

VILLAGE OF ALFRED, NEW YORK ZONING LAW

APPENDIX A

ATTACHED TO AND FORMING A PART OF
VILLAGE OF ALFRED (NY) LOCAL LAW NO. 1 of the YEAR 2015,
known as:
“Zoning Law”

The “Zoning Law” to which this Appendix A is attached is herein sometimes referred to as “this Local Law” or “this Law.”

This Appendix A is a part of the Local Law to which it is attached for all purposes.

Section 1. Authority and Intent. This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Village Board of the Village of Alfred under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2(c)(ii)(6),(10); Municipal Home Rule Law §10(1)(i); Municipal Home Rule Law §10(1)(ii)(a)(6),(11),(12) and (14); Municipal Home Rule Law §10(1)(ii)(d)(3); Municipal Home Rule Law §10(2); Municipal Home Rule Law §10(3); Municipal Home Rule Law §10(4)(a), and (b); Statute of Local Governments §10(1),(6), and (7); Village Law §4-412(a); Village Law Article 7 (Building Zones) inclusive; Environmental Conservation Law §17-1101, §27-0711; and New York State Law, Public Health Law §228(2), and (3).

This Law is a police power and land use regulation. This Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Village to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Village, including the physical externalities associated with certain land uses, such as negative impacts on roadways and traffic congestion and other deleterious impacts on a community.

Section 2. Findings of Fact.

- A. Alfred is a community in Allegany County that takes great pride in and assigns great value to its quality of life, and cultural, recreational, historic and other natural resources.
- B. Maintaining the quality of water resources within the Village is critical to protecting the natural environment of the Village, the general health and welfare of Village residents, and the local economy.
- C. Preservation of the Village’s irreplaceable historical and traditional small-town character, and air quality and water quality, is of significant value to the inhabitants of the Village and to the tourists and prospective College and University candidates who visit here.
- D. The Village’s rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, and other

natural resources of the Village is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people. They deeply affect the way people feel about a place – whether or not businesses will want to locate, or people will want to live in and visit a place.

- E. Allowing the activities prohibited by Sections 301.00 and 301.01 of the Local Law could impair the existing character of the Village, because by their very nature such activities have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the communities in which they are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of open space, natural areas, and scenic views, decreased recreational opportunities, and damage to the tourism industries.
- F. If one or more of the activities prohibited by Sections 301.00 and 301.01 of the Local Law are conducted within the Village, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Village and could be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents. Roads are a critical public resource and constitute a major investment of the public's money. The Village is not in a position to bear the high costs associated with the road use impacts that accompany many of the activities prohibited by Sections 301.00 and 301.01 of the Local Law. Accidents involving heavy trucks have greater potential for death than those involving smaller vehicles. Increased truck traffic increases air pollution and noise levels, and decreases the quality of life and property values for those living nearby.
- G. If one or more of the activities prohibited by Sections 301.00 and 301.01 of the Local Law are conducted within the Village, the air pollution, dust and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) could be hazardous or inconvenient to the inhabitants of the Village. Air pollution is a known hazard to the public health.
- H. Allowing one or more of the activities prohibited by Sections 301.00 and 301.01 of the Local Law to be conducted within the Village could negatively impact the quality of water resources within the Village. Water pollution is hazardous to the public health. If a domestic water source is contaminated, remediation is time and cost intensive, and may not restore the water resource to a quality acceptable for domestic use.
- I. If one or more of the activities prohibited by Sections 301.00 and 301.01 of the Local Law are conducted within the Village, noise, vibrations, and light pollution typically caused by such Activities could be hazardous or inconvenient to the inhabitants of the Village. Noise, traffic congestion, nighttime lighting, and vibrations can have negative effects on human health and wildlife.
- J. The creation, generation, keeping, storage or disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in the Local Law) within the Village could have a negative impact on the public health, safety and welfare of the inhabitants of the Village. As well, there are substantial fiscal risks arising from such activities in terms of the need for the clean up, removal, and/or remediation of such wastes and lands upon which the

same are generated, deposited, or emitted, whether purposefully or accidentally, including potential liability for such deposits or emissions.

- K. The high costs associated with the disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in the Local Law) have in other localities resulted, and could in our Village result, in persons seeking to avoid such costs by depositing such material along roadways, in vacant lots, on business sites, in the private dumpsters of others, or in other unauthorized places. Such activities could pose a hazard to the public health, safety, and welfare of the inhabitants of the Village.
- L. For the reasons set forth above, allowing one or more of the activities prohibited by Sections 301.00 and 301.01 of the Local Law to be conducted within the Village could result in a crisis condition.
- M. The explicit proscription of activities such as those prohibited by Sections 301.00 and 301.01 of the Local Law is a legitimate goal of land use laws. There is no question that exclusion of specified industrial uses is a legitimate goal of such laws:

As the United States Supreme Court stated in *Village of Belle Terre v. Borass*, 416 U.S. 1 (1974):

the concept of public welfare is broad and inclusive... The values that it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the [local] legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.
416 U.S. at 6.

And see also *Matter of Gernatt Asphalt Products, Inc. v. Village of Sardinia*, 87 N.Y. 2d 668 (1996), where the Court of Appeals, New York State's highest court, held as follows:

A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole.
87 N.Y. 2d at 683, 684.

Section 3. Purposes. As reflected in the findings set forth in the preceding Section 2 of this Appendix, the Village Board has determined that allowing one or more of the activities prohibited by Sections 301.00 and 301.01 of the Local Law to be conducted within the Village could result in a crisis condition, and thus it is of the utmost importance and a dire necessity that the Village Board take steps to prevent the occurrence of such crisis condition. This Local Law is not being enacted merely as a pretext to assuage community opposition. Rather, the purpose of the Local Law is to enable the Village of Alfred to prevent the occurrence of a crisis condition by staying the construction, operation, and establishment of, and the submission and processing of applications for permits, zoning permits, special permits, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Village-level approvals respecting, the activities prohibited by Sections 301.00 and 301.01 of the Local Law, for a reasonable time, so as to allow the Village time to

study the impacts, effects, and possible controls over such activities and to consider enacting new laws, and amendments to the Village's existing laws, to address the same.