

## Chapter 28

### ZONING

**Editor's note—Local Law No. 1-00, §§ 1.0—17.2, and arts. 18—20, adopted Jan. 10, 2000, amended chapter 28 in its entirety to read as herein set out. Formerly, chapter 28 pertained to similar subject matter. See the Code Comparative Table.**

#### CROSS REFERENCES

Signs, § 3-21 et seq.  
Buildings, building regulations and fire prevention, ch. 6.  
Flood damage prevention, ch. 9.  
Historic preservation, ch. 11.  
Junkyards, § 13-201 et seq.  
Planning and development, ch. 18.  
Subdivision regulations, ch. 22.

#### ARTICLE 1

#### TITLE, PURPOSE, AUTHORITY

##### **Sec. 1.0. Short title.**

This law shall be known and may be cited as the "zoning law of the City of Olean, NY."

##### **Sec. 1.1. Authority.**

Pursuant to the authority and power granted under Section 20(24) of the General City Law and Section 10 of the Municipal Home Rule Law of the State of New York, and all amendments thereto, the Common Council of the City of Olean, County of Cattaraugus, State of New York, hereby ordains, enacts and publishes as follows.

##### **Sec. 1.2. Long title.**

A law establishing a comprehensive zoning plan for the City of Olean by dividing the territory thereof into certain zoning use districts and prescribing regulations and standards for buildings and other structures and the use of land therein.

##### **Sec. 1.3. Purpose.**

The zoning regulations and districts herein set forth and as identified upon the Zoning Map of the City of Olean are made for the purpose of promoting public health, safety, and general welfare and prescribing the most desirable use for which the land in each district may be adapted and those uses to be subjected to special regulations, while conserving the value of land throughout the city. The height, bulk and location of buildings and other structures, the area of yards, courts, setbacks and other open spaces, the density of population and intensity of use of buildings and land, the use, conservation and development of unique water front areas, and the use of structures and land for residential, industrial, commercial, institutional or other purposes, are hereby restricted and regulated as hereinafter provided.

Such regulations have been designed to preserve open space; lessen congestion in the

streets; secure safety from fire, flood, and other dangers; provide adequate light, air, and convenience of access; and facilitate the adequate provision of transportation, water, sewage, schools, parks and other public services. They have been made with reasonable regard, among other things, to the character of each district and its suitability for particular uses as well as the value of buildings, land, and uses to promote the most appropriate use of land throughout the city.

The regulations contained in this law have been made in accordance with the City of Olean Comprehensive Development Plan 1990 — 2010 as adopted by the planning board of the city by resolution dated August 30, 1990 and certified as being the Official Comprehensive Development Plan of the City of Olean on December 10, 1990.

## ARTICLE 2 INTERPRETATION

### **Sec. 2.0. Interpretation, separability and conflict.**

2.0.1 The following rules of construction of language shall apply to the text of this law:

1. Words used in the present tense include the future tense.
2. Words used in the singular include the plural, and words used in the plural include the singular.
3. Words used in the masculine form shall also include the feminine.
4. The word "lot" includes the word "plot" or "parcel".
5. The word "person" includes an individual, firm or corporation.
6. The word "shall" is always mandatory; the word "may" is always permissive.
7. The words "used" or "occupied" as applied to any land or building shall be interpreted to include the words "intended, arranged or designed to be used or occupied".
8. A "building" or "structure" includes any part thereof.
9. The phrases, "to erect", "to construct", and "to build" a building each have the same meaning and include to excavate for a building and to relocate a building by moving it from one location to another.

2.0.2 If any section, paragraph, subdivision, or provision of this law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision judged invalid, and the rest of this Law shall remain valid and effective.

2.0.3 Wherever possible this law shall be interpreted in such a way that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect.

2.0.4 This law is not intended to abrogate or annul any easement, covenant, or any other private agreement. Such private agreements shall not allow what the law prohibits.

2.0.5 Whenever the requirements of this law are at variance with the requirements of

other fully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern.

**Sec. 2.1. Definitions.** [L.L. No. 6-00, § 1, 12-12-1900; L.L. No. 2-05, 8-9-2005]

The following words or phrases as used in this law are defined as follows:

**ABANDONMENT** — To cease or discontinue a use or activity without intent to resume it.

**ACCESSORY STRUCTURE** — A structure subordinate to a principal structure on the same lot and used for purposes customarily incidental to those of the principal structure. Accessory structures include but are not limited to, portable, demountable or permanent enclosures, shade structures, carports, swimming pools, garages and storage sheds.

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

**ADULT CARE FACILITY** — A family-type home for individuals which provides temporary or long-term residential services to individuals who by reason of physical or other limitations associated with either age, physical disability or mental impairment, are substantially unable to live independently. "Adult care facility" is deemed not to include those facilities established under authority of the Public Health Law or Mental Hygiene Law of the State of New York and subject to the requirements of Part II Olean Code of Local Laws Chapter LL4. [Amended 10-13-2015 by L.L. No. 5-2015]

**ADULT USES** — That whenever used in this local law, the words "adult use" or "adult uses" apply to the following types of establishments:

a) **ADULT BOOKSTORES** — An establishment which has as a substantial or significant portion of its stock in trade, books, pamphlets, magazines and other periodicals, sculptures, photographs, pictures, slides, videotapes, films, or sound recordings and which establishment excludes any minor by reason of age.

b) **ADULT ENTERTAINMENT CABARET** — A public or private night club, bar restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes any minor by reason of age.

c) **ADULT VIDEO STORE** — An establishment having a substantial or significant portion of its stock in trade, videotapes or films for sale viewing on premises by use of motion picture devices, video equipment or other coin operated means, and which establishment excludes any minor by reason of age.

d) **PEEP SHOW** — A theater which presents material in the form of live shows, films, or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

e) **MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or duly licensed massage

therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

f) **ADULT MOTEL** — A motel which excludes minors by reason of age, or which make available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would exclude any minor by reason of age.

g) **ADULT THEATER** — A theater that customarily presents motion pictures, films, videotapes, or slide shows and that excludes any minor by reason of age.

h) **BODY PAINTING STUDIO** — An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age

i) **ADULT MODEL STUDIO** — Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirement established in the New York State Education Law for the issuance of conferring of, and is in fact authorized to issue and confer a diploma.

**AGRICULTURAL USE** — The raising of agricultural products including livestock, poultry, dairy products, farm crops, fruit, vegetables and nursery stock whether for gain or otherwise.

**ALLEY** — A narrow supplementary thoroughfare for the public use of vehicles affording access to abutting property.

**ALTERATION** — As applied to a building or structure, a change or rearrangement in the structural parts or in exit facilities of such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location to another.

**AMUSEMENT GAME CENTER** — A continuous commercial use in which four or more mechanical, electrical or electronic machines or devices used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin, token, etc. or use for which a charge is made.

**APARTMENT** — See dwelling unit.

**APPROVED** — Approved by the city code enforcement officer under the regulations of this law, or approved by an authority designated by this law.

**AREA, BUILDING** — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of terraces and uncovered steps. All dimensions shall be measured between the exterior faces of walls.

**AREA, LOT** — The total area within the lot boundary lines excluding any area included

in a public street right-of-way.

**ATTIC** — That space of building which is between the top of the uppermost floor construction immediately below and wholly or partly within the roof framing and that is not finished as habitable space (See also: Story, half).

**AUTO-BODY REPAIR/METAL FINISHING SHOP** — A building or premises used to repair, refinish, clean or paint motor vehicles, boats, machinery or equipment that uses flammable or combustible liquids that are vented to the outside air. A junk yard or auto salvage yard is not to be the same as an auto-body repair/metal finishing shop.

**BAR** — A business establishment licensed by the State of New York to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

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**BASE FLOOD ELEVATION AND BASE FLOOD** — Base flood elevation is that height, or elevation, in relation to mean sea level, which is expected to be reached by the waters of the base flood at pertinent points in the flood plains of coastal and riverine areas. The base flood, in accordance with the regulations established by the Federal Emergency Management Agency (FEMA) for the national flood insurance program (NFIP), is the flood having a 1% chance of being equaled or exceeded in any given year. The term base flood has the same meaning as the one-hundred-year-flood under the regulations of the NFIP.

**BASEMENT** — Any space of a building which is partly below finished grade, but having more than 1/2 of its height measured from floor to ceiling above average finished grade (See also: Cellar).

**BED AND BREAKFAST** — A building containing a single dwelling unit in which at least one, but not more than four, sleeping rooms are provided by the owner/occupant as overnight lodging facilities for the accommodation of transient guests.

**BOARDING HOUSE** — A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six, sleeping rooms are offered for rent, with or without meals to non-transient guests. A lodging house, or rooming house shall be deemed a boarding house.

**BUFFER YARDS** — An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier the land shall be covered with natural plantings or manmade material to provide a continuous physical screen preventing visual access and reducing noise.

**BUILDING** — Any structure which is wholly or partially enclosed within exterior walls, is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

**BUILDING, ACCESSORY** — See: Accessory structure.

**BUILDING, DETACHED** — A building surrounded by open space on the same lot.

**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the proposed or existing finished grade to the highest point of the roof for flat roofs, to the deck of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING, PRINCIPAL** — A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUILDING, SEMI-DETACHED** — A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

**BUILDING GROUP** — A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

**BUILDING LINE** — The line, established by statute, local law or ordinance, beyond which the exterior surface of a building on any side shall not extend. In the instance of a cantilevered section of a building or projected roof or porch, said line shall coincide with the most projected surface.

**BULK** — A term to describe the size, volume, area, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and all open spaces required in connection with a building, other structure, or tract of land.

**CAR WASH** — A building, premises or portions thereof where automobiles and other vehicles are washed either by the patron or others either by hand or using machinery and mechanical devices specifically designed for this purpose.

**CELLAR** — Any space in a building the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building (See also: Basement).

**CERTIFICATE OF COMPLIANCE** — A certificate issued by the code enforcement officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this law and such adjustments thereto granted by the zoning board of appeals.

**CHILD CARE FACILITY** — Any licensed building or structure operated for the purpose of providing daytime care and instruction for two or more children on a regular schedule and also known as a day care center. (See also: Day care)

**CHURCH OR PLACE OF WORSHIP** — A building or premises used for regular public worship by members or representatives of a religious sect or organization as defined by state statute.

**CIVIC FACILITY** — Buildings, structures, and uses owned and operated by the city and regularly used for neighborhood meetings and other forms of public assembly.

**CLUB, MEMBERSHIP** — An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

**CLUSTERED PROJECTS OR DWELLING GROUPS** — Projects or dwelling groups carried out pursuant to the authority granted to the city by Section 20(24) of the City Law of the State of New York, whereby the planning board of the city is authorized to encourage or require the modification of certain density requirements of this zoning law. The modifications must occur at the same time that the plat or plats are approved in accordance with the requirements of the subdivision regulations of the City of Olean. Such modifications to the density standards of this zoning law are subject to reasonable conditions set forth by the City of Olean Common Council. The purposes of such authorization shall be to enable and encourage flexibility of design and development of land in order to promote the most appropriate use of land, facilitate the adequate and economical provision of streets and utilities and preserve the natural and scenic qualities of open lands.

**COMMERCIAL VEHICLE** — A vehicle of more than one-ton capacity used for the transportation of persons or goods primarily for gain.

**COMMUNICATIONS ANTENNA(S)** — Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communication signals, including without limitation omnidirectional or whip antennas and directional or panel antennas, owned or operated by any person or entity required to be licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private-residence-mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas. [Added 6-24-2015 by L.L. No. 4-2015]

**COMMUNICATIONS TOWER** — A tower, monopole, pole or similar structure which supports a telecommunications antenna operated above ground in a fixed location, freestanding, guyed, or on a building or other structure. An amateur radio tower is not a "communications tower" under this section. [Added 6-24-2015 by L.L. No. 4-2015]

**CONDOMINIUM** — A building or group of buildings, in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

**CONSTRUCTION YARD** — Any space, whether inside or outside a building, used for the storage, sale or keeping of construction materials, machinery or vehicles, which are in active use by a construction contractor or a construction supply company.

**CONTIGUOUS PARCEL** — A tract of land under the control of the applicant or its agent that is not divided by any natural or manmade barriers such as existing streets and highways, public rights-of-way identified on the official map and is not bisected by waterbodies.

**CONTRACTOR'S YARD** — Any space, whether inside or outside a building, used for the storage, sale or keeping of heavy equipment such as cranes, booms, bulldozers, tractor trailers, or similar equipment, or machinery or parts thereof, which are intended for use by the construction industry.

**CONVALESCENT HOME** — See: Nursing home.

**CONVENIENCE/MINI-MARKET** — A commercial retail use which combines the sale of beverages, dairy and baked goods, snack foods, prepackaged grocery items and daily household items and which may also be accompanied by the sale of motor vehicle fuel and accessory substances for automobiles.

**COVERAGE** — That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

**CREMATION** — A heating process that incinerates deceased human beings.

**CREMATORIES/CREMATORIUM** — A facility in which the remains of deceased human beings are processed by cremation.

**DAY CARE CENTER** — Any licensed building or structure operated for the purpose of providing daytime care for two or more adults or children on a regular schedule. (See also: Child care facility and adult care facility).

**DISTRICT OR ZONE** — That portion of the city within which specific uses are permitted according to the designation applied thereto in Article 3 and in conformity with the provisions of this law.

**DRIVE-IN USE** — Any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

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

**DWELLING** — A building designed or used principally as the living quarters for one or more families in one or more dwelling units.

**DWELLING, ONE-FAMILY** — A building containing one dwelling unit only. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

**DWELLING, ONE-FAMILY DETACHED** — A building containing one dwelling unit and having two side yards. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

**DWELLING, ONE-FAMILY SEMI-DETACHED** — A building containing one dwelling unit and having one party wall and one side yard. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.



DWELLING, TWO-FAMILY — A building containing two dwelling units. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, MULTIPLE-FAMILY — A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING GROUP — See: Clustered projects.

DWELLING UNIT — One room or rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, living, sanitary and sleeping facilities.

FACTORY MANUFACTURED HOME — A dwelling unit constructed off-site, consisting of one or more segments and designed to be permanently anchored to and supported by a foundation, to become a fixed part of the real estate. Such dwelling unit shall bear an insignia of approval issued by the State of New York.

#### FAMILY MEANS

1. One of the following:
  - (a) One, two or three persons occupying a dwelling unit; or
  - (b) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
2. It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.
3. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
  - (a) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;
  - (b) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;
  - (c) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;
  - (d) The group is permanent and stable. Evidence of such permanency and stability may include:
    - (1) The presence of minor dependent children regularly residing in the household who are enrolled in local schools;

- (2) Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes;
  - (3) Members of the household are employed in the area;
  - (4) The household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units;
  - (5) There is common ownership of furniture and appliances among the members of the household; and
  - (6) The group is not transient or temporary in nature.
- (e) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

**FENCE** — An artificially constructed barrier of wood, masonry, stone, metal or any other permitted manufactured material or combination of materials erected for the enclosure of yard areas.

**FINISHED GRADE** — The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade in computing height of buildings and other structures or for other purposes shall be the average elevation of all finished grade elevations around the periphery of the building.

**FLOODPLAIN** — The low lands adjoining the channel of a river, stream or watercourse, lake or other body of standing water, which have been or may be inundated by flood water. The channel of a stream or watercourse is a part of the flood plain in accordance with the national flood insurance program (NFIP) as administered by the Federal Emergency Management Agency (FEMA).

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, in accordance with the national flood insurance program (NFIP) as administered by the Federal Emergency Management Agency (FEMA). Also referred to as regulatory floodway.

**FLOOR AREA** — The aggregate sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of walls separating the buildings. In particular, the "floor area" of a building or buildings shall include:

1. Basement space.
2. Elevator shafts and stairwells at each floor.
3. Floor space for mechanical equipment, with structural headroom of seven feet six inches or more.
4. Penthouses.

5. Attic space (whether or not a floor has actually been laid) providing there is structural headroom of not less than seven feet six inches.
6. Interior balconies and mezzanines.
7. Enclosed porches.
8. Accessory uses, not including space for accessory off-street parking.

**FUNERAL HOME** — A building or part thereof used for human funeral services, including chapels, embalming, autopsies, storage of caskets, funeral urns and other related funeral supplies, and the storage of funeral vehicles, but does not include facilities for cremation.

**GARAGE, SERVICE/REPAIR** — A building or premises used for the repair of motor vehicles. A junk yard or auto salvage yard is not to be construed to mean or be the same as a garage.

**GASOLINE FILLING STATION** — An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, which may include as accessory uses sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing, (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

**GENERAL BUSINESS OFFICE** — A non-retail service-oriented office or agency such as insurance brokers, insurance or real estate agents, travel agents, computer programming, consulting organizations, or similar uses.

**HABITABLE ROOM** — Any room that meets adopted building code requirements for a habitable room, including minimum room proportions, minimum egress requirements, and minimum standards for lighting, heating, ventilation, and electricity. [Added 10-13-2015 by L.L. No. 5-2015]

**HISTORIC RESOURCE** — Any historic building, structure, facility, site or district, or prehistoric site that is listed on the state and/or national registers of historic places. Any historic building, structure, facility, site or district, or prehistoric site that has been proposed by the New York Board of Historic Preservation for a recommendation to the state historic preservation officer for nomination for inclusion on the national register of historic places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

**HOME OCCUPATION** — An accessory use which is clearly incidental to or secondary to the principal residential use of a dwelling unit and does not change the character thereof, and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the resident of such dwelling unit and in which not more than one person not residing in such dwelling is employed.

**HOSPITAL** — An institution for the care and treatment of the sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel

necessary for diagnosis and treatment of persons suffering from sickness or injury which require bed care, out-patient care or emergency room care.

**HOTEL** — A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining facilities. This term shall not be deemed to include an inn, bed and breakfast, boarding house, or other such accommodations.

**HOUSE OF WORSHIP** — An institution that people regularly attend or reside in to participate in or hold religious services, meetings, or other activities. A house of worship includes churches, synagogues, temples, monasteries, and convents.

**INDUSTRIAL/BUSINESS PARK** — A planned, coordinated development of a tract of land with two or more separate parcels or lots for industrial, business or mixed industrial/business development. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to site planning and layout, attractive appearance, entrance signage, general landscaping, vehicular circulation, service and delivery, parking, utility needs, building design and orientation, equipment storage, refuse disposal and open space. Typically, an industrial/business park is developed or controlled by one proprietary interest and has an enforceable master plan and/or covenants, conditions, and restrictions.

**INDUSTRIAL USE** — Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.

**INN** — A building containing a single dwelling unit in which more than four and less than 15 sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests, with or without meals.

**INSTITUTION SIGNS** — A sign which directs attention to a private and/or public school and/or college located within the city, except as otherwise set forth herein.

**JUNK YARD** — An area of land with or without buildings used for or occupied by the storage, keeping, abandonment or the salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange and/or purchase and sale of materials, and including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles, machinery or parts thereof. A lot on which any motor vehicle, that is not licensed and/or incapable of meeting minimum NYS Motor Vehicle Inspection Standards, is stored for a period of 30 days or more shall be considered to meet this definition.

**KENNEL** — Any place at which there are kept four or more domestic animals or any number of dogs that are kept for the primarily commercial purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

**LAND USE ACTIVITY** — Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: New structures,

expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

LODGING HOUSE — See: Boarding house.

LOT — A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same and which abuts and is accessible from a private or public street.

LOT, CORNER — A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135°.

LOT, DEPTH OF — The mean distance from the front street line of a lot to its rear line.

LOT, THROUGH — Lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT COVERAGE — See: Coverage.

LOT FRONTAGE — A lot line which is coincident with the right-of-way line of a public road or which is measured 20 feet from the center line of a private road.

LOT LINES — The lines bounding a lot as defined herein.

LOT WIDTH — The width of a lot measured between the side lot lines along the rear line of the required front yard.

MAJOR SOLAR COLLECTION SYSTEM OR SOLAR FARM — An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. [Added 6-9-2015 by L.L. No. 3-2015]

MANUFACTURED HOUSING — A factory-built, single-family structure that is manufactured under the authority of 42 U.S.C. Sec. 5401, the National Manufactured Housing Construction and Safety Standards Act of 1974, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. (See also: Mobile home).

MEDICAL CLINIC — A place where medical or dental care is furnished to persons on an outpatient basis by five or more physicians who have common offices in a building which shall also offer laboratory and diagnostic facilities to patients on an out-patient basis and not just in conjunction with normal professional services.

MINOR SOLAR COLLECTION SYSTEM — A solar voltaic cell, panel, or array, or

solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot not to exceed 4,000 square feet. [Added 6-9-2015 by L.L. No. 3-2015]

**MOBILE HOME** — A transportable, factory-built home, designed to be used as a year-round residential dwelling that is manufactured under the authority of the 42 U.S.C. Sec 5401, the National Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home is not constructed with a permanent chassis and may be transported on its own wheels or those of another vehicle. The definition of mobile home includes all additions made subsequent to installation. This definition does not include manufactured housing placed on a permanent foundation or a travel trailer. (See also: Manufactured housing).

**MOBILE HOME PARK** — A parcel of land under single ownership on which two or more mobile homes are occupied as a residence or which is planned and improved for the placement of two or more mobile homes for non-transient residential use, or for the sale or rental of two or more mobile home lots.

**MOTEL** — A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes, but is not limited to, every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, or roadside hotel.

**NON-CONFORMING BULK** — That part of a building, other structure or tract of land which does not conform to one or more of the applicable bulk regulations of this zoning law, either following its effective date or as a result of subsequent amendment thereto.

**NON-CONFORMING USE** — Any use of a building, other structure, or tract of land which does not conform to the use regulations for the district in which such use is located, either at the effective date of this zoning law or as a result of subsequent amendment thereto.

**NON-RESIDENTIAL PLANNED DEVELOPMENT** — One or more commercial uses proposed as a unit, or one or more Industrial uses proposed as a unit, in conformance with Article 8.

**NURSING HOME** — A building containing accommodations for persons where nursing and convalescent services including meals are furnished.

**NURSERY SCHOOL** — Any place, however designated, operated for the purpose of providing both daytime care and instruction for two or more children from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries, and day care centers.

**OPEN SPACE** — An area which is not developed with principal or accessory structures and which is intended to provide light and air, and is designed for either environmental,

scenic or recreational purposes. Open space may include, but is not limited to, decorative planting, preservation of existing natural areas, walkways, active and passive recreation areas and playgrounds. Open space shall not be deemed to include driveways, roadways or parking areas.

**PARK** — Any public or private land available for recreational, educational, cultural, or aesthetic use.

**PARKING LOT, COMMERCIAL** — Any tract of privately-owned land which is used for the storage of motor vehicles and is not accessory to any other use on the same or any other lot, and contains parking space rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

**PARKING LOT, PRIVATE** — Any tract of privately-owned land which is used for storage of motor vehicles and is accessory to a use on the same parcel or lot or on another parcel or lot, and contains parking spaces reserved or leased in some manner for that principal use and not available to the general public.

**PARKING LOT, PUBLIC** — An off-street parking area where motor vehicles may be stored by the general public, with or without a fee, for temporary, daily or overnight parking.

**PARKING SPACE** — An off-street space available for the parking of one motor vehicle and having an area of not less than 180 square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

**PARKING STRUCTURE (GARAGE, DECK)** — Any structure in which motor vehicles may be parked or stored that is not accessory to any other use on the same lot, and contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

**PERSONAL SERVICE ESTABLISHMENT** — A commercial operation, office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a beautician, tailor or dressmaker.

**PREMISES** — A lot together with all the buildings and uses thereon.

**PROFESSIONAL OFFICE** — An office principally occupied by a licensed professional such as a physician, dentist, lawyer, engineer, architect, accountant, or similar occupation.

**RECREATION USES, COMMERCIAL** — Uses designed as recreational activities operated by private businesses for profit, including privately operated amusement parks or rides, games, miniature golf courses and similar uses.

**REFLECTOR, SOLAR** — A device for which the sole purpose is to increase the solar radiation received by a solar collector.

**REPAIR SHOP, PERSONAL SERVICE** — A store or other place of business at which is conducted the repair of personal customer items, such as shoes, clothing, jewelry, etc.

**RESIDENCES, RESIDENTIAL** — A building or any part of a building, which contains dwelling units for permanent occupancy. Residence, therefore, includes all one-family, and multifamily, boarding, fraternity and sorority houses. However, "residences" shall not include the following: [Amended 10-13-2015 by L.L. No. 5-2015]

1. Transient accommodations, such as hotels, motels, hospitals and shelters; or
2. That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

**RESTAURANT, FAST FOOD** — An establishment where food and/or beverages are sold in a form ready for consumption and where, by design or packaging techniques, all or a significant portion of the consumption can or does take place outside the confines of the building.

**RESTAURANT, STANDARD** — Any establishment, however designated, whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises. However a snack bar or refreshment stand at a public or quasi-public community swimming pool, playground, playfield or park, which is operated by an approved sponsoring group, agency or vendor for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**RETAIL USE** — Business or commercial use or activity involving primarily the sale of merchandise or stock-in-trade to the public.

**RIGHT-OF-WAY** — The property under public ownership or easement normally used for movement of vehicles, and or persons, including, but not restricted to, any pavement area.

**ROADSIDE STAND** — A light structure with a roof, either attached to the ground or movable, not for year-round use and at which produce is offered for sale to the general public.

**ROOMING HOUSE** — See: Boarding house.

**SATELLITE TELEVISION ANTENNA** — An antenna the purpose of which is to receive television and/or radio signals from orbiting satellites and which is located external to or attached to the exterior of any structure.

**SCENIC RESOURCE** — Any road, highway, lane district, or corridor designated pursuant to Article 49 of the New York State Environmental Conservation Law. Any area designated a scenic area of statewide significance pursuant to New York States's Coastal Management Program (19 NYCRR 602.5).

**SCHOOL** — A facility, either public or private that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and or senior high schools.

**SENIOR CITIZEN HOUSING** — A building or group of buildings where occupancy is restricted to persons 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age.



**SETBACK** — The required distance in feet from:

1. Any survey boundary forming a lot or contiguous parcel;
2. The right-of-way of a public street; or
3. A distance measured 20 feet from the centerline of private road to any building on such lot.

**SHELTER**[Added 10-13-2015 by L.L. No. 5-2015]

1. A building containing at least one habitable room provided with minimal supportive services and which is intended to provide housing for homeless persons, domestic violence victims or other transient individuals on a temporary basis for any reason.
2. A shelter is not to be interpreted as any of the following: boarding house; dwelling; dwelling, one-family; dwelling, one-family detached; dwelling, one-family semidetached; dwelling, two-family; dwelling, multiple-family; dwelling unit; hotel; inn or motel.

**SHOPPING CENTER** — A building or group of buildings containing a combination of three or more separate shops, stores or offices on a single lot providing primarily retail services with supporting service and office establishments.

**SIGN** — Any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of, an announcement, direction or advertisement. A "sign" includes a billboard, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, eleemosynary, professional, religious or similar organization, or of any campaign, drive, movement, or event which is temporary in nature.

**SIGN, ADVERTISING** — A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the same lot. This shall include billboards.

**SIGN, BUSINESS** — A sign which directs attention to a business or profession conducted or to products sold on the same lot. A "For Sale" sign relating to the lot on which it is displayed should be deemed a business sign.

**SIGN, IDENTIFICATION OR PROFESSIONAL** — A sign showing the name and profession, occupation or pursuit conducted on the premises.

**SINGLE OWNERSHIP** — Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 10 years, regardless of any division of such land into parcels for the purpose of financing.

**SITE PLAN** — Maps and supporting information required under Article 9 of this law.

**SOLAR COLLECTOR** — A device, or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical

energy, and that contributes to a structure's energy supply, together with any components for containing and supporting such device.

**SOLAR COLLECTOR, DETACHED** — A solar collector, as defined herein which is physically detached from the structure for which solar energy is to be supplied.

**SOLAR ENERGY SYSTEM** — A complete design or assembly consisting of a solar energy collector (herein called a solar collector), an energy storage facility (where used), and components for the distribution of transformed energy (to the extent that they cannot be used jointly with a conventional energy system), including passive solar energy systems.

**STORY** — The part of a building comprised between a floor and the floor or roof next above it. A basement shall be considered a story. A cellar shall not be considered a story.

**STORY, HALF** — That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 the floor-to-ceiling height of the story below. An attic with a finished floor shall be considered a half story. Half stories have structural headroom of less than seven feet six inches and shall not be included within the definition of floor area for the purposes of this zoning law. (See: Floor area).

**STREET** — An existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on the official map and recorded in the office of the county clerk.

**STREET, LOCAL** — A street or road designed primarily to provide access to abutting properties.

**STREET, MARGINAL ACCESS** — Those streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

**STREET, PRIMARY** — A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic areas.

**STREET, PRIVATE** — A drive that services or is designed to serve no more than two principal uses and is built to city specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the city.

**STREET, PUBLIC** — A road or street that serves three or more principal uses, that is built to city specifications and is dedicated to the city for maintenance.

**STREET, SECONDARY** — A public street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a primary street.

**STRUCTURE** — A static construction of building materials, framed of component structural parts for occupancy or use, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, fences, reviewing stands, gasoline pumps, mobile dwellings, and the like.

**SWIMMING POOL** — An artificial pool of water having a depth at any point of more than 30 inches and a surface area of greater than 100 square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment.

**SWIMMING POOL, PRIVATE** — A swimming pool operated as an accessory use to a residential dwelling unit or units and located on an individual residential lot or site.

**SWIMMING POOL, PUBLIC** — A public or privately-owned pool open to the general public or to individuals on a membership basis and having appropriate dressing room facilities, recreation and off-street parking area.

**TOPSOIL** — A surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation. The "A" horizon of the soil solum.

**TOWNHOUSE** — A building consisting of three or more attached single-family dwelling units each having separate entrances and common vertical party walls. (See also: Building, semidetached).

**TRAILER** — A non-motorized wheeled vehicle designed to be transportable when towed by a motorized vehicle and which has been designed for human occupancy as a dwelling unit. A trailer does not meet the standards established by 42 U.S.C. Sec. 5401, the National Manufactured Housing Construction and Safety Standards Act of 1974.

**TRAILER, UTILITY** — A non-motorized wheeled vehicle designed to be transportable when towed by a motorized vehicle and which has been designed for the storage of tools and/or equipment.

**TRAVEL TRAILER** — A registered vehicle which is used or designed to be used, for seasonal and/or temporary living or sleeping purposes, and which is customarily standing on wheels or rigid supports. A recreational vehicle (RV) is also considered a travel trailer.

**TRUCKING TERMINALS** — A building or part of a building or premises for the storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

**USE** — This term is employed in referring to:

1. The purpose for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied;
2. Any occupation, business activity, or operation conducted in a building or other structure, or on land.

**USE, PRINCIPAL** — The main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this law.

**VEHICLE SALES AREA** — A premises, including open areas, other than a street or way, and enclosed showrooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, boats, and/or recreational vehicles.

**VETERINARY HOSPITAL** — A building for the treatment of animal illness including

facilities for boarding animals receiving treatment.

**WAREHOUSE** — A building or premises, for storing of goods, wares and merchandise, whether for the owner or for others, whether publicly or privately owned or used.

**WAY** — A thoroughfare, street, alley, way or right-of-way, however designated, permanently established for passage of persons or vehicles.

**WHOLESALE (STORE, BUSINESS, ESTABLISHMENT)** — A business establishment engaged in selling to retailers or jobbers rather than directly to consumers.

**WIND ENERGY CONVERSION SYSTEM (WINDMILL)** — Any mechanical device designed for the purpose of converting wind energy into electrical or mechanical power.

**YARD, FRONT** — An open area extending the full width of the lot between the street right-of-way and the building line projected to the side lot lines.

**YARD, REAR** — An open area extending the full width of the rear lot line situated between the rear lot line and the building line projected to the side lot lines.

**YARD, REQUIRED** — That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a setback depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

**YARD, SIDE** — An open area extending between the building line and the side line of a lot and extending from the front yard rear line (or from the front lot line, if there is no required front yard) to the rear yard front line (or to the rear lot line if there is no required rear yard).

### ARTICLE 3 ESTABLISHMENT OF DISTRICTS

#### **Sec. 3.0. Application of regulations.**

No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved, or altered, unless in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

#### **Sec. 3.1. General regulations.**

3.1.1 No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards, than is specified herein for the district in which such building or structure is located.

3.1.2 No part of a required yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another building.

3.1.3 No lot shall be so reduced in size that its area or any of its dimensions or open

spaces shall be smaller than those required by this law.

3.1.4 In their interpretation and application, the provisions of this zoning law shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

3.1.5 Any uses not specifically permitted shall be deemed to be prohibited.

3.1.6 Regardless of any other provisions of this law, or chapter, any use that is noxious or offensive by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health or safety, is prohibited, in accordance with the standards of Article 10 of this law.

### **Sec. 3.2. Zoning districts.**

In order to fulfill the purpose of this zoning law, the city establishes the following districts:

1. Single-family Residential (R1).
2. Single-family/General Residential (R2).
3. General Residential (R3).
4. Residential Transition (RT).
5. City Center (CC).
6. General Commercial (GC).
7. Waterfront Conservation (WC).
8. Industrial (I).
9. General Industrial (I2).
10. General Industrial (I3).
11. Planned Residential (PR).
12. Planned Business (PB).

### **Sec. 3.3. Zoning map of the City of Olean.**

The location and boundaries of said zoning use districts are hereby established on a scaled map designated "Zoning Map of the City of Olean" which is kept on file and will be available for public viewing in the office of the city clerk, and such map is hereby declared to be part of this zoning law.

### **Sec. 3.4. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

3.4.1 Centerlines and right-of-way lines. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways,

public utility easements, or watercourses, said boundaries shall be constructed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way of such street, highway, public utility or watercourse is moved not more than 20 feet.

- 3.4.2 Lot or boundary lines. Where district boundaries are indicated as approximately following the city boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- 3.4.3 Parallel to lot or boundary lines. Where district boundaries are so indicated that they are approximately parallel to the city boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map or as shall be determined by the use of the scale shown on the zoning map.
- 3.4.4 District boundaries shall be determined by use of an accurate scale which shall be shown on the zoning map. In no instances shall a district boundary be set at less than the minimum lot depth required in section 6.1, entitled "Density control schedule", of this law.
- 3.4.5 In the event of a questionable district boundary, the questionable boundary shall be referred to the zoning board of appeals, and they shall, to the best of their ability, establish the exact boundary.
- 3.4.6 The copy of the zoning map showing any such determinations under this section shall be on file at the office of the city clerk.
- 3.4.7 Precise zone boundary determinations made by the zoning board of appeals in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the zoning map by the common council of the city.
- 3.4.8 Lots divided by zoning district lines. Where a lot is divided by a district boundary line, the regulations for each respective district shall apply except:
  1. In all cases where a lot in one ownership, other than a through lot, is divided by a district boundary so that 50% or more of such lot lies in the less restricted district, the regulations prescribed for such less restricted district shall apply to the more restricted portion of said lot for a distance of 30 feet from the zoning district boundary. For purposes of this law, the more restricted district shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations set higher standards with respect to setback, coverage, yards, screening, landscaping and similar requirements.
  2. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.
- 3.4.9 Buildings divided by zoning district lines. Where a district boundary line divides a

building existing on the effective date of this law, so that 50% or more of such building lies within the less restricted district, the regulations prescribed by this law for such less restricted district (as defined in subsection 3.4.8(1) above) shall apply to the entire building. Such provisions shall apply only if, and as long as, the building is in single ownership and its structural characteristics prevent its use in conformity with the requirements of each district.

## ARTICLE 4 ZONING USE DISTRICTS

### **Sec. 4.0. Single-Family Residential Use District (R1).**

4.0.1 Intent. The intent of the R1 Single-family Residential Use District is to delineate those areas where predominantly single-family detached, low-density residential development has occurred or is likely to occur in the future. It is to protect the integrity of these residential areas by prohibiting the intrusion of any use which is not compatible with this predominant type and intensity of use. The R1 District recognizes the value of such other permissible uses as churches, schools, libraries and other educational buildings, and playgrounds.

4.0.2 Permitted uses. Within the R1 District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the R1 District are further identified in section 4.14 of this article, entitled "Use regulation table".

4.0.2.a Permitted principal uses.

1. Detached single-family dwellings.
2. Governmental uses.
3. Public or private schools.
4. Public parks and recreational uses.
5. Senior citizen housing.

4.0.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
2. Antennas.

4.0.2.c Special permitted uses. The following uses may be permitted in the R1 Residential Use District Consistent with the provisions of this law and provided that a special use permit is approved by the planning board:

1. Adult care facilities.
2. Churches or places of worship.
3. Libraries.
4. Museums.

5. Private parking lots.

The following use may be permitted in the R1 Residential Use District consistent with the provisions of this law and provided that this special use permit is permitted by the zoning board of appeals.

1. Home occupations.

4.0.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "City of Olean zoning law density control schedule," which is part of this law.

4.0.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

4.0.5 Signage. Signs are permitted as listed in article 11, section 11.1 of this law.

4.0.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this law.

**Sec. 4.1. Single-family/General Residential Use District (R2).**

4.1.1 Intent. The intent of the R2 Single-family/General Residential Use District is to delineate those areas where there are generally lot sizes somewhat smaller than those in the R1 District but which are predominantly single-family detached, low-density residential in character and where such development is likely to continue to occur in the future. It is to protect the integrity of these residential areas by prohibiting the intrusion of any use which is not compatible with this predominant type and intensity of use. The R2 District recognizes the value of such other permissible uses as churches, schools, libraries and other educational buildings, and playgrounds.

4.1.2 Permitted uses. Within the R2 District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the R2 District are further identified in section 4.14 of this article, entitled "Use regulation table".

4.1.2.a Permitted principal uses.

1. Detached single-family dwellings.
2. Governmental uses.
3. Public or private schools.
4. Public parks and recreational uses.
5. Senior citizen housing.

4.1.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.



2. Antennas.

4.1.2.c Special permitted uses. The following uses may be permitted in the R2 Residential Use District consistent with the provisions of this law and provided that a special use permit is approved by the planning board:

1. Adult care facilities.
2. Churches or places of worship.
3. Libraries.
4. Museums.
5. Private golf courses.
6. Private parking lots.

The following use may be permitted in the R2 Residential Use District consistent with the provisions of the law and provided that this special use permit is permitted by the zoning board of appeals.

1. Home occupations.

4.1.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "City of Olean zoning law density control schedule", which is part of this law.

4.1.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this chapter.

4.1.5 Signage. Signs are permitted as listed in article 11, section 11.1 of this chapter.

4.1.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this chapter.

**Sec. 4.2. General Residential Use District (R3).** [L.L. No. 7-02, § 1, 11-26-2002]

4.2.1 Intent. The intent of the R3 General Residential Use District is to delineate those areas where predominantly detached single-family, moderate density residential development and some two-family residential development has occurred or is likely to occur, to allow in special instances in accordance with site plan review, multiple-family dwellings and dwelling groups and to protect the integrity of these residential areas by controlling the type and intensity of uses so that the overall character and density of the neighborhood is preserved. The R3 District recognizes the value of such other permissible uses as churches, schools, libraries and other educational buildings, playgrounds, and general hospitals under the conditions set forth in this law.

4.2.2 Permitted uses. Within the R3 District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the R3 District are further identified in section 4.14 of this article, entitled "Use regulation table".

4.2.2.a Permitted principal uses.

1. Adult care facilities.
2. Agricultural uses.
3. Churches or places of worship.
4. Detached single-family dwellings.
5. Governmental uses.
6. Libraries.
7. Multi-family dwellings.
8. Nursery schools.
9. Public or private schools.
10. Public parks and recreational uses.
11. Semi-detached single-family dwellings.
12. Senior citizen housing.
13. Two-family dwellings.

4.2.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
2. Antennas.

4.2.2.c Special permitted uses. The following uses may be permitted in the R3 General Residential Use District consistent with the provisions of this law and provided that a special use permit is approved by the planning board:

1. Bed and breakfasts.
2. Clustered projects.
3. Colleges and institutions of higher education.
4. Day care centers.
5. Hospitals.
6. Medical clinics.
7. Museums.
8. Non-profit clubs, membership.
9. Nursing (and convalescent) homes.
10. Private parking lots.

11. Townhouses.
12. Accessory uses and structures customarily incident to any of the uses mentioned herein, and not on the same lot.

The following use may be permitted in the R3 Residential Use District consistent with the provisions of this law and provided that this special use permit is permitted by the zoning board of appeals.

1. Home occupation uses.

4.2.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "Law density control schedule", which is part of this chapter.

4.2.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this chapter.

4.2.5 Signage. Signs are permitted as listed in article 11, section 11.1 of this chapter.

4.2.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this chapter.

#### **Sec. 4.3. Residential Transition Use District (RT).**

4.3.1 Intent. The intent of the RT Residential Transition Use District is to delineate those areas adjacent to the central commercial and business districts which currently contain a mixture of residential and business uses, to allow in specific instances in accordance with site plan review multiple family dwellings and clustering (dwelling groups), and to promote the continuation of these compatible mixtures of uses as desirable areas and as buffers between intensive commercial and residential use districts.

4.3.2 Permitted uses. Within the RT District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the RT District are further identified in section 4.14 of this article, entitled "Use regulation table".

##### 4.3.2.a Permitted principal uses.

1. Adult care facilities.
2. Antique and craft shops.
3. Art galleries.
4. Banks and financial institutions.
5. Barber and beauty shops.
6. Bed and breakfasts.
7. Churches or places of worship.

8. Day care centers.
9. Detached single-family dwellings.
10. Dwelling units above first floor businesses.
11. General business offices.
12. Government uses.
13. Hotels and motels.
14. Inns.
15. Libraries.
16. Multi-family dwellings.
17. Museums.
18. Newspaper and publishing facilities.
19. Non-profit membership clubs.
20. Nursery schools.
21. Nursing and convalescent homes.
22. Personal service establishments.
23. Photographic studios.
24. Private or public schools.
25. Professional offices.
26. Professional office buildings.
27. Public parks and recreational uses.
28. Recreation, commercial.
29. Restaurant, standard.
30. Semi-detached single-family dwellings.
31. Senior citizen housing.
32. Townhouses.
33. Two-family dwellings.

4.3.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
2. Antennas.

3. Home occupation uses.
4. Private parking lots.

4.3.2.c Special permitted uses. The following uses may be permitted in the RT Residential Transition Use District consistent with the provisions of this law and provided that a special use permit is approved by the planning board:

1. Bars and night clubs.
2. Colleges and institutions of higher education.
3. Commercial parking lots.
4. Drive-in uses.
5. Dry cleaning businesses.
6. Funeral homes.
7. Public utilities or transportation uses.
8. Recreation, commercial.
9. Retail businesses and commercial uses other than those specified above.
10. Self-service laundries.
11. Theaters.
12. Veterinary hospitals.

4.3.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "Law density control schedule", which is part of this law.

4.3.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

4.3.5 Signage. Signs are permitted as listed in article 11, section 11.1 of this law.

4.3.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this chapter.

#### **Sec. 4.4. City Center Use District (CC).**

4.4.1 Intent. The intent of the CC City Center Use District is to delineate the city center area which is primarily utilized and is appropriate for a more intensive mixture of interactive retail, cultural, conference and meeting, lodging, business and personal service, financial, institutional, office, residential and governmental uses and to provide and promote a full range of city center uses that serve the needs of the surrounding city and county populations and to ensure that any use permitted is compatible with the character of the district and its permitted types and intensities of use. The purpose of the CC District is also to recognize the unique historical

character of the city center as a part of the heritage of the City of Olean and Cattaraugus County.

4.4.2 Permitted uses. Within the CC Use District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the CC Use District are further identified in section 4.14 of this article, entitled "Use regulation table."

4.4.2.a Permitted principal uses.

1. Adult care facilities.
2. Antique and craft shops.
3. Art galleries.
4. Banks and financial institutions.
5. Barber and beauty shops.
6. Bars and night clubs.
7. Bed and breakfasts.
8. Bowling alleys.
9. Churches or places of worship.
10. Colleges and institutions of higher education.
11. Commercial parking lots.
12. Day care centers.
13. Dry cleaning businesses.
14. Dwelling units above first floor businesses.
15. Garage service and repair uses.
16. General business office uses.
17. Governmental uses.
18. Hotels and motels.
19. Inns.
20. Libraries.
21. Medical clinics.
22. Multi-family dwellings.
23. Museums.
24. Newspaper and publishing facilities.

25. Non-profit membership clubs.
26. Non-vehicle repair shops.
27. Nursery schools.
28. Parking structures.
29. Personal service establishments.
30. Photographic studios.
31. Professional offices.
32. Professional office buildings.
33. Public and private schools.
34. Public parks and recreational uses.
35. Public utilities or transportation uses.
36. Recreation, commercial.
37. Research laboratories.
38. Retail businesses and commercial uses other than those listed above.
39. Self-service laundries.
40. Senior citizen housing.
41. Standard and fast food restaurants.
42. Theaters.
43. Townhouses.
44. Vehicle sales and/or repair uses.
45. Warehousing and wholesale and retail distribution centers including offices and showrooms.

4.4.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
2. Antennas.
3. Private parking lots.

4.4.2.c Special permitted uses. The following uses may be permitted in the CC City Center Use District consistent with the provisions of this law and provided that a special use permit is approved by the planning board:

1. Amusement game centers.

2. Drive-in uses.
3. Funeral homes.

4.4.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6-1, entitled "Law density control schedule", which is part of this law.

4.4.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

4.4.5 Signage. Signs are permitted as listed in article 11, section 11.2 of this law.

4.4.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this chapter.

#### **Sec. 4.5. General Commercial Use District (GC).**

4.5.1 Intent. The intent of the GC General Commercial Use District is to delineate areas in the city which are currently used or are appropriate for general commercial or business uses which provide a range of retail and personal services in order to fulfill recurring needs of residents and visitors and which by the nature or scale of the operations permitted and careful site planning are compatible with adjoining commercial and residential areas.

4.5.2 Permitted uses. Within the GC District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the GC District are further identified in section 4.14 of this article, entitled "Use regulation table".

4.5.2.a Permitted principal uses.

1. Adult care facilities.
2. Amusement game centers.
3. Antique and craft shops.
4. Art galleries.
5. Banks and financial institutions.
6. Barber and beauty shops.
7. Bars and night clubs.
8. Bed and breakfasts.
9. Bowling alleys.
10. Car washes.
11. Churches or places of worship.



12. Clustered projects.
13. Colleges and institutions of higher education.
14. Commercial parking lots.
15. Day care centers.
16. Drive-in uses.
17. Dry cleaning businesses.
18. Dwelling units above first floor businesses.
19. Garage service and repair uses.
20. Gasoline filling stations.
21. Gasoline/grocery service marts.
22. General business office uses.
23. Government uses.
24. Hotels and motels.
25. Inns.
26. Libraries.
27. Medical clinics.
28. Multi-family dwellings.
29. Museums.
30. Newspaper and publishing facilities.
31. Non-profit membership clubs.
32. Non-vehicle repair shops.
33. Nursery schools.
34. Nursing and convalescent homes.
35. Parking structures.
36. Personal service establishments.
37. Photographic studios.
38. Professional offices.
39. Professional office buildings.
40. Public and private schools.
41. Public parks and recreational uses.

42. Public utilities or transportation uses.
43. Research laboratories.
44. Recreation, commercial.
45. Retail businesses and commercial uses other than those listed above.
46. Standard and fast food restaurants.
47. Self-service laundries.
48. Senior citizen housing.
49. Theaters.
50. Vehicle sales and/or repair uses.
51. Veterinary hospitals.
52. Warehousing and wholesale and retail distribution centers including offices and showrooms.

4.5.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and not on the same lot.
2. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
3. Antennas.
4. Home occupations.
5. Private parking lots.

4.5.2.c Special permitted uses. The following uses may be permitted in the GC General Commercial Use District consistent with the provisions of this law and provided that a special use permit is approved by the Planning Board: [Added 6-9-2015 by L.L. No. 3-2015]

1. Funeral homes.
2. Private golf courses.
3. Solar energy production facility.
4. Shelters. [Added 12-22-2015 by L.L. No. 7-2015]

4.5.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "Law density control schedule", which is part of this law.

4.5.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this

law.

4.5.5 Signage. Signs are permitted as listed in article 11, section 11.2 of this law.

4.5.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this law.

**Sec. 4.6. Waterfront Conservation Use District (WC).**

4.6.1 Intent. The intent of the Waterfront Conservation use district established in this section is to recognize the unique role which the Allegheny River and Olean Creek and their waterfront areas have played in the formation, growth and life of the City of Olean. All construction within this use district is required to conform with the provisions of chapter 9 of part II of the Code of Ordinances of the City of Olean, entitled "Flood Prevention". The objectives of this district are:

1. To provide for a compatible mixture of waterfront-related uses, including recreational, park, open space and boating uses, as well as limited waterfront enhanced uses such as waterfront-related residential and commercial uses;
2. To encourage appropriate land development, including the utilization of land and buildings and the adaptive reuse of existing structures, which is in harmony with the conservation of the district's general recreational and open space character and the historic environmental areas adjacent to the creek and river;
3. To recognize the sensitivity of the unique waterfront environment in this area and reinforce appropriate safeguards to protect the area from periodic flooding, soil erosion, sedimentation and slope failure due to unregulated construction, removal of vegetation, dredging, filling, damming or channelization;
4. To further protect scenic views of the creek, river, open space areas and mountains;
5. To provide for a mix of land uses and developments as well as active and passive recreational areas and opportunities that take advantage of the unique location and characteristics of the waterfront area;
6. To promote the maintenance and/or extension of public access to the river and creek, when practical and feasible, and where such access relates to and is compatible with the primary purpose of the proposed development or activity.
7. To provide for a variety of activities in a planned, controlled environment in a manner blending all uses into a functionally and aesthetically complementary whole.

4.6.2 Permitted uses. Within the Waterfront Conservation Use District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the WC Use District are further identified in section 4.14 of this article, entitled "Use regulation table".

4.6.2.a Permitted principal uses.

1. Adult care facilities.
2. Antique and craft shops.
3. Art galleries.
4. Banks and financial institutions.
5. Bars and night clubs.
6. Barber and beauty shops.
7. Bed and breakfasts.
8. Churches or places of worship.
9. Clustered projects.
10. Commercial parking lots.
11. Detached single-family dwellings.
12. Dwelling units above first floor businesses.
13. Government uses.
14. Hotels and motels.
15. Inns.
16. Libraries.
17. Multi-family dwellings.
18. Museums.
19. Non-profit clubs, membership.
20. Personal service establishments.
21. Photographic studios.
22. Public parks and recreational uses.
23. Public utilities or transportation uses.
24. Semi-detached one-family dwelling units.
25. Theaters.
26. Townhouses.
27. Two-family dwellings.

4.6.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses

mentioned for this use district, and not on the same lot.

2. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
3. Antennas.
4. Home occupations.
5. Private parking lots.

4.6.2.c Special permitted uses. The following uses may be permitted in the WC Waterfront Conservation Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning Board: [Amended 6-9-2015 by L.L. No. 3-2015; 6-24-2015 by L.L. No. 4-2015]

1. Colleges and institutions of higher education.
2. Mobile home parks.
3. Recreation uses, commercial.
4. Solar energy production facility.
5. Standard and fast food restaurants.
6. Telecommunications towers.

4.6.3 Dimensional requirements. The dimensional requirements for this district are specified in section 4.6.6. below.

4.6.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

4.6.5 Signage. Signs are permitted as listed in article 11, section 11.3 of this law.

4.6.6 Site plan review. Site plan review and approval shall be required for all uses permitted within the WC District. In addition to the general requirements for site plan review and approval as specified in article 9 of this law, the following standards shall apply to site plan review within the WC Use District:

4.6.6.a A maximum of 40% of the gross land area in the proposed development parcel may be devoted to a building development. Said maximum shall include the land area devoted to all principal and accessory structures but shall exclude any space devoted to required yards, open space and recreation uses and streets and required off-street parking within the parcel as defined in the regulations for this use district.

4.6.6.b A minimum of 30% of the gross land area shall be devoted to open space as defined in this zoning chapter. This open space area shall not include area devoted to streets, roads, or required off-street parking within the development parcel.

- 4.6.6.c Setbacks from dikes or base floodline. No building shall be located closer than 35 feet to a dike, if a dike exists in the area, or to the base flood elevation line as established by the Federal Emergency Management Agency (FEMA) as part of the national flood insurance program (NFIP), if no dike exists in the area. No structures are permitted to be developed within the floodway as defined by the Federal Emergency Management Agency and depicted on the most current FEMA flood insurance rate map for the City of Olean except in accordance with the regulations of FEMA.
- 4.6.6.d Height limitation. No buildings shall exceed a maximum height of 35 feet in this use district.
- 4.6.6.e Minimum lot area. No lot shall be less than 4,000 square feet in area.
- 4.6.6.f Minimum yard requirements. No front yard shall be less than 15 feet in depth. No side yard shall be less than four feet in depth. No rear yard shall be less than 10 feet in depth.
- 4.6.6.g Separation between buildings on the same lot. No two buildings located on the same lot shall be separated from each other by a distance of less than five feet.

#### **Sec. 4.7. Industrial Use District (I).**

- 4.7.1 Intent. The intent of the I Industrial Use District is to delineate areas within the city which are used for and are appropriately suited to manufacturing, distribution, major wholesaling, research and testing, warehousing, processing or other industrial uses which contribute jobs and tax base to the economy of the region, are consistent with the standards described in article 10 and do not create serious problems of compatibility with other land uses and to regulate such industrial development so that it will be of benefit to the city and its citizens.
- 4.7.2 Permitted uses. Within the I District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the I District are further identified in section 4.14 of this article, entitled "Use regulation Table".
- 4.7.2.a Permitted principal uses.
1. Auto-body repair/metal finishing shop.
  2. Adult care facilities.
  3. Cemeteries.
  4. Colleges and institutions of higher education.
  5. Contractor yards and equipment.
  6. Crematories/crematoriums.
  7. Dry cleaning businesses.
  8. Funeral homes.

9. Garage service and repair uses.
10. General business office uses.
11. Governmental uses.
12. Hotels and motels.
13. Manufacture, fabrication, extraction, assembly, and other handling of material, including offices and show-rooms.
14. Newspaper and publishing facilities.
15. Parking lots, commercial.
16. Parking structures.
17. Professional offices.
18. Professional office buildings.
19. Public parks and recreational uses.
20. Public utilities or transportation uses.
21. Recreation uses, commercial.
22. Research laboratories.
23. Trucking terminals.
24. Vehicle sales and/or repair uses.
25. Warehousing and wholesale and retail distribution centers including offices and showrooms.

4.7.2.b Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and not on the same lot.
2. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
3. Antennas.
4. Private parking lots.

4.7.2.c Special permitted uses. [Amended 6-9-2015 by L.L. No. 3-2015; 6-24-2015 by L.L. No. 4-2015]

1. Banks and financial institutions.
2. Bars and night clubs.
3. Day-care centers.

4. Drive-in uses.
5. Gasoline filling stations.
6. Gasoline/grocery service marts.
7. Nonvehicle repair shops.
8. Retail businesses and commercial uses other than those listed above.
9. Solar energy production facility.
10. Standard and fast food restaurants.
11. Telecommunications towers.
12. Veterinary hospitals.
13. Shelters. [Added 12-22-2015 by L.L. No. 7-2015]

4.7.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "Law density control schedule", which is part of this law.

4.7.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

4.7.5 Signage. Signs are permitted as listed in article 11, section 11.3 of this law.

4.7.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this law.

#### **Sec. 4.8. General Industrial District (I2).**

4.8.1 Intent. The intent of the I2 General Industrial Use District is to delineate areas within the city which are used for and are appropriately suited to manufacturing, distribution, major wholesaling, research and testing, warehousing, processing or other industrial uses which contribute jobs and tax base to the economy of the region and commercial uses, providing that such industrial and commercial uses are consistent with the standards described in article X and do not create serious problems of compatibility with other land uses and to regulate such development so that it will be of benefit to the city and its citizens.

4.8.2 Permitted uses. Within the I2 District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the I2 District are further identified in section 4.14 of this article, entitled "Use regulation table".

4.8.2.a Permitted principal uses.

1. Includes all permitted principal uses allowed in section 28-83(b)(1) of this chapter.

4.8.2.b Permitted accessory uses, buildings and structures.



1. Includes all permitted accessory uses, buildings and structures allowed in section 4.7.2.b. of this law.
- 4.8.2.c Special permitted uses.
1. Includes all special permitted uses allowed in section 4.7.2.c of this law.
  2. Adult uses.
- 4.8.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1, entitled "Law density control schedule", which is part of this law.
- 4.8.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.
- 4.8.5 Signage. Signs are permitted as listed in article 11, section 11.3 of this law.
- 4.8.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this law.

#### **Sec. 4.9. Special Industrial District (I3).**

- 4.9.1 Intent. The intent of the I3 Special Industrial Use District is to delineate areas within the city which are used for and are appropriately suited to manufacturing, distribution, major wholesaling, research and testing, warehousing, processing or other industrial uses which contribute jobs and tax base to the economy of the region and commercial uses, providing that such industrial and commercial uses are consistent with the standards described in article 10 and do not create serious problems of compatibility with other land uses and to regulate such development so that it will be of benefit to the city and its citizens.
- 4.9.2 Permitted uses. Within the I3 District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the I3 District are further identified in section 14.4 of this article, entitled "Use regulation table".
- 4.9.2.a Permitted principal uses.
1. Includes all permitted principal uses allowed in section 4.7.2.a of this law.
- 4.9.2.b Permitted accessory uses, buildings and structures.
1. Includes all permitted accessory uses, buildings and structures allowed in section 4.7.2.b of this law.
- 4.9.2.c Special permitted uses.
1. Includes all special permitted uses, buildings and structures allowed in section 4.7.2.c of this law.
  2. Adult uses so long as they conform to the following requirements:

- a) An adult use shall not be located within a three-hundred-foot radius of any property currently in residential use.
- b) No adult use shall be located within a six-hundred-foot radius for another adult use.
- c) No adult use shall be located within a five-hundred-foot radius of any house of worship, school, day care center, park or playground, civic facility, or historic resource.
- d) No more than one adult use shall be located on any lot.
- e) No adult use shall be located in any building that is used in whole or part for residential uses.
- f) All building opening, including doors and windows shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area.
- g) As a condition of approval of any adult use, there shall be restriction that there shall be no outdoor, sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment. Such a sign shall be reviewed by the planning board in conjunction with the conditional use application and shall conform to all signage requirements of said this local law as per section 11-1 "Signs".
- h) No loudspeaker or sound equipment shall be used by adult uses that can be heard by the public from outside the establishment.

4.9.3 Dimensional requirements. The dimensional requirements for this district are specified in section 6.1 entitled "Law density control schedule", which is part of this law.

4.9.4 Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

4.9.5 Signage. Signs are permitted as listed in article 11, section 11.3 of this law.

4.9.6 Site plan review. Site plan review and approval shall be secured as required in article 9 of this law.

[Sections 4.10 through 4.13 reserved for future use.]

**Sec. 4.10. through Sec. 4.13. Reserved.**

**Sec. 4.14. Use regulation table.** <sup>1</sup>

**Sec. 4.15. Activities prohibited in all districts.**

- 4.15.1 No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.
- 4.15.2 No person, firm or corporation shall strip, excavate or otherwise remove top soil for sale, or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building in such premises and excavation or grading incidental thereto.
- 4.15.3 No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.
- 4.15.4 Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall not be permitted.

ARTICLE 5  
**INCENTIVE ZONING**

**Sec. 5.0. Intent.**

The purpose and intent of these provisions is to offer incentives to applicants who provide amenities that assist the city in implementing the specific physical, cultural, economic development and social policies of the Comprehensive Development Plan of the City of Olean as supplemented by the local laws and ordinances adopted by the common council, all in accordance with Section 81-b of the General City Law of the State of New York.

**Sec. 5.1. Applicable to the Industrial (I), General Industrial (12) and City Center (CC) Use Districts.**

For this purpose the Industrial (I), General Industrial (12) and City Center (CC) Use Districts are designated as eligible for zoning incentives. Incentives may be offered to applicants who offer an acceptable amenity to the city in exchange for the incentive.

**Sec. 5.2. Amenities for which zoning incentives may be offered.**

Amenities for which Incentives may be offered in the I, 12 and CC Districts may be provided either on or off the site of the applicant's primary proposal and may include:

1. Affordable housing;
2. Passive and active open space and related improvements;

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1. Editor's note: This table is included as an attachment to this chapter.

3. Parks and plazas;
4. Child care or adult care facilities;
5. Utilities;
6. Parking or road improvements for use by the general public;
7. Health or other human service facilities;
8. Cultural, visitor or historic facilities;
9. Building or facade improvements in accordance with guidelines adopted by the common council of the City of Olean;
10. Other facilities or benefits to the residents of the community; and
11. Any combination of amenities and/or cash in lieu of any amenity.

**Sec. 5.3. Zoning incentives which may be granted.**

The following incentives may be granted by the common council to the applicant on a specific site:

1. Increases in building density;
2. Changes of use;
3. Increases in lot coverage;
4. Changes in setbacks or height;
5. Increases in floor area;
6. Reductions or modifications of parking requirements where shared or joint use parking is practicable and the necessary agreements have been reached.

**Sec. 5.4. Incentive zoning applications.**

Applications for incentives in exchange for amenities shall be submitted to the common council through the code enforcement officer of the city, who shall also notify the department of community development of such application, and the common council shall evaluate the adequacy of amenities to be accepted in exchange for the requested incentive.

The following information shall be provided by the applicant to the common council:

1. A description of the proposed amenity;
2. The cash value of the proposed amenity;
3. A narrative which describes the benefits to be provided to the community by the proposed amenity; gives preliminary indication that there are adequate sewer, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities

beyond the demand that would be placed on them as if the district were developed to its fullest potential; and explains how the amenity helps implement the physical, social, economic development or cultural policies of the comprehensive development plan as supplemented by other local laws and ordinances adopted by the common council.

4. The requested incentive or incentives. The common council shall refer all applications to the planning board for its review and comment.

#### **Sec. 5.5. Application review process.**

The common council shall review the proposal and inform the applicant whether or not the application is complete and whether the application is worthy of further consideration. If the application is deemed to be worthy of further consideration, the common council shall prepare a resolution with required minimum sponsorship and submit that together with two sketch plans prepared by the applicant to the planning board.

The first sketch shall show how the site will be developed with the amenity, if it is on-site, and the incentive. The plan shall also show existing development, property owner's names and tax account numbers for all property within 200 feet of the property lines of the proposed project or such other distance specified by the common council.

If the incentive will result in a structural height increase, the applicant shall submit an elevation drawing at a scale of 1/4 inch equal one inch which shows the height permitted by the district regulations, the proposed additional height, the distance to other principal structures on-site and on adjacent properties and their heights, as well as property line locations.

If the incentive will result in a setback or open space reduction, the drawing shall show this reduction in relation to the principal structures on-site and on adjacent properties, as well as property line locations.

The second sketch plan should show existing development, property owners' names, and tax account numbers for all property within 200 feet of the property line at the project site, or such other distance as specified by the common council; but shall only show how the site would be developed exclusive of any amenity or incentive.

The applicant shall also submit such additional information and plans as may be required by the planning board which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.

The planning board shall review the proposal and report to the common council with their evaluation of the adequacy with which the amenity or amenities and incentives fit the site and how they relate to adjacent uses and structures. The planning board's review shall be limited to the planning, design and layout considerations involved with project review and such other issues as may be specifically referred by the common council. The planning board's report shall be submitted to the common council within 70 days from the date the application by the applicant to the common council is determined to be complete. This time period may be extended/suspended for good cause by the common

council.

The common council will review the planning board's report. The common council will notify the applicant whether it is willing to further consider the proposal and hold a public hearing thereon.

**Sec. 5.6. Public hearings and environmental compliance.**

For common council public hearings on incentive zoning requests, the city clerk shall give notice of the hearing in the official newspaper of the city at least 10 days prior to the date of the hearing.

All applicable requirements of the State Environmental Quality Review (SEQR) Act shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of an environmental assessment of the proposal, the assessment shall include verification that the area has adequate sewer, water, transportation, waste disposal and fire protection facilities to, first, serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/incentive proposal; and then, serve the on-site amenity and incentive.

**Sec. 5.7. Final common council action.**

Following the hearing and in addition to compliance with all SEQR requirements, the common council shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required, and may refer the proposal to other agencies for review and comment. In order to approve an amenity incentive proposal, the common council shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. Thereafter, the planning board is authorized to act on an application for preliminary plan approval.

Following preliminary plan approval and subject to meeting all conditions imposed on the preliminary plan, including the provision by the applicant of a performance bond to guarantee completion of the amenities and all documentation required by the city attorney and common council, the applicant may submit a final plan for review and approval.

If the common council finds that a community benefit is not suitable on site or cannot be reasonably provided, the common council may require a cash payment in lieu of the provision of the amenity. These funds shall be placed in a trust fund to be used by the city upon approval by the common council exclusively for amenities specified in these provisions. Cash payments shall be made prior to the issuance of a building permit.

**ARTICLE 6**

**AREA AND BULK REGULATIONS DENSITY CONTROL**

**Sec. 6.0. Purpose.**

In order to provide a sound environment including adequate open spaces for access to light and air, to facilitate the prevention of fire, to prevent undue concentration of population, and to lessen congestion in the streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this article.

### **Sec. 6.1. Density control schedule (area and bulk schedule).**

The attached schedule of density controls is hereby adopted and declared to be part of this zoning chapter. It is hereinafter referred to as the "City of Olean density control schedule."<sup>2</sup>

### **Sec. 6.2. Corner lots.**

Wherever a side or rear yard is adjacent to a street, both front and side yards shall be considered to be front yards and the standards for front yards shall apply.

### **Sec. 6.3. Projections into required yards.**

6.3.1 The following projections into required yards are permitted:

1. Awnings or movable canopies and overhangs six feet into any yard.
2. Cornices, eaves, retaining walls and roofs three feet into any yard.

6.3.2 Equipment needed for the operation of active or passive solar energy systems may be approved within required yard setbacks subject to site plan approval.

6.3.3 Any open or enclosed porch, deck or attached carport or garage shall be considered a part of the building in the determination of the size of the required yard or lot coverage. Paved terraces which are not covered shall not be considered a part of the building.

6.3.4 Accessory uses and buildings may be located in accordance with section 10.5.

### **Sec. 6.4. Compliance with maximum residential density.**

6.4.1 In all districts where residences are permitted, a lot held in single ownership may be improved for residential use according to the minimum lot size per dwelling unit and area bulk regulations for the district as set forth in the density control schedule, provided that there shall be no more than one principal building and use on each lot except as provided herein. If two or more residential structures are proposed to be located on the same lot, the maximum average density requirement must be complied with and the lot shall be subdivided so as to provide adequate width and yards.

6.4.2 A building permit shall not be issued for any residential lot of required or larger than required size according to the requirements of this zoning law where the lot has been reduced in size through subdivision and any resulting subdivided lot is not in compliance with the lot size requirements of this zoning law.

### **Sec. 6.5. Side yard for multi-family dwelling units.**

Side yards for semi-detached, townhouses or multi-family dwelling units, where permitted, shall be required at the ends of the total structure only.

### **Sec. 6.6. Building separations.**

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2. Editor's note: This table is included as an attachment to this chapter.

The requirements for minimum distance separations between principal buildings, whether on the same or on different lots, shall be those shown in section 6.1, "Density control schedule".

**Sec. 6.7. Exceptions to front yard requirements.**

Where a proposed lot abuts two or more lots which have front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting lots. If one abutting lot has a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth 1/2 way between the depth of the front yard of the abutting lot and the required front yard depth.

Where a proposed lot abuts two or more lots which have front yards greater in depth than the required depth for the district, or if one abutting lot has a front yard greater than the required depth for the district, the front yard requirement for the proposed lot shall be determined by averages in the manner specified above.

**Sec. 6.8. General exception to height regulations.**

Projections such as chimneys, silos, church spires, domes, elevator shaft housings, water tanks, skylights, antennae, aerials, flagpoles, solar energy collectors and equipment used for the mounting and operation of such collectors, and other similar objects not used for human occupancy shall be subject to site plan approval prior to issuance of a building permit.

**Sec. 6.9. Exceptions to side yard requirements.**

Where the side wall of a building is not parallel to the side lot line or where the side lot line is irregular, the width of the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than 1/2 of the normally required width.

**Sec. 6.10. Through lots.**

In the case of a lot running through from one street to another street or alley, the frontage on which the majority of the buildings in the block front shall be considered the primary frontage for the purposes of this chapter. In cases where there is no clearly defined frontage, the owner, when applying for a building permit, shall specify which lot line is considered the primary frontage. The rear portion of such a lot shall, however, be treated as a lot front for the purposes of determining required setbacks and locations of permitted structures and uses.

**Sec. 6.11. Transition yard requirements.**

Where a residential district abuts a nonresidential district along a street line, there shall be provided in the non-residential district, a landscaped setback or yard area at least equal in depth to 1/2 of the dimension required in the residential district.



## **Sec. 7.0. Intent.**

It is the intent of this article that use regulations and density controls be established for low density single-family residential districts which may be added to the city through annexation. The Planned Residential District provides for somewhat lower density residential single-family development than the R1, R2 or R3 Districts, in keeping with the environmental and topographical characteristics of the hillside areas adjacent to the present city boundaries. It is the intent of this article that developments in areas where these regulations are applicable respect the preservation of unique views which are integral to the natural heritage of the city and the character and density of surrounding areas. The PR District use and density control regulations are intended to apply to new zoning designations subject to full review and approval by the common council of the city. They are applicable to any area which may be annexed in the future by the city where lower density residential development will meet the objectives of this article.

## **Sec. 7.1. Permitted uses.**

Within the PR Planned Residential Use District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the PR District are further identified in section 4.14 of this chapter, entitled "Use regulation table".

### 7.1.1 Permitted principal uses.

1. Adult care facilities.
2. Churches or places of worship.
3. Day care centers.
4. Detached single-family dwellings.
5. Governmental uses.
6. Libraries.
7. Museums.
8. Nursery schools.
9. Public and private schools.
10. Public parks and recreational uses.

### 7.1.2 Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and not on the same lot.
2. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
3. Antennas.

4. Private parking lots.

7.1.3 Special permitted uses. The following uses may be permitted in the PR Planned Residential Use District consistent with the provisions of this law and provided that a special use permit is approved by the planning board:

1. Bed and breakfasts.
2. Clustered projects.
3. Colleges and institutions of higher education.
4. Multi-family dwellings.
5. Private golf courses.
6. Semi-detached single-family dwellings.
7. Senior citizen housing.
8. Two-family dwellings.

The following uses may be permitted in the PR Planned Residential Use District consistent with the provisions of the law and provided that this special use permit is permitted by the zoning board of appeals.

3. Home occupations.

**Sec. 7.2. Dimensional requirements.**

The dimensional requirements for this district are specified in section 6.1, entitled "Law density control schedule", which is part of this law.

**Sec. 7.3. Off-street parking requirements and loading requirements.**

The off-street parking and loading regulations are specified in Article 10, Sections 10.3 and 10.4, of this law.

**Sec. 7.4. Signage.**

Signs are permitted as listed in article 11, section 11.21 of this law.

**Sec. 7.5. Site plan review.**

Site plan review and approval shall be secured as required in Article 9 of this law.

ARTICLE 8  
**PLANNED BUSINESS DISTRICT (PB)**

**Sec. 8.0. Intent.**

It is the intent of this article that use regulations and density controls be established for planned business districts which may be added to the city through annexation. The Planned Business District provides for mixed-use business and industrial park developments along regional arterial roads in keeping with the environmental

characteristics of areas most suitable for consideration for annexation as development occurs in future years. It is the intent of this article that developments in areas where these regulations are applicable respect the character and density of surrounding areas. The PB Use District use and density control regulations are intended to apply to new zoning designations subject to full review and approval by the common council of the city. They are applicable to any area which may be annexed in the future by the city where business development will meet the objectives of this article.

### **Sec. 8.1. Permitted uses.**

Within the PB Use District, permitted principal, special and accessory uses shall be as specified in the following sections. Permitted uses in the PB Use District are further identified in section 4.14 of this law, entitled Use Regulation Table.

#### 8.1.1 Permitted principal uses.

1. Adult care facilities.
2. Amusement game centers.
3. Antique and craft shops.
4. Art galleries.
5. Banks and financial institutions.
6. Barber and beauty shops.
7. Bars and night clubs.
8. Bowling alleys.
9. Commercial parking lots.
10. Day care centers.
11. Drive-in uses.
12. Dry cleaning businesses.
13. Garage service and repair uses.
14. Gasoline filling stations.
15. Gasoline/grocery service marts.
16. General business office uses.
17. Government uses.
18. Hotels and motels.
19. Libraries.
20. Manufacture, fabrication, extraction, assembly, and other handling of material.

21. Museums.
22. Newspaper and publishing facilities.
23. Non-profit clubs, membership.
24. Nursing and convalescent homes.
25. Parking structures.
26. Personal service establishments.
27. Photographic studios.
28. Professional offices.
29. Professional office buildings.
30. Public and private schools.
31. Public parks and recreational uses.
32. Public utilities or transportation uses.
33. Research laboratories.
34. Standard and fast food restaurants.
35. Retail businesses and commercial uses other than those listed above.
36. Theaters.
37. Vehicle sales and/or repair uses.
38. Veterinary hospitals.
39. Warehousing and wholesale and retail distribution centers including offices and showrooms.

8.1.2 Permitted accessory uses, buildings and structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and not on the same lot.
2. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
3. Antennas.
4. Private parking lots.

8.1.3 Special permitted uses. The following uses may be permitted in the PB Planned Business Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the planning board:

1. Colleges and institutions of higher education.

2. Funeral homes.
3. Private golf courses.

**Sec. 8.2. Dimensional requirements.**

The dimensional requirements for this district are specified in section 6.1, entitled "Density control schedule", which is part of this law.

**Sec. 8.3. Off-street parking requirements and loading requirements.**

The off-street parking and loading regulations are specified in article 10, sections 10.3 and 10.4, of this law.

**Sec. 8.4. Signage.**

Signs are permitted as listed in article 11, section 11.21 of this law.

**Sec. 8.5. Site plan review.**

Site plan review and approval shall be secured as required in article 9 of this law.

ARTICLE 9

**PLANNING BOARD: SPECIAL USE PERMITS AND SITE PLAN REVIEW AND APPROVAL**

Pursuant to the city laws and in accordance with the general City Law of the State of New York, as amended, the city shall have a planning board. The planning board will consist of seven members appointed by the mayor with the approval of a majority of the common council. The term of office is seven years. Appointments will be in a manner so that one member's term expires each succeeding year. If a vacancy occurs for a reason other than the expiration of a term, it will be filled by mayoral appointment for the remainder of the unexpired term. Members must be residents of the city. Members may not be members of the common council. The mayor and common council may provide for compensation to be paid to members, experts, clerks, and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the mayor and common council for his purpose. The mayor will designate a chairperson from among the members of the planning board, and in the absence of the chairperson, the planning board may designate a member to serve as chairperson. The appointment of chairperson is for a one-year term.

**Sec. 9.0. Special uses.**

9.0.1 Purpose and intent. The purpose of special use approval is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, special uses require special consideration so that they may be properly located with respect to the objectives of this zoning chapter and their effect on nearby properties.

9.0.2 Authorization to grant or deny special uses. The planning board is hereby authorized to approve special uses. The special uses listed in this zoning law may be permitted, enlarged, or otherwise altered upon authorization by the planning

board in accordance with the standards and procedures set forth in this section. In permitting a special use or the modification of a special use, the planning board may impose those standards and requirements expressly specified by this law and any additional conditions which the planning board considers necessary and reasonable to protect the best interests of the surrounding property, the neighborhood, or the city as a whole. These conditions may include, but are not limited to, size or controlling the location and number of vehicle access points, increasing the street width, limiting the number, size and location of signs, limiting hours of operation, and required fencing, screening and landscaping or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this law change in use or in lot area or an alteration of structure shall conform with the requirements dealing with special uses.

The duration of an approved special use permit shall be six months or such greater period not to exceed one year as may be specified in the approval by the planning board. Special use permit approval may be renewed by the planning board for a period of six months upon written application to the planning board and copies to the code enforcement officer, such application to be submitted prior to the expiration of the special use permit approval period.

On application, and after public notice and hearing, the planning board may authorize the issuance by the code enforcement officer of permits for any of the special uses for which this law requires such permits.

#### 9.0.3 Procedures for special uses.

- a. A property owner(s) or his agent(s) may initiate a request for a special use or modification of a special use by filing an application which includes a legal description of the property, a proposed current site plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 250 feet of the lot, plans and elevations necessary to show the proposed development, other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties and a filing fee.
- b. In the case where a special use has been approved a building permit shall be issued after the granting of the special use by the planning board, and then only in accordance with the terms and conditions of the special use permit.
- c. Before a special use is permitted the proposed special use shall be subject to public notice and a public hearing, pursuant to the procedures specified in section 9.1.6.
- d. The planning board, on its own motion, may revoke any special use permit for non-compliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing. The forgoing shall not be the exclusive remedy and it shall be unlawful and punishable for any person to violate any condition imposed by a special use permit. In such cases a period of 60 days shall be granted the applicant for full compliance

prior to revocation of the said permit. In cases where there is imminent danger to the public health, safety or welfare, the revocation of the special use permit shall be immediate.

- e. The planning board may require that special use permits be periodically renewed after notice and a public hearing to determine if the original conditions have been complied with or whether conditions have changed since the original special use permit was granted.
- f. The planning board may, at its discretion, waive any submission requirements which it deems to be not relevant to the proposed use and site.

9.0.4 Standards governing special uses. A special use shall comply with the standards of the district in which it is located. In approving such uses, the planning board shall take into consideration the public health, safety and welfare and comfort and convenience of the public in general and of the residents of the immediate neighborhood in general and shall, to the maximum extent possible further the expressed intent of this law and the accomplishment of the following objectives:

- a. In order to grant any special use, the planning board shall find that the request is in harmony with the general purpose and intent of this zoning law, taking into account the location and size of use, the nature and intensity of the operations involved in or conducted in connection with the use and the size of the site with respect to streets giving access thereto.
- b. In order to grant any special use, the planning board shall find that the establishment, maintenance, or operation of the use applied for, under the circumstances of the particular case, will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the city.
- c. The proposal will not result in the destruction, loss, or damage of any natural, scenic or significant historical resource.
- d. The proposal will not create excessive additional requirements of public cost for public facilities and services; and will not be detrimental to the economic welfare of the community.
- e. The proposal will be served adequately by essential public facilities such as highways, streets, police and fire protection, stormwater drainage, water and sewer, schools or that the applicant for the proposed special use shall otherwise provide that these services be adequately obtained.
- f. The proposal essentially conforms with the comprehensive development plan.
- g. All proposed structures, equipment or material shall be readily accessible for fire and police protection.
- h. The proposed use shall be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the

district in which it is proposed to be situated and shall not be detrimental to the orderly development of adjacent properties, in accordance with the zoning classification of such properties.

- i. The proposal conforms to all applicable requirements of article 10, "Development guidelines".

In addition to the above, in the case of any use located in, or directly adjacent to, a residential district:

- a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to existing streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood.

- b. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

**Sec. 9.1. Site plan review and approval.** [L.L. No. 42-00, § 3, 6-22-2000; L.L. No. 6-02, § 1, 11-12-2002; L.L. No. 1-08, § 1, 1-14-2008]

9.1.0 Intent. The intent of site plan approval is to authorize the city's planning board to review and approve site plans for uses otherwise permitted by this law in order to determine full compliance with the intent of the standards of this law. The objective is to evaluate site plans in order to minimize conflicts between the site layout and design of proposed uses and existing uses and natural site conditions and thereby minimize any adverse effects affecting the health, safety, and overall welfare of the community.

9.1.1 Authorization. The power to approve, approve with modification, or disapprove site plans for as required by this chapter is vested in the city's planning board. Section 27 of the General City Law of New York State provides legislative authority for the common council to authorize the planning board to review and approve site plans. Prior to issuing a building permit for construction, expansion or change in use of any use, a site plan and supporting documentation shall be submitted to the planning board for its review and approval. The planning board may require that the site plans be prepared by a licensed architect or engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure(s) or land use as related to same.

9.1.2 Applicability and exceptions. Under this article, all new development or land use activities within the city shall require site plan review before being undertaken, except the following:

1. Construction or expansion of a single one-family or two-family dwelling and ordinary accessory structures, and related land use activities.



2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this law.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 500 square feet.
5. Agricultural or gardening uses not involving substantial timber cutting.
6. All signs (except in conjunction with new development).
7. Garage, lawn and porch unless:
  - a) They last more than three days; or
  - b) They are held at the same place more than three times within 12 months.

9.1.3 Concept plan conference. Concept plan submittal is optional and may be waived by the planning board. The purpose of concept plan submittal is to encourage the person applying for a use to consult early and informally with the planning board in order to save time and money and to make the most of opportunities for desirable development.

9.1.3.1 Requirements. A concept plan, if prepared, shall be submitted in triplicate to the planning board. Before preparing a concept layout, the developer may discuss with the planning board the general requirements as to design of streets, reservations of land, drainage, sewage, water supply, fire protection, and other improvements as well as procedural matters.

Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or Cattaraugus County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The planning board shall provide written comments on the concept plan of a proposed development and in the course of its review may consult with other interested public agencies.

The concept plan shall include the following information:

1. An area map showing:
  - a. Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.
  - b. All properties, their ownership and uses, subdivisions, streets, zoning districts, easements, and adjacent buildings within 500 feet of the applicant's property.
2. A site development plan, including but not limited to:

- a. Existing natural features such as water bodies, watercourses, wetlands, wooded areas, individual large trees, flood hazard areas.
  - b. Zoning districts, school districts.
  - c. Special improvement districts (water, sewer, lights, fire, drainage and the like).
  - d. Easements.
  - e. All existing built features.
  - f. All proposed buildings, structures and public improvements.
3. A map showing the topography of the site.
  4. A soils overlay, if general site grades exceed 10% or if portions of the site have susceptibility to erosion, flooding or ponding.

The requirement for submission of these documents may be waived at the sole discretion of the planning board.

9.1.4 Preliminary site plan application. Application for preliminary site plan approval shall be made in writing in triplicate to the code enforcement officer. The code enforcement officer shall notify the city clerk of receipt of the application and shall refer the application to the planning board for its review and approval. For the purposes of this law, the submission date shall be the date of the first planning board meeting following submission to the code enforcement officer.

9.1.5 Preliminary site plan requirements. The preliminary site plan application shall include the information listed below. The planning board may at its discretion waive any preliminary requirements which are not relevant to the proposed use and site.

1. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all streets, zoning districts, easements and adjacent buildings within 500 feet of applicant's property.
2. A preliminary site plan shall include the following information:
  - a. Title of drawing, including the name and address of the applicant.
  - b. North arrow, scale and date.
  - c. Boundaries of the project at a scale of not more than 200 feet to one inch.
  - d. Existing natural features such as watercourses, water bodies, wetlands, wooded areas and individual large trees, showing features to be retained.
  - e. Existing and proposed contours at intervals of not more than 10 feet.

- f. Location of proposed land uses and their areas in square feet or acres, the uses proposed and the height of each proposed structure.
  - g. Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
  - h. Description of sewage disposal and water systems and the location proposed for such facilities.
  - i. Provision for buffer areas and other landscaping.
  - j. Delineation of residential areas, if proposed, indicating the general extent of each area, a description of the dwelling unit types proposed, and a calculation of residential density in dwelling units per gross acre for each such area.
  - k. Location of all parking and truckloading areas, showing access and ingress drives.
  - l. The location, design and size of all signs and lighting facilities.
  - m. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.
  - n. Building orientation, footprint and elevations.
  - o. The location and design of all energy distribution facilities, including electrical, gas and solar energy.
  - p. Provision for energy efficiency.
  - q. Grading and erosion control measures including the proposed location of sediment sink/settling pond and interceptor swales, etc.
  - r. Location and design for stormwater management facilities.
  - s. A drainage report including supporting design data and copies of the engineering computations used to determine the design capacities and performance requirements of drainage facilities.
  - t. The lines and dimensions of all property which is offered, or is to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.
3. The planning board may require additional information which appears necessary for a complete assessment of the project.
  4. The planning board's review of the preliminary site plan shall include, but is not limited to the following considerations:
    - a. Adequacy and arrangement of vehicular traffic access and circulation,

including emergency vehicle access.

- b. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- c. Location, arrangement, size and design of buildings, lighting and signs.
- d. Relationship of the various uses to one another and their scale.
- e. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.
- f. Adequacy of storm water and sanitary waste disposal.
- g. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding or erosion.
- h. Compatibility of development with natural features of the site and with surrounding land uses.
- i. Adequacy of floodproofing and flood prevention measures consistent with the flood hazard prevention regulations of the Federal Emergency Management Agency (FEMA).
- j. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposal plan conserves energy use and energy adequate sunlight for use by solar energy systems.
- k. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
- l. Adequacy of pedestrian access, circulation, convenience and safety, including compliance with the requirements for access by the physically challenged which are incorporated in the American Disabilities Act (ADA).
- m. Those requirements that apply that are found in Article 10.

In its review of a preliminary site plan, the planning board may consult with the code enforcement officer, fire and police departments, other local and Cattaraugus County officials, and any designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the soil conservation service, the New York State Department of Transportation (NYSDOT) and the New York State Department of Environmental Conservation (NYSDEC).

9.1.6 Public hearing. Upon the planning board's certification that the preliminary site plan application is complete and satisfactory, the planning board shall schedule a public hearing. Applicants are required to mail notices of such public hearings to the owners or occupants of all lands within a radius of 250 feet from any part of the property for which site plan review is requested. Such notices shall be postmarked

at least 10 days prior to the date scheduled for the public hearing.

9.1.7 Notification of decision on preliminary site plan. Within 45 days of the public hearing at which a preliminary site plan is considered, the planning board shall act upon it. The planning board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the planning board shall be a sufficient report. The planning board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the planning board's statement will contain the reasons for such findings. In such a case the planning board may recommend further study of the proposal and resubmission of the preliminary site plan.

9.1.8 Final site plan application. After receiving approval, with or without conditions, from the planning board on a preliminary site plan, and approval for all necessary permits and curb cuts from the director of public works and responsible local, county and state officials, the applicant may prepare its final site plan and submit it to the planning board for its review and approval. The planning board, at its discretion, may waive the concept and final application procedure.

If more than one year has elapsed between the time of the planning board's report on the preliminary site plan and submission by the applicant of a final site plan application, and if the planning board finds that conditions have changed significantly in the interim, the planning board may require a resubmission of the preliminary site plan for further review and possible revisions prior to accepting the proposed final site plan application for review. The final site plan shall conform to the approved preliminary site plan, and shall incorporate any revisions or other features that may have been recommended by the planning board at the preliminary review. All revisions shall be clearly indicated by the applicant.

9.1.9 Notification of decision on final site plan. Within 62 days of the submission of the final site plan, the planning board shall render a decision.

1. Upon approval, the planning board shall endorse its approval on a copy of the final site plan and shall forward it to the code enforcement officer who shall then issue a building permit if the project conforms to all other applicable requirements.
2. Upon disapproval, the planning board shall so inform the code enforcement officer and he shall deny a building permit. The planning board shall also notify the applicant in writing of its decision and its reason for disapproval. A copy of the appropriate minutes may suffice for this notice.
3. Specifications for improvements shown on the site plan shall be those set forth in this law and in other laws, rules and regulations, or in construction specifications of the city.

9.1.10 Time restriction for action on final site plan. The duration of an approved site plan

shall be six months or such greater period not to exceed one year as may be specified in the approval by the planning board. Site plan approval may be renewed by the planning board for a period of six months upon written application to the planning board and copied to the code enforcement officer, such application to be submitted prior to the expiration of the site plan approval period.

9.1.11 Failure to comply with any condition of the site plan approval shall constitute a violation of the zoning law subjecting the applicant or any successor in interest in the property for which site plan approval was granted to all penalties set forth in Article 17 of the Zoning Law. The applicant, or any successor in interest the property for which site plan approval was granted shall be required to appear before the planning board for review of the conditions of site plan approval within 30 days. The planning board upon such review may remove or amend the conditions of site plan approval.

### **Sec. 9.2. Appeal.**

The applicant or any interested person may appeal a decision of the planning board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision on a special use permit or site plan review application.

### **Sec. 9.3. Fees for required special use permits or site plan review.**

The common council may require the payment of fees to the city by applicants whose proposals require special use permits or site plan review as described by this article. Fees for special use permits or site plan review in accordance with this article shall be established from time to time by law of the common council.

## ARTICLE 10

### **DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS**

#### **Sec. 10.0. General.**

The planning board, in reviewing a site plan, shall take into consideration the prospective character of the development and require that improvements be designed to be consistent with reasonable protection of the public health, safety, or welfare. The code enforcement officer shall ensure compliance with this article and any other applicable laws, articles or sections.

#### **Sec. 10.1. Lots and blocks.**

10.1.1 Lot size and arrangement. The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build. In general, side lot lines shall be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.

#### **Sec. 10.2. Streets, roads, and sidewalks.**

Street systems shall be designed with due regard to the needs for: Convenient traffic access and circulation; traffic control and safety; access for fire fighting, snow removal,

and street maintenance equipment; patrolling by the police department; and stormwater drainage and sewage disposal. Streets shall be designed to accommodate the prospective traffic, and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.

10.2.1 Streets and roads. All streets and roads shall be constructed in conformance with specifications set forth by the director of public works of the city.

10.2.2 Sidewalks. It is the policy of the city to encourage the building of sidewalks. Location of sidewalks generally shall be within the right-of-way of public streets and pedestrian access easements. Sidewalks shall conform to specifications set forth by the director of public works of the city.

### **Sec. 10.3. Off-street parking requirements.**

10.3.1 General requirements.

1. Parking shall not be permitted in front yards except following site plan review as provided for in article 9 of this zoning law. Under any circumstances, a minimum four-foot wide planting strip shall be provided between the adjacent sidewalk or public right-of-way and any permitted parking area.
2. It shall be the responsibility of the owner of a property to provide the total number of off-street parking spaces required by this law for any uses which are enlarged, erected or structurally altered after the effective date of this law.
3. A parking space shall be a minimum of nine feet by 20 feet, exclusive of parking aisles and driveways appurtenant to and giving access thereto.
4. An area containing one or more parking spaces shall have direct access to a public street or alley.
5. No exit or entrance drive connecting a parking area and a street shall be permitted within 30 feet of the intersection of two public rights-of-way.
6. Where appropriate, the planning board may, upon the presentation of evidence, vary the number and circumstances of the following parking space requirements, in order that the general welfare be served and the proposed uses be equitably treated.
7. In stadiums, theaters, churches, and other places of assembly, in which patrons or spectators occupy benches, pews, or other similar seating facilities; each 20 inches of such seating facilities shall be counted as one seat.
8. The outdoor lighting of off-street parking lots shall be designed to shield adjacent properties from glare.
9. If the uses, structures or parcels for which parking is provided are under separate ownership, the right to joint use of parking spaces shall be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use. Upon application by an owner or owners, the zoning board of appeals may, without requiring a variance, authorize the joint use of parking

facilities upon a finding that up to 50% of the parking spaces required for a specified use which is primarily a daytime activity may be used to satisfy the parking requirements for a specified use which is primarily an evening activity. Applicants seeking such authorization shall submit written documentation justifying their requests.

10. Off-street parking lots in residential areas shall be restricted to passenger vehicles only. The use of off-street parking lots in residential areas for the parking or storage of trucks, house trailers, mobile homes, utility trailers or other motorized equipment not of a residential passenger carrying nature shall be prohibited.

10.3.2 Required off-street parking spaces. The minimum number of parking spaces required shall be determined by the number or amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings, uses or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures, as follows:

1. Single-family dwelling unit—Two spaces per unit.
2. Two-family dwelling—Two spaces per unit.
3. Townhouses or multi-family dwelling unit—One-and-one-half spaces per one-bedroom unit; two spaces per two-bedroom unit; and 2 1/2 spaces per three-bedroom unit. Any den or similar room capable of being used as a bedroom shall be deemed to be a bedroom.
4. Home occupation—One space for each person or employee engaged in any home occupation.
5. Hospitals, nursing homes—One space for each employee on major shift plus 0.25 spaces per bed.
6. Bed and breakfasts, inns—One space for each bedroom within the facility.
7. Motels/hotels—One space for each unit plus one space for every four employees plus one space per 150 square feet net area of restaurants and assembly rooms.
8. Offices—A minimum of one space is required, plus one space for each 300 square feet of gross floor area over 1,000 square feet.
9. Retail establishments, veterinary hospitals, banks, and related commercial establishments of a personal service nature—A minimum of one space is required, plus one space for each 200 square feet of gross floor area over 1,000 square feet, plus one space per employee.
10. Restaurants—One space for each 150 square feet of customer floor area.
11. Conference/convention centers, commercial recreation, private membership clubs—One space for every 150 square feet of public assembly space.



12. Roadside stands—One space for every 100 square feet area devoted to selling or display.
13. Nursery and elementary schools—One space per employee plus one additional space per classroom.
14. High schools and colleges—Five spaces for each classroom.
15. Churches or places of worship, auditoriums, theaters—One space for every four seats.
16. Industrial uses.
  - a. One space for each 800 square feet of floor area devoted to manufacture including printing, publishing, and laundry or dry cleaning plants.
  - b. One space for each 1,500 square feet of floor area devoted to storage or stationary operating equipment.
  - c. One space for each 3,000 square feet of area devoted to outside storage, including used car lots and equipment rental or sales yards.
  - d. For any industrial use, one space for each company vehicle.
17. Funeral homes a minimum of 10 spaces for each establishment, plus one space for each 150 square feet of gross floor area over 1,000 square feet.

10.3.3 Calculation of required parking spaces. In the case of combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit joint use of parking areas or other modifications. Whenever a major fraction of a space is required, a full space shall be provided.

10.3.4 Dimensions for off-street automobile parking spaces and lots. Every such space provided shall be at least nine feet wide and 20 feet long, and every space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:

1. Parallel parking: Five feet end to end with twelve-foot aisle width for one directional flow and twenty-four-foot aisle width for two directional flow.
2. Thirty-degree parking: Eleven-foot aisle width for one directional flow and twenty-four-foot aisle width for two directional flow.
3. Forty-five-degree parking: Thirteen-foot aisle width for one directional flow and twenty-four-foot aisle width for two directional flow.
4. Sixty-degree-parking: Eighteen-foot aisle width for one directional flow and twenty-four-foot aisle width for two directional flow.
5. Perpendicular parking: Twenty-four-foot aisle width for one directional and two directional flow.
6. For the purpose of computing the area necessary for required off-street

parking, 350 square feet of unobstructed net area shall be considered one parking space, unless the code enforcement officer certifies that the layout and design of the parking area are adequate to permit safe and convenient access and maneuvering despite a lesser square footage of net area.

#### 10.3.5 Location of required parking spaces.

1. Residential Districts (R1, R2, and R3) and Residential Transition (RT) District:
  - a. Required automobile parking spaces shall be provided on the same lot as the residence. This space shall be graded for parking use and readily accessible from the street.
  - b. Open parking areas may encroach on any required side or rear yard to within three feet of a property line except that in existing lots with six-foot side yards and in the Residential Transition District, required parking spaces may, upon approval of the planning board, extend to the side and/or rear lot lines.
2. Commercial Districts (CC and GC), Waterfront Conservation (WC) and Industrial District (I) and General Industrial District (I2):
  - a. Required parking spaces shall be provided on the same lot as the business, residential, institutional or industrial use, or not more than 400 feet distant from them.
  - b. Where such parking is situated adjacent to a residential use it shall be set back a minimum of six feet from the residential lot line, and an adequate landscape buffer in conformance with section 10.17 shall be provided within such setback area.
  - c. Notwithstanding the requirements of subsection 2a. above, required parking spaces to serve adult uses shall be provided on the same lot as the use said parking is proposed to serve.

#### 10.3.6 Off-street parking waiver. Off-street parking requirements may be waived in whole or in part upon finding by the zoning board of appeals that:

1. Adequate public off-street parking facilities are available within 400 feet of the lot containing the subject use, or
2. Evidence of satisfactory off-site parking arrangements has been documented.

#### 10.3.7 Construction of parking areas. All off-street parking areas, with the exception of those for single family residences, shall meet the following construction standards:

1. Be paved with a suitable all-weather, dustfree surface. The individual spaces shall be visibly marked with paint or other durable material.
2. Be provided with wheel stops to keep parked vehicles within proper boundaries.

10.3.8 Landscaping. At least 10% of the area of a lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three or more spaces that abut a residential lot line, and any parking lot for more than 20 cars shall be screened adequately, as set forth in section 28-243, from adjoining properties. All parking areas and landscaping shall be properly maintained thereafter in a sightly and well-kept condition.

**Sec. 10.4. Off-street loading and unloading requirements.**

In all districts, wherever a lot or structure which is to be occupied by manufacturing, commercial, business or other similar uses requires the receipt and distribution by vehicles of materials or merchandise, there shall be provided and maintained, on said lot, off-street loading berths shall be located in such a way as not to unreasonably interfere with the movement of people and vehicles on public ways. The planning board may allow use of a public alley to satisfy loading berth requirements.

10.4.4[1] Landscaping shall be as required in section 10.3.8.

**Sec. 10.5. Accessory building and uses.** [L.L. No. 42-00, §§ 1, 2, 6-27-2000]

10.5.1 Accessory buildings. Accessory buildings not attached to principal buildings shall comply with the following:

1. Accessory buildings 100 square feet or more in size shall require a building permit.
2. Accessory buildings shall only be located on the same lot as the principal use stated in the density control schedule.
3. Accessory buildings shall only be located in a rear or side yard in compliance with the following minimum requirements:
  - a. R1, R2, R3, RT, CC, GC, WC Districts:
    - (1) For buildings greater than 100 square feet

Side yard: Minimum six feet.

Rear yard: Minimum six feet.

- (2) For buildings less than 100 square feet.

Side yard: Minimum three feet.

Rear yard: Minimum three feet.

- (3) "I" Districts:

Side yard: No minimum.

Rear yard: No minimum.

- b. Where any district abuts an existing residential use and/or a residential

district, any accessory building shall be located a minimum of 1/2 the distance specified in the density control schedule for principal structures.

4. Accessory buildings shall not be located closer than five feet to the principal building.

10.5.2 Accessory uses. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as the principal structures, shall not be located in front yard on such lots; and shall be located not less than six feet from any lot line and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.

10.5.3 Where 50% or more of the lots in a block are occupied by buildings which have yard, coverage or setback dimensions which are different than those required under this chapter, the average yard dimensions, coverage and setbacks shall determine the requirements for any new accessory building or use within the block. Or, where no standard block exists the word "block" as used above shall be interpreted to mean those structures within 250 feet of either side of the lot in question, on the same side of the street. The average set-back shall be based on no fewer than two similar uses.

#### **Sec. 10.6. Driveway standards.**

10.6.1 Portions of driveways which lie within public rights-of-way shall be constructed in conformance with specifications set forth by the director of public works of the city.

10.6.2 All work and materials shall be furnished as required to meet specifications set forth by the director of public works of the city and county and state highway departments.

10.6.3 No alteration or addition shall be made to any portion of a driveway lying within a public-right-of-way without first securing permission from the director of public works.

10.6.4 No more than two driveways to a single commercial establishment entering on one street shall be permitted.

#### **Sec. 10.7. Fences and walls.**

Fences and walls are permitted as follows:

10.7.1 Where a driveway meets a street, no hedge, wall or other planting shall be installed and maintained which exceeds 2 1/2 feet in height for a distance of eight feet from the public right-of-way.

10.7.2 The minimum clear vision distance at a street intersection shall be 30 feet measured from the intersection along the lot lines of the lot.

10.7.3 Fences, walls, hedges or screen plantings may be required, as specified elsewhere in this Law for multi-family, commercial or industrial uses, as is necessary to protect the residential quality of adjacent property.

#### 10.7.4 Fence and wall regulations.

1. Residential districts—Maximum height of four feet shall be allowed for fences and/or walls located in a front yard at a street intersection; any fences or walls located in a front yard at a street intersection shall be constructed of materials that shall not hinder clear vision in conformance with subsection 10.7.5.
2. Business and industrial districts—There shall be no restrictions, except that any fence or wall located on a residential lot line or district boundary shall be limited to four feet in height at the property line or a maximum of six feet if located a minimum of six feet from the property line and that fences and walls located in a front yard at a street intersection shall be constructed of materials that shall not hinder clear vision in conformance with subsection 10.7.5.

10.7.5 The clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three feet in height measured from the top of the street pavement, unless such plantings have all branches and foliage removed to a height of eight feet above the finished grade.

#### **Sec. 10.8. Steep slopes, storm drainage, erosion and sediment control and environmental protection.**

The City of Olean includes areas of steep slopes which are herein defined as slopes equal to or greater than 10%. Development in areas of steep slopes shall conform to specifications developed by the director of public works of the city.

The provisions and requirements of this law shall not be a substitute for the applicable provisions and requirements of the State Environmental Quality Review Act of New York State.

#### **Sec. 10.9. Design.**

Every effort should be made to preserve unique physical features such as historic landmarks, stream banks, forested areas, natural lookouts, desirable views of the hills and mountains which surround the city as well as other major natural features, rock outcroppings and other unique natural features of the city environment. Storm drainage, erosion and sediment control shall conform with specifications set forth by the director of public works of the city.

#### **Sec. 10.10. Open space, parks and playgrounds.**

The planning board may, as a condition of site plan approval, require that specific areas be designated for recreational purposes. Such designation shall depend upon the magnitude and character of the project, and accessibility to existing public recreational areas. All lands proposed for park or recreation purposes shall meet the following minimum standards.

10.10.1 Such lands shall either be deeded to the city or be held in corporate ownership and maintained by an established organization.

10.10.2 Such lands shall have locational and physical characteristics which render

them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to minimizing hazards and vehicular traffic conflict for children walking between such facilities and their homes in the neighborhood.

10.10.3 Any such area shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.

10.10.4 A detailed development plan shall be provided for each neighborhood park or playground. As a minimum, the development plan shall provide for an approximately level area at least 2,000 square feet in size with appropriate play structures and activity areas.

10.10.5 The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

#### **Sec. 10.11. Utilities.**

10.11.1 Provision for water supply, sanitary sewer systems and electrical, telephone and other utilities shall conform to specifications set forth by the director of public works of the city.

10.11.2 Utility easements. An easement shall be provided for all utility lines wherever those utility lines do not fall within a dedicated right-of-way. All utility easements shall be plotted on the site plan submitted to the planning board. Utility easements shall have a minimum width of 10 feet. All utility lines which are primarily intended to provide service to the lots within a subdivision shall be installed underground at a depth and at such locations as will minimize risk of interruption of services.

10.11.3 Additional easements. The planning board shall have the right to require additional easements when the purposes of the easements are found to be in the public interest.

#### **Sec. 10.12. Industrial district regulations.**

10.12.1 Design standards.

1. General standards. The following general standards are hereby adopted for the control of any industrial use:
  - a. Smoke shall not be emitted when the shade of such smoke is darker than No. 2 on the Ringlemann's Scale for Grading the Density of Smoke published by the U.S. Bureau of Mines.
  - b. Noise levels shall not exceed 90 dba measured at the boundaries of the lot occupied by such use causing the same.
  - c. Discharge of effluent into any sanitary sewer system shall not occur except in accordance with the provisions of the Code of the City of Olean.

- d. Open storage or stacking of any hazardous waste materials shall be in accordance with the standards of the New York State Department of Environmental Conservation.
2. Specific standards. The following specific standards are hereby adopted and must be complied with, for any use in any industrial district and before the same be permitted, established, maintained or conducted:
- a. Storage facilities. Materials, supplies, or semi-finished products shall be screened wherever possible in conformance with section 10.17.
  - b. Wherever possible, provisions for handling of all freight shall either be on those sides of any building which do not face on any street or proposed streets or be suitably screened therefrom.
  - c. \_\_\_\_\_
    - (1) Buffers from residential use districts. All principal buildings shall be set back from any lot lines abutting a residential use district a minimum distance equal to twice the required yard depth within the residential use district. Such buffer shall be landscaped in accordance with section 10.17.
    - (2) Landscaping. All areas of the plot not occupied by buildings, parking, driveways or walkways, or storage shall be landscaped with lawn, trees, shrubs, or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises, and the nature and condition of the terrain, as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises, and shall be provided in conformance with section 10.17.
  - d. Off-street parking and loading. Shall conform to sections 10.3 and 10.4.
  - e. Signs. Shall conform to the requirements of article 11, Signage.
  - f. Utilities. All water and sewer facilities shall be designed and installed according to city standards as per section 10.11.
- 10.12.2 Most stringent standards to govern. In the event that there is an inconsistency between subsections 10.12.1(1) and 10.12.1(2) and any other section of this law, the more stringent regulations shall be applicable.
- 10.12.3 Design standards for the Special Industrial District (I3).
- 1. Building construction. In order to protect the investment that both public and private entities have made, the overall appearance of any proposed structure shall be reviewed and approved by the Urban Renewal Agency (URA). The design, materials and colors of any proposed buildings will be considered in this review. The standards located elsewhere in this zoning law will govern the overall size and lot coverage of any proposed development.

2. Utilities. All utility services shall be provided underground.
3. Driveways, loading and parking areas. All driveways, loading and parking areas shall be paved with asphalt or concrete. Parking for employees and for any commercial vehicles shall be placed to the side or rear of any proposed development. No on-street parking shall be permitted. Loading facilities shall be restricted to the sides or rear of buildings. Requirements for the sizes and number of parking spaces are located elsewhere in this zoning law.
4. Landscaping. All undeveloped areas, that is areas without buildings, parking or storage areas, shall be planted and maintained as green space. The undeveloped areas between any proposed building and the street frontage shall be graded and seeded to provide a uniform grass area. Existing trees on the site that are 12 inches in diameter measured 4 1/2 feet from the ground shall be retained, if feasible. At the time a building permit is applied for, landscaping plans shall be submitted to the URA.
5. Outdoor storage. Any outdoor storage area shall be restricted to the side or rear of proposed buildings, and must be approved by the URA. Any proposed outdoor storage area shall be screened by a fence and/or shrubbery to the satisfaction of the URA prior to any storage area being established.
6. Regulations on odor, smoke and noise. If the URA believes that any proposed development may have a detrimental effect due to any potential odor, smoke or noise emission, the applicant may be required to provide sufficient mitigating procedures prior to URA approval of such project.
7. Signs and lighting. Signs shall be limited to those identifying the occupants of the building and shall be of permanent weatherproof material.

If affixed to the facade of the building, signs shall be of a design and character in keeping with the architecture of the building and shall not exceed 10% of the area of the exposed facade or 120 square feet in total gross area, whichever is the smaller.

If freestanding, signs shall be located a minimum of 30 feet from the front property line and 20 feet from the side property line. Signs shall not exceed five feet in height, measured from the ground, and shall have a minimum of two feet of clearance, measured from the ground. In no case shall a freestanding sign exceed 45 square feet in total gross area.

Illumination of all signs shall be of a nature that will provide continuous illumination of a non-flashing nature. Every effort shall be made to insure that the concentration of the illumination is focused on the sign and does not fall off-site.

8. Local, state and federal regulations. It shall be the expressed responsibility of any owner and/or tenant of land purchased or leased from the Urban Renewal Agency to be in compliance with all local, state and federal environmental regulations.
9. Maintenance. All buildings and property shall be maintained to present a neat and orderly appearance at all times. All waste, scrap, refuse, empty containers



and cartons shall be stored in suitable containers.

10. Earthmoving, cutting and filling. In an effort to minimize the costs of development and to improve certain properties for future development, any excess fill shall be deposited on URA property as approved by the URA. Any fill material brought into the site must receive prior approval from the URA.

**Sec. 10.13. Home occupation.**

- 10.13.1 A home occupation shall conform to the following standards which shall be minimum requirements:
- 10.13.2 No more than 25% of the total floor area of a dwelling unit or 500 square feet, whichever is the lesser, may be used for such use.
- 10.13.3 The use shall be carried on wholly within the enclosed walls of the dwelling unit or an accessory building.
- 10.13.4 There shall be no external evidence of such use except for one sign not exceeding two square feet in area mounted flush with and on the front facade of the dwelling unit. No stock, merchandise, equipment or displays of any kind shall be visible outside the dwelling unit or accessory building.
- 10.13.5 No external structural alternations which are not customary to a residential building shall be allowed.
- 10.13.6 The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- 10.13.7 Use that involves primarily catalogue sales or order processing and which does not involve volumes of stock or merchandise being distributed at the site may be deemed a home occupation, subject to the provisions provided such use meets the intent of all standards set forth herein.
- 10.13.8 Any form of business, the primary function of which is the wholesale or retail sale of goods or articles at the premises, shall be deemed a commercial use.
- 10.13.9 The following uses and other uses similar in character shall not be considered to meet the intent of this section:
  1. Vehicle engine repair.
  2. Vehicle body work.
  3. Veterinary hospital, kennel.
  4. Bar and restaurant.
  5. Any use that is not permitted in a Type 5 (wood frame) building construction under the New York State Uniform Fire Prevention and Building Code.

**Sec. 10.14. Satellite TV antennas.**

No satellite television antenna of any kind may be erected or established in the city except in conformance with the standards in this section and section 4.14, "Use regulation table".

10.14.1 Satellite antenna size.

1. In residential and commercial districts:
  - a. Satellite antennas shall not exceed 10 feet in diameter.
  - b. The total height of ground-mounted antennas shall not exceed 15 feet above the ground.
2. In all other districts:
  - a. Antennas shall not exceed 16 feet in diameter.
  - b. The total height of ground-mounted antennas shall not exceed 20 feet above the ground.
3. Roof-mounted installations shall not exceed the height restrictions as set for the zoning district within which the installation is placed.

10.14.2 Satellite antenna location.

1. For any use, subject to the provisions contained herein, such antenna shall be located only in the rear yard of any lot provided that such antenna is located a minimum of five feet from any principal building and lot line measured at the outermost diameter of the antenna. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property subject to site plan approval. For purposes of this law a usable satellite signal is a satellite signal which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or via cable television.
2. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the structure, provided that site plan approval is obtained prior to such installation. Such permit may be issued upon a showing by the applicant that a usable satellite signal is not obtainable from any other location on the property.

10.14.3 General provisions.

1. For all uses, satellite television antennas shall be located and designed to reduce visual impacts from surrounding properties at street level and from public streets.
2. Not more than one satellite television antenna shall be allowed on any residential lot less than 10,000 square feet in size.
3. All antennas and the construction and installation thereof shall conform to applicable building and electrical code regulations and requirements.

4. Antennas shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, windresistant manner.
5. Every antenna must be adequately grounded for protection against a direct strike by lightning.

**Sec. 10.15. Townhouse and multi-family developments.**

All townhouse and multi-family development, as permitted in section 4.14 of this law and under the provisions of the city's subdivision regulations, shall, in addition to the requirements set forth in said section and articles, conform to the following standards. These standards shall be regarded as minimum requirements:

10.15.1 Townhouse and multi-family developments shall meet the following standards:

1. Front yard—Minimum 25 feet or 10 feet per [story].  
Rear yard—Minimum 30 feet or 10 feet per story.  
Side yard—Minimum 10 feet (at ends of [lot]).
2. Maximum building height shall be as specified in section 6.1, "Density control schedule".
3. Maximum site coverage by all buildings and structures shall not be more than 50% of the lot area, such percentage to be calculated on the basis of the total project area.
4. Accessory buildings, including unattached garages, shall be located a minimum distance of 10 feet from any lot line and shall only be permitted in the rear or side yard.
5. Parking. Shall be in conformance with section 10.3, "Off-street parking".

**Sec. 10.16. Gasoline stations, service and repair garages, automobile sales areas.**

Where permitted, a gasoline station, service and repair garage and automobile sales area shall conform to the following standards which shall be regarded as minimum requirements:

10.16.1 Minimum lot size shall be:

1. Seven thousand five hundred square feet for a gasoline station, service and repair garage.
2. Ten thousand square feet for a combination gas station, mini-mart convenience food store.
3. Additional lot area and setbacks shall be required as deemed to be adequate by the planning board to accommodate tractor trailer servicing.

10.16.2 At least one lot frontage and width shall be a minimum of 100 feet.

- 10.16.3 Fuel pumps and other service devices shall be located at least 35 feet from any front lot line and 50 feet from any side and rear lot lines. This distance shall be measured from the outside edge of the fuel island.
- 10.16.4 All automobile parts, including tires and dismantled vehicles are to be stored within a building. Tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind a eight-foot high fence, wall or natural screen in conformance with section 10.17.
- 10.16.5 Accessory goods for sale may be displayed on the pump island and the building island only, if provided for in a suitable stand or rack.
- 10.16.6 All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period not to exceed 90 days and must be stored in the rear of the premises and screened to the greatest extent possible.
- 10.16.7 Parking.
1. No vehicle shall be parked, stored or left standing within 15 feet of the street line and/or fuel pump islands.
  2. Parking requirements shall be in conformance with section 10.3. Such parking areas shall not conflict with the traffic pattern established for the use of the fuel pumps. Additional parking area may be required by the planning board to accommodate tractor trailer delivery.
  3. Where parking areas abut a residential use, they shall be screened by a buffer area no less than 10 feet in depth composed of densely-planted plant material, solid fencing, or a combination of both which, in the opinion of the planning board, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery or fences becomes decayed and fails to provide an adequate screen, the code enforcement officer may direct the property owner to replace said shrubs or fences.
- 10.16.8 All storage and display areas shall be provided with a hard, dust-free surface, shall be adequately drained and, if lighted, shall produce no glare on adjacent properties.
- 10.16.9 A maximum of two driveways and curb cuts shall be permitted per lot frontage. These shall be no less than 20 and no wider than 30 feet, and located a minimum of 30 feet from any street intersection and a minimum distance of 30 feet shall be maintained between such driveways and curb cuts.
- 10.16.10 Parking is prohibited in front yards except as approved by the planning board as part of site plan review.

## **Sec. 10.17. Buffer and landscaping requirements.**

10.17.1 Intent. The objective of this section is to ensure consideration of the physical and visual elements of land use development in the city which require, or may be improved, by buffering, setbacks and landscaping in order to enhance the appearance, screen or effectively separate different land uses and minimize impacts on adjoining uses such as dirt, litter, noise, glare and incompatible buildings or uses (such as outdoor storage, loading and parking areas). The planning board may require that a professional licensed landscape architect prepare plans under this section.

10.17.2 Buffer and landscaping techniques. The particular type of buffer and landscaping treatment shall be as determined by the planning board to meet the intent of this section. The following types of treatment may be considered:

1. Landscaping and other screening including tree planting, use of berms, and planting of shrubs designed to separate, obscure or soften an incompatible view or use.
2. Visual setting, including ground-cover and plant materials designed to stabilize the landform and provide an appropriate foreground or setting.
3. Physical separation, including setbacks from public streets or adjacent uses in combination with plant materials or features designed to separate land use types or activities.

10.17.3 Planting standards.

1. Trees. All trees shall be plant species having an average crown spread of greater than 15 feet and having trunks which can be maintained in a clean condition, free of branches from grade to five feet above grade. Trees having an average mature spread of less than 15 feet may be substituted by grouping the same so as to create the equivalent of a fifteen-foot crown. Tree species shall be a minimum of seven feet of overall height immediately after planting.
2. Shrubs and hedges. Shrubs shall be a minimum of two feet in height when measured immediately after planting. Hedges, when measured, shall be planted and maintained so as to form a continuous visual screen within two year[s] after time of planting.
3. All disturbed soil areas within a the site shall be replaced or reseeded in an appropriate fashion.
4. No landscape feature shall be erected, placed or maintained in such a manner as to interfere with clear vision and/or the safe movement of vehicular traffic.

## **Sec. 10.18. Fast food restaurants.**

Where permitted, fast food restaurants meeting the definition of this chapter shall conform to the following standards which shall be regarded as minimum requirements.

10.18.1 Minimum lot size shall be 10,000 square feet.

- 10.18.2 At least one lot frontage shall be a minimum of 100 feet.
- 10.18.3 Access.
1. A maximum of two driveways and curb cuts shall be permitted on each street frontage.
  2. All drives shall be no less than 20 and no wider than 30 feet in width.
  3. Drives shall be located a minimum of 30 feet from any street intersection and shall maintain a minimum of 30 feet between such driveways or curb cuts.
  4. Driveways shall create minimal conflict with pedestrian access to the building from the parking lots and sidewalk abutting the property.
- 10.18.4 Parking.
1. The number of parking spaces shall be as specified in section 28-229.
  2. Parking lots shall be designed to provide pedestrian safety.
- 10.18.5 Landscape requirements. A landscape area equal to that portion of land contiguous to the public right-of-way and extending a depth of five feet shall be provided. Landscaping shall also be used to screen or buffer to parking, dumpsters, freezers and other accessory uses as per section 10.17.

**Sec. 10.19. Drive-in use regulations.**

Where permitted either as accessory to other permitted uses or as principal use, these facilities as defined in this law shall conform to the following standards which shall be regarded as minimum requirements.

- 10.19.1 All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes.
- 10.19.2 To the extent possible, lanes shall not cross any principal pedestrian access to the building or site.
- 10.19.3 Stacking or queuing requirements.
1. Fast-food restaurants. A minimum of 140 feet between start of lane to service window.
    - a. Minimum 80 feet from start of lane to order station.
    - b. Minimum 60 feet from order station to service window.
  2. \_\_\_\_\_
    - a. Minimum of 100 feet from start of lane to service window.
  3. Multiple drive-through lanes. The planning board may allow reductions for businesses with multiple drive-through lanes based on review of proposed traffic circulation and usage.

4. All uses shall maintain a minimum distance of 20 feet from the service window to the public right-of-way or interior parking aisles.

**Sec. 10.20. Commercial parking lots and structures.**

All commercial parking lots and structures, as permitted in section 4.14, "Use regulation table", shall conform to the following standards which shall be regarded as minimum requirements.

- 10.20.1 Any parking garage facade fronting on a primary street shall achieve architectural unity/compatibility with the surrounding structures that it is intended to serve.
- 10.20.2 A minimum of 8% of the lot area shall be devoted to landscaping which shall be provided in conformance with section 10.17.
- 10.20.3 Adjacent sidewalks shall be rebuilt as necessary and shall be designed to promote pedestrian safety.
- 10.20.4 Ingress and egress shall be designed to promote the orderly flow of traffic to and from city streets. Directional signs shall be used as necessary to ensure this flow.

**Sec. 10.21. Swimming pool regulations.**

A swimming pool shall not be located, constructed or maintained on any lot, except in conformity with the following requirements:

- 10.21.1 Such pool shall be located in a rear yard only.
- 10.21.2 The entire portion of the premises upon which such pool is located shall be enclosed with an impassable fence of not less than four feet in height above grade.
- 10.21.3 Every gate or other opening in the fence enclosing such pool shall be capable of being closed and locked.
- 10.21.4 Such pool shall be not less than six feet from the side and rear lot lines.
- 10.21.5 Such pool and/shall not occupy more than 25% of the rear yard area, after excluding all private garages or other accessory buildings or structures.
- 10.21.6 Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
- 10.21.7 No lighting or spot lighting shall be permitted which will project light rays beyond the lot lines of the lot on which said pool is located.
- 10.21.8 No permit shall be issued for such pool unless the applicant can show that the proposed drainage for such pool is adequate and will not interfere with the public water-supply system, existing sewage or stormwater drainage facilities, the property of others or public highways.

**Sec. 10.22. Adult bookstores, adult entertainment establishments, adult cabarets, adult theaters and adult motion picture theaters.**

Where permitted, adult bookstores, adult entertainment establishments, adult cabarets and adult theaters and adult motion picture theaters, meeting the definition of this law, shall conform to the following standards which shall be regarded as minimum standards.

10.22.1 All adult uses shall be operated in a manner that is consistent with the New York State Penal Law relating to exposure, obscenity or lewdness.

10.22.2 No adult use shall be operated within 1,000 feet of:

- a. A church, synagogue or place of worship;
- b. A public or private elementary or secondary school, day care, pre-school or other uses of a similar nature;
- c. A boundary of any residence or residential district; or
- d. A public park, municipal building or community center.

10.22.3 No adult use shall be operated within 1,000 feet of another adult use.

10.22.4 For the purpose of this law, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure as part of the premises where an adult use is conducted, to the nearest property line of the premises of any of the uses specified in subsections 10.22.2a. through d. identified above or to another adult use as defined by this law.

10.22.5 No more than one adult use shall be operated on any single parcel of land.

10.22.6 No adult use shall be operated in the same building, structure, or portion thereof, which contains another adult use.

10.22.7 All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by this section shall be able to hear any activities within the building.

10.22.8 All building openings, entries, windows, doors, etc. associated with an adult use shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.

10.22.9 No exterior sign associated with an adult use or establishment shall contain any photographic or artistic representation of the human body.

10.22.10 No adult use shall be established in any building which is used, in part, for residential purposes.

10.22.11 No residential use shall be established in any building which contains an approved adult use.

10.22.12 Prior to the commencement of any adult use, or upon transfer of ownership or control of the building or property, the premises shall be inspected by



the code enforcement officer and determined to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for an adult use and in compliance with this section.

10.22.13 Adequate landscaping shall be provided to minimize the visual impact of any structure containing an adult use on adjacent sites.

**Sec. 10.23. Mobile home park development standards.**

Where permitted, mobile home park developments meeting the definition of this chapter shall conform to the following standards, which shall be regarded as minimum requirements.

10.23.1 General requirements.

1. Special use permits issued for the development of a mobile home park shall be for a period of up to three years. If the park owner maintains the facility in accord with the conditions established by the planning board in the approval of the original permit, the permit shall be renewable for continuing periods of up to three years.
2. No development activities shall take place and no mobile homes may be transported to the site until the planning board has granted site plan approval in accordance with section 9.1 of this law.

10.23.2 Tract requirements.

1. All mobile home parks shall be planned as an integrated unit and shall be located on a tract of land of not less than 15 acres.
2. The density of development in a mobile home park shall not exceed five units per gross acre.
3. No mobile home shall be located closer than 100 feet to any property line or street line which abuts the mobile home park.
4. No mobile home shall be located closer than 35 feet to the pavement edge of any internal street within the mobile home park.
5. Vehicular entrances and exits shall be located so as to provide an unobstructed clear site distance of not less than 300 feet in both directions along on the adjacent public road from the interior road at the point of intersection.
6. All interior roads shall be improved in accordance with the construction standards of the city.
7. Sidewalks shall be installed in accordance with the construction standards of the city along at least one side of all interior streets.
8. Each mobile home park shall set aside not less than 20% of the total acreage of the site as open space and recreation area.
9. An area of not less than 500 square feet per mobile home unit shall be

provided for developed recreation use. Areas designated for recreational use shall, in the opinion of the planning board, be of adequate size and shape as to be usable for active recreation purposes.

10. No occupant of a mobile home shall operate a home occupation within a mobile home park.
11. Appropriate street lighting shall be installed on interior streets with the minimum number of lights being: One at each intersection of two interior park streets; one at the intersection of any park street with an abutting public street; and at least one light every 200 feet where such intersections are more than 200 feet apart.
12. A landscaped screen shall be planted and maintained within each setback area required by subsection 10.23.2.3. The landscaped screen shall consist of the planting of two staggered rows of evergreen trees not more than six feet apart on center and not less than four feet in height. Such plantings shall be located no closer than 10 feet to any side or rear property lines and no closer than 25 feet to any part of the property abutting a public street. Screen plantings shall be arranged around entrances and exits so as not to interfere with sight distance or vehicular safety.
13. The display of mobile homes for sale on a mobile home park may be permitted, provided that such sales area is:
  - a) Located entirely within the mobile home park and is not visible from a public street.
  - b) Not located at the park entrance.
  - c) Accessed by an improved asphalt, or other hard, dust-free surface and contains a minimum of six off-street parking spaces for customers.
  - d) Landscaped and buffered from adjacent mobile home units and other residential areas by a dense hedge or physical features acceptable to the planning board.
14. Exposed ground surfaces in all parts of any mobile home park shall be paved, surfaced with crushed stone or other solid material, or protected with grass or other ground cover capable of preventing erosion and of eliminating objectionable dust and mud.
15. The storage, collection and disposal of solid waste shall be conducted so as to eliminate any opportunity for the creation of health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
16. If group solid waste storage areas are provided for park occupants, they shall be located not more than 300 feet from any mobile home lot or site they are designated to serve. Such areas shall be enclosed or otherwise screened from public view and shall be rodent and animal proof. Containers shall be provided. A sufficient number of containers shall be provided to properly

store all solid waste produced.

17. Electrical distribution and telephone service lines shall be installed underground and shall comply with all requirements of the utility companies serving the area.
18. All mobile home parks shall be provided with facilities for the safe storage of necessary fuels. All systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

#### 10.23.3 Lot requirements.

1. Each mobile home lot or site shall have an area of at least 6,000 square feet and a minimum width of 55 feet.
2. No mobile home shall be located closer than 25 feet to another mobile home or any other structure within the mobile home park.
3. Not more than one mobile home shall be placed on any lot or site and no detached accessory structures shall be permitted on a lot or site.
4. Each lot or site shall be provided with approved connections for public water and sewer services, electricity and telephone.
5. A surfaced parking pad shall be provided on each lot or site for one mobile home and not less than one automobile.
6. At least one shade tree of not less than two inches in diameter, measured one foot above ground level, shall be planted on each lot or site.
7. Each lot or site designated for the placement of a mobile home shall front on an approved interior street.
8. Two off-street parking spaces shall be provided for each mobile home lot or site. Such spaces may be located on the individual lot or site or grouped in a common off-street parking area to serve two or more mobile home lots or sites. Off-street parking areas to serve two or more mobile home lots or sites shall be improved in accordance with the city's construction specifications.
9. No travel trailer, camper, boat, snowmobile or similar auxiliary vehicle or conveyance shall be stored on any individual mobile home lot or site. Storage space, however, may be provided within the mobile home park for auxiliary vehicles. Parking areas for the storage of such vehicles shall be improved in accordance with the city's construction specifications.

#### 10.23.4 Lot improvement requirements.

1. Each lot or site shall be provided with a stand that will provide a firm base and adequate support for the mobile home. Such stand shall have a dimension approximating the width and length of the home and any expansions or extensions thereto. Anchored tie-downs shall be provided at least on each corner of the stand.

2. The stand area shall be graded to ensure adequate drainage. The maximum grade variance from one end of the stand to the other shall not exceed six inches.
3. Each lot or site shall have a patio with an area of not less than 200 square feet. Patios shall not be less than 10 feet in width. Patios shall be installed in accordance with the city's construction standards and located so as to provide access to the front door of the mobile home.
4. All mobile homes shall be completely skirted within 90 days of occupancy. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the mobile home.
5. Expandable rooms and other extensions to a mobile home unit shall be supported on a stand built in accordance with the construction standards for the mobile home stand. Skirting shall be installed around the base of all such expansions or extensions.
6. Steps shall be installed at all entrance and exit doors. Such steps shall be constructed of durable, weather resistant materials and equipped with handrails.

**Sec. 10.24. Telecommunications facilities.** [Added 6-24-2015 by L.L. No. 4-2015]

10.24.1 Intent. The City of Olean recognizes the increased demand for wireless communication transmitting facilities and the need for the services they provide. Often, these facilities require the construction of a communications tower and/or similar facilities. The intent of this section is to regulate telecommunications facilities in accordance with the guidelines of the Telecommunication Act of 1996 by:

1. Accommodating the need for telecommunication towers/antennas while regulating their location and number in the community.
2. Minimizing adverse visual impacts of these towers/antennas through proper design, siting and screening.
3. Preserving and enhancing the positive aesthetic qualities of the built and natural environment in the City of Olean.
4. Avoiding potential damage to adjacent properties from tower failure, falling ice, etc., through engineering and proper siting.
5. Requiring the joint use of towers when available, and encouraging the placement of antennas on existing structures, to reduce the number of such structures in the future. No new tower may be established without proof that reasonable efforts have been made to co-locate with an existing telecommunications facility or upon an existing structure.

This Section 10.24 shall be an addition to and not replace any other federal, state, or local requirement, approval and/or consent related to a covered

telecommunication facility, including, without limitation, code enforcement compliance, overlay district requirements, and design district requirements.

In the event a facility is to be located in an Industrial 3 (I3) District, Section 10.12.3 of this chapter shall be applicable in addition to this Section 10.24 as well as any other local requirements, approvals and/or consents.

10.24.2 Non-co-located/new structure antennas. An antenna that will not be mounted on an existing structure or is more than 50 feet higher than the existing structure on which it is mounted is permitted as follows:

1. WC, I, I-2, I-3 Zoning Districts: site plan and special use permit applications required. GC, CC, RT, R1, R2 and R3 Zoning Districts: Telecommunications towers are not permitted.
2. The tower must be set back a minimum of the height of the tower from all property lines and existing building(s).
3. The maximum height of a tower is 175 feet. A variance for height will be required from the Zoning Board of Appeals to exceed this height following initial review by the Planning Board.
4. All applications for telecommunications facilities shall be treated as a Type 1 action under the State Environmental Quality Review Act (SEQRA).
5. The application shall include an adequate inventory report specifying existing telecommunication facility sites and structures of height exceeding 75% of the height of the proposed tower within a one-mile radius from the proposed site if the application is for cellular telephone or personal communications use, or a five-mile radius for all other services. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
6. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on all existing sites in the inventory due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities;
  - b. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
  - c. Existing or approved telecommunication facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
  - d. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;

- e. The property owner or owner of the existing tower, etc., or other structure refuses to allow such co-location.

10.24.3 Special use permit application materials. An application for a special use permit shall make written application to the Planning Board. This shall include:

1. Special use permit application.
2. Site plan application forms including long-form EAF.
3. Site plan, in form and content acceptable to the City, prepares to scale and in sufficient detail and accuracy showing at a minimum:
  - a. The exact location of the proposed tower, together with guy wires and guy anchors, if applicable.
  - b. The maximum height of the proposed tower.
  - c. A detail of tower type (monopole, guyed, freestanding, or other).
  - d. The color or colors of the tower.
  - e. The location, type and intensity of any lighting on the tower.
  - f. The property boundaries (a copy of a property survey must also be provided).
  - g. Proof of the landowner's consent if the applicant will not own the property. (A copy of a lease agreement must also be provided if the applicant will not own the property.)
  - h. The location of all structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures to the tower.
  - i. The names of adjacent landowners.
  - j. The location, nature and extent of any proposed fencing and landscape or screening.
  - k. The location and nature of proposed utility easements and access road, if applicable.
  - l. Building elevations of accessory structures or immediately adjacent buildings.
  - m. "Before" and "after" propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a professional engineer registered in the State of New York) demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility.
  - n. A "search ring" prepared by a qualified radio frequency engineer (signed and sealed documents by a professional engineer registered in the State

of New York) and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide proper signal strength and coverage to the target cell. The applicant must be prepared to explain to the Planning Board why it selected the proposed site, discuss the availability (or lack of availability) of a suitable structure within the search ring which would have allowed for a co-located antenna(s), and to what extent the applicant explored locating the proposed tower in a more intensive use district. Correspondence with other telecommunications companies concerning co-location is part of this requirement.

- o. Proof such as a letter of intent from a provider that the proposed tower will serve a wireless telecommunications provider with a valid FCC license to provide service to the area.
  - p. Map showing the applicant's entire FCC license service area and a copy of the FCC-issued license.
  - q. Name of maintenance company, key points of contact, addresses and phone numbers if maintenance of the communication tower and associates facilities is to be contracted out or done by someone other than the applicant or service provider. Applicant shall notify the Code Enforcement Office of any change with its maintenance company and provide appropriate contact information.
  - q. Planning Board, upon reviewing the application, may request reasonable additional visual and aesthetic information as it deems appropriate on a case by case basis. Such additional information may include, among other things, enhanced landscaping plans, line-of-sight drawings, and/or visual simulations from viewpoints selected by the City Planning Board. Line-of-site drawings and visual simulations are mandatory for applications.
4. General description of the proposed project, including:
- a. Type of services and facilities to be provided;
  - b. Size of the major trading area (overall network area) within the municipality and five miles beyond licensed by the Federal Communications Commission (FCC); and
  - c. Size of the area to be served by this project.

10.24.4 Special use permit standards. The following criteria will be considered by the City prior to the approval/denial of a request for a special use permit, the criteria listed may be used as a basis to impose reasonable conditions on the applicant.

- 1. Siting preferences: The City may express a preference that the proposed telecommunications facility be located in an alternate technologically feasible and available location. A guideline for the City's preference, from most

favorable to least favorable districts/property, is as follows:

- a. Property with an existing structure suitable for co-location;
  - b. Municipal or government-owned property;
  - c. WC, I, I-2 and I-3 Districts.
2. Aesthetics: Telecommunications facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:
- a. The Planning Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design.
  - b. The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and/or to screen the tower to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
  - c. The City can request additional site plan requirements such as specially designed towers, additional screening, greater setbacks, and improved landscaping to address aesthetic concerns.
  - d. The City will require the applicant to show that he has made good faith efforts to co-locate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances.
  - e. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be of a nonreflective finish, the color of which shall be subject to approval. Any lights which may be required by FAA shall not consist of strobe lights, unless specifically mandated by FAA.
  - f. No tower shall contain any signs or advertising devices. A small sign on the fencing shall be placed to identify the ownership of the facility and a telephone number for emergencies.
  - g. The applicant must submit a copy of its policy regarding co-location on the proposed tower with other potential future applicants. Such policy should allow co-location under the following conditions: (1) the new antenna(s) and equipment do not exceed structural loading requirements, interfere with tower space used or to be used by the applicant nor pose any technical or radio frequency interference with existing equipment,



(2) the party desiring to co-locate pays the applicant an appropriate and reasonable sum to co-locate, and (3) the party desiring to co-locate has a similar policy of co-location for the applicant.

3. Radio-frequency effect: The Planning Board may impose a condition on the applicant that the communication antennas be operated only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits, and that the applicant provide competent documentation to support that the maximum allowed frequencies, power levels and exposure limits for radiation will not be exceeded.
4. Traffic, access and safety:
  - a. A road turnaround and one parking space shall be provided to assure adequate emergency service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or road rights-of-way for the siting of a tower or antenna(s) accessory structures is prohibited.
  - b. All towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently protected from trespassing or vandalism.
  - c. The applicant must comply with all applicable state and federal regulations including but not limited to FAA and FCC regulations.
5. Removal of tower: The applicant shall agree to remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months and notify the City Code Enforcement Office of its discontinued use. The Planning Board shall require the applicant to provide a demolition bond (in an amount determined by the Planning Board based on the cost of removal) for purposes of removing the telecommunications facility in case the applicant fails to do so as required above.

#### 10.24.5 Exemptions.

1. Tower and antenna(s) may be repaired and maintained without restrictions.
2. Antennas used solely for residential household television and radio reception.
3. Satellite antennas measuring two meters or less in diameter and located in commercial and industrial districts and satellite antennas one meter or less in diameter regardless of location.
4. Private-residence-mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

#### 10.24.6 Revocation of permit. Any facility receiving a special use permit, that subsequently does not meet the requirements of that permit, shall have its permit

revoked, and the tower shall be removed within 90 days of notification by the City at the owner's expense.

**Sec. 10.25. Solar energy production facilities.** [Added 6-9-2015 by L.L. No. 3-2015]

10.25.1 Intent; zones. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight. A solar energy production facility (aka major solar collection system or solar farm) shall be permitted under a special use permit in the following districts: General Commercial (GC), Industrial (I), Industrial 2 (I2), Industrial 3 (I3) and Waterfront Conservation (WC), when measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and protect the public health, safety, and welfare. This section shall pertain only to major solar collection systems or solar farms. Where other sections of the Code conflict with this section, provisions of this section shall control.

10.25.2 Definitions. As used in this section, the following terms shall have the meanings indicated:

**MAJOR SOLAR COLLECTION SYSTEM OR SOLAR FARM** — An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**MINOR SOLAR COLLECTION SYSTEM** — A solar voltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source or collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot not to exceed 4,000 square feet.

10.25.3 Design standards for major solar collection system or solar farm.

1. The design of a major collection system or solar farm shall adhere to existing structural height requirements of the underlying zoning district. If the solar farm requires a roof mounting on buildings on the property, the roof-mounted installation may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning district.
2. The design of the solar farm shall adhere to existing setback requirements of the underlying zoning district. If the solar farm will be constructed by the utilization of ground mounting, then a ground-mounting plan and process must be submitted during the special use permit application process. The ground-mounting plan may consist of standard solar manufacturer installation

plans and processes for ground mounting and/or may be addressed in the applicant's site plans.

3. Systems and solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
4. System shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, balloons, flags, banners, or similar materials, with the exception of the following:
  4. Necessary equipment information, warnings, or indication of ownership shall be allowed on any equipment of the system or where required by the New York State Building Code.
  5. No system or any of its components shall be illuminated, except to the degree minimally necessary for public safety and, or maintenance and only in compliance with the City of Olean Zoning Ordinance, Article 11, Signage.
  6. All mechanical equipment, including any structure for batteries or storage cells, shall be screened and fenced from adjacent properties to restrict unauthorized access.
  7. No system shall be used or constructed such that it becomes a private or public nuisance or hazard.
  8. Stormwater and snowmelt runoff and erosion control shall be managed in a manner consistent with all applicable federal, state, and local regulations and shall not impact neighboring properties.
  9. Systems which have not been in active and continuous service for one year shall be removed at the owner's or operator's expense.
  10. The site shall be restored to as natural conditions as possible within six months of the removal of the system.
  11. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.

10.25.4 Requirements for special use permit application (in addition to Article 9, Section 9.0):

1. A recorded plat or survey of the tract on which the solar farm is to be placed.
2. Any other relevant studies, reports, certificates and approvals as may be reasonably requested by the Planning Board, including but not limited to design review, maintenance plans, etc.

10.25.5 Abandonment.

1. All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.

2. If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
3. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
  - a. Removal of aboveground and below-ground equipment, structures and foundations.
  - b. Restoration of the surface grade and soil after removal of equipment.
  - c. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
  - d. The plan shall include a timeframe for the completion of site restoration work.

## ARTICLE 11 SIGNAGE

### **Sec. 11.0. General.** [L.L. No. 4-02, § 1, 10-22-2002]

11.0.1 Intent. The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty of designated areas, and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of natural beauty and community environment.

11.0.2 Scope. This article by its terms applies to all signs within the city excepting those signs erected and maintained within disposition parcels located in the neighborhood development area of the Urban Renewal Plan for the city.

11.0.3 Signs restricted.

1. The construction, erection, alteration, reconstruction, display, ownership, maintenance or operation of any sign within the city except as provided by this article is hereby prohibited.
2. Signposts are specifically prohibited from the public right-of-way with the exception of those that are necessary or recommended by the State of New York Manual of Uniform Traffic Control Devices.
3. Signs overhanging the public right-of-way are prohibited except in the city center and general commercial zones.

4. Signs judged obscene by the zoning board are prohibited.
5. No electric sign or electrically illuminated sign, or any sign board, signpost, portion of any advertising nature or otherwise shall be permitted or allowed to remain on the sidewalk nor on any portion of the city streets.

11.0.4 Institutional signs. Institutional signs shall not exceed 32 square feet in size nor shall there be more than one such sign per institution.

11.0.5 Temporary banners within rights-of-way. Signs, other than official street or traffic signs, shall not be erected within the right-of-way lines of any street, except that temporary banners may be permitted for festivals or special events with the requirement that special permits for such banners be issued by the mayor and common council of the city.

### **Sec. 11.1. Signs in residential use districts.**

Signs in the R1 Single-family Residential, R2 Single-family/General Residential, R3 General Residential and RT Residential Transition use districts shall conform to the following regulations:

11.1.1 Identification signs. Identification signs shall be permitted as an accessory use in any residential district as follows:

1. Customary professional or home occupation identification signs not over two square feet in size, related solely to the profession or home occupation conducted on the premises by a resident thereof.
2. No more than one such identification sign shall be permitted for each professional or other person so engaged and residing in the premises; but if a dwelling has frontage on more than one street, an additional identification sign shall be permitted for each additional frontage.
3. Such identification sign may be affixed to the face of the building or may be erected on a post not over four feet high, located in the yard but at least five feet from the property line or 20 feet from street pavement, whichever is greater.
4. The sign may not be illuminated.
5. A permit is required; however, no fee will be charged.

11.1.2 Bulletin boards.

1. Permanent bulletin boards or similar announcement signs are allowed only for churches and other nonprofit institutions. They may not exceed 20 square feet in gross area and shall be located either on the face of the building or on a post or posts at least five feet from the property line. One such sign shall be permitted for each street frontage.
2. Signs may be illuminated by night by back lighting or by direct lighting provided the latter is so screened as not to be visible from an adjacent

residence.

3. A permit is required; however, no fee will be charged.

11.1.3 Temporary signs. Temporary "For Sale" or "To Let" signs relating to the premises and containing the name, address and telephone number of the owner or authorized agent, or both, and not exceeding six square feet in area in the aggregate shall be permitted. One such sign shall be permitted for each street frontage and may not be illuminated. Temporary signs must be removed within 48 hours after the intent of business of the sign is complete. See section 11.0.3. No fee will be charged for this sign.

11.1.4 Flags, civic insignia. Flags, flagpoles, badges, insignia of any government or government agency, or any civic, charitable, religious, patriotic, fraternal or similar organization shall be considered as being signs and subject to all provisions of this article except that no fee will be charged.

11.1.5 Attaching to trees, poles or structures. It shall be unlawful for any person to paint, post, place or fix any business or commercial advertisement, paper, handbills or circulars, or cause the same to be done, on or to any curbstone, flagstone or any other portion of any sidewalk or street, or upon any tree, lamppost, hitching post, telegraph post, telegraph pole, telephone pole, hydrant, bridge or any other structure within the limits of the city.

**Sec. 11.2. Signs in commercial use districts.** [L.L. No. 5-02, § 1, 10-22-2002]

11.2.0 Generally. Signs in the CC City Center and GC General Commercial use districts shall conform to the following regulations:

1. Permits required. A sign permit shall be required before any sign or billboard may be erected, altered, reconstructed or displayed within the city.
2. Application for permit. Written application shall be made to the code enforcement officer on a form provided by the code enforcement officer and shall be accompanied by complete plans and specifications showing the construction, method of support and materials to be used. Application may be made by the owner or by the lessee of the property upon which such sign is to be placed. The code enforcement officer may require the plans and specifications be signed by a professional engineer or architect registered in the state.
3. Permit fees. Each application shall be accompanied by a fee as established by the common council which may be amended or modified from time to time. The code enforcement officer of the city may require proof of the monetary value of sign. Licensed signs at the time of the enactment of this article must obtain permits under the provisions of this article upon expiration of their licenses. All other signs within the city must comply with the requirements of this article on the effective date of its enactment.

Upon the approval of the code enforcement officer of such application and of the

place and manner of erecting the sign therein mentioned, and upon his writing or stamping thereon the amount of the fee required for the sign applied for, the applicant shall pay to the city clerk the fee prescribed by this division, and thereupon the city clerk shall issue to the applicant a license for the sign applied for.

Licenses shall be issued for a period of three years. New installations approved will be for three-year periods following the issuance of a permit; however, construction of an approved sign must be commenced within 30 days after the issuance of the permit and completed within 60 days thereafter.

License fees for the erection or maintenance of signs shall be established by the mayor and common council of the city by resolution from time to time.

Liability insurance must be obtained by the owner of a sign prior to approval by the code enforcement officer. Minimum liability coverage is \$10,000 property damage, and \$100,000 personal injury. All liability insurance policies shall be approved by the city attorney prior to issuance of a sign permit.

4. Temporary permits. Temporary signs shall require a permit from the code enforcement officer, but a fee will not be required.

A permit for a temporary sign may be issued for a period not exceeding 90 days; and such sign shall be removed within 24 hours after expiration unless an extension of time, not exceeding 30 days, shall have been granted in writing by the code enforcement officer.

Materials, except frames, used in the construction of temporary signs may be of light-weight material. Temporary signs shall conform to all other applicable provisions of this article.

5. Unsafe, unlawful and deteriorating signs. Whenever it shall appear to the code enforcement officer that any sign has been constructed or erected or is being maintained in violation of the terms of this article, or is unsafe or insecure, or is a menace to the public, or has been allowed to deteriorate, he shall give written notifications to the property owner and/or tenant. Said sign shall be removed or repaired and placed in a safe condition within 10 days after receipt of the written notification. If the foregoing is not complied with, the city will have the sign in question removed and the cost added to the property owner's tax bill.

In the event a sign has been damaged and presents an immediate threat to the public, the code enforcement officer may order the immediate removal of said sign and take appropriate action to protect the public and recover costs. Any time a business goes out of business or moves, the owner or company shall remove all signs of said business.

6. Sign mounting. All exterior signs shall be permanently mounted and securely anchored.
7. Restrictions. Signs and billboards shall not in any way obstruct the required door or window area of any building or structure.

Signs shall not be attached to or placed upon any portion of a fire escape.

Signs shall not be erected that will in any way interfere with the activities of the fire department.

Signs constructed or erected after the adoption of this zoning law shall not be rotating or contain any moving parts.

8. Traffic control signs. Signs necessary for traffic control on private property and containing no advertising may be erected, not to exceed an area of 12 square feet per sign.
9. Exemptions. The provisions of this article shall not apply to the following signs:
  - a. Traffic signs erected by governmental bodies.
  - b. Railroad warning signs.
  - c. Municipal signs.
  - d. Memorial signs or tablets, names of buildings and date of erection when cut in any masonry surface or when constructed of bronze or other combustible [non-combustible] materials.
  - e. Occupational signs denoting only the name and profession of an occupant in commercial buildings and the name and nature of the occupancy in public and institutional buildings. Such signs shall not exceed two square feet in area.
10. Illumination. Signs may be illuminated at night by back lighting or direct lighting only provided the latter is so screened as not to cast any direct light upon any residence. No sign or lighting device shall be of the flashing, intermittent or reciprocating type.

Illuminated signs must bear the National Underwriters seal of approval or must be inspected and approved by the city electrical inspector.

11.2.1 Types of signs allowed. Each business establishment shall be allowed the following types of signs only and which shall be installed at the business location only. However, ground signs and pole or pylon signs may not be used in combination. Further, any area allowed in a ground sign or a pole or pylon type shall be deducted from the total area allowed under section 11.2.2, "Size limitations."

1. Wall sign. A sign attached to, erected against or painted on the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall.
2. Ground sign. A detached sign erected upon or supported by the ground.
3. Pole or pylon sign. A sign supported by or suspended from a free-standing column of concrete, structural steel, aluminum pipe or structural aluminum.



4. Projection signs. Each establishment in the city center and general commercial zones, shall be permitted one hanging sign for each frontage on a public right-of-way. Such signs shall not exceed 20 square feet in area per face nor exceed 24 inches from sign face to sign face. The bottom of such sign shall be a maximum of 13 feet above the sidewalk and shall not extend into any access driveways intended for service or emergency vehicles.

11.2.2 Size limitations. The total display area of all signs, including wall, ground, pole, pylon and window, permitted upon a single lot shall be determined as follows:

1. On an interior lot, two square feet of display area for each lineal foot of building frontage facing the main street or highway.
2. On a corner lot where building fronts on a second street, additional signs must be approved by the zoning board.

11.2.3 General requirements.

1. Any sign attached to a building shall not extend more than 50% above the roof line immediately behind the sign, and in no case shall the sign extend above same roof line by more than five feet.
2. Wall signs shall not extend more than 12 inches from the face of the building into any street, alley, sidewalk, thoroughfare or other public space.
3. Wall signs projecting six inches or more into any public space from the face of a building shall have a clearance of not less than eight feet between the bottom of such sign and the sidewalk level of any public thoroughfare.
4. Glass in any wall sign must be safety glass or comparable material.

11.2.4 Ground signs. Two ground signs may be permitted not exceeding 65 square feet in total area and subject to the following regulations:

1. Shall not be more than 10 feet in height as measured from the ground.
2. Any open space between the ground and the bottom of the sign shall not exceed three feet.
3. Ground signs may not be located in any area which shall affect visibility for motor vehicle traffic.
4. An additional sign shall be allowed under the provisions of this article, and subject to the above regulations.

11.2.5 Pole or pylon signs. One pole or pylon sign may be permitted not exceeding 65 square feet in area and subject to the following regulations:

1. The height of the pole or pylon shall not be more than 25 feet above the ground or curb, whichever is lower.
2. An open space of not less than 10 feet shall be maintained between the ground level and the bottom of such sign.

### **Sec. 11.3. Signs in other use districts.**

11.3.0 Signs in the WC Waterfront Conservation Use District. Within the WC Waterfront Conservation Use District, all signs shall conform to the requirements of section 11.1.

In addition to the signs allowed to comply with the requirements of section 11.1, the owner of an approved mobile home park may be allowed to erect a single ground mounted sign, subject to the following regulations:

1. The sign shall only contain the name and address of the mobile home park.
2. The sign shall not be more than 10 feet in height as measured from the ground.
3. The sign shall not contain more than 24 square feet in total area on either of two sides.
4. The sign shall not be illuminated, except indirectly.
5. The sign shall not be located closer than 20 feet to any street or property line.

11.3.1 Signs in I Industrial Use Districts. Within the I Industrial Use Districts shall conform to CC and GC use district regulations.

11.3.2 Signs in industrial/business parks. Signs shall be allowed in industrial/business parks subject to the following regulations.

1. One sign of the pole or pylon type identifying the industrial/business park only and not exceeding 100 square feet in area and conforming to section 11.2.4.
2. One sign directing traffic to business locations. Such sign shall contain equal-sized areas not to exceed 12 inches by 72 inches for each business located within the park.
3. Entrance, exit, safety and other directional signs as required; size in accordance with size used for New York State signs.
4. Corporation identification signs, if intended to be seen from any road outside the park or area, will conform to regulations for business signs. Other corporate identification signs will be at the discretion of the corporation but will not extend more than five feet above the roof line.

### **Sec. 11.4. Administration and violations.**

11.4.0 Billboards and off-premises advertising signs. Billboards shall be permitted by special use permit only and shall be permitted only in industrial districts. Off-premises advertising signs shall be permitted by special use permit only and shall be permitted in the CC, GC and I use districts only. Such special use permit shall be defined in and be issued as provided by the zoning ordinance.

11.4.1 Non-conforming uses. Notwithstanding any other provisions of this article, any nonconforming sign of any type in existence at the date of the enactment of this article shall, at the expiration of 12 months from such date, become a prohibited and unlawful use and shall be discontinued. If a party can show that he has been unduly burdened by this provision, he may apply in the alternative to the zoning board of appeals for a special permit to continue his non-conforming sign during the remaining or undepreciated useful life of such sign, as determined by an appropriate depreciation formula. For such purpose, the use of a formula commonly used for income tax purposes or the depreciation formula used in the depreciation schedules of the income tax returns of the owner of such sign shall be acceptable.

11.4.2 Variances. Notwithstanding any other provision of this article, upon application to the zoning board of appeals, that board may vary or adopt the strict application of any of the requirements of this article.

## ARTICLE 12 NON-CONFORMING BUILDINGS, USES AND LOTS

### **Sec. 12.0. Continuation of non-conforming buildings and lots.**

Any lawful building, structure or use of premises existing at the effective date of the original zoning law of the city, as approved by the Olean Common Council on July 28, 1936, or any subsequent amendment thereof applying to such building, structure, or use of premises, may be continued although such building, structure, or use of premises does not conform to the provisions of this law provided however:

12.0.1 Nothing herein contained shall be construed to render lawful any use not lawfully conforming to provisions of the city's zoning law hereby repealed.

12.0.2 Any extension of a non-conforming use must conform to the provisions of this law.

12.0.3 No non-conforming building or structure shall be enlarged, extended or increased during its life to an extent exceeding 15% of its existing gross floor area or in aggregate value 50% of the replacement cost of the building, whichever is greater, unless said building or structure is changed to conform to the requirements of this law.

12.0.4 A building or structure containing a non-conforming use may be repaired or strengthened sufficiently to remove a hazard to public safety, as such hazard may be determined by the code enforcement officer, but not so as to perpetuate the non-conforming use or character of the structure. Nothing in this law shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the code enforcement officer.

12.0.5 Only by approval of the zoning board of appeals shall a building used to house a non-conforming use be restored if damaged or destroyed by fire, flood, earthquake or other act of God. Substantial restoration shall be made within six months of the occurrence of the damage, except that this time limit may be extended by the zoning board of appeals in cases of practical difficulty or hardship. Any building

damaged by such occurrence to the extent of more than 50% of its replacement value and not demolished shall be repaired or rebuilt within a six-month period to conform to the building line of the original structure.

12.0.6 No non-conforming use shall be maintained, renewed, changed or extended without a certificate of compliance having first been issued by the code enforcement officer.

**Sec. 12.1. Discontinuance of a non-conforming use.** [L.L. No. 5-00, § 1, 9-26-2000]

12.1.1 Any building or land which is used for or occupied by a non-conforming use and which is changed to or replaced by a conforming use, shall not thereafter be used for or occupied by a nonconforming use.

12.1.2 When a non-conforming use has been discontinued for a period of one year, it shall be deemed abandoned and shall not thereafter be re-established and the future use shall be in conformity with the provisions of this law.

12.1.3 Within residential districts, no off-street parking is required for a building that was last utilized for a nonconforming use regardless of how long the building or any portion of the building was vacant so long as the building (1) is being converted into a single or a two-family residential use, and (2) has no more than five bedrooms in the entire building. Within the meaning of this provision, the term "bedroom" includes any room with a bed and any room that is actually used for overnight sleeping, like a den.

**Sec. 12.2. Necessary maintenance and repairs.**

A building or structure of non-conforming use may be repaired or restored to a safe condition except as specified in section 12.5.

**Sec. 12.3. Prior construction.**

Any building or structure for which a building permit was issued prior to the effective date of this law, or any subsequent amendment thereof applying, may be completed and used in accordance with the plans and specifications for such building and structure.

**Sec. 12.4. Existing undersized lots.**

12.4.1 Any lot held in single and separate ownership prior to the adoption of this law, and whose area is less than the specified minimum lot requirements of this law for the district, may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:

1. Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.
2. Such lot has an area of at least 3,000 square feet and a minimum width of at least 40 feet at the required setback line if it is to be used for residential purposes.

3. The following minimum yard dimensions are maintained for residences:

Side yards—Four feet.  
Rear yards—Ten feet.  
Front yards—Fifteen feet.

4. No detached accessory building shall be located closer to a side lot line than three feet, nor less than five feet to the residence building and is located behind the rear line of such residence building. No accessory building shall be located closer to the rear lot line than three feet if no easement is located along such rear lot line.

5. All other bulk requirements for that district are complied with.

12.4.2 In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.

**Sec. 12.5. Reduction in lot area.**

A building permit shall not be issued for any lot that is reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this law.

ARTICLE 13  
**GENERAL EXCEPTIONS**

**Sec. 13.0. Public properties.**

Nothing in this law shall restrict construction or use in the exercise of a governmental function of public buildings, lands or property.

**Sec. 13.1. Public utilities.**

Nothing in this law shall restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the laws of the State of New York. Other facilities may be constructed subject to a site plan approval.

ARTICLE 14  
**ZONING BOARD OF APPEALS**

**Sec. 14.0. Establishment and duties.** [L.L. 3-00, § 1, 3-28-2000]

Pursuant to city laws and in accordance with the General City Law of the State of New York, as amended, the city shall establish a zoning board of appeals. The zoning board of appeals shall consist of seven members appointed by the mayor with the approval of a majority of the common council. Members shall be electors residing in the city. The mayor and common council may provide for compensation to be paid to members, experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the mayor and common council for this purpose. The zoning board of appeals shall designate a chairperson, vice-chairperson and secretary with the approval of the mayor and common council. In the absence of a chairperson, vice-chairperson or secretary, the zoning board of appeals may designate members to serve in acting capacities in these positions. A member of the zoning board

of appeals shall not at the same time be a member of the common council of the city. The mayor and common council shall have the power to remove any member of the zoning board of appeals for cause, after public hearing.

14.0.1 Term of appointment. The terms of office of the members of the zoning board of appeals shall be seven years. Of the members of the zoning board of appeals first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for the term of five years, one for the term of six years and one for the term of seven years, from and after his or her appointment. The appointment of the chairperson shall be for a term of one year.

Their successors shall be appointed for the term of seven years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the mayor and common council of the city by appointment for the duration of the unexpired term.

14.0.2 Staff. The zoning board of appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the mayor and common council of the city and then available for that purpose.

14.0.3 Powers and duties. The zoning board of appeals shall have all the powers and duties prescribed by law and this law, which are more particularly specified as follows:

1. Interpretation. It shall be the responsibility of the zoning board of appeals to hear and decide appeals from, and review, any order, requirement, decision, or interpretation made by the code enforcement officer.
2. Use variances.
  - a. The zoning board of appeals, on appeal from the decision or determination of the code enforcement officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this law.
  - b. No such use variance shall be granted by the zoning board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate and the zoning board of appeals shall find that:
    - (1) Under the applicable regulations of this law the applicant is deprived of all reasonable economic use or benefit from the property in question, which deprivation must be established by competent financial evidence; and
    - (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or

neighborhood; and

(3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) That the alleged hardship has not been self-created.

c. The zoning board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Area variances.

a. The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the code enforcement officer, to grant area variances from the lot area, lot width, yard, height, lot coverage or other dimensional requirements of this law.

b. In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the zoning board of appeals shall also consider:

(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; and/or

(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; and/or

(3) Whether the requested area variance is substantial; and/or

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and/or

(5) Whether the alleged difficulty was selfcreated, which consideration shall be relevant to the decision of the zoning board of appeals, but shall not necessarily preclude the granting of the area variance.

c. If the zoning board of appeals, in its discretion, shall grant an area variance, it shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

4. Imposition of conditions. The zoning board of appeals shall, in the granting of use variances, area variances and special use permits, have the authority to

impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

All work which is authorized by the grant of a variance or special use permit shall be commenced within six months or such greater period not to exceed one year, as may be specified in the approval by the zoning board of appeals. Unless otherwise authorized by the zoning board of appeals, all work shall be completed within one year of the date of the grant of such variance or special use permit. Such approval may be extended as determined by the zoning board of appeals upon receipt of written application submitted prior to the expiration of the approval period.

#### 14.0.4 Mandatory referral.

1. The zoning board of appeals shall, at least five days before a public hearing, mail notices thereof to the parties, and to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal.
2. The zoning board of appeals, before taking final action on any use variance affecting real property lying within a distance of 500 feet from the boundary of any city, village or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, shall refer such matter to the Cattaraugus County Planning Board for report and recommendation. If the county planning board fails to make such report within 30 days after receipt of referred matter the zoning board of appeals may act without such report. If the county planning board disapproves the proposal, or recommends modification thereof, the zoning board of appeals may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The zoning board of appeals shall file a report of its action with the county planning board within seven days after such action is taken.

#### 14.0.5 Procedure.

1. All appeals and applications made to the zoning board of appeals shall be in writing, on forms prescribed by said board. Every appeal or application shall refer to the specific provision of the law involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.
2. The zoning board of appeals shall hold a public hearing on appeals within 60



days after receipt and give due notice of such public hearing by advertising in the official newspaper at least 10 days prior to the date scheduled for the public hearing.

3. Applicants for use variances are required to mail notices of such public hearings to the owners or occupants of all lands within a radius of 250 feet from any part of the property for which the use variance is being requested. Such notices shall be postmarked at least 10 days prior to the date scheduled for the public hearing.
4. Applicants for area variances are required to mail notices of such public hearings to the owners or occupants of all lands abutting any part of the property for which the area variance is being requested. Such notices shall be postmarked at least 10 days prior to the date scheduled for the public hearing. Abutting owners in every direction shall be notified by the mailing of notices and, in the event the property for which the area variance is requested fronts on a street, alley or any other public way, notices shall also be sent to the owners and/or occupants of properties located on the opposite side of the street, alley or public way.
5. Applicants for special use permits referred to the zoning board of appeals shall apply the standards governing special use permits as provided in subsection 9.0.4 of this law and comply with the notice requirements provided in subsection 9.0.3(c).
6. Copies of the appeal or application document shall be mailed to the members of the board of appeals. The board of appeals shall meet within 15 days of the date of filing the appeal or application, review the matter and schedule the required public hearing.
7. The zoning board of appeals shall decide on appeals and on other matters referred to it within 60 days after final public hearing.
8. Every decision of the zoning board of appeals shall be by resolution, each of which shall contain a full record of said board in the particular case.
9. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the zoning board of appeals shall have the power to vary or modify the application of any of the regulations or provisions of this law relating to the use, construction, structural changes in, equipment or alteration of buildings or structures, or the use of land, so that the spirit of the law shall be observed, public safety and welfare secured and substantial justice done. The zoning board of appeals shall have no power to vary or modify the application of the provisions and requirements of the Uniform Fire Prevention and Building Code of the State of New York.

#### 14.0.6 Rules of procedure, by-laws, forms.

1. Meetings open to the public. All meetings of the zoning board of appeals shall be open to the public.

2. Minutes of meetings. Such board shall keep minutes of each of its meetings which are certified as accurate by the secretary of the board which describe the factors considered by the board in reaching its decision and which show the vote of each member on every application to the board. Each member present at any meeting of the board shall have a vote on every question brought before the board for its consideration and no member shall be excused from voting on any question except by a concurring vote of two-thirds of all present. If a member is absent or abstains from voting the minutes shall indicate such fact.
3. Quorum and majority vote. Four votes of the board shall constitute a quorum and four votes shall be necessary to decide in favor of any applicant or any matter upon which said board is required to pass under the provisions of this law.
4. Additional procedures and by-laws. The zoning board of appeals shall have the power to make, adopt, and promulgate such additional written rules of procedure, by-laws, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this law.

## ARTICLE 15 ADMINISTRATION

### **Sec. 15.0. Enforcement.**

This law shall be enforced by the code enforcement officer, who shall be appointed by the mayor and common council of the city. No building permit shall be issued or reissued except where all the provisions of this law have been complied with. The code enforcement officer shall keep the planning board advised of all matters pertaining to the enforcement of this law other than routine duties, and shall submit a monthly report to the mayor and common council, planning board and zoning board of appeals enumerating the applications received, inspections made, permits issued or refused, and other actions taken.

Where sufficient cause exists to believe that the terms of this law have been violated and where corrective action has not been taken nor an appropriate variance application to the zoning board of appeals filed, within 10 days of the issuance of a written notice of violation mailed to the record owner(s) of the property where the violation occurs, with a copy to the alleged violator, if not the same person, the code enforcement officer, pursuant to Municipal Home Rule Law SS 10, Subdivision 4(a), is authorized to issue an appearance ticket directing the alleged violator to appear in a designated local criminal court at a designated future time in connection with the alleged and designated offense.

### **Sec. 15.1. Building permits.**

15.1.1 No building or structure shall be erected, added to, or structurally altered until a permit therefor as specified herein has been issued by the code enforcement officer. No building permit shall be issued for any building under the building and building regulations code of the city where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this law.

15.1.2 For zoning purposes, there shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this law.

15.1.3 One copy of such layout or plot plan shall be returned when approved by the code enforcement officer, together with such permit to the applicant, upon the payment of a fee as set by the common council of the city.

**Sec. 15.2. Certificate of compliance.**

No land shall be occupied or used and no building or other structure erected, altered, extended, enlarged or, if a non-conforming use, restored shall be occupied, used, or changed in use until a certificate of compliance shall have been issued by the code enforcement officer stating that the building, other structure or proposed use thereof complies with the provisions of the zoning law of the city. Vacated existing commercial properties may not be used or occupied until a certificate has been issued to ensure that the new use or occupancy is permitted.

All certificates of compliance for new or structurally altered buildings or structures shall be applied for coincident with the application for a building permit therefor. Such certificate of compliance shall be issued within 30 days after the erection or alteration shall have been approved as complying with the provisions of this law.

**Sec. 15.3. Inspection.**

The code enforcement officer is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order, in writing, the remedying of any condition found to exist therein or thereat in violation of any provision of this law. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to comply with such order.

**ARTICLE 16  
AMENDMENTS**

**Sec. 16.0. Procedure.**

The common council of the city may, from time to time, on its own motion, or on petition, or on recommendation from the planning board, amend the regulations and districts established under this article after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the common council. The procedure for amending the regulations and districts established under this law shall be as provided in Section 83 of the General City Law, as amended from time to time.

**Sec. 16.1. Advisory report to the common council of the city.**

Every proposed amendment, unless initiated by the planning board, shall be referred by the common council to the planning board. The planning board shall report in writing its recommendations thereon to the common council, accompanied by a full statement of the

reasons for such recommendations. If the planning board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the common council, the common council may act without such report. If the planning board recommends disapproval of the proposed amendment, or recommends modification thereof, the common council shall not act contrary to such disapproval or recommendation except by a three-fourths vote.

**Sec. 16.2. Petition by owners of 50% of frontage.**

Wherever the owners of 50% or more of the frontage to a proposed amendment shall present a petition duly signed and acknowledged to the common council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the common council to vote upon said petition within 90 days after filing of the same by the petitioners with the city clerk.

**Sec. 16.3. Public notice and hearing.**

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

16.3.1 By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the city, not less than 10 days prior to the date of public hearing.

16.3.2 By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in a manner prescribed by law.

16.3.3 (For zoning map amendments only.) By mailing a notice of such public hearing to the owners of all lands within a radius of 250 feet from any part of the property or properties for which the change will be applicable and such notice to all lands within the areas for which it will be applicable. This notice is provided as a courtesy only, and failure of the city to fully comply with this noticing provision shall not invalidate any future amendment.

**Sec. 16.4. Protest by owners.**

If a protest against the proposed amendment is presented to the common council, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the common council.

**Sec. 16.5. Decision by common council.**

The common council shall set the public hearing as required and shall render its decision within 60 days of the receipt of the planning board's report, (except the common council shall not be required to hold a public hearing prior to submission to the planning board). If the common council deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

**Sec. 16.6. Notification of decision.**

The common council shall notify the applicant for an amendment of its decision in writing within five days after the decision has been rendered.

**Sec. 16.7. Filing with the secretary of state.**

Every amendment to this Law shall be filed with the Secretary of State of New York and become effective five days thereafter.

ARTICLE 17  
**REMEDIES**

**Sec. 17.0. Complaints of violations.**

Whenever a violation of this law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the code enforcement officer, who shall properly record such complaint and immediately investigate the report thereon.

**Sec. 17.1. Procedure for abatement of violations.**

17.1.1 Whenever in the opinion of the code enforcement officer, after proper examination and inspection, there appears to exist a condition which is a violation of any provision of this law, or of any rule or regulation adopted pursuant thereto, the code enforcement officer shall serve a written notice of violation upon the owner of the property in violation. Fourteen days after notification the condition shall be considered a violation and shall be subject to appropriate penalties and other remedies as provided for herein and under the laws of the State of New York.

17.1.2 Such notice of violation shall: (1) inform the owner of the nature and details of the condition and the reason why it is a violation, (2) recommend remedial action which if taken will effect compliance with this chapter and other rules and regulations of the city, and (3) state the date by which the violation must be remedied or removed in order to be in compliance with this law.

17.1.3 In the event the violation is not remedied within the time allowed, then the person notified of such violation shall be subject to conviction for a violation as defined by the Penal Laws of the State of New York and shall be subject to a fine of not more than \$250 or by sentence of imprisonment for a period of not more than 15 days, or both. Each week that the violation continues shall constitute a separate offense.

**Sec. 17.2. Alternative penalty.**

In addition to the foregoing remedies, an action or proceeding in the name of the city may be commenced in any court of competent jurisdiction to compel compliance with or restrain violation of this chapter or orders issued in compliance with this law.

In the case of any violation or threatened violation of any of the provisions of this law, or conditions imposed by the common council or planning board of the city, in addition to other remedies herein provided, the common council may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction,

moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**ARTICLE 18  
FEE SCHEDULE**

A schedule of fees for all permits and applications required by this chapter shall be set by the mayor and common council of the city by resolution from time to time.

**ARTICLE 19  
REPEAL**

The zoning law adopted by the city on November 12, 1993, as amended subsequently from time to time, is hereby repealed as to the effective date of this law. Such repeal shall not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes place.

**ARTICLE 20  
EFFECTIVE DATE**

This zoning law of the city shall be effective upon adoption.

**ARTICLE 21  
DOWNTOWN OLEAN FORM-BASED ZONING CODE  
[Added 12-22-2015 by L.L. No. 8-2015]**

(a) The attached "Downtown Olean Form-Based Zoning Code" is added as a new Article 21.<sup>3</sup>

(b) Relationship to Other Zoning Laws: Any conflict between the Downtown Olean Form-Based Zoning Code and any other City ordinance or regulation must be resolved in favor of the intent of the Downtown Olean Form-Based Zoning Code.

*28 Attachment 1*

**Use Regulation Table  
[Amended 6-9-2015 by L.L. No. 3-2015; 6-24-2015 by L.L. No. 4-2015]**

*Key to abbreviations:*

- P - Permitted
- SP - Special Permit Required
- No letter - Not Permitted

*Districts:*

- |  |                              |
|--|------------------------------|
| R1 = Single-Family Residential         | WC = Waterfront Conservation |
| R2 = Single-Family/General Residential | I = Industrial               |
| R3 = General Residential               | I2 = General Industrial      |
| RT = Residential Transition            | I3 = Special Industrial      |
| CC = City Center                       | PR = Planned Residential     |
| GC = General Commercial                | PB = Planned Business        |

<i>Types of Uses</i>	<i>Use Districts</i>											
<b>Residential uses</b>	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB

**3. Editor's Note: The Downtown Olean Form-Based Zoning Code is included in the online version of the Code of the City of Olean (eCode360®). Said document is also on file in the City offices.**

Bed and breakfast			SP	P	P	P	P					SP	
Clustered Projects			SP			P	P					SP	
Detached single-family dwellings	P	P	P	P			P					P	
Dwelling units above first floor business				P	P	P	P						
Inns				P	P	P	P						
Mobile home parks												SP	
Multi-family dwellings			P	P	P	P	P					SP	
Semi-detached one-family d.u.'s			P	P			P					SP	
Senior citizen housing	P	P	P	P	P	P						SP	
Townhouses			SP	P	P		P						
Two-family dwellings			P	P			P					SP	
<b>Accessory uses</b>	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Accessory uses and structures customarily incident to any of the uses mentioned herein and not on the same lot			SP	SP	SP	P	P	P	P	P	P	P	P
Accessory uses and structures customarily incident to any of the uses mentioned herein and on the same lot	P	P	P	P	P	P	P	P	P	P	P	P	P
Antennas	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupations	SP	SP	SP	P		P	P					SP	
Parking lots, private	SP	SP	SP	P	P	P	P	P	P	P	P	P	P
<b>General uses</b>	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Adult care facilities	SP	SP	P	P	P	P	P	P	P	P	P	P	P
Agricultural uses			P										
Cemeteries								P	P	P			
Churches or places of worship	SP	SP	P	P	P	P	P					P	
Colleges and institutions of higher education			SP	SP	P	P	SP	P	P	P	SP	SP	
Daycare centers			SP	P	P	P		SP	SP	SP	P	P	
Governmental uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Hospitals			SP										
Libraries	SP	SP	P	P	P	P	P					P	P
Museums	SP	SP	SP	P	P	P	P					P	P
Non-profit clubs, membership			SP	P	P	P	P						P
Nursery schools			P	P	P	P						P	
Nursing (and convalescent) homes			SP	P		P							P
Private golf courses		SP				SP						SP	SP
Private or public schools	P	P	P	P	P	P						P	P
<i>Types of Uses</i>	<i>Use Districts</i>												
<b>General uses (cont'd)</b>	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Public parks and recreational uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Public utilities or transportation uses				SP	P	P		P	P	P			P
Solar energy production facility						SP	SP	SP	SP	SP			
Telecommunications tower							SP	SP	SP	SP			
Veterinary hospitals				SP		P		SP	SP	SP			P
<b>Industrial uses</b>	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Auto-body repair/metal finishing shop								P	P	P			
Contractor yards (and equipment)								P	P	P			
Manufacture, fabrication, extraction, assembly, and other handling of material, including offices and showrooms								P	P	P			P
Research laboratories					P	P		P	P	P			P
Trucking terminals								P	P	P			
Warehousing and wholesale and retail distribution centers including offices and showrooms					P	P		P	P	P			P
<b>Business uses</b>	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Adult uses								SP	SP				
Amusement game centers					SP	P							P
Antique and craft shops				P	P	P	P						P

Art galleries				P	P	P	P					P
Banks and financial institutions				P	P	P	P	SP	SP	SP		P
Barber and beauty shops				P	P	P	P					P
Bars and night clubs				SP	P	P	P	SP	SP	SP		P
Bowling alleys					P	P						
Car washes						P						
Crematories/crematoriums								P	P	P		
Drive-in uses				SP	SP	P		SP	SP	SP		P
Dry cleaning businesses				SP	P	P		P	P	P		P
Funeral homes				SP	SP	SP		P	P	P		SP
Garages, service/repair					P	P		P	P	P		P
Gasoline filling stations						P		SP	SP	SP		P
Gasoline/grocery service marts						P		SP	SP	SP		P
General business offices				P	P	P		P	P	P		P
Hotels and motels				P	P	P	P	P	P	P		P
Medical clinics					P	P						
Newspaper and publishing facilities				P	P	P		P	P	P		P
Parking lots, commercial				SP	P	P	P	P	P	P		P
Parking structures					P	P		P	P	P		P
Personal service establishments				P	P	P	P					P
Photographic studios				P	P	P	P					P
Professional office buildings				P	P	P		P	P	P		P
Professional offices				P	P	P		P	P	P		P
Recreation uses, commercial				P	P	P	SP	P	P	P		P
Repair shops (non-vehicle)					P	P		SP	SP	SP		
Restaurants												
Fast food					P	P	SP	SP	SP	SP		P
Standard				P	P	P	SP	SP	SP	SP		P
Retail businesses and commercial uses other than listed above				SP	P	P		SP	SP	SP		P
Self-service laundries				SP	P	P						
Theaters				SP	P	P	P					P
Vehicles sales (automobile, boat, recreational) and/or repair					P	P		P	P	P		P

28 Attachment 2

City of Olean Zoning Law Density Control Table

Use District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Yard Requirements (feet)			Maximum Lot Coverage			Maximum Building Height (feet/story)	Minimum Building Separation On Same Lot (feet)
			Front	Side	Rear	Principal Use (%)	Garage Use (%)	Accessory Use (%)		
R1	9,000	60	25	4*	35	25	7	2	40 3	5
R2	6,000	50	20	4**	20	30	10	2	40 3	5
R3	4,000	40	15	4**	10	35	12	5	40 3	5
RT	4,000	40	15	4**	10	50	12	10	40 3	0



CC	2,000	30	0	0	0	50	12	10	75 5	0
GC	2,000	30	0	0	0	50	12	10	40 3	0
WC	4,000	40	15	4**	10	35	12	5	40 3	5
I	N/A	N/A	50	N/A	N/A	50	12	10	75 N/A	0
I2	N/A	N/A	50	N/A	N/A	50	12	10	75 N/A	0***
I3	N/A	N/A	50	20****	10****	50	12	10	75 N/A	0***
PR	10,000	100	40	20	10	25	10	10	30 2	5
PB	N/A	N/A	N/A	N/A	N/A	25	10	10	40 3	5

\* The minimum width required for a side yard is four feet on any side, with both sides together totaling a minimum of 25 feet.

\*\* The minimum width required for a side yard is four feet on any side, with both sides together totaling a minimum of 14 feet.

\*\*\* See section 10.22 for minimum separation distance requirements between adult uses and other specific uses.

\*\*\*\* These setbacks shall be doubled for any parcel that is adjacent to a residentially zoned area.