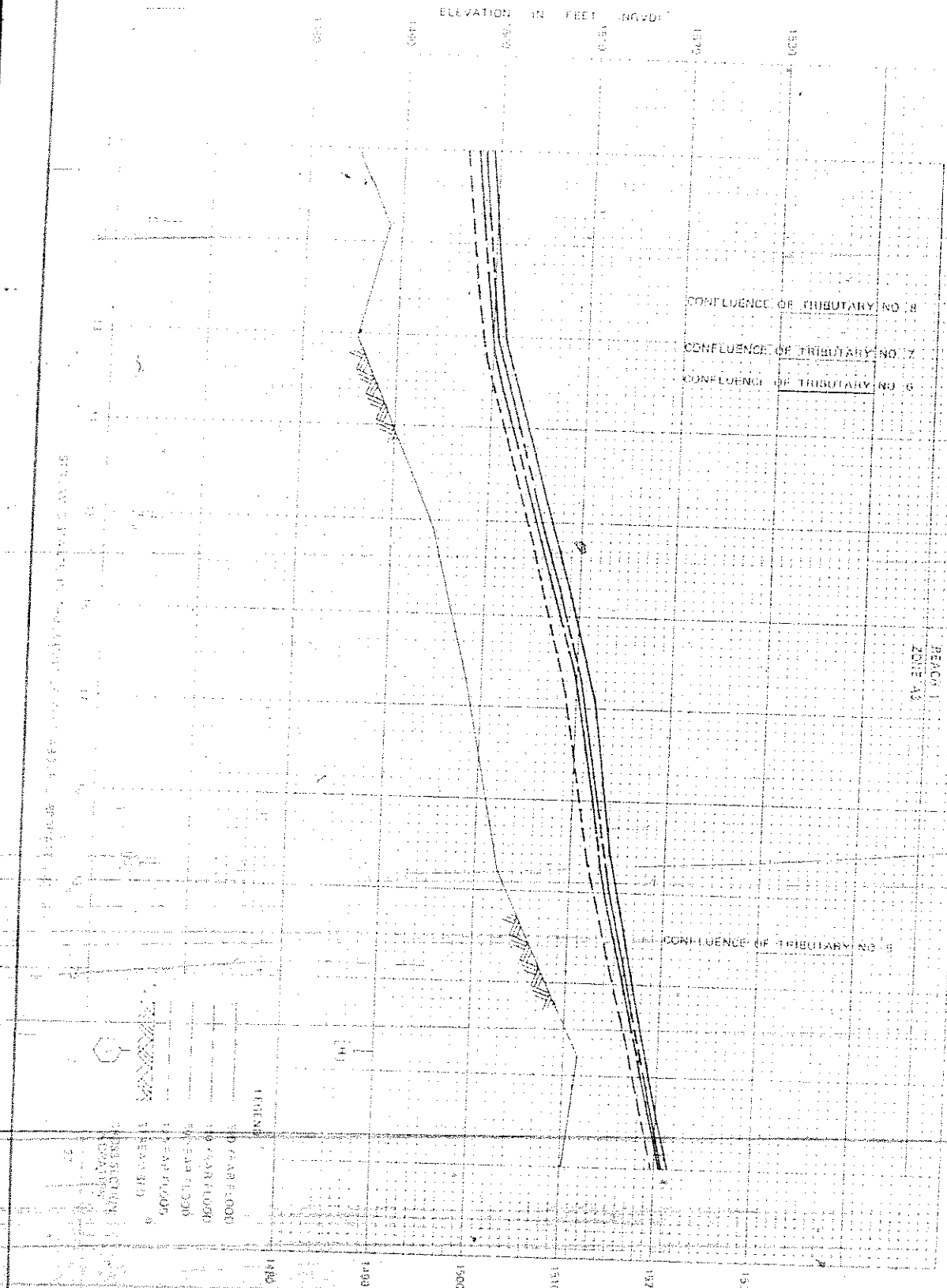
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Federal Insurance Administration

TOWN OF ISCHUA, NY
(CATARAUGUS CO.)

FLOOD PROFILES

ISCHUA CREEK

03P



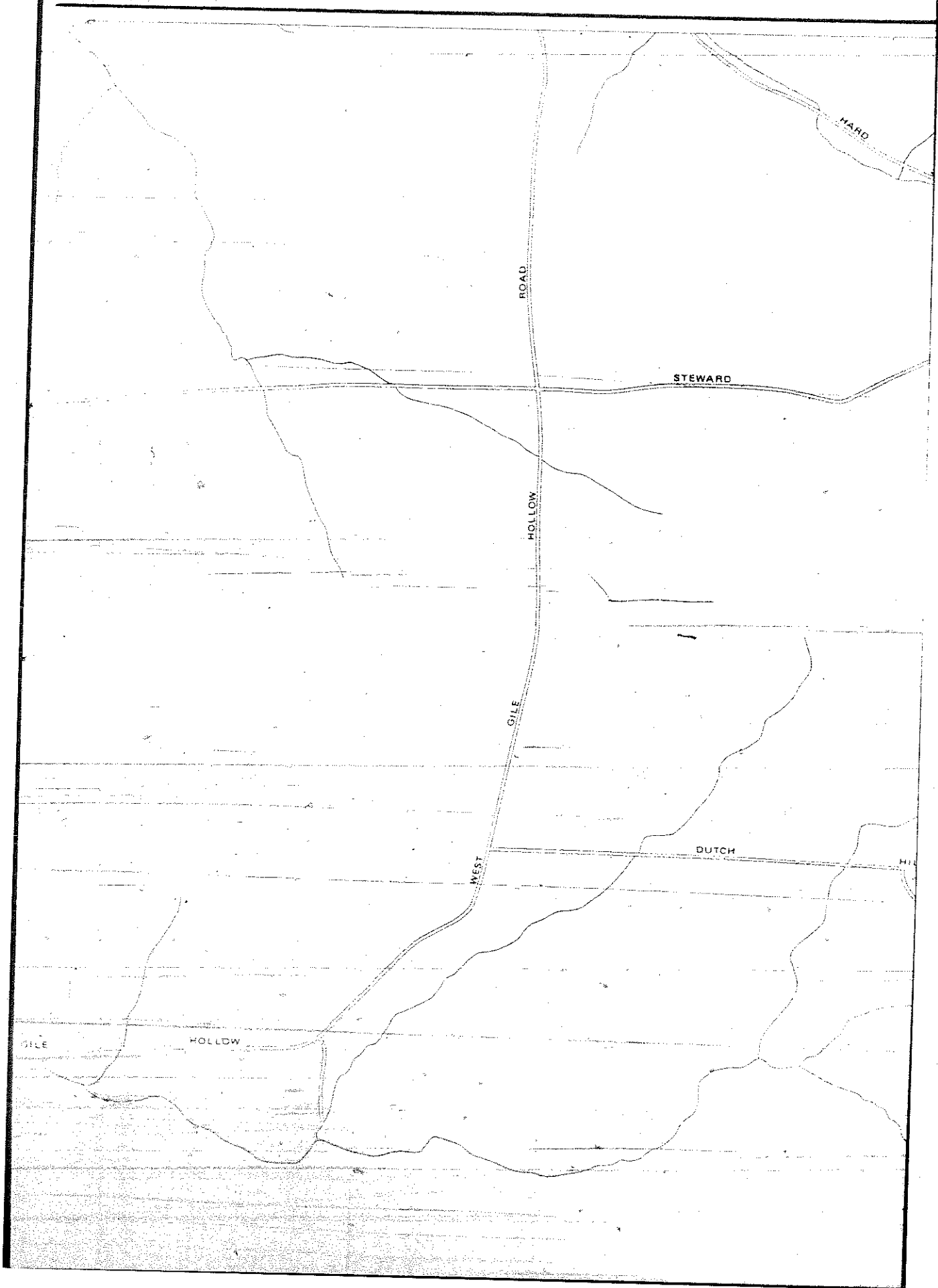
02P	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT Federal Insurance Administration TOWN OF ISCHUA, NY CATTARAUGUS CO.	FLOOD PROFILES ISCHUA CREEK

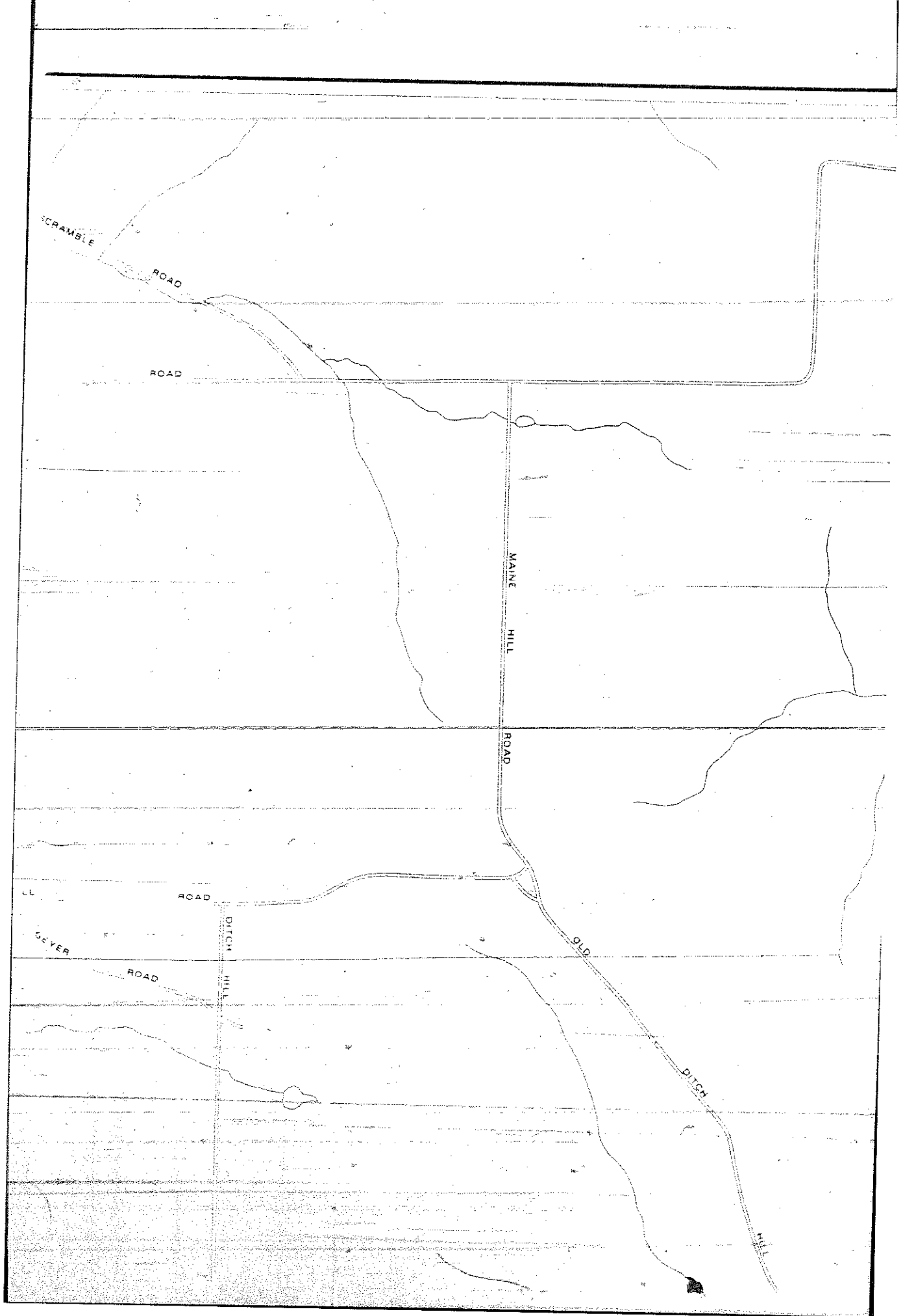
CORPORATE LIMITS

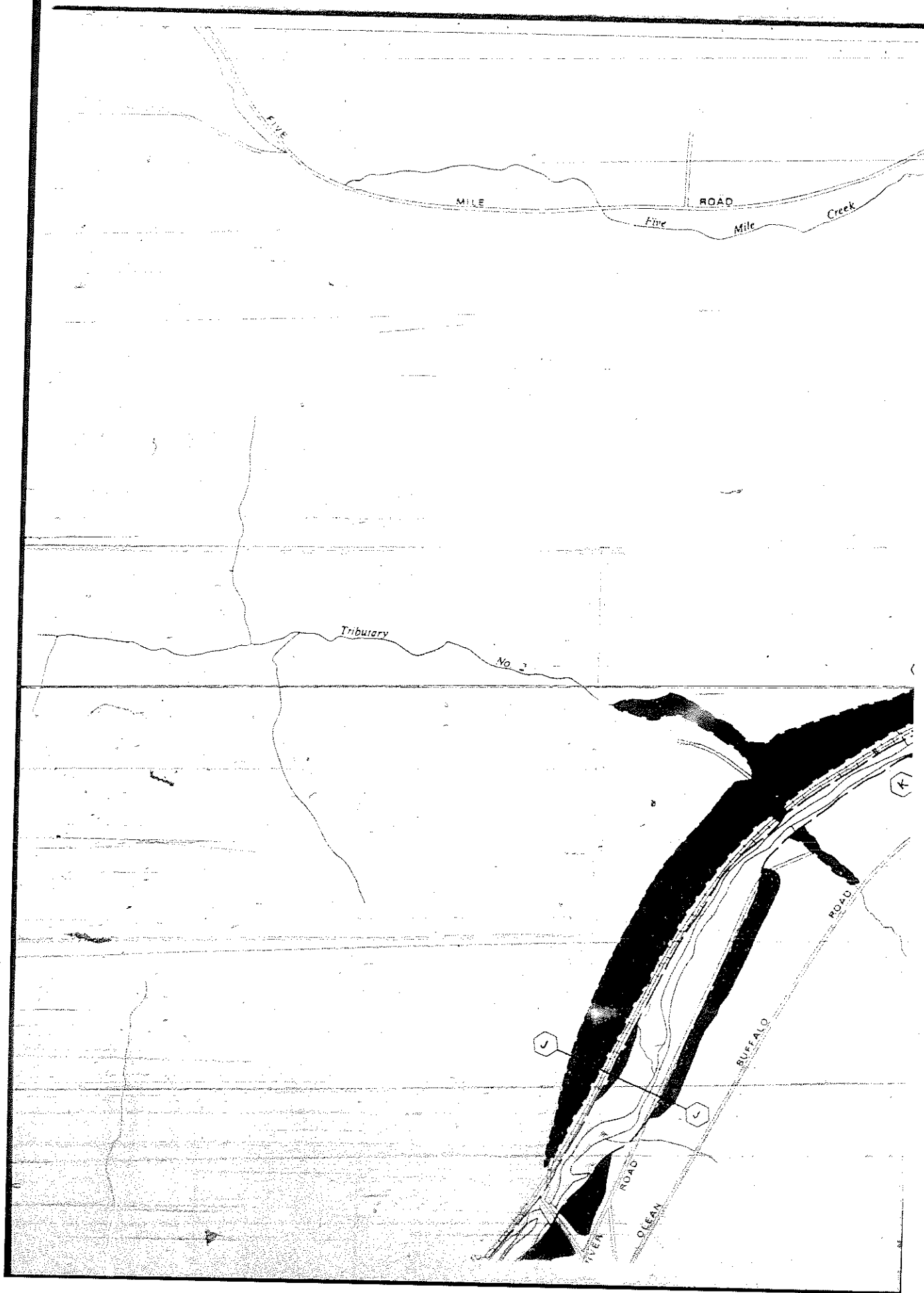
ROAD

ROGERS

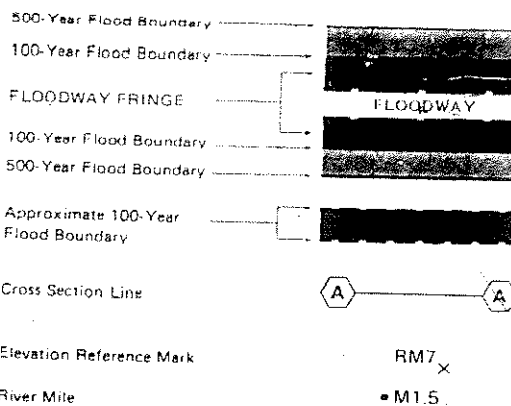
GIL







KEY TO MAP



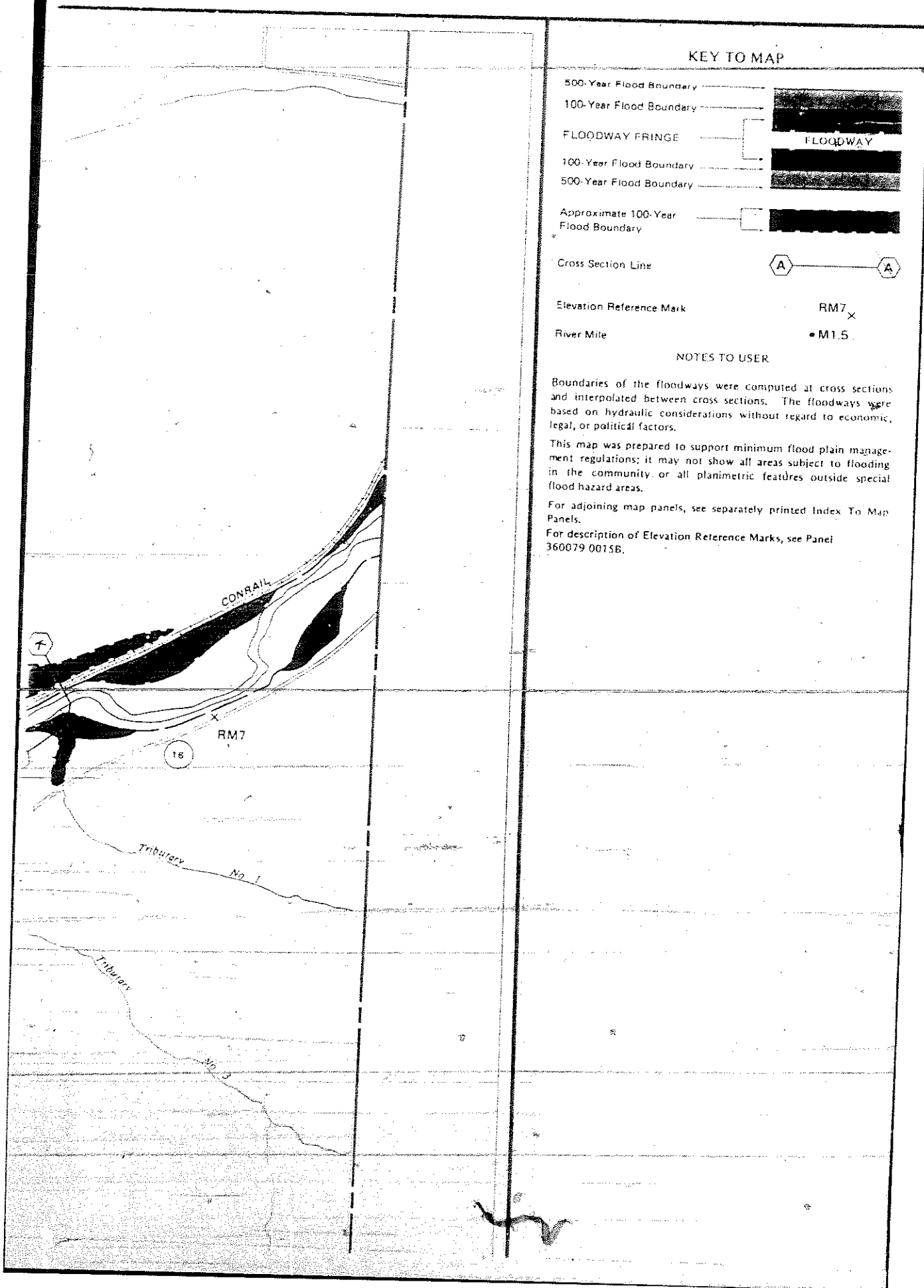
NOTES TO USER

Boundaries of the floodways were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations without regard to economic, legal, or political factors.

This map was prepared to support minimum flood plain management regulations; it may not show all areas subject to flooding in the community or all planimetric features outside special flood hazard areas.

For adjoining map panels, see separately printed Index To Map Panels.

For description of Elevation Reference Marks, see Panel 360079 0015B.





APPROXIMATE SCALE

800 0 800 FEET

NATIONAL FLOOD-INSURANCE PROGRAM

FLOOD BOUNDARY AND FLOODWAY MAP

**TOWN OF
ISCHUA,
NEW YORK
CATTARAUGUS COUNTY**

**COMMUNITY-PANEL NUMBER
360079 0010 B**

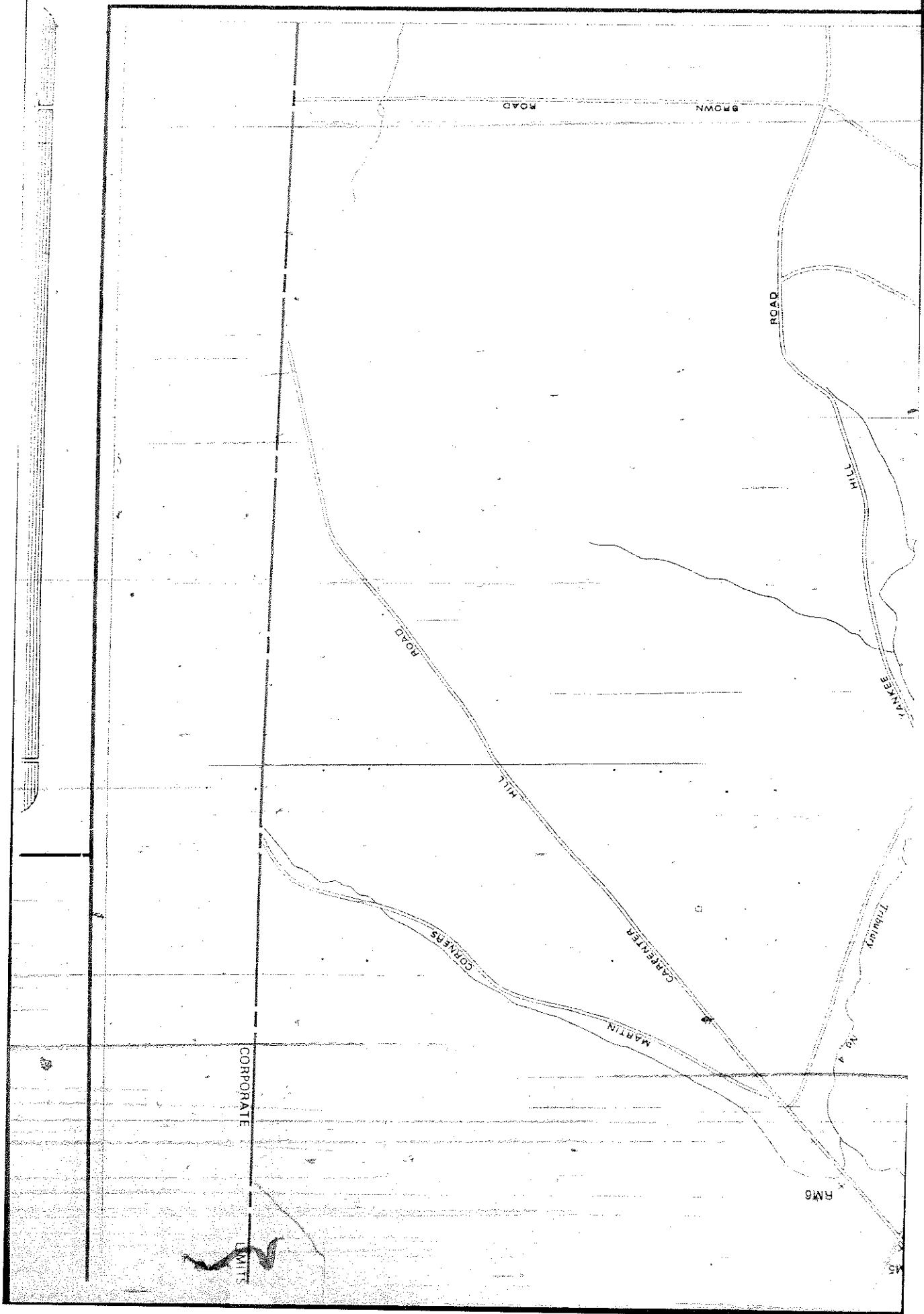
PAGE 10 OF 15

(SEE MAP INDEX FOR PAGES NOT PRINTED)

**EFFECTIVE
AUGUST 15, 1978**



**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION**



BROWN ROAD

BROWN ROAD

HILL ROAD

HILL

CORNERS

CARPENTER

MARTIN

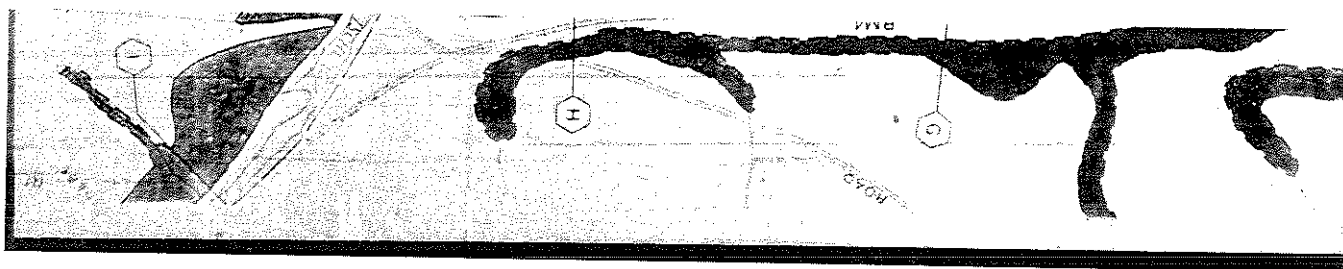
Tributary

No. 4

RM6

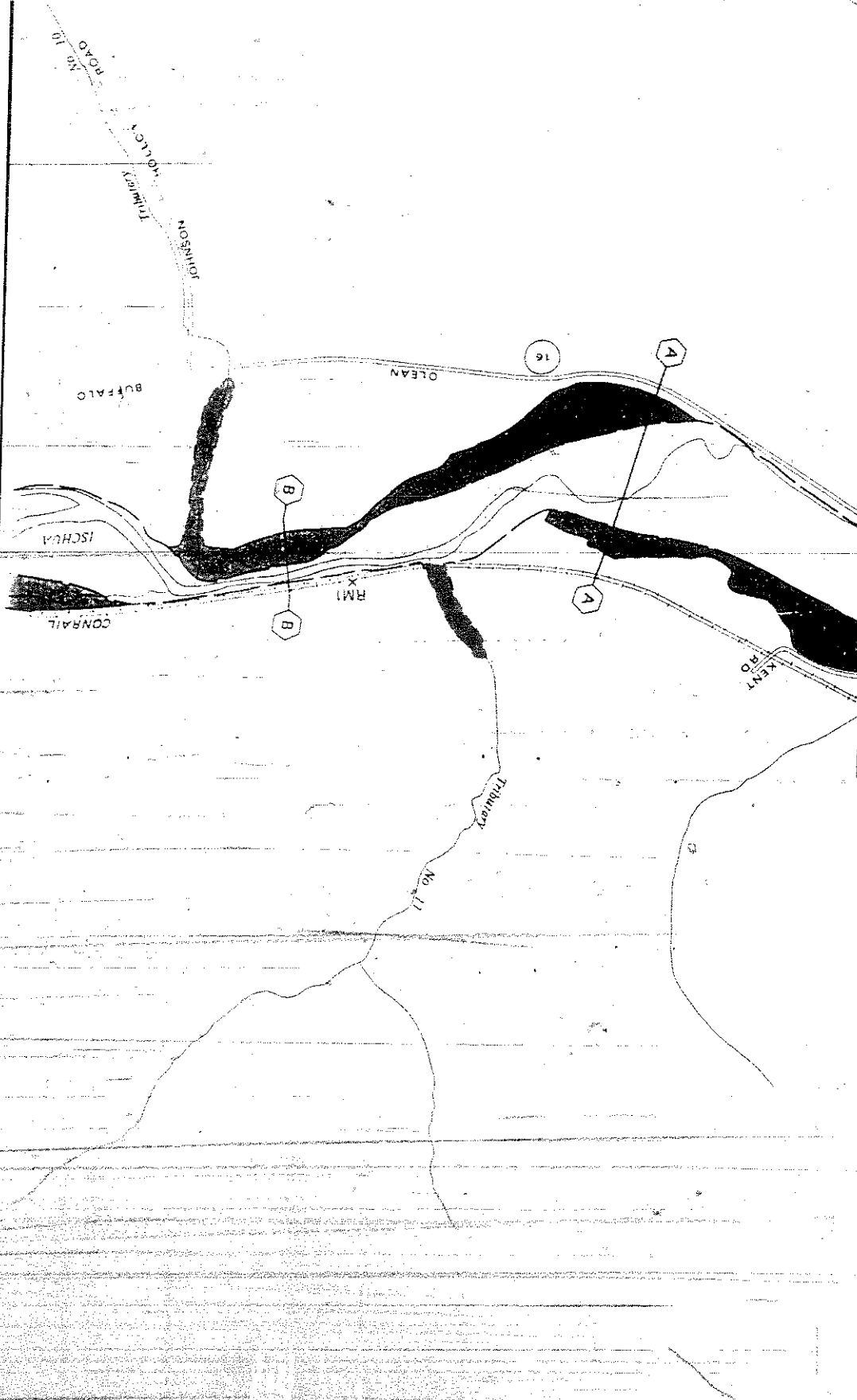
CORPORATE LIMITS

CORPORATE LIMITS





CORPORATE LIMITS





APPROXIMATE SCALE

800 0 800 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FLOOD BOUNDARY AND FLOODWAY MAP

**TOWN OF
ISCHUA,
NEW YORK
CATTARAUGUS COUNTY**

**COMMUNITY-PANEL NUMBER
360079 0015 B**

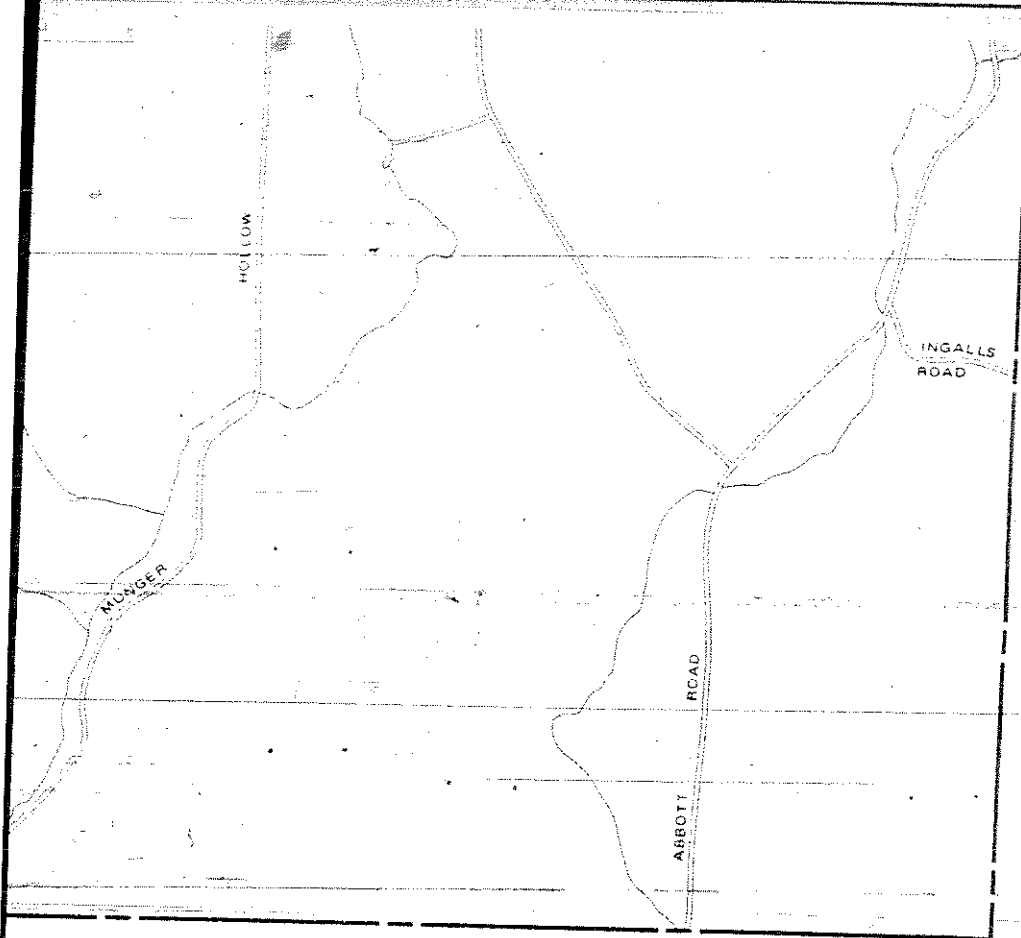
PAGE 15 OF 15

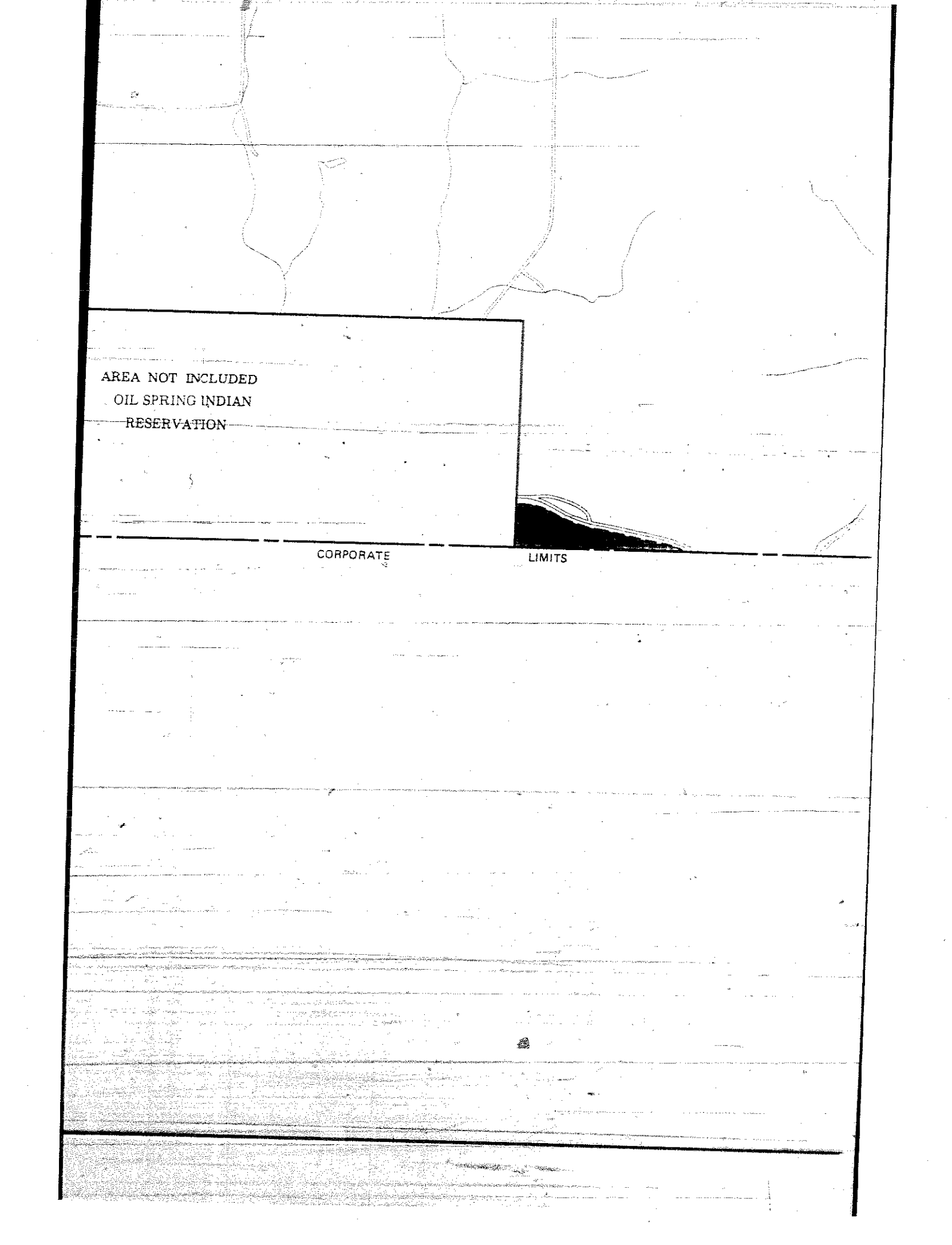
(SEE MAP INDEX FOR PAGES NOT PRINTED)

**EFFECTIVE
AUGUST 15, 1978**



**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION**





AREA NOT INCLUDED
OIL SPRING INDIAN
RESERVATION

CORPORATE

LIMITS

RAIL tracks, 1.1 mile south of Farwell Road.

Ischua Creek on Farwell Road.

on with Hatch Hill Road, northeast side of road at
standard tablet stamped "19 JAS 1959 1538."

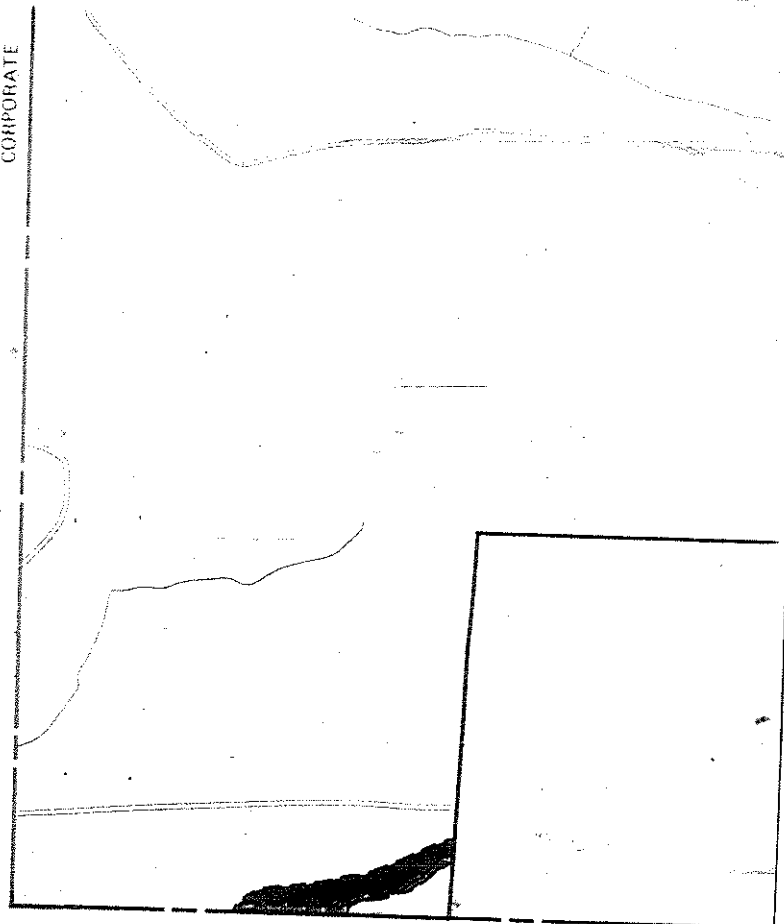
AIL tracks just south of Old Dutch Hill Road at

on southwest corner of intersection of Route 16

section with NYS Route 16, in east end of lot;
stamped "2 S 1934 NY," painted "BM 1566.8."

Route 16; 1,500 feet southeast of northern cor-

CORPORATE



RM 2	0010	1,503.75
RM 3	0010	1,538.442
RM 4	0010	1,530.82
RM 5	0010	1,543.53
RM 6	0010	1,566.831
RM 7	0010	1,573.19

Chiseled square on steel plate on northwest corner of bridge over

USGS - Along Olean Buffalo Road, 700 feet east of intersection entrance to residence, in northwest corner of bottom step, painted "BM 1538.4."

Top of mile marker post no. 58 located on west side of CONR Ischua, New York.

Chiseled square on northwest corner of concrete porch located and Mill Street.

USGS - Along Carpenter Hill Road, 650 feet northeast of intersection concrete step to schoolhouse, District No. 1; standard tablet

Chiseled "X" in top of steel skid rail support on west side of corporate limit.

1 National Geodetic Vertical Datum of 1929

SECRETARY OF STATE
[Signature]
OCT 30 1992
FILED
STATE OF NEW YORK
DEPARTMENT OF STATE

CORPORATE
LIMITS

ELEVATION REFERENCE MARKS

LIMITS

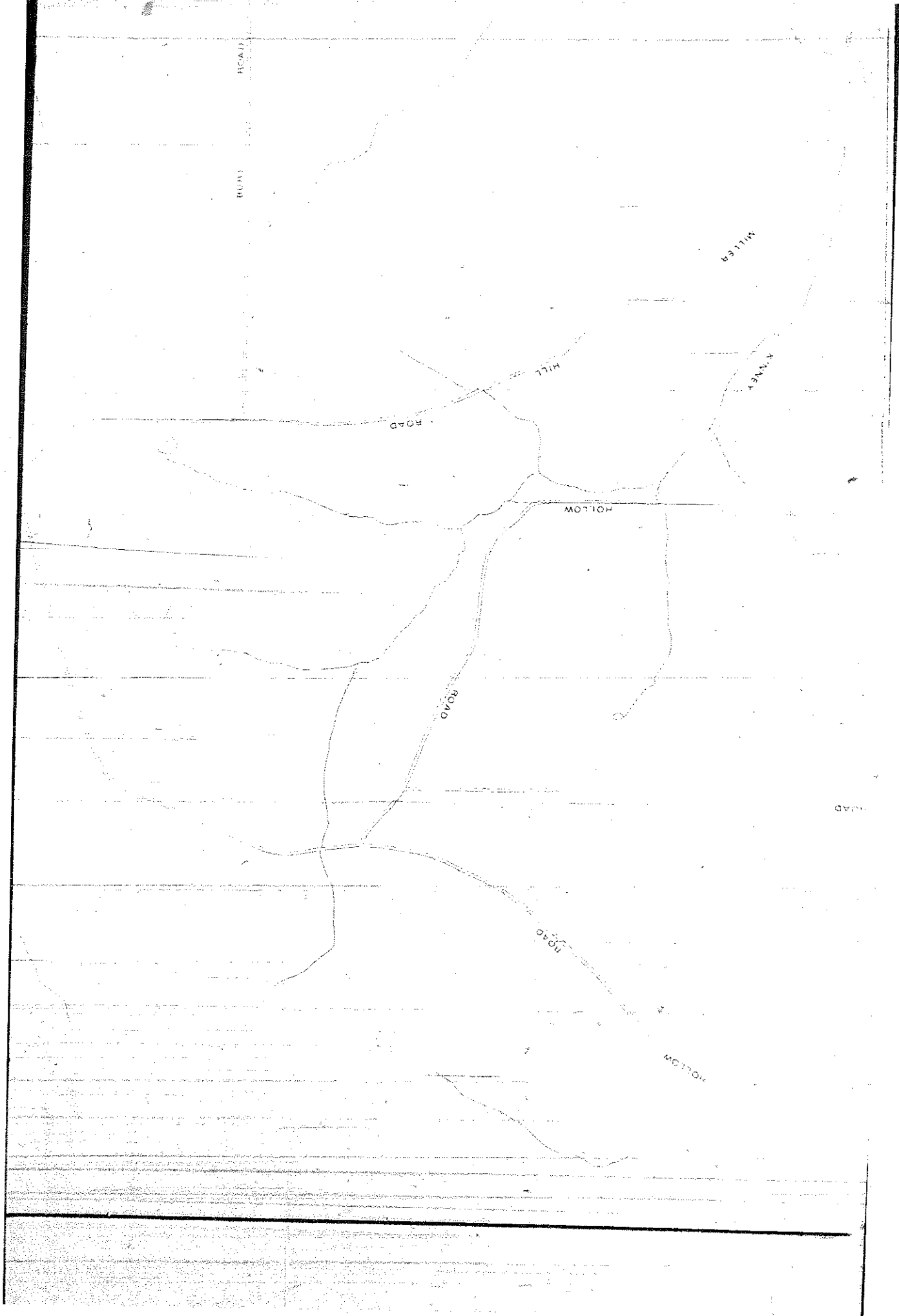
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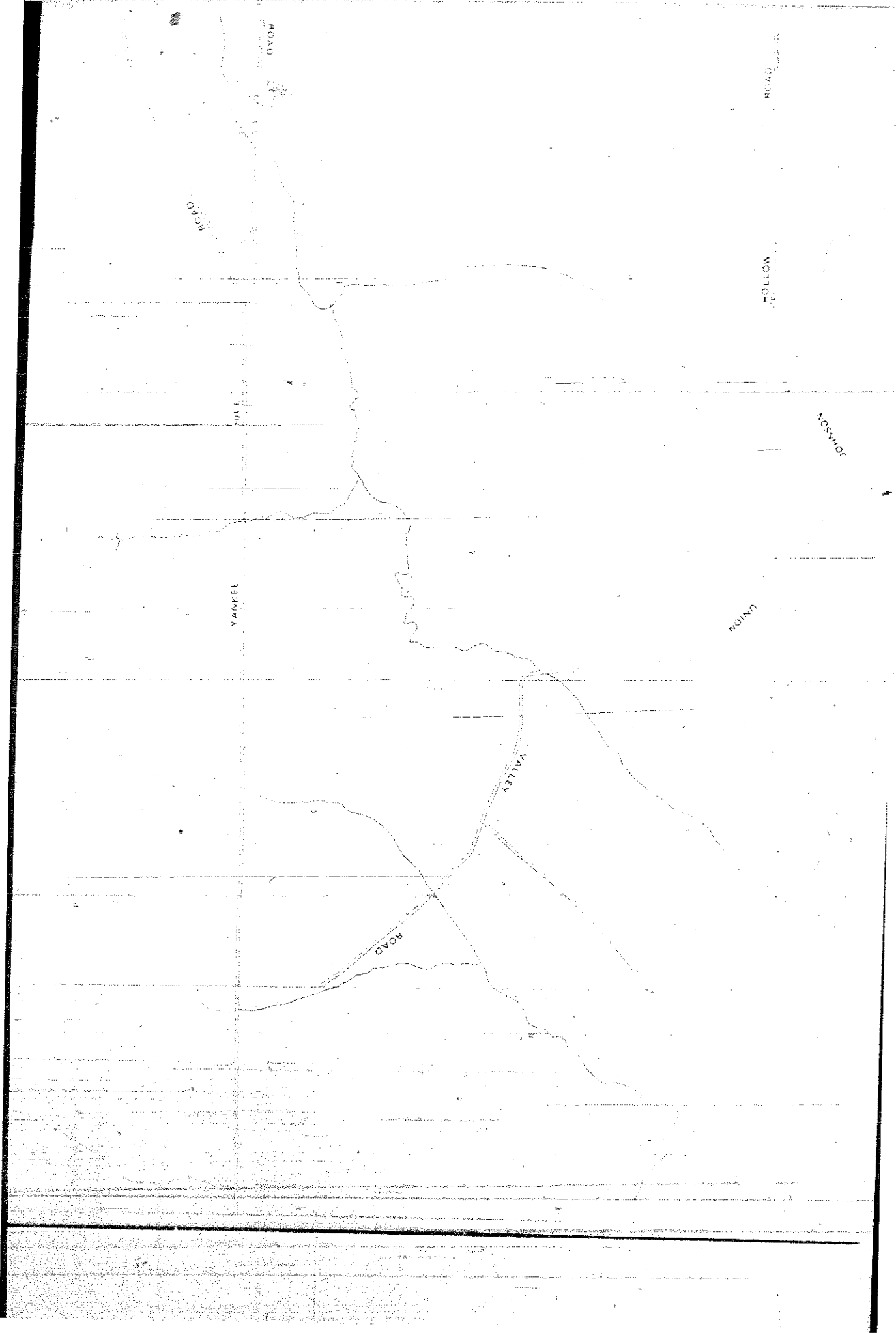
CORPORATE

HILL

UNION

JOHNSON





CORPORATE

LIMITS

CARPENTER HILL ROAD

Boundaries of the floodways were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations without regard to economic, legal, or political factors.

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For adjoining map panels, see separately printed Index to Map Panels.

NOTES TO USER

• M1.5
RM7

Elevation Reference Mark

River Mile

Cross Section Line

A A

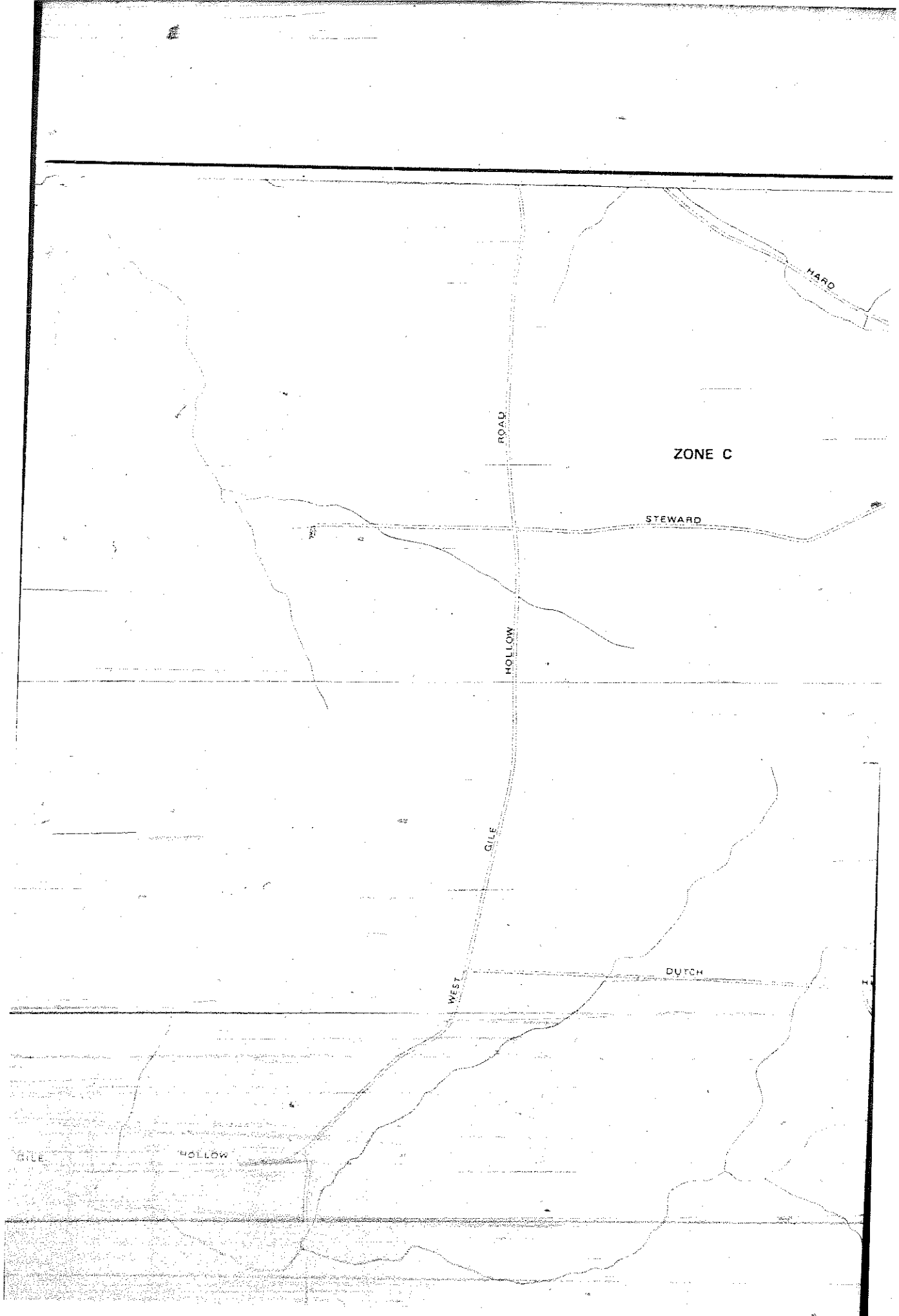
Approximate 100-Year Flood Boundary
500-Year Flood Boundary
100-Year Flood Boundary
FLOODWAY FRINGE
100-Year Flood Boundary
500-Year Flood Boundary

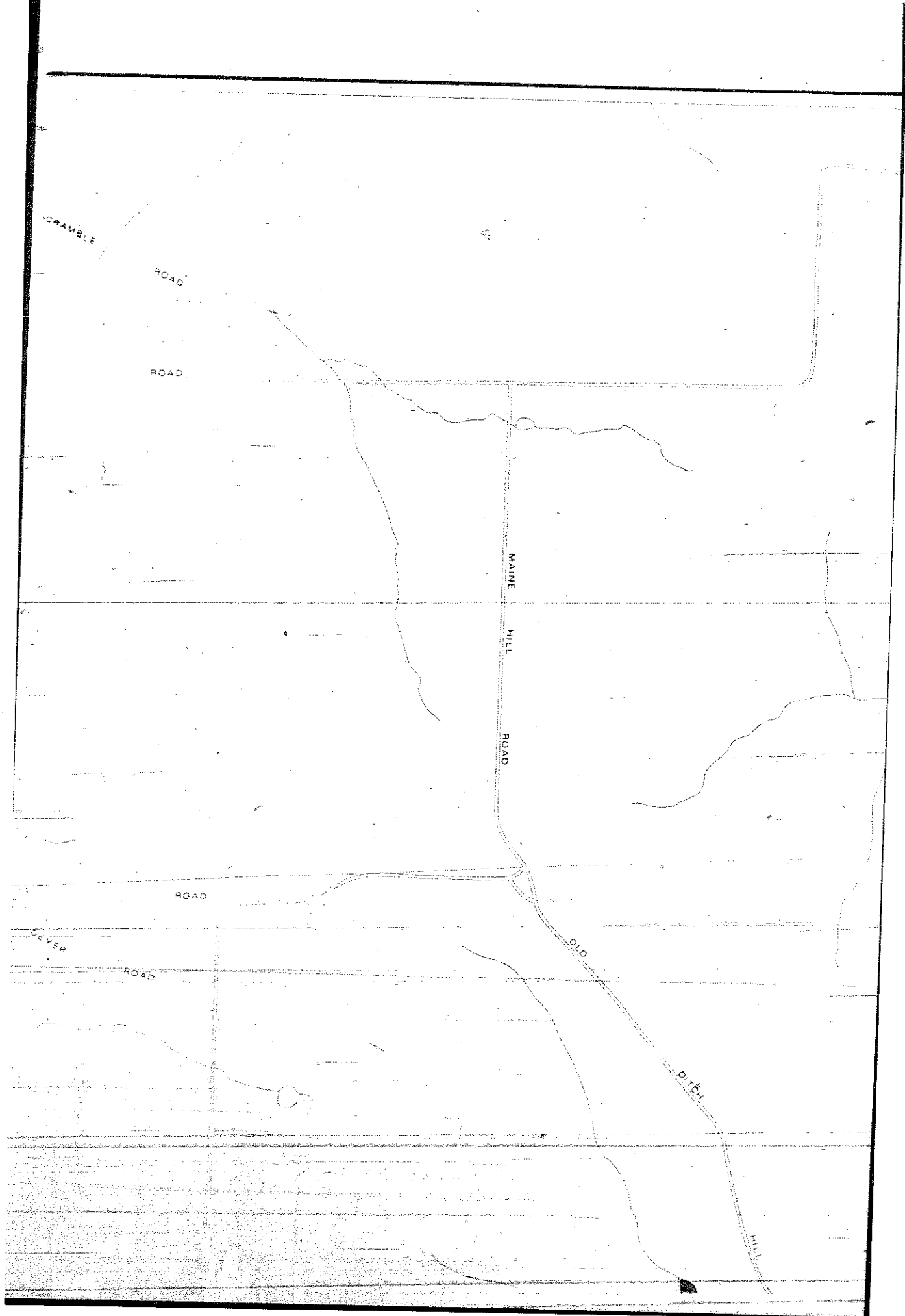
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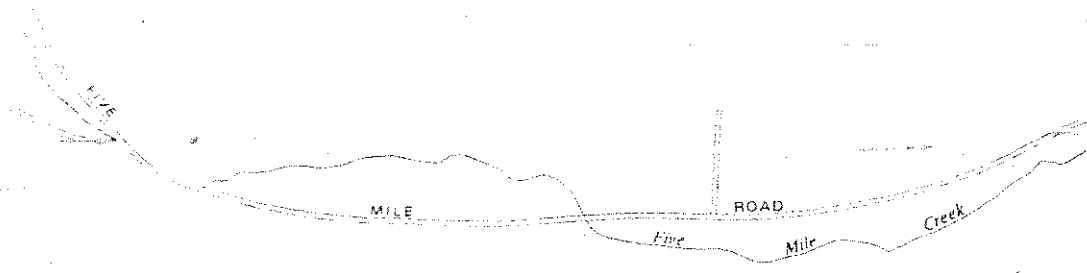
CORPORATE LIMITS

ROGERS ROAD

G1







ZONE C

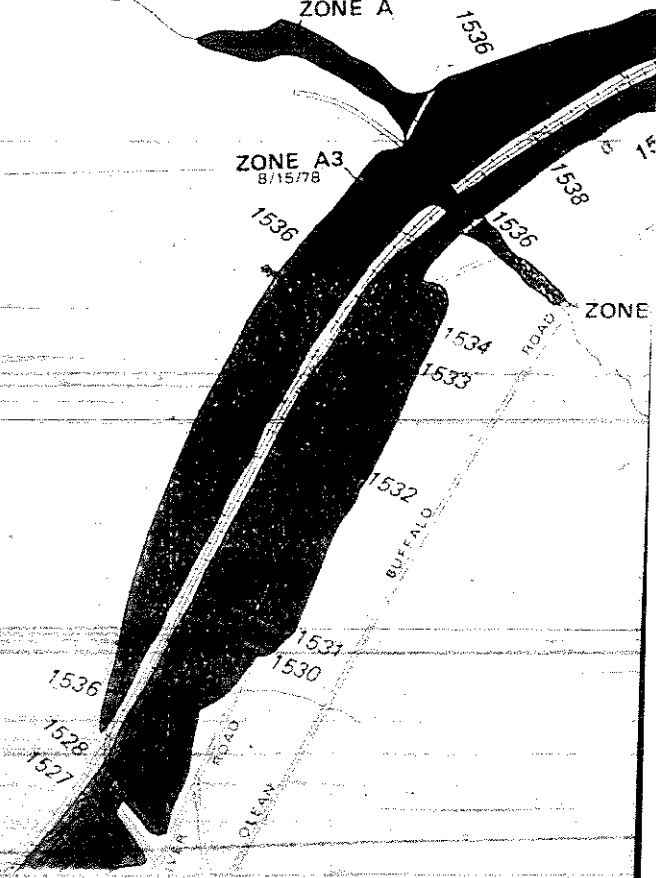
Tributary

No 2

ZONE A

ZONE A3
8/15/78

ZONE



KEY TO MAP

500-Year Flood Boundary
100-Year Flood Boundary
Zone Designations * With
Date of Identification
e.g., 12/2/74

100-Year Flood Boundary
500-Year Flood Boundary
Base Flood Elevation Line
With Elevation In Feet**
Base Flood Elevation in Feet
Where Uniform Within Zone**
Elevation Reference Mark
River Mile

**Referenced to the National Geodetic Vertical Datum of 1929
RM7x
• M1.5
(EL 987)
513

*EXPLANATION OF ZONE DESIGNATIONS

ZONE

A

Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
Areas of 100-year shallow flooding where depths of inundation are shown, but no flood hazard factors are determined.
Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths are determined.
Areas of 100-year flood; base flood elevations and flood hazard factors determined.

A0

AH

A1-A30

A99

B

C

D

V

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

00A-00V

00V-00A

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00A-00V

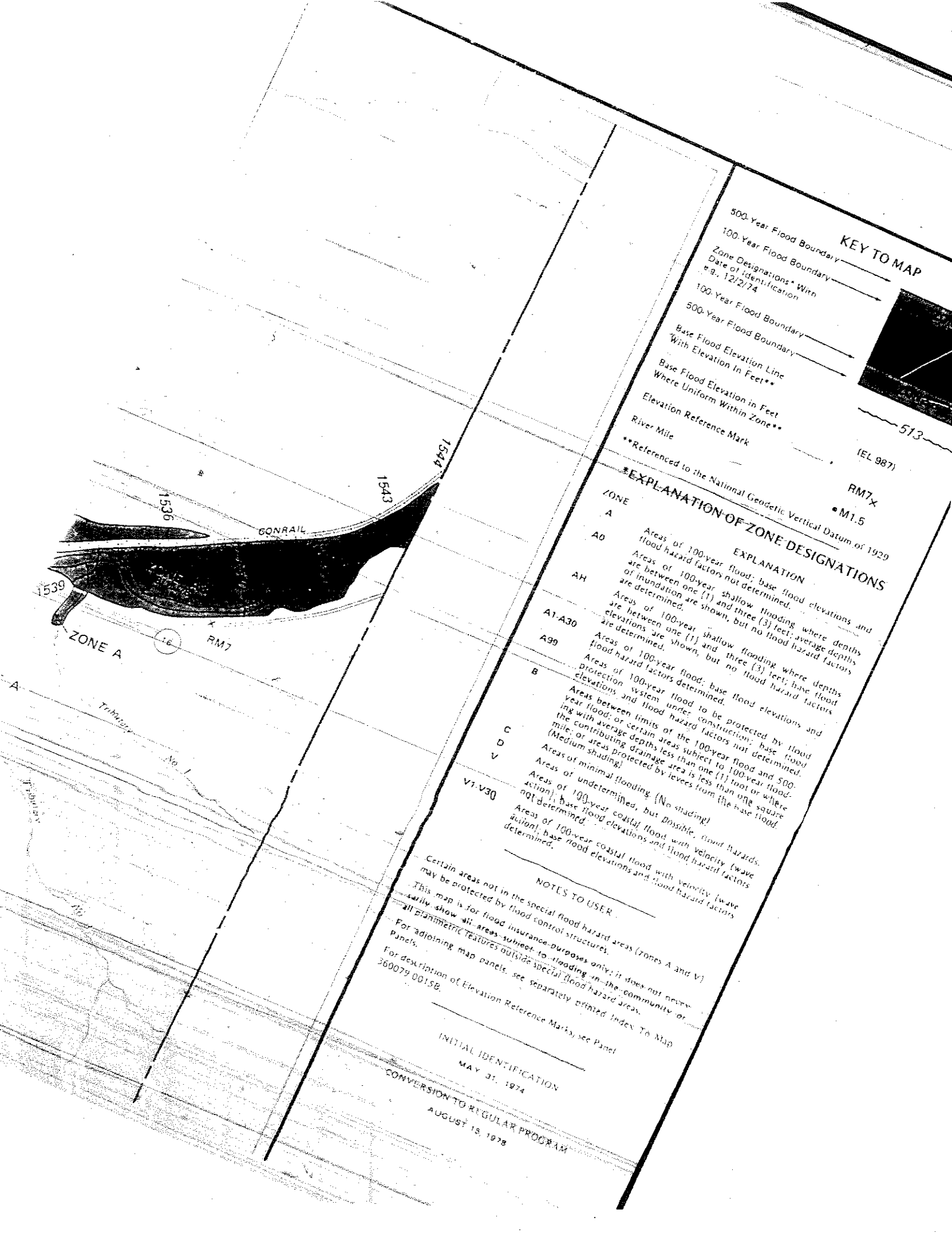
00V-00A

NOTES TO USER

Certain areas not in the special flood hazard areas (Zones A and V) may be protected by flood control structures.
This map is for flood insurance purposes only; it does not necessarily show all areas subject to flooding in the community or all parametric features outside special flood hazard areas.
For adjoining map panels, see separately printed Index To Map Panels.
For description of Elevation Reference Marks, see Panel 360079 0015B.

INITIAL IDENTIFICATION
MAY 31, 1974

CONVERSION TO REGULAR PROGRAM
AUGUST 15, 1978



etermine if flood insurance is available in this community,
your insurance agent, or call the National Flood Insur-
ogram, at (800) 635-6620, or (800) 424-8872.



APPROXIMATE SCALE

800 0 800 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FLOOD INSURANCE RATE MAP

**TOWN OF
ISCHUA,
NEW YORK
CATTARAUGUS COUNTY**

**COMMUNITY-PANEL NUMBER
360079 0010 B**

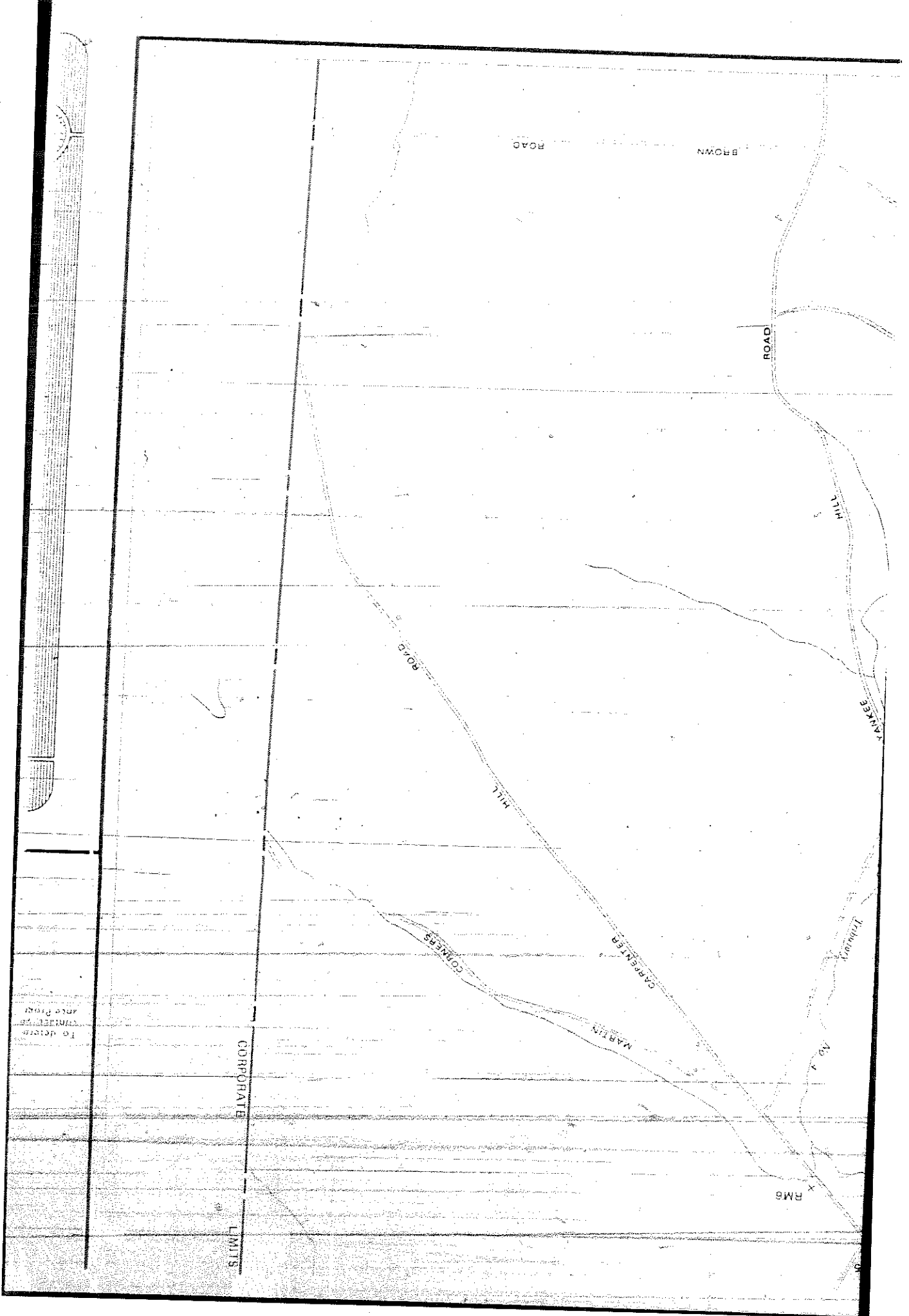
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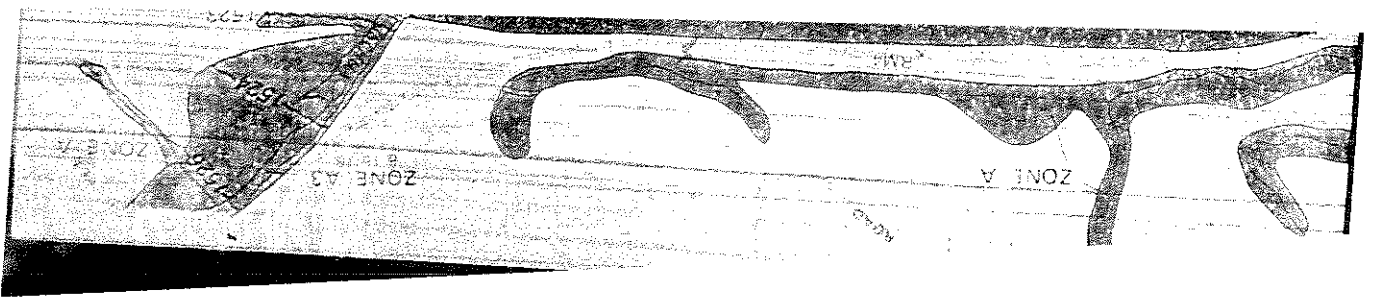
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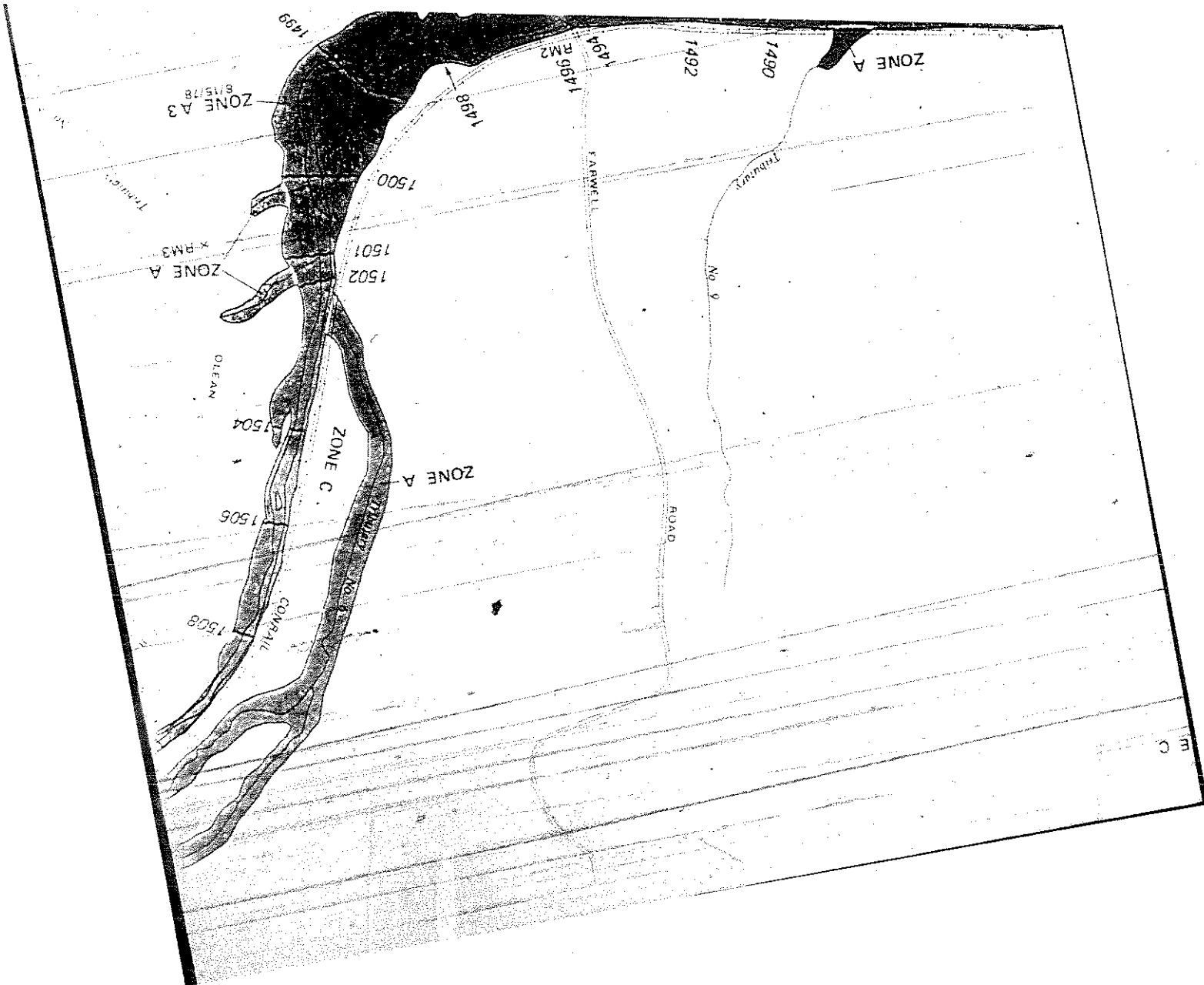
**EFFECTIVE
AUGUST 15, 1978**

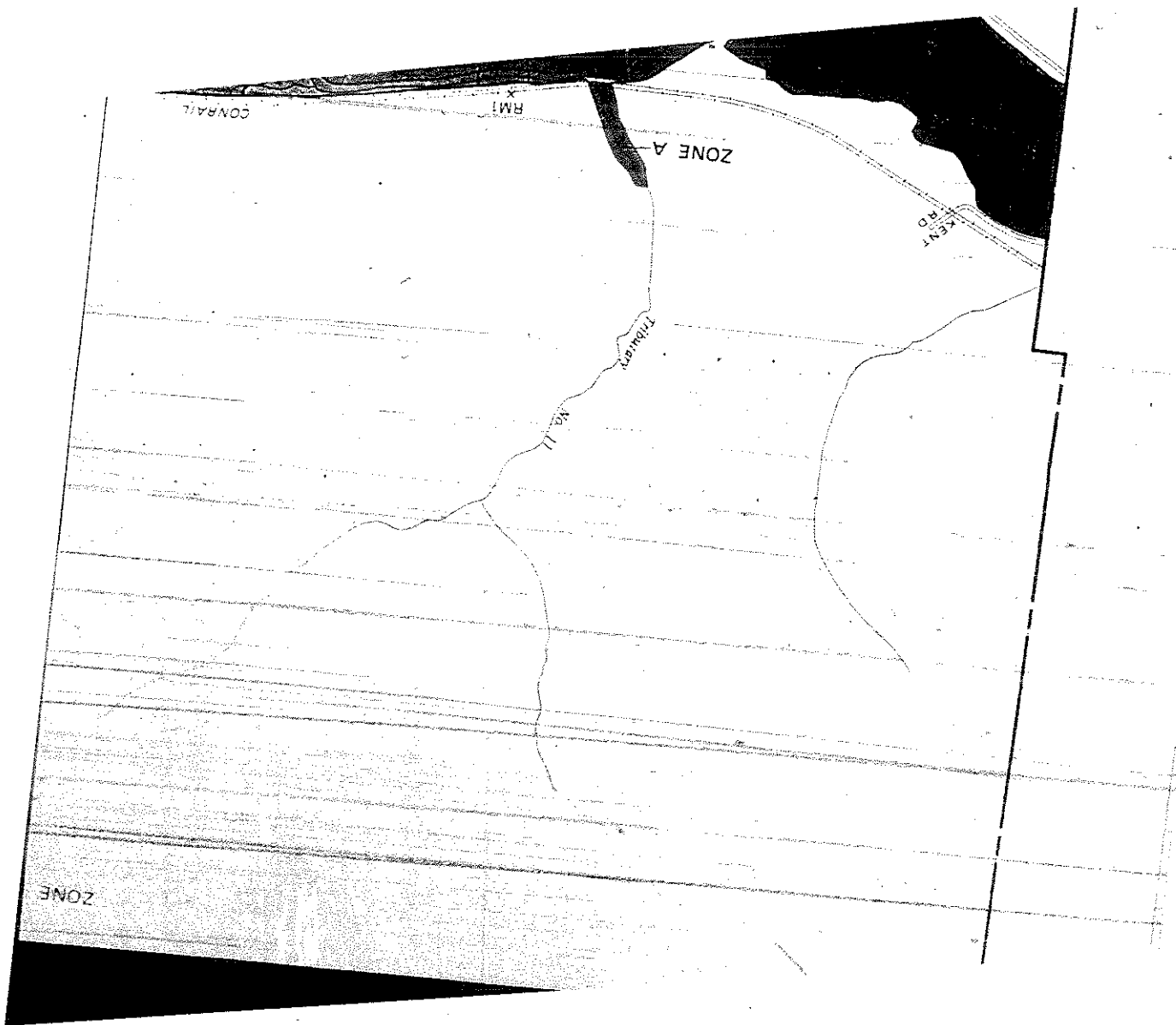


**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION**









To determine if flood insurance is available in this community, contact your insurance agent, or call the National Flood Insurance Program, at (800) 638-6620, or (800) 424-8872.



APPROXIMATE SCALE

800 0 800 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FLOOD INSURANCE RATE MAP

**TOWN OF
ISCHUA,
NEW YORK
CATTARAUGUS COUNTY**

**COMMUNITY-PANEL NUMBER
360079 0015 B**

PAGE 15 OF 15

(SEE MAP INDEX FOR PAGES NOT PRINTED)

**EFFECTIVE
AUGUST 15, 1978**



**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION**

ZONE C

ROAD

ROAD

HOLLOW

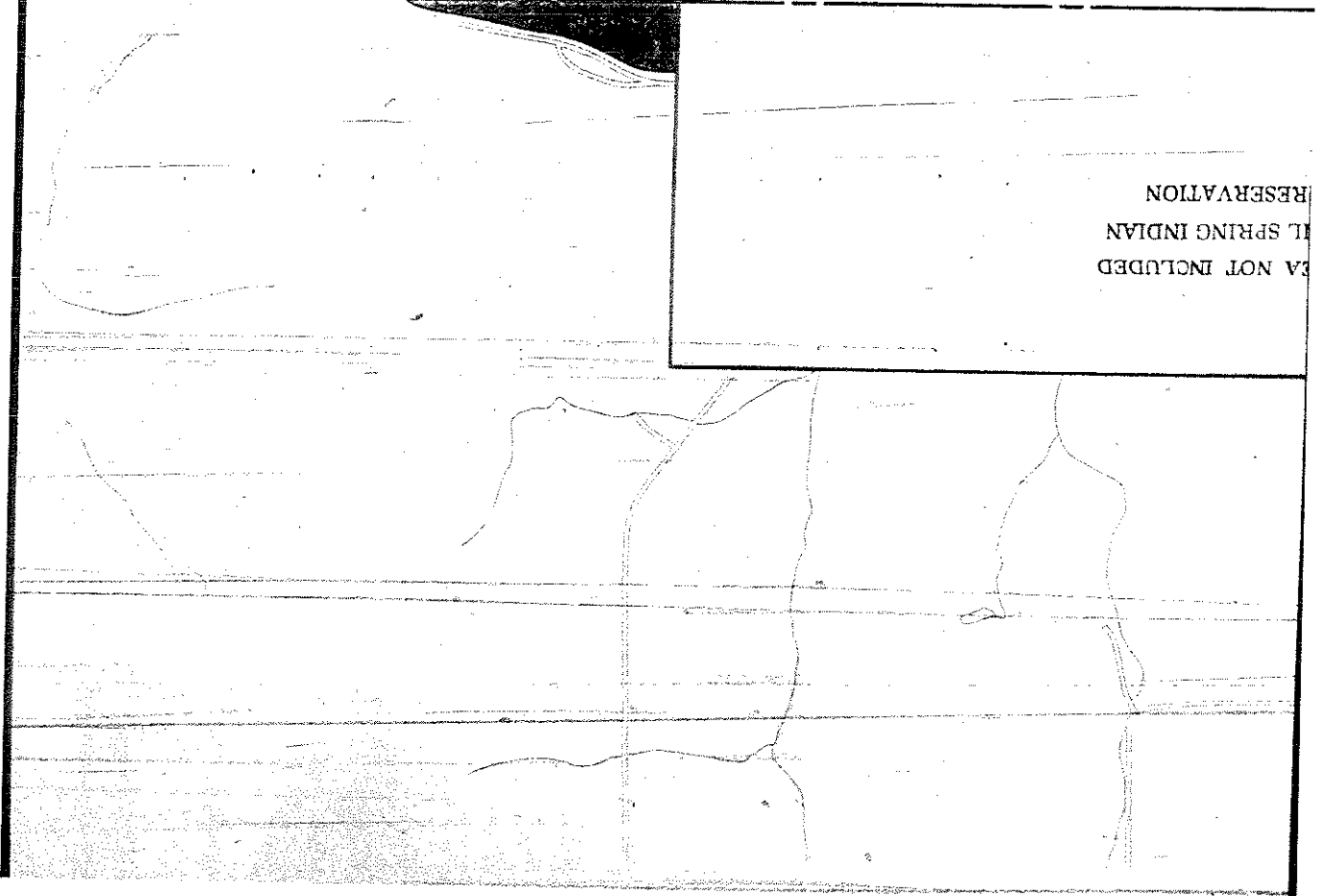
WATER

TO GOLF
COURSE

AREA NOT INCLUDED
IN SPRING INDIAN
RESERVATION

CORPORATE

LIMITS



Tracts, 1 1/2 mile south of Farwell Road.

Creek on Farwell Road.

Hatch Hill Road, northeast side of road at
tabletop stamped "19-JAS 1969 1538."

Box just south of Old Dutch Hill Road at

lowest corner of intersection of Route 16

with NYS Route 16, in east end of lot
"2 S 1934 NY," painted "BM 1566 8."

6, 1,600 feet southeast of northern cor

CORPORATE

ZONE A
ZONE C

ARE
OF

National Geodetic Vertical Datum of 1929

RM 1	0010	1,489.16	Top of mile marker post, no. 51 located on west side of bridge over Mill Creek.
RM 2	0010	1,503.75	Chiseled square on steel plate on northwest corner of bridge over Mill Creek.
RM 3	0010	1,528.442	USGS - Along Olsen Buffalo Road, 200 feet west of intersection with entrance to residence, in northwest corner of bottom city station.
RM 4	0010	1,530.82	Top of mile marker post, no. 56 located on west side of CORRAIRIE ROAD, Ithaca, New York.
RM 5	0010	1,543.53	Chiseled square on northwest corner of concrete porch located on west and Mill Street.
RM 6	0010	1,566.831	USGS - Along Carpenter Hill Road, 550 feet northwest of intersection concrete step to schoolhouse, District No. 1 standard tablet located.
RM 7	0010	1,573.19	Chiseled "X" in top of steel skid rail support on west side of Route 1 portage limit.

LIMITS

CORPORATE

MAP

JOHNSON

ZONE C

UNION

HILL

CORPORATE

LIMITS

ELEVATION REFERENCE MARKS

LIMITS

.....

100

۱۸۰۰

4040

HOLLOW

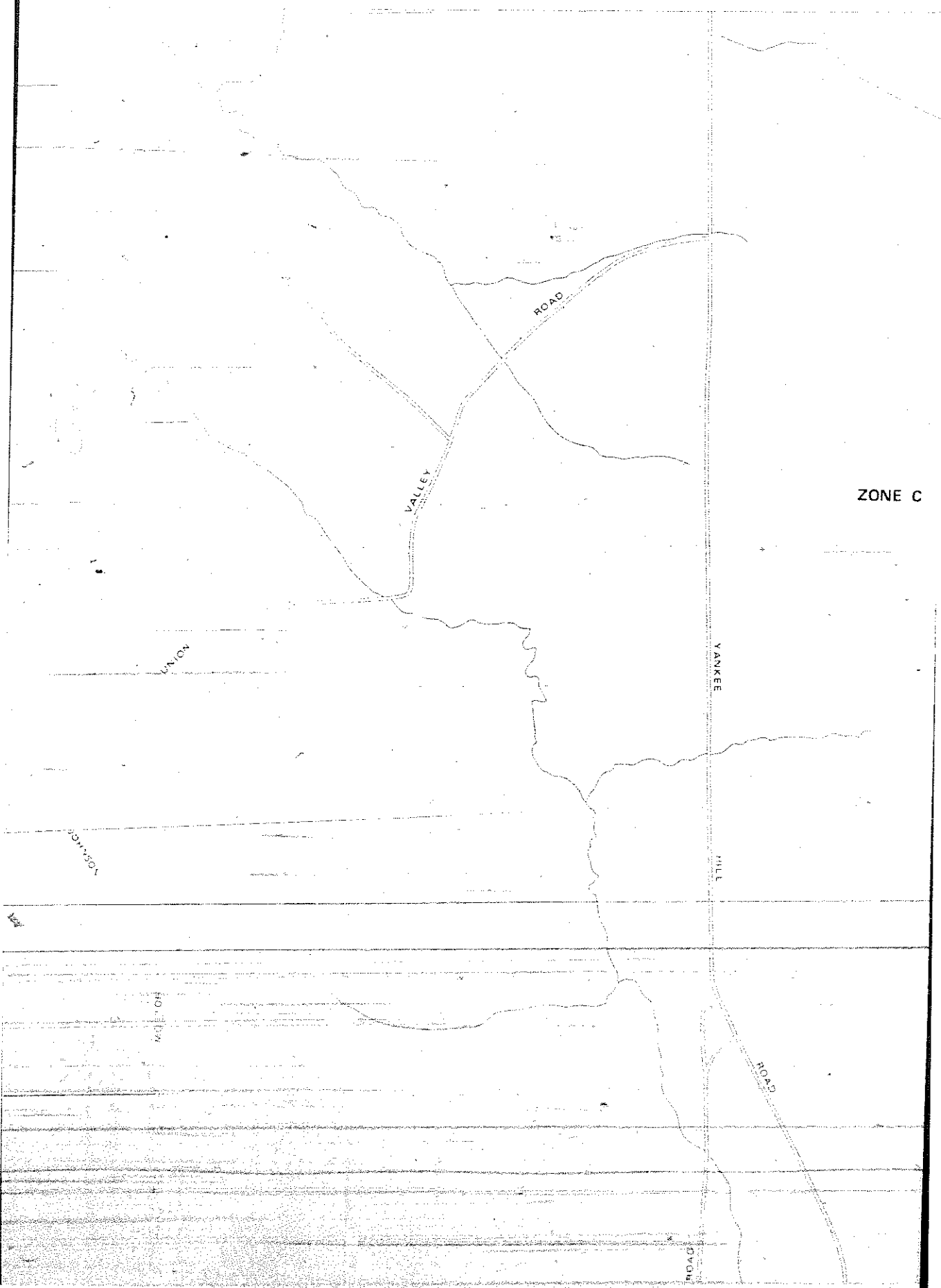
ROAD

ZONE C

22:139

100

... ..



ZONE C

KEY TO MAP

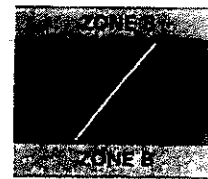
500-Year Flood Boundary

100-Year Flood Boundary

Zone Designations* With
Date of Identification
e.g., 12/2/74

100-Year Flood Boundary

500-Year Flood Boundary



Base Flood Elevation Line
With Elevation In Feet**

513

Base Flood Elevation in Feet
Where Uniform Within Zone**

(EL 987)

Elevation Reference Mark

RM7X

River Mile

• M1.5

**Referenced to the National Geodetic Vertical Datum of 1929

*EXPLANATION OF ZONE DESIGNATIONS

ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

NOTES TO USER

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For adjoining map panels, see separately printed Index To Map Panels.

INITIAL IDENTIFICATION

MAY 31 1974

CONVERSION TO REGULAR PROGRAM

AUGUST 15, 1978

CARPENTER HILL ROAD

LIMITS

CORPORATE

IT OF HOUSING
/ELOPMENT
NCE ADMINISTRATION

178

EL NUMBER
-0015

D: 10, 15

PANELS
COUNTY

E RATE MAPS

INSURANCE PROGRAM

NATIONAL FLOOD INSURANCE

FLOOD INSURANCE RATE I

**TOWN OF
ISCHUA,
NEW YORK
CATTARAUGUS COUNTY**

**INDEX TO MAP PANELS
1 THROUGH 15**

PAGES PRINTED: 10, 15

**COMMUNITY - PANEL NUMBER
360079 0001-0015**

**EFFECTIVE
AUGUST 15, 1978**



**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION**

COMMUNITY-PANEL NUM

*360079 0005 B

360079 0010 B

Ischua Creek

16

OIL SPRING
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(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. 1 of 1992 of the ~~(County)(City)(Town)(Village)~~ of Ischua was duly passed by the Town Board on October 26 1992, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____ in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

*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 chairman 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.

0000 0692

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City 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 _____ 19____, 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 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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 of 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.

Nancy Ames
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Date: October 26, 1992

(Seal)

(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 CATTARAUGUS

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.

James H. Hargis
Signature

Town Attorney

Title

Office

City

Town

Village

of Ischua

Date: October 27, 1992

(3)

Local Law Filing

(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 ISCHUA
☒ Town
☐ Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUL 18 2007

MISCELLANEOUS
& STATE RECORDS

Local Law No. 2 of the year 20 07

A local law Regulating the Outdoor Storage of Junk Vehicles & Waste Materials in the Town of Ischua
(Insert Title)

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

- ☐ County
☐ City of ISCHUA as follows:
☒ Town
☐ Village

SEE ATTACHED SHEETS

(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 20 07 of the (County)(City)(Town)(Village) of Town of Ischua was duly passed by the Ischua Town Board on June 12 20 07, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 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, designated as local law No. _____ of 20 _____ of the City 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 _____ State of New York, having been submitted to the electors at 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.

Kelle Brisky
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: *June 12, 2007*

(Seal)

(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 Cattaraugus

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.

James I. McAuley
Signature
James I. McAuley, Town of Ischua Attorney
Title

County
City of Town of Ischua
Town
Village

Date: *June 12, 2007*

**A Local Law REGULATING THE OUTDOOR STORAGE OF JUNK
VEHICLES AND WASTE MATERIALS IN THE TOWN OF ISCHUA.**

Pursuant to Section 136 of the General Municipal Law and section 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Ischua, County of Cattaraugus, New York does enact the following Local Law:

SECTION 1. Legislative Intent

The accumulation, storage and abandonment of unusable motor vehicles and component parts thereof, and junk, garbage, litter, trash, refuse, debris, abandoned appliances and other waste materials on private and public real property within the Town of Ischua is hereby declared to be detrimental to the public health, welfare, and safety of the residents of the Town of Ischua, as well as aesthetically unattractive and detracts from the enjoyment of the environment by the said residents; tends to depreciate neighborhood property values and is an infringement on the enjoyment of their properties and homes by neighboring residents. One purpose of this local law is to prohibit the placement, storage or abandonment of vehicles which, are no longer intended, or in condition for legal use on the public highways. In order to accord owners of vehicles that are registered with the New York State Department of Motor Vehicles and which are damaged, or inoperable, a reasonable time to restore them into operating condition or to arrange for other disposition of them and in recognition of the fact that certain types of businesses necessitate the temporary parking of inoperable vehicles outside, the prohibition does not apply until the vehicle has been situate on the property in excess of six (6) months. However, the prohibition does not apply in regards to junk, garbage, litter, trash, refuse, debris, abandoned appliances, and other materials until such items have been situation on the property in excess of thirty (30) days. The Town Board specifically allows the following short term exemptions:

1. Lengthy absences from real property due to service in the United States Armed Forces;
2. Extended hospital stays; and
3. Up to six (6) months from the date of death of the fee owner of premises.

The further purpose of this law is to prohibit the placement or accumulation of junk, garbage, litter or waste materials of any kind outside on private or public real property. This thirty (30) day period is considered to be a reasonable time to allow for the removal and disposition of junk, garbage, litter or waste materials of any kind.

Section 2. Territory Affected

This local law shall be applicable to all territory within the Town of Ischua.

Section 3. Definitions

As used in this local law, the following terms have the meaning indicated:

AGRICULTURAL MACHINERY: Machinery used for agricultural purposes, including farming, production of field crops, dairying, pasturage, horticulture, floriculture, agriculture, aquaculture, viticulture, production of maple sap, tree farms, mushroom farms, and animal and poultry husbandry. Such machinery includes that used for packing, treating, or storing agricultural products (i.e. a milk holding tank). Agricultural machinery does not include the machinery used for a commercial slaughterhouse, but does include machinery used for deer processing. Tractors are understood to be agricultural machinery.

ANTIQUE AGRICULTURAL MACHINERY: Agricultural machinery over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

JUNK AGRICULTURAL MACHINERY: Any agricultural machinery, which meets the following conditions:

- a.) It is abandoned, wrecked, or partly dismantled; or
- b.) It can no longer be used as the manufacturer intended.

JUNK AGRICULTURAL MACHINERY PARTS: Parts, whether useable or not, in whole or in part, or waste material, which are derived from agricultural machinery.

ENFORCEMENT OFFICER: The Code Enforcement Officer, or any police or peace officer of the State of New York, Deputy Sheriff or any person appointed by the Town Board to enforce provisions of this law.

GARBAGE: Discarded useless or rejected matter.

JUNK: One or more of the following items: junk appliance, junk furniture, junk mobile home, junk motor vehicles, parts of vehicles or litter and debris, junk agricultural machinery, junk trailers, junk other motorized machinery, and waste material.

JUNK APPLIANCE: Any stove, washing machine, dryer, freezer, refrigerator, air conditioner, television, or other household device, or equipment which is abandoned, junked, discarded, or wholly, or partly dismantled.

JUNK FURNITURE: Abandoned, discarded, or irreparable damaged pieces of indoor furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers, and like items.

LITTER AND DEBRIS: Ordinary household or commercial trash such as paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone, or other building materials no longer intended, or in condition for ordinary use; and any and all tangible personal property no longer on condition for ordinary and customary use.

MOBILE HOME: A single family dwelling that is built in an off-site manufacturing facility for installation or assembly at a building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. "Mobile home" does not include a trailer.

JUNK MOBILE HOME: Any mobile home which meets the following conditions:

- a. The electrical service is disconnected or terminated; and
- b. It is abandoned as a dwelling unit; and
- c. It is no longer able to be used as the manufacturer intended; or
- d. It can no longer fit for human habitation and has been condemned.

MOTOR VEHICLE: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

JUNK MOTOR VEHICLE: Any motor vehicle, which meets the followign conditions:

- a. It is unregistered;
- b. It is abandoned, wrecked, or partly dismantled;
- c. It is not in condition for legal use upon the public highway; and
- d. It can no longer be used as the manufacturer intended.

ANTIQUE MOTOR VEHICLE: A motor vehicle over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

OTHER MOTORIZED MACHINERY: All vehicles propelled or drawn by power other than muscular power originally intended for use outside of and off of public highways. This includes, but is not limited to, lawn mowers, lawn tractors, snow mobiles, and all terrain vehicles (A.T.V.s).

JUNK OTHER MOTORIZED MACHINERY: Any other motorized machinery, as defined in this section, which meets the following conditions:

- a.) It is unregistered; and/or
- b.) It is abandoned, wrecked or partly dismantled; and
- c.) It can no longer be used as the manufacturer intended.

ANTIQUE OTHER MOTORIZED MACHINERY: Other motorized machinery, as defined elsewhere in this section, which is over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with manufacturer's specifications.

TRAILER: A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up. A self-propelled recreational vehicle shall also be construed to be a trailer. A trailer is not a mobile home or a manufactured home. This definition includes motor homes, R.V.'s, truck campers, camping trailers, and overnight trailers.

JUNK TRAILER: Any trailer which meets the following conditions

- a.) The electrical service is disconnected or terminated;
- b.) It is abandoned as a dwelling unit; and
- c.) It is no longer able to be used as the manufacturer intended; or
- d.) It is no longer fit for human habitation and has been condemned.

WASTE: An unusable or unwanted substance of material, such as waste product, garbage, and trash, which is regarded or discarded as worthless or useless.

Section 4: Prohibitions and Exclusions

No person shall deposit, place, store, or abandon on any real property, or permit, cause, or consent to be deposited, placed, stored, or abandoned on any real property owned, or occupied as a tenant by such person, junk agricultural machinery, junk agricultural machinery parts, junk mobile homes, junk motor vehicles, junk motor vehicle parts, junk other motorized machinery and/or junk trailers for a period of more than thirty (30) days after receipt by such person of the notice prescribed by Section 6 unless such vehicle is completely enclosed in a garage or other similar structure.

Exclusions: The following conditions are hereby excluded from the definition of a junk motor vehicle, junk agricultural machinery, and junk other motorized vehicle:

- A.) Agricultural machinery, including tractors, where such machinery is actively used. Agricultural machinery kept for parts shall be kept in a location not visible from any road, street or highway.
- B.) Antique motor vehicle, antique agricultural machinery, or antique other motorized machinery, which is being restored. Restoration shall be done in a location not visible from any road, street, or highway. Restoration may last a reasonable period, no more than two years.

- C.) Motor vehicle, agricultural machinery, or other motorized machinery for sale. No more than two (2) motor vehicles, or two (2) agricultural machines, or two (2) other motorized vehicles can be for sale at any one time. The vehicle shall be set back from the road so as not to create a visibility hazard.

Section 5 Deposit of Litter and Waste Material Prohibited

No person shall deposit, store, accumulate or abandon upon any real property, Town property or highway within the Town, nor cause consent, or permit to be deposited, stored, accumulate or abandon upon any real property owned, or occupied as a tenant, by such person outside of an enclosed structure or a securely covered garbage or trash container, any junk, rubbish, garbage, litter, refuse or waste matter or material of any kind, or parts and components of a vehicle, for more than thirty (30) days after receipt by such person of the notice prescribed by Section 6.

Section 6 Notice (To Comply)

When it has been determined that a violation of this local law exists, written notice shall be served on the occupant or owner of the property, or on the owner of the vehicle, or on both such persons, directing the removal of the property violating this law within thirty (30) days after service of notice.

The notice shall be served by one of the following methods:

- A. Personal Service: Personal service upon a natural person shall be made by delivering the written notice to the person being served. The server shall be a person of 18 years or older, who is authorized by the town. The server shall sign an affidavit attesting to the date, time, and description of person being served (including, but not limited to, approximate age, approximate height, weight, sex, race, hair color, glasses, color of eyes, and other identifying features), address or a description where the service occurred, manner of service, and what papers were served. The service must be made by an authorized person and in an authorized manner. Service is complete upon the handing of the notice to the person. Service of the notice may be made upon a person of suitable age or discretion at the property of the person to be served.
- B. Certified Mail: Service by certified mail, return receipt requested, addressed to the last known address of the property, or vehicle owner, or occupant. If said certified mail is refused or returned, service shall be made by mailing a copy of the notice by first class mail to the address of the property owner in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Service shall be deemed complete upon depositing the notice in an official

depository of the United States Postal Service within the State of New York.

Section 7 Extension

Upon written application of the owner or occupant showing reasonable cause, the Town Board may grant an extension of up to thirty (30) days for the owner or occupant to comply. Reasonable cause exists when the property owner can demonstrate good faith due diligence efforts in commencing the removal of the junk to the satisfaction of the Town Board. An extension granted by the Town Board may relieve the owner or occupant of the penalties prescribed in Section 10, at the discretion of the Town Board.

Section 8 Enforcement Officer

This local law may be enforced by the Code Enforcement Officer of the Town of Ischua, a Constable of the Town of Ischua, or by a peace, police officer or deputy sheriff with jurisdiction in the Town of Ischua.

Section 9 Violations

If the owner or occupant shall fail to comply may the requirements of this local law, the enforcement officer, as identified in Section 8, or the Town Board may institute enforcement procedures as follows:

- A. The enforcement officer is hereby authorized to issue an appearance ticket to such persons or persons pursuant to Section 150.20 of the Criminal Procedure Law requiring their appearance in the Justice Court to answer the charge of a violation of this law.
- B. The Town Board may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this local law. The requested relief in such action may include an order permitting the Town to remove and dispose of the material causing the violation. The expense thereof, including court costs and reasonable attorneys fees, shall be a charge against the affected property and, if unpaid, shall be included in the next annual tax levy against the property.

Section 10 Penalties

A person convicted of a violation of this local law shall be guilty of a violation punishable by a fine of a minimum of \$100.00 and a maximum of \$500.00 per violation. Each day that the violation continues constitutes a separate violation. Unpaid penalties shall be included in the next annual tax levy against the affected property.

Section 11 Severability

Should any part of this Local Law be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be restricted in its operation and effect to the part specifically determined to be invalid.

Section 12 Effective Date

This local law shall take effect upon filing thereof with the Secretary of State.

Local Law Filing

(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.

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

MAY 29 2007

☒ County

☐ City of County of Cattaraugus, Town of Ischua, NY

☒ Town

☐ Village

Local Law No. 2007-1 of the year 20 07

MISCELLANEOUS
& STATE RECORDS

A local law Providing for the Administration and Enforcement of the

(Insert Title)

NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

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

☒ County

☐ City of Cattaraugus County, TOWN OF ISCHUA, NY

as follows:

☒ Town

☐ Village

Revised two references in the last sentence in Section 15(c) from subdivision (2) of section 381 of the Executive Law to subdivision (2) of section 382 of the Executive Law

Revised definition of "inspector" (Section 2) from pursuant to subdivision (d) of section 4 of this local law to pursuant to subdivision (d) of section 3 of this local law

(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. 2007-1 of 20 07 of the (County)(City)(Town)(Village) of Cattaraugus County, Town of Ischua, NY was duly passed by the Ischua Town Board on May 8, 20 07, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 (County)(City)(Town)(Village) of was duly passed by the on 20, and was (approved)(not approved) (Name of Legislative Body) and was deemed duly adopted (repassed after disapproval) by the (Elective Chief Executive Officer*) 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 (County)(City)(Town)(Village) of was duly passed by the on 20, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the on 20 (Elective Chief Executive Officer*)

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 (County)(City)(Town)(Village) of was duly passed by the on 20, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the on 20. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20, in accordance with the applicable provisions of law. (Elective Chief Executive Officer*)

* 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, designated as local law No. _____ of 20 _____ of the City 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 _____ State of New York, having been submitted to the electors at 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 _____, above.

Kelle Brink Town Clerk
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: *May 8, 2007*

(Seal)

(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 Cattaraugus

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.

Mark A. Lough
Theresa M. Lough
Harriet E. Emmons
Jean A. Curran

Signature
Supervisor
Title

Mark A. Lough

County

City of

Town

Village

County of Cattaraugus, Town of Ischua, NY

Date: *May 8, 2007*

ADMITTED IN
NEW YORK, MARYLAND AND
THE DISTRICT OF COLUMBIA

JAMES I. MCAULEY
ATTORNEY AT LAW
FOUR SOUTH MAIN STREET
FRANKLINVILLE, NEW YORK 14737

(716) 676-5524
FAX (716) 676-3541

February 12, 2013

Hiscock & Barclay
Attention: Andrew J. Leja, Esq.
1 Park Place
300 South State Street
Syracuse, NY 13202

**RE: NIAGRA MOHAWK POWER CORP – TOWN OF ISCHUA LAWS AND
ORDINANCES, HUMPHREY SUBSTATION PROJECT**

Dear Andy:

I am enclosing the following Local Laws and Ordinances:

March 6, 1973, Local Ordinance Regulating Automobile Junk Yards

1-1980, A Local Law Providing for Written Notice to the Town Board of the Town of Ischua and to the Town Superintendent of Highways of the Town of Ischua with regard to defective and/or snow or ice conditions of highways and/or any other property owned by the Town of Ischua or any of its Improvement Districts

1-1986, A Local Law Providing for the Administration and Enforcement of the New York State Fire Prevention and Building Code

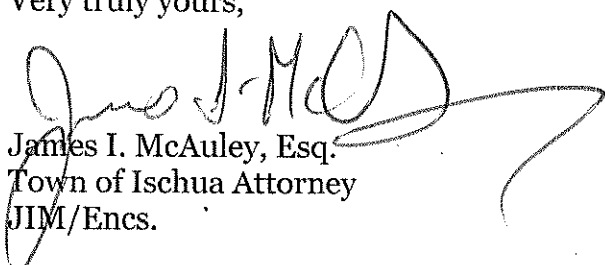
1-1990, A Local Law Regulating Solid and Liquid Waste in the Town of Ischua

2-2007, A Local Law Regulating the Outdoor Storage of Junk Vehicles & Waste Materials in the Town of Ischua

1-2008, A Local Law for the Administration and Enforcement of New York State Uniform Fire Prevention Building Code

This is everything – there was an attempt to pass a zoning law in Ischua around the year 2000, but it raised so much public ire that the Supervisor quit!

Very truly yours,


James I. McAuley, Esq.
Town of Ischua Attorney
JIM/Encs.

3/6/73

ORDINANCE REGULATING AUTOMOBILE JUNKYARDS

BE IT RESOLVED by the Town Board of the Town of Ischua, County of Cattaraugus and State of New York, as follows:

WHEREAS, it has been determined that a clean, wholesome, and attractive environment is important to the health and safety of the inhabitants of the Town of Ischua, and , it is further determined, that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of the residents of the Town of Ischua, necessitating the regulation, restraint and elimination thereof, and,

WHEREAS, it has also been determined and recognized that the maintenance of junkyards as hereinafter defined is a useful and necessary business and ought to be encouraged when not in conflict with the express provisions of this ordinance, now, therefore, it is resolved and ordained as follows:

SECTION 1. DEFINITION

A junk yard shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or second-hand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of re-sale of used parts therefrom, or the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which, taken together, equal in bulk two or more such vehicles provided,

however, the term junkyard shall not be construed to mean an establishment having facilities for processing iron, steel or non-ferrous scrap and whose principal produce is scrap iron, steel or non-ferrous scrap for sale for remelting purposes only.

B. A motor vehicle shall mean all vehicles impelled or drawn by power other than muscular power originally intended for use on public highways.

SECTION 2. No person shall operate, establish or maintain a junk yard until he

1. Has obtained a license to operate a junk yard business and
2. Has obtained a certificate of approval for the location of such junk yard from the Town Board.

SECTION 3. PROCEDURE

A. Application for the license and the certificate of approved location shall be made in writing to the Town Board and shall contain a description of the land to be included within the junk yard.

B. A hearing on the application shall be held within the Town of Ischua not less than two (2) nor more than four (4) weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant by certified mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having general circulation within the Town of Ischua, which publication shall not be less than seven (7) days before the date of the hearing.

C. At the time and place set for the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate,

establish or maintain the junk yard. Considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard, to any record of convictions for any type of larceny or receiving stolen goods, and to any other matter within the purposes of this ordinance.

D. At the time and place set for the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon the same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of the surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offenses or unhealthy odors or smoke, or of other causes.

E. At the hearing regarding the location of the junk yard, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued welfare of its residents by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Town Board may consider collectively the type of road servicing to the junk yard or from which the junk yard may be seen, the natural or artificial barriers protecting the junk yard from view, the proximity of the proposed junk yard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk yard.

F. After the hearing the Town Board, within two (2) weeks, shall make a finding as to whether or not the application shall be granted, giving notice of its finding to the applicant by certified mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April 1st. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this ordinance are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or other receiving of stolen goods.

SECTION 4. LICENSE FEES

The annual license fees shall be TWENTY FIVE (\$25.00) DOLLARS to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. In addition, the applicant shall pay to the Town Clerk the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto.

SECTION 5. FENCING

Before use, a new junk yard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agents shall be within. Such fence shall be erected not nearer than fifty (50') feet of the public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be

Section 1. No civil action shall be maintained against the Town or the Town Superintendent of Highways or against any improvement district of the Town, for damages or injuries to person or property sustained by reason of any highway, bridge, culvert, sidewalk, crosswalk or any other property owned by the Town, or any property owned by any improvement district, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of the defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, sidewalk, crosswalk or any other property owned by the Town, or any property of any improvement district, was actually given to the Town Clerk or the Town Superintendent of Highways, and that there was a failure or neglect within a reasonable time after giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries sustained by person or property solely in consequence of the existence of snow or ice upon any highway, bridge, culvert, sidewalk, crosswalk or any other property owned by the Town or any property owned by any improvement district in the Town, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Town Superintendent of Highways, and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

Section 2. The Town Superintendent of Highways shall transmit in writing to the Town Clerk within ten (10) days after the receipt thereof of all written notices received by him pursuant to this Local Law.

Section 3. The Town Clerk shall keep an indexed record, in a separate book, of all written notices which she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any Town Highway, bridge, culvert, sidewalk, crosswalk or any other property of the Town or any property of any improvement district, which records shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom said notice is received. The record of each notice shall be preserved for a period of five (5) years after the date it is received.

Section 4. The Town Clerk shall within ten (10) days after receipt thereof, transmit in writing to the Town Superintendent of Highways all written notices received by her pursuant to this Local Law, after recording said notices pursuant to §1 of this Local Law.

Section 5. Nothing contained in this Local Law shall be held to repeal or modify or waive any existing requirements or statute of limitations which is applicable to these classes of actions, but on the contrary shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence or comparative negligence, nor to impose upon the Town and/or any of its improvement districts, any greater duty or obligation than that it shall keep its streets, sidewalks and other public places in a reasonably safe condition for public use and travel.

Section 6. If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be finally adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of any such section would have been adopted had any such provision not been included.

Section 7. This Local Law shall take effect immediately upon the filing thereof in the offices of the Secretary of State and of the Comptroller of the State of New York.

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

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1980

County

City of Ischua

Town of Ischua

Village of Ischua

was duly passed by the

Town Board

(Name of Legislative Body)

on July 9th, 1980 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1980

County

City of Ischua

Town of Ischua

Village of Ischua

was duly passed by the

(Name of Legislative Body)

on 1980 not disapproved

and was approved

by the

Elective Chief Executive Officer *

and was deemed duly adopted on 1980 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. 1 of 1980

County

City of Ischua

Town of Ischua

Village of Ischua

was duly passed by the

(Name of Legislative Body)

on 1980 not disapproved

and was approved

by the

Elective Chief Executive Officer *

on 1980. Such local law was submitted to the people by reason of a mandatory referendum and received the affirmative vote of a majority of the qualified electors voting thereon at the special election held on 1980 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1980

County

City of Ischua

Town of Ischua

Village of Ischua

was duly passed by the

(Name of Legislative Body)

On

1980 not disapproved

and was approved

by the

Elective Chief Executive Officer *

on

1980. Such local law being subject to a permissive referendum and no valid petition requesting such referendum having been filed, said local law was deemed duly adopted on 1980 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____, having been submitted to referendum pursuant to the provisions of § 36 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 _____ 19____ 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 19____ of the County of _____, State of New York, having been submitted to the Electors at the General Election of November _____ 19____ 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 of 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 _____ above.

Ernest Sparker

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

Town Clerk

Date: July 10th, 1980

(Seal)

(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 CATTARAUGUS

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.

James J. Munro
Town Attorney

Date: July 10th, 1980

County
City of Tschua
Town
Village

Date: 4/22/86

Dear Sir/Madam:

Please be advised that Local Law(s) No. 1
of 1986 of the Town of Tschua
was/were received and filed on 4/18/86

Additional forms for filing local laws with this office will be forwarded upon request.

NYS Department of State
Bureau of State Records

383602-004 (12/82)

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

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

~~County~~
~~City~~ of ISCHUA
Town
~~Village~~

Local Law No. 1 of the year 1986

"A local law PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE FIRE PREVENTION AND (Insert title) BUILDING CODE"

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

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

(SEE ATTACHED SHEETS)

Section 1. APPLICABILITY

This Local Law shall provide the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Town of Ischua, New York, and shall establish powers, duties and responsibilities in connection therewith.

Section 2. ADMINISTRATION

There is hereby designated in the Town of Ischua a public official to be known as the Building inspector, who shall be appointed by the Supervisor with the approval of the Town Board at a compensation to be fixed by it, to administer and enforce the New York State Uniform Fire Prevention and Building Code within the Town of Ischua.

Section 3. RULES AND REGULATIONS

A. The Town Board of the Town of Ischua shall promulgate rules and regulations to secure the intent and purpose of the local law and a proper enforcement of the laws, ordinances, rules and regulations governing building plans, specifications, construction, alterations or repairs.

B. The Town Board of the Town of Ischua shall publish all rules and regulations at least thirty (30) days prior to the effective date thereof in a newspaper of general circulation within the Town of Ischua.

Section 4. DUTIES OF INSPECTOR

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

B. The inspector shall receive applications for the erection and alteration of buildings and structures or parts thereof and shall examine the premises for which such application has been received, plans approved, or such permits have been issued for the purpose of insuring compliance with the laws, ordinances, rules and regulations governing building construction or alteration.

C. The inspector shall issue in writing to the municipality all appropriate notices or orders to remove all illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations, and such notices or orders which may be served upon the property owner or his agent personally by the Town of Ischua or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction or alteration of such building, and by posting the same upon a conspicuous place of the premises to which the notice applies. He shall make all inspections which are necessary or proper for the carrying out of his duties.

D. Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules or regulations covering building construction or alteration, he may in his discretion, accept and rely upon a written report of tests in the field by experienced, professional persons or by an accredited authoritative testing laboratory or service and inspection bureaus or agencies.

E. The building inspector may issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code which such certificate shall certify that the building conforms to the requirements of the State Uniform Code.

Section 5. BUILDING PERMITS

A. No person, firm or corporation shall commence the erection, construction, alteration, enlargement, improvement, conversion, or change in the nature of the occupancy of any building or structure, including mobile home placement, or cause the same to be done, without first obtaining a separate building permit from the building inspector for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature; alterations to existing buildings, provided that the alterations;

1. Cost less than \$3,000.00;
2. Do not materially effect structural features;
3. Do not effect fire safety features such as smoke detectors, sprinklers, required fire separations and exists;
4. Do not involve the installation or extension of electrical systems;
5. Do not include the installation of solid fuel burning heating appliances and associated chimneys and flues;

and small non-commercial structures not intended for use by one or more persons as quarters for living, sleeping, eating or cooking, for example, a small storage building.

B. Application for a building permit shall be made to the building inspector on forms provided by him and shall contain the following information:

1. A description of the land on which the proposed work is to be done;
2. A statement of the use or occupancy of all parts of the land and the proposed building or structure;
3. The valuation of the proposed work;
4. The signature of the applicant or agent;
5. The full name and address of the owner and of the applicant, and the full names and addresses of their responsible officers if any of them are corporations, and the name and address of the owner's authorized agent, if any;
6. A brief description of the work;
7. Such other information as may reasonably be required by the inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.

C. The application shall be made by the owner or by his agent, architect, engineer, or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application, and the affidavit shall contain a statement that the owner authorizes the applicant to permit the inspector to enter upon the premises without a search warrant.

D. Each application for a building permit shall be accompanied by duplicate copies of specifications, including a plot plan drawn to scale, showing location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to

be performed and the materials to be incorporated, distance from lot lines, walks, alleys, and, where required by the inspector, details of structural, mechanical, and electrical work including computations, stress diagrams and other essential data; plans and specifications, when required, shall bear the signature of the person responsible for the design and drawings.

E. Amendments, if any, to the application or the plans or specifications accompanying the same shall be filed with the building inspector and with the Town Clerk of the Town of Ischua and approval shall be received from the inspector prior to the commencement of such change of work.

F. The inspector shall examine or cause to be examined all applications for permits and the documents filed therewith. He shall then approve or disapprove the application.

G. Upon approval of the application and upon receipt of the fees therefor, the building inspector shall issue a building permit to the applicant upon forms prescribed by him.

H. If the application together with other documents filed therewith describe work which does not conform to all the requirements of the applicable building regulations, the inspector shall disapprove the same. Upon request of the applicant, the inspector shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

I. A building permit shall be effective to authorize the commencing of work for a period of six (6) months after the date of its issuance. For good causes the inspector may allow a maximum of two extensions for periods not exceeding three (3) months each. All work shall conform to the approved application, and shall be in accordance with the applicable laws, ordinances, rules and regulations.

J. A building permit shall be prominently displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.

K. The inspector may revoke a permit in the following instances:

1. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, or other documents on which the building permit was based;

2. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law;

3. Where he finds that the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application;

4. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the inspector.

Section 6. INSPECTIONS

A. Before issuing a certificate of occupancy, the building inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, alter, enlarge, repair or change the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the building inspector a record of all such inspections and examinations together with a record of findings of violations of law.

B. Existing building not subject to inspection under subdivision (A) of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.

C. If entrance to make an inspection is refused or cannot be obtained the Town Board of the Town of Ischua after being notified by the inspector of the situation, may apply for a warrant to make an inspection to any court of competent jurisdiction.

D. The periodic inspections to meet compliance with the above mentioned provisions shall be agreed upon between the Town Board and the building inspector.

Section 7. VIOLATIONS

In accordance with Section 383 of Article 18 of the Executive Law of the State of New York:

A. It shall be unlawful for any person firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of law, as well as any rule or regulations promulgated by the Town of Ischua in accordance with applicable laws, or fail in any manner to comply with a notice or directive or order of the Town of Ischua or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

B. Any person who shall fail to comply with a written order within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any person taking part or assisting in the construction or use of the building who shall knowingly violate any of the applicable provisions of law, or any lawful order, notice, directive, permit or certificate of the inspector made thereunder shall be punishable by a fine or imprisonment or both. Each week that a violation continues shall be deemed a separate offense.

C. Whenever the building inspector finds that there has been a violation of the State Uniform Code, this local law, or any rule or regulation adopted pursuant to this local law, a violation order shall be issued to the person or persons responsible by the Town of Ischua or by the building inspector.

D. Violation orders shall be in writing; shall identify the property or premises; shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance; and shall state the time within which an appeal may be taken.

E. Violation orders may be served by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.

F. In case the owner, lessor, occupant or the agent of any of them shall fail, neglect, or refuse to remove, eliminate or abate the violation within the time specified, legal action may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violations of any provision of the State Uniform Code or this local law, or any rule or regulation promulgated hereunder.

Section 8. PENALTIES

A. Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this local law, rules or regulations adopted pursuant to this local law, or a violation order shall be deemed a violation and the violator shall be liable for a fine of not less than ONE HUNDRED (\$100.00) DOLLARS or imprisonment not to exceed fifteen (15) days, or both, and each week such violation continues shall constitute a separate violation.

B. An action or proceeding in the name of the Town of Ischua may be

commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this local law, any rules or regulations adopted pursuant to this local law, or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

C. Except as otherwise provided by law, such violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.

Section 9. RIGHT OF ENTRY

The inspector, upon showing proper credentials and in discharge of his duties, shall be permitted to enter upon any building, structure or premises without interference, during reasonable working hours.

Section 10. FEES

A. Any duly appointed inspector who is hereby authorized by the Town Board of the Town of Ischua to make inspections and reinspections of all buildings and structures under construction, subject to the provisions of the New York State Fire Prevention and Building Code, and to approve and disapprove the same, will do so at no cost or expense to the Town of Ischua.

B. A copy of the fee schedule will be kept on file with the Town Clerk and a copy will be part of the application package.

C. When applicable the cost for professional engineers approval will be assumed by the applicant.

D. In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty (50%) percent of the fee paid, provided no work has commenced. If work has been started and the application is not approved the fees paid shall not be refunded.

E. The cost estimate for all existing buildings or structures subject to periodic fire prevention inspections will be reviewed with the Town Board of the Town of Ischua on an annual basis.

F. Payment schedule for the fees addressed above can be remitted quarterly, semi-annually, or annually as agreed upon.

Section 11. STOP ORDERS

Whenever the inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provision of the applicable building laws or ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe or dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work and to suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission for the construction of such building.

Section 12. CERTIFICATE OF OCCUPANCY

A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the building inspector.

B. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.

C. No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.

D. The owner or his agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the municipality an affidavit of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the construction and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with the approved plans and as erected complies with the law governing building construction or has a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.

E. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable laws, ordinances, rules or regulations, and also in accordance with the application, the building inspector shall issue a certificate of occupancy upon forms provided by him, if it is found that the proposed work has not been properly completed, the building inspector shall not issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

F. A certificate of occupancy shall be issued where appropriate within thirty (30) days after written application therefor is made.

G. A certificate of occupancy shall certify that the work has been completed, and the proposed use and occupancy is in conformity with the provisions of the applicable laws, ordinances, rules and regulations, and shall specify the use or uses and the extent therefor to which the building or structure or its several parts may be put to use.

H. Upon request, the building inspector may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portions as have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good causes a building inspector may allow a maximum of two extensions for a period not exceeding three (3) months each.

Section 13. REVIEW BOARD

A. A regional Board of Review for the New York State Uniform Fire Prevention and Building Code has been established pursuant to Title 19, Part 440 of the New York Code of Rules and Regulations for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variations shall be consistent with the spirit of the Code and shall not be inconsistent with Subdivision 2, Section 391 of the Executive Law.

B. The composition and the powers and duties of the Board of Review shall be as set forth in Part 440 of Title 19 of the New York Code of Rules and Regulations, a copy of which and any amendments thereto shall

be on file in the office of the Town Clerk.

Section 14. EFFECTIVE DATE

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

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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.1..... of 1986...
~~County~~
of the ~~City~~ of Ischua was duly passed by the Town Board
~~Town~~ (Name of Legislative Body)
~~Village~~
on April 14 1986 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on 19....., 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 19.....
County
of the City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the appli-
annual
cable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the on
Town (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the on
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19....., 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

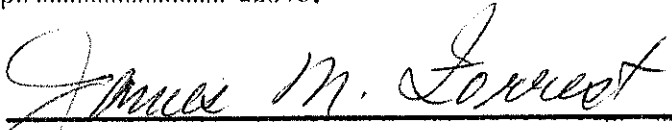
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of ~~§ 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 19 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 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, 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 of 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
Town Clerk

Date: April 14, 1986

(Seal)

(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 ...CATTARAUGUS.....

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
..... Town Attorney
.....
Title

Date: April 16, 1986

~~County~~
~~City~~ of Ischua
~~Town~~
~~Village~~

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

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

County
~~City~~
Town of ISCHUA
~~Village~~

Local Law No. 1 of the year 1990

"A local law . . . REGULATING SOLID AND LIQUID WASTE DISPOSAL IN THE TOWN
OF ISCHUA" (Insert title)

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

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

(SEE ATTACHED SHEETS)

I. TITLE

This Local Law shall be known as the "Solid and Liquid Waste Disposal Law of the Town of Ischua."

II. INTRODUCTORY MATTERS

A. Findings of the Town Board

The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from solid and liquid waste disposal facilities such as landfills; ash fills; resource recovery or incinerator facilities. Among other factors, the Board finds as follows:

1. The inability of geological science to precisely ascertain the existence and flow of groundwaters and to map subterranean geology makes it impossible to determine the extent to which solid and liquid waste disposal may, or may not be, contaminating water supplies.

2. Moreover, the accumulated extent of hazardous waste disposal in solid and liquid waste disposal facilities cannot be measured or accurately determined because of state and federal regulations permitting disposal of residential or small user quantities of hazardous wastes.

3. The Town's needs for solid and liquid waste disposal are more than met by the Cattaraugus County Department of Public Works.

4. Future correction of pollution from sanitary landfills may be very expensive or impossible to achieve. Ground water pollution threatens the health and livelihood of Town residents who rely exclusively on ground water for human consumption and agricultural purposes.

5. The Town's existing community character will be adversely and unalterably impacted by the location and operation of any further solid waste management facilities within the Town.

6. Substantial scientific opinion questions the environmental and health effects of both "resource recovery" facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such facilities. Recent NYSDEC and federal Environmental Protection Agency studies indicate that such ash often demonstrates the characteristics of hazardous waste by the

leaching of heavy metals in toxic amounts.

7. Solid and liquid waste regulation under the New York Environmental Conservation Law (ECL) is inadequate to relieve the foregoing concerns.

B. Purposes of Local Law

The Town Board intends by this Local Law:

1. To restrict the operation of solid and liquid waste management facilities within the Town in order to preserve and promote a clean, wholesome, and attractive environment for the community.

2. To protect the residents of the Town from the effects of solid and liquid waste disposal, including

a. unaesthetic results, including odors, blowing litter, increased traffic, dust, and noise, and

b. deterioration in property values associated with adjacent or proximate disposal operation that may interfere with the orderly development of properties; and

c. threats to public health or the environment by contamination of air, land, surface waters, or groundwaters.

3. To exercise the Town's police powers under the Municipal Home Rule Law and Sections 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to restrict solid waste disposal operations within the Town that might otherwise be permitted under the Environmental Conservation Law (ECL). Section 27-0711 of the ECL specifically recognizes and authorizes the right and authority of a town to legislate stricter controls on solid and liquid waste disposal operations than state law requires.

III. DEFINITIONS

The following definitions shall apply to the corresponding words:

A. COMMERCIAL HAZARDOUS WASTE, TREATMENT, STORAGE OR DISPOSAL FACILITY - Any facility that solicits or accepts hazardous waste from third parties for the purpose of treating, storing or disposing of hazardous wastes.

B. HAZARDOUS WASTE - Waste meeting the definition set forth in 6 NYCRR Part 371.

C. 6 NYCRR - Title 6 of the New York Code, Rules and Regulations.

D. SOLID AND LIQUID WASTE MANAGEMENT FACILITY - any facility employed beyond the initial solid and liquid waste collection process and managing solid and liquid waste including, but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; processing facilities; landfills; ashfills; disposal facilities; solid waste incinerators; recycling facilities; and waste tire storage facilities.

E. SOLID WASTE - all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial, commercial and household waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue and construction and demolition debris. In addition:

1. a material is "discarded" if it is abandoned by being:

a. disposed of:

b. burned or incinerated, including being burned as a fuel for the purpose of recovering useable energy; or

c. accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of.

2. A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water.

F. INDUSTRIAL WASTE - any liquid, gaseous, solid, or waste substance or combination thereof resulting from any process of industry, manufacturing, trade, or business. It shall include but not be limited to, pesticides, lime, acids, chemicals, petroleum products, tar, and dye-stuffs.

G. COMMERCIAL WASTE - solid waste generated by stores, offices, warehouses and restaurants.

H. HOUSEHOLD WASTE - solid waste from residential sources.

I. CONSTRUCTION AND DEMOLITION DEBRIS - uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolition of structures, and from road building and land clearing. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, and metals that are incidental to any of the above.

J. LANDFILL, or SANITARY LANDFILL - any disposal area for solid wastes in or upon the ground.

K. ASHFILL - any landfill designed to accept ash, ash residue, bottom ash, combined ash, or fly ash.

L. ASH RESIDUE - all the solid residue and any entrained liquids resulting from the from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash, and the solid residue of any air pollution control device used at a solid waste incinerator.

M. BOTTOM ASH - the ash residue remaining after combustion of solid waste in a solid waste incinerator that is discharged through and from the grates or stoker.

N. COMBINED ASH - the mixture of bottom ash and fly ash.

O. FLY ASH - the ash residue from the combustion of solid waste that is entrained in the gas stream of the solid waste incinerator,

which includes, but is not limited to, particulates, boiler ash, cinders, soot, and solid waste from air pollution control equipment.

P. SOLID WASTE INCINERATOR - an incinerator in which household waste and non-hazardous industrial/commercial waste are combusted for energy.

Q. PERSON - any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political subdivision of the state, government agency, municipality, estate, trust, or any other legal entity whatsoever.

R. RECYCLING - means the reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

S. LIQUID WASTE - any untreated domestic sewage or septage, petroleum waste products, radioactive materials, free liquids, infectious wastes, liquid leachate, hazardous wastes, and any solid wastes in liquid form.

IV. EXEMPTIONS

The following are not subject to this Local Law:

A. Any disposal of manure in normal farming operations;

B. Any operation or facility which receives or collects only nonputrescible, nonhazardous solid waste and beneficially uses or reuses or legitimately recycles or reclaims such waste. Such exempt facilities would include citizen recycling programs, municipal recycling programs, municipal recycling operations, and bona-fide salvage dealers.

None of the above exemptions shall be construed to permit any activity contrary to existing building codes or other laws or as exempting persons engaging in any such activities from obtaining any other permits required by state or local law.

V. PROHIBITED ACTIVITY

A. No commercial hazardous waste treatment, storage, or disposal facility shall hereafter be permitted to commence operation or to expand operations with the Town.

B. No solid or liquid waste management facility (landfill, ashfill, solid waste incinerator, etc.) shall hereafter be permitted to commence operation or to continue operation within the Town.

C. Waivers from these prohibitions may be granted by the Town Board in its discretion, and on such conditions as it may reasonably establish, only for facilities located on an applicant's premises and serving only the applicant's waste products generated within the Town. Persons who believe they qualify for such a waiver shall apply to the Town Board and provide such information, proof of financial security, and such other documents as the Town Board may reasonably require. No person who qualifies for and receives this waiver shall accept, handle, import, transport, or handle any waste created or generated by any other party or from any location outside of the Town.

VI. ENFORCEMENT

A. Upon a violation of this Local Law by any person, the Town Board shall be entitled to obtain an injunction against such persons prohibiting further violations and, in addition, ordering that any solid or liquid waste disposed of in violation of hereof be removed from the Town, ordering that any land on which solid waste is disposed of in violation of this Local Law be restored as nearly as possible to its former condition by the removal of any waste illegally disposed of and by such other restorative measures as are available, and further ordering that the operator remedy any effects of the violation on surrounding or adjacent properties or resources, including, without limitation, air, crops, water bodies, wetlands, and groundwaters.

B. For any violation of this Local Law the violator shall be subject to a civil penalty of up to \$25,000 for each violation. Each day of non-compliance shall be a separate and distinct violation. The Town shall be entitled to recover such fines in an action at law in any court of competent jurisdiction.

C. Upon an action for injunctive relief or for a civil penalty hereunder, the Town shall be entitled to a further award and judgment for its costs, expenses, disbursements, and reasonable attorneys' fees in connection therewith.

D. If any person who obtained a waiver pursuant to Section V.C. violates any term or condition of the waiver then the Town, in addition to A, B, and C above, shall also be entitled to revoke the waiver.

VII. MISCELLANEOUS

A. This Local Law shall be deemed to supersede and repeal any other ordinances and local laws to the extent inconsistent therewith.

B. If any part of this Local Law shall be judicially declared to be invalid, void, unconstitutional, or unenforceable, all unaffected provisions hereof shall survive such declaration, and this Local Law shall remain in full force and effect as if the invalidated portions had not been enacted.

C. Nothing herein shall be deemed to be a waiver of or restriction upon any rights and powers available to the Town to further regulate the subject matter of this Local Law.

VIII. EFFECTIVE DATE

This Local Law shall become effective when it is filed with the Secretary of State pursuant to the Municipal Home Rule Law.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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. ...1.... of 19 90....
County
City
of the Town of ... ISCHUA was duly passed by the TOWN BOARD
Village (Name of Legislative Body)
on April 9 19 90 in accordance with the applicable provisions of law.

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

~~I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19 not disapproved
and was approved by the Elective Chief Executive Officer*
repassed after disapproval
and was deemed duly adopted on 19, 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 19
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19 not disapproved
and was approved by the Elective Chief Executive Officer*
repassed after disapproval
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive
thereon at the general
special election held on 19, in accordance with the applicable
annual provisions of law.~~

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

~~I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19 not disapproved
and was approved by the Elective Chief Executive Officer*
repassed after disapproval
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19
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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

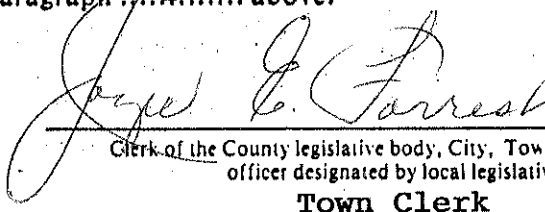
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of §36 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 election held on 19..... 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 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., 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 of 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 above.


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

Date: April 9, 1990

(Seal)

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

STATE OF NEW YORK
COUNTY OFCATTARAUGUS.....

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
TOWN ATTORNEY
.....
Title

Date: April 11, 1990

~~XXXXX~~
~~XXX~~ of ISCHUA
Town
~~XXXXX~~

Local Law Filing

(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.

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

JUL 18 2007

- ☐ County
☐ City of ISCHUA
☒ Town
☐ Village

MISCELLANEOUS
& STATE RECORDS

Local Law No. 2 of the year 20 07

A local law Regulating the Outdoor Storage of Junk Vehicles & Waste Materials in the Town of Ischua
(Insert Title)

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

- ☐ County
☐ City of ISCHUA as follows:
☒ Town
☐ Village

SEE ATTACHED SHEETS

(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 20 07 of the (County)(City)(Town)(Village) of Town of Ischua was duly passed by the Ischua Town Board on June 12 20 07, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) _____ and was deemed duly adopted (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) _____ on _____ 20 _____.
(Name of Legislative Body)
(repassed after disapproval) by the _____ (Elective Chief Executive Officer*)
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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) _____ on _____ 20 _____.
(Name of Legislative Body)
(repassed after disapproval) by the _____ (Elective Chief Executive Officer*)
Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 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.

6. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of
the City 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 _____ State of New York, having been submitted to the electors at 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.

Kelle Brisky
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date:

JUNE 12, 2007

(Seal)

(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 Cattaraugus

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.

James I. McAuley
Signature

James I. McAuley, Town of Ischua Attorney

Title

County

City of

Town of Ischua

Town

Village

Date:

JUNE 12, 2007

**A Local Law REGULATING THE OUTDOOR STORAGE OF JUNK
VEHICLES AND WASTE MATERIALS IN THE TOWN OF ISCHUA.**

Pursuant to Section 136 of the General Municipal Law and section 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Ischua, County of Cattaraugus, New York does enact the following Local Law:

SECTION 1. Legislative Intent

The accumulation, storage and abandonment of unusable motor vehicles and component parts thereof, and junk, garbage, litter, trash, refuse, debris, abandoned appliances and other waste materials on private and public real property within the Town of Ischua is hereby declared to be detrimental to the public health, welfare, and safety of the residents of the Town of Ischua, as well as aesthetically unattractive and detracts from the enjoyment of the environment by the said residents; tends to depreciate neighborhood property values and is an infringement on the enjoyment of their properties and homes by neighboring residents. One purpose of this local law is to prohibit the placement, storage or abandonment of vehicles which, are no longer intended, or in condition for legal use on the public highways. In order to accord owners of vehicles that are registered with the New York State Department of Motor Vehicles and which are damaged, or inoperable, a reasonable time to restore them into operating condition or to arrange for other disposition of them and in recognition of the fact that certain types of businesses necessitate the temporary parking of inoperable vehicles outside, the prohibition does not apply until the vehicle has been situate on the property in excess of six (6) months. However, the prohibition does not apply in regards to junk, garbage, litter, trash, refuse, debris, abandoned appliances, and other materials until such items have been situation on the property in excess of thirty (30) days. The Town Board specifically allows the following short term exemptions:

1. Lengthy absences from real property due to service in the United States Armed Forces;
2. Extended hospital stays; and
3. Up to six (6) months from the date of death of the fee owner of premises.

The further purpose of this law is to prohibit the placement or accumulation of junk, garbage, litter or waste materials of any kind outside on private or public real property. This thirty (30) day period is considered to be a reasonable time to allow for the removal and disposition of junk, garbage, litter or waste materials of any kind.

Section 2. Territory Affected

This local law shall be applicable to all territory within the Town of Ischua.

Section 3. Definitions

As used in this local law, the following terms have the meaning indicated:

AGRICULTURAL MACHINERY: Machinery used for agricultural purposes, including farming, production of field crops, dairying, pasturage, horticulture, floriculture, agriculture, aquaculture, viticulture, production of maple sap, tree farms, mushroom farms, and animal and poultry husbandry. Such machinery includes that used for packing, treating, or storing agricultural products (i.e. a milk holding tank). Agricultural machinery does not include the machinery used for a commercial slaughterhouse, but does include machinery used for deer processing. Tractors are understood to be agricultural machinery.

ANTIQUE AGRICULTURAL MACHINERY: Agricultural machinery over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

JUNK AGRICULTURAL MACHINERY: Any agricultural machinery, which meets the following conditions:

- a.) It is abandoned, wrecked, or partly dismantled; or
- b.) It can no longer be used as the manufacturer intended.

JUNK AGRICULTURAL MACHINERY PARTS: Parts, whether useable or not, in whole or in part, or waste material, which are derived from agricultural machinery.

ENFORCEMENT OFFICER: The Code Enforcement Officer, or any police or peace officer of the State of New York, Deputy Sheriff or any person appointed by the Town Board to enforce provisions of this law.

GARBAGE: Discarded useless or rejected matter.

JUNK: One or more of the following items: junk appliance, junk furniture, junk mobile home, junk motor vehicles, parts of vehicles or litter and debris, junk agricultural machinery, junk trailers, junk other motorized machinery, and waste material.

JUNK APPLIANCE: Any stove, washing machine, dryer, freezer, refrigerator, air conditioner, television, or other household device, or equipment which is abandoned, junked, discarded, or wholly, or partly dismantled.

JUNK FURNITURE: Abandoned, discarded, or irreparable damaged pieces of indoor furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers, and like items.

LITTER AND DEBRIS: Ordinary household or commercial trash such as paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone, or other building materials no longer intended, or in condition for ordinary use; and any and all tangible personal property no longer on condition for ordinary and customary use.

MOBILE HOME: A single family dwelling that is built in an off-site manufacturing facility for installation or assembly at a building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. "Mobile home" does not include a trailer.

JUNK MOBILE HOME: Any mobile home which meets the following conditions:

- a. The electrical service is disconnected or terminated; and
- b. It is abandoned as a dwelling unit; and
- c. It is no longer able to be used as the manufacturer intended; or
- d. It can no longer fit for human habitation and has been condemned.

MOTOR VEHICLE: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

JUNK MOTOR VEHICLE: Any motor vehicle, which meets the following conditions:

- a. It is unregistered;
- b. It is abandoned, wrecked, or partly dismantled;
- c. It is not in condition for legal use upon the public highway; and
- d. It can no longer be used as the manufacturer intended.

ANTIQUE MOTOR VEHICLE: A motor vehicle over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

OTHER MOTORIZED MACHINERY: All vehicles propelled or drawn by power other than muscular power originally intended for use outside of and off of public highways. This includes, but is not limited to, lawn mowers, lawn tractors, snow mobiles, and all terrain vehicles (A.T.V.s).

JUNK OTHER MOTORIZED MACHINERY: Any other motorized machinery, as defined in this section, which meets the following conditions:

- a.) It is unregistered; and/or
- b.) It is abandoned, wrecked or partly dismantled; and
- c.) It can no longer be used as the manufacturer intended.

ANTIQUE OTHER MOTORIZED MACHINERY: Other motorized machinery, as defined elsewhere in this section, which is over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with manufacturer's specifications.

TRAILER: A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up. A self-propelled recreational vehicle shall also be construed to be a trailer. A trailer is not a mobile home or a manufactured home. This definition includes motor homes, R.V.'s, truck campers, camping trailers, and overnight trailers.

JUNK TRAILER: Any trailer which meets the following conditions

- a.) The electrical service is disconnected or terminated;
- b.) It is abandoned as a dwelling unit; and
- c.) It is no longer able to be used as the manufacturer intended; or
- d.) It is no longer fit for human habitation and has been condemned.

WASTE: An unusable or unwanted substance of material, such as waste product, garbage, and trash, which is regarded or discarded as worthless or useless.

Section 4: Prohibitions and Exclusions

No person shall deposit, place, store, or abandon on any real property, or permit, cause, or consent to be deposited, placed, stored, or abandoned on any real property owned, or occupied as a tenant by such person, junk agricultural machinery, junk agricultural machinery parts, junk mobile homes, junk motor vehicles, junk motor vehicle parts, junk other motorized machinery and/or junk trailers for a period of more than thirty (30) days after receipt by such person of the notice prescribed by Section 6 unless such vehicle is completely enclosed in a garage or other similar structure.

Exclusions: The following conditions are hereby excluded from the definition of a junk motor vehicle, junk agricultural machinery, and junk other motorized vehicle:

- A.) Agricultural machinery, including tractors, where such machinery is actively used. Agricultural machinery kept for parts shall be kept in a location not visible from any road, street or highway.
- B.) Antique motor vehicle, antique agricultural machinery, or antique other motorized machinery, which is being restored. Restoration shall be done in a location not visible from any road, street, or highway. Restoration may last a reasonable period, no more than two years.

- C.) Motor vehicle, agricultural machinery, or other motorized machinery for sale. No more than two (2) motor vehicles, or two (2) agricultural machines, or two (2) other motorized vehicles can be for sale at any one time. The vehicle shall be set back from the road so as not to create a visibility hazard.

Section 5 Deposit of Litter and Waste Material Prohibited

No person shall deposit, store, accumulate or abandon upon any real property, Town property or highway within the Town, nor cause consent, or permit to be deposited, stored, accumulate or abandon upon any real property owned, or occupied as a tenant, by such person outside of an enclosed structure or a securely covered garbage or trash container, any junk, rubbish, garbage, litter, refuse or waste matter or material of any kind, or parts and components of a vehicle, for more than thirty (30) days after receipt by such person of the notice prescribed by Section 6.

Section 6 Notice (To Comply)

When it has been determined that a violation of this local law exists, written notice shall be served on the occupant or owner of the property, or on the owner of the vehicle, or on both such persons, directing the removal of the property violating this law within thirty (30) days after service of notice.

The notice shall be served by one of the following methods:

- A. **Personal Service:** Personal service upon a natural person shall be made by delivering the written notice to the person being served. The server shall be a person of 18 years or older, who is authorized by the town. The server shall sign an affidavit attesting to the date, time, and description of person being served (including, but not limited to, approximate age, approximate height, weight, sex, race, hair color, glasses, color of eyes, and other identifying features), address or a description where the service occurred, manner of service, and what papers were served. The service must be made by an authorized person and in an authorized manner. Service is complete upon the handing of the notice to the person. Service of the notice may be made upon a person of suitable age or discretion at the property of the person to be served.
- B. **Certified Mail:** Service by certified mail, return receipt requested, addressed to the last known address of the property, or vehicle owner, or occupant. If said certified mail is refused or returned, service shall be made by mailing a copy of the notice by first class mail to the address of the property owner in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Service shall be deemed complete upon depositing the notice in an official

depository of the United States Postal Service within the State of New York.

Section 7 Extension

Upon written application of the owner or occupant showing reasonable cause, the Town Board may grant an extension of up to thirty (30) days for the owner or occupant to comply. Reasonable cause exists when the property owner can demonstrate good faith due diligence efforts in commencing the removal of the junk to the satisfaction of the Town Board. An extension granted by the Town Board may relieve the owner or occupant of the penalties prescribed in Section 10, at the discretion of the Town Board.

Section 8 Enforcement Officer

This local law may be enforced by the Code Enforcement Officer of the Town of Ischua, a Constable of the Town of Ischua, or by a peace, police officer or deputy sheriff with jurisdiction in the Town of Ischua.

Section 9 Violations

If the owner or occupant shall fail to comply may the requirements of this local law, the enforcement officer, as identified in Section 8, or the Town Board may institute enforcement procedures as follows:

- A. The enforcement officer is hereby authorized to issue an appearance ticket to such persons or persons pursuant to Section 150.20 of the Criminal Procedure Law requiring their appearance in the Justice Court to answer the charge of a violation of this law.
- B. The Town Board may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this local law. The requested relief in such action may include an order permitting the Town to remove and dispose of the material causing the violation. The expense thereof, including court costs and reasonable attorneys fees, shall be a charge against the affected property and, if unpaid, shall be included in the next annual tax levy against the property.

Section 10 Penalties

A person convicted of a violation of this local law shall be guilty of a violation punishable by a fine of a minimum of \$100.00 and a maximum of \$500.00 per violation. Each day that the violation continues constitutes a separate violation. Unpaid penalties shall be included in the next annual tax levy against the affected property.

Section 11**Severability**

Should any part of this Local Law be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be restricted in its operation and effect to the part specifically determined to be invalid.

Section 12**Effective Date**

This local law shall take effect upon filing thereof with the Secretary of State.

Local Law Filing

(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 Ischua
Town
Village _____

Local Law No. #1 of the year 2005
For the Administration and Enforcement of
A local law State Uniform Fire Prevention Building
Code

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUL 31 2005
MISCELLANEOUS
STATE RECORDS

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

County _____
City of Ischua
Town
Village _____ as follows:

Please see attached sheets

(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. 1 of 20 08 of the (County)(City)(Town)(Village) of ISCHUA was duly passed by the TOWN BOARD of ISCHUA on July 8 2008, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

~~3.~~ (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)
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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City 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 _____ State of New York, having been submitted to the electors at 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 _____, above.

Della Brisky
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 7/8/08

(Seal)

(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 Cattaraugus

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.

Mark A. Seay
Theresa M. Lowe
Harriet E. Enmons
Juan A. Curdin

[Signature]
Signature

SUPERVISOR
Title

County

City of Tschua

Town

Village

Date: 7/8/2008

James I. McAuley, Town Attorney for
the Town of Tschua, July 8, 2008

**A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF
THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

Local Law # 1 of 2008.

Be it enacted by the Town Board of the Town of Ischua , in the County of Cattaraugus, as follows:

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS

In this local law:

Building Permit shall mean a permit issued pursuant to section 4 of this local law. The term Building Permit shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

Certificate of Occupancy/Certificate of Compliance shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

Code Enforcement Officer shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

Code Enforcement Personnel shall include the Code Enforcement Officer and all Inspectors.

Compliance Order shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

Energy Code shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

Inspector shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

Operating Permit shall mean a permit issued pursuant to section 10 of this local law. The term Operating Permit shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

Permit Holder shall mean the Person to whom a Building Permit has been issued.

Person shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

Stop Work Order shall mean an order issued pursuant to section 6 of this local law.

Temporary Certificate shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

Town shall mean the Town of Ischua.

Uniform Code shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy /Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy /Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy /Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and

property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law, however, the Code Enforcement Officer shall provide the opportunity for the Property Owners(s) to be present during an inspection;

(4) to issue Stop Work Orders;

(5) to thoroughly review and investigate complaints as well as diligently communicate with the Property Owners(s) of the complained of property;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings in accord with due process of law;

(10) in consultation with this Town Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law, including the exercise of reasonable and prudential judgment.

(12) A finding by a Court of competent jurisdiction that the Code Enforcement Officer negligently exercised his duties, may result in the Code Enforcement Office being held personally liable for what, if any, damages a property owner suffered as a result of said negligence.

(b) The Code Enforcement Officer shall be appointed by the Town board by a simple majority vote. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board (or through a Memorandum of Agreement with a neighboring municipality) to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder. Each Inspector is required to diligently communicate with the Code Enforcement Officer and the Property owner.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town of Ischua.

SECTION 4. BUILDING PERMITS.

(a) **Building Permits ARE Required.** Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer. Building permits are required to put a new roof on a house.

(b) **Exemptions.** No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or III(A) liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve

- (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
- (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
- (iii) the enlargement, alteration, replacement or relocation of any building system; or
- (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) **Applications for Building Permits.** Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Said form (or an attachment to the form) shall list what documentation and information is necessary for an application to be considered complete. The application shall be signed by the owner of the

property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. **A property owner has the civic duty to provide a complete application (discussed below) in a timely manner to the Code Enforcement Officer before the scheduled work is to commence. Failure to timely supply a completed application to the Code Enforcement Officer is a bar to any damages a property owner may suffer as a result of the delay in granting the permit.** The Code Enforcement Officer shall also provide a timely and rational determination whether to grant or deny the application. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

- (5) at least 2 sets of construction documents (drawings and/or specifications)

which:

- (i) define the scope of the proposed work;
- (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
- (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed;
- (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
- (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit

will be issued. Where a Building Permit is required, Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued. Failure to advise the Code Enforcement Officer of a change may result in the Code Enforcement Officer denying the applicant or permit holder a Certificate of Occupancy or a Certificate of Compliance.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire Twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that:

- (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and
- (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection. The Code Enforcement Officer shall make every reasonable effort to perform timely inspections so as to not to unduly delay construction.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified in writing as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall:

- (1) be in writing,
- (2) be dated and signed by the Code Enforcement Officer,
- (3) state the reason or reasons for issuance, and
- (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE

(a) Certificates of Occupancy / Certificates of Compliance required. A Certificate of Occupancy / Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.

(b) Issuance of Certificates of Occupancy / Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy / Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy / Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(2) flood hazard certifications.

(c) Contents of Certificates of Occupancy / Certificates of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name, address and tax map number of the property;

(4) if the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines:

(1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely,

(2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and

(3) that all required means of egress from the building or structure have been provided.

The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such reasonable

period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Town of Ischua shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Town of Ischua shall be identified and addressed in accordance with the procedures established by Local Law Number 2 of 2008, as now in effect or as hereafter amended from time to time.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled Fire Code of New York State and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town of Ischua.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall diligently inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Duration of Operating Permits. Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every twenty-four (24) months or two (2) years, but in any event, no later than thirty-six (36) months or three (3) years.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained. Written notice shall be provided to the property owner of such an inspection, and the property owner shall have the right to be present during an inspection.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (OFPC) and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall timely review and thoroughly investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and
- (9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town of Ischua a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town of Ischua, on a form prescribed by the Secretary of State, a report of the activities of this Town of Ischua relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town of Ischua is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town of Ischua in connection with administration and enforcement of the Uniform Code.

SECTION 15: VIOLATIONS

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall

- (1) be in writing;
- (2) be dated and signed by the Code Enforcement Officer;
- (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law;
- (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity;
- (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
- (6) direct that compliance be achieved within the specified period of time; and
- (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the