

Town of Olean

Zoning Law

Adopted

February 8, 2000

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**Adopted by the Town of Olean Town Board
on February 8, 2000**

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TOWN OF OLEAN ZONING LAW

TABLE OF CONTENTS

ARTICLE 1: ENACTING CLAUSE	1
ARTICLE 2: SHORT TITLE.....	1
ARTICLE 3: INTENT AND PURPOSE.....	1
ARTICLE 4: RULES AND DEFINITIONS	2
Section 4.1 Rules	2
Section 4.2 Definitions	2
ARTICLE 5: GENERAL PROVISIONS.....	24
Section 5.1 General Regulations.....	24
Section 5.2 Application of Regulations.....	24
Section 5.3 Lot Area and Dimension	25
Section 5.4 Access to Public Street	25
ARTICLE 6: ESTABLISHMENT OF DISTRICTS	26
Section 6.1 Districts.....	26
Section 6.2 Zoning Map	26
Section 6.3 Tax Map Parcels in Zoning Districts.....	26
Section 6.4 Interpretation of District Boundaries	30
Section 6.5 Lots Located in More Than One Zoning District	30
Section 6.6 Zoning of Streets, Alleys, Public Ways, Waterways and Rights-of-Way.....	30
ARTICLE 7: DISTRICT USE REGULATIONS	31
Section 7.1 Zoning Districts	31
Table 7.1 Table of Permitted Uses.....	40
Table 7.2 Table of Dimensional Regulations	44
Section 7.2 Dimensional Regulations	45
Section 7.3 Planned Unit Development.....	50
ARTICLE 8: NON-CONFORMING BUILDINGS AND USES.....	58
Section 8.1 Continuation of Use	58
Section 8.2 Discontinuance of Use	58
Section 8.3 Change of Use	58
Section 8.4 Repairs and Alterations	58
Section 8.5 Extension.....	58
Section 8.6 Restoration	59
Section 8.7 District Changes.....	59

ARTICLE 9: SUPPLEMENTARY REGULATIONS	60
Section 9.1 Application	60
Section 9.2 Performance Requirements.....	60
Section 9.3 Adult Uses.....	60
Section 9.4 Manufactured Home Parks and Manufactured Homes	62
Section 9.5 Junkyards.....	66
Section 9.6 Control of Excavation.....	73
Section 9.7 Sanitation.....	74
Section 9.8 Signs.....	74
Section 9.9 Off-street Parking, Loading Areas, and Drive-through Windows	79
Section 9.10 Seasonal Residences.....	82
Section 9.11 Temporary Buildings.....	82
Section 9.12 No More than one Single-family Residence per Lot.....	82
Section 9.13 Stormwater Management and Erosion Control.....	83
Section 9.14 Accessory Apartments	84
Section 9.15 Telecommunications Facilities.....	85
Section 9.16 Home Based Businesses.....	93
Section 9.17 Yard Sales	97
Section 9.18 Landscaping Regulations.....	97
 ARTICLE 10: SITE PLAN REVIEW	 100
Section 10.1 Purpose.....	100
Section 10.2 Authorization to Review Site Plans	100
Section 10.3 Applicability and Exceptions	101
Section 10.4 Application Procedure.....	101
Section 10.5 Pre-application Conference	102
Section 10.6 Action of the Site Plan	103
Section 10.7 Criteria for Approving Site Plans.....	103
Section 10.8 Expiration of Site Plan Approval.....	105
Section 10.9 State Environmental Quality Review Act.....	105
 ARTICLE 11: SPECIAL USE PERMITS	 106
Section 11.1 Purpose.....	106
Section 11.2 Authorization to Grant Special Use Permits	106
Section 11.3 Application Procedure.....	107
Section 11.4 Action on the Special Use Permit Application	107
Section 11.5 Criteria for Granting Special Use Permits	108
Section 11.6 Expiration of Special Use Permit.....	109
Section 11.7 State Environmental Quality Review Act.....	109

ARTICLE 12: ZONING BOARD OF APPEALS	110
Section 12.1 Organization	110
Section 12.2 Powers and Duties	111
Section 12.3 Variances	112
Section 12.4 Procedures	114
Section 12.5 State Environmental Quality Review Act	117
 ARTICLE 13: ADMINISTRATION AND ENFORCEMENT	118
Section 13.1 General Procedure	118
Section 13.2 Zoning Inspector	119
Section 13.3 Violations and Penalties	122
Section 13.4 Fees	123
Section 13.5 Article Seventy-eight Proceedings	123
 ARTICLE 14: AMENDMENTS	124
Section 14.1 Town Board May Amend	124
Section 14.2 Review by Planning Board	124
Section 14.3 Public Notice and Hearing	124
Section 14.4 Adoption	125
Section 14.5 Filing Requirements	125
 ARTICLE 15: MANDATORY REFERRAL	127
Section 15.1 Proposed Actions Subject to Referral	127
Section 15.2 Geographic Criteria	127
Section 15.3 County Planning Board Review	127
Section 15.4 Report of Final Action	128
 ARTICLE 16: SEPARABILITY	129
 ARTICLE 17: WARNING AND DISCLAIMER OF LIABILITY	129
 ARTICLE 18: EFFECTIVE DATE	129

ARTICLE 1 ENACTING CLAUSE

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and for each of the purposes specified therein, the Town Board of the Town of Olean, County of Cattaraugus and State of New York has ordained and does hereby enact the following law regulating and restricting the location, size and use of buildings and other structures and the use of land in the Town of Olean.

ARTICLE 2 SHORT TITLE

This law shall be known and may be cited as the "Zoning Law of the Town of Olean, Cattaraugus County, New York."

ARTICLE 3 INTENT AND PURPOSE

For the purpose of promoting the public health, safety, and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding congestion in the public streets and highways; minimizing flood losses in areas subject to periodic inundation; and facilitating adequate but economical provision of public improvements, all in accordance with a comprehensive plan, the Town Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures; percentages of lot area which may be occupied; the density of population; setback building lines; sizes of yards, courts and other open spaces and the use of land for trade, industry residences, recreation or other purposes, and for such purpose divides the Town into districts or zones.

ARTICLE 4 RULES AND DEFINITIONS

Section 4.1 Rules

The following rules shall apply to interpreting the text of this law:

- (1) Words used in the present tense shall include the future.
- (2) Words used in the singular shall include the plural, and words used in the plural shall include the singular.
- (3) Words used in the masculine form shall include the feminine.
- (4) The word "shall" is mandatory. The word "may" is permissive.
- (5) The word "lot" shall include the words "plot," "piece," and "parcel."
- (6) The word "person" shall include an individual, firm, trust, partnership, association or corporation.
- (7) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (8) The phrases "to erect," "to construct," and "to build" a building have the same meaning and include the excavation for a building foundation and the relocation of a building from one location to another.

Section 4.2 Definitions

The following words and terms, wherever they occur in this law, shall be interpreted as herein defined:

ABANDONMENT To cease or discontinue a use.

ACCESSORY APARTMENT A second dwelling unit either in or added to an existing single-family detached dwelling, or in a freestanding accessory building on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such dwelling is an accessory use to the main dwelling unit.

ACCESSORY BUILDING A structure located on the same lot as a principal building and used for purposes customarily incidental to and subordinate to the principal structure.

ACCESSORY USE A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

ADULT USE Whenever used in this local law, the words adult use or adult uses apply to the following types of establishments:

- (1) **Adult Bookstore:** An establishment which has, as a substantial or significant proportion 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.
- (2) **Adult Entertainment Cabaret:** A public or private nightclub, 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.
- (3) **Adult Video Store:** An establishment having as a substantial or significant portion of its stock in trade, videotapes or films for sale or viewing on the premises by use of motion picture devices, video equipment, computer equipment, coin operated machines or by other means and which establishment excludes any minor by reason of age.
- (4) **Peep Show:** A theater which presents materials in the form of live shows, films, videotapes or on computers viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.
- (5) **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 shops in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs that 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.
- (6) **Adult Motel:** A motel or hotel which excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes which, if presented in a public movie theater, would exclude minors by reason of age.
- (7) **Adult Theater:** A theater that customarily presents motion pictures, films, videotapes or slide shows and which excludes minors by reason of age.

(8) **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 minors by reason of age.

(9) **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 requirements established in the New York State Education Law for the issuance or conferring of a diploma and is in fact authorized to issue or confer a diploma.

AGRICULTURAL USE, GENERAL. The use of land for agriculture, in which fewer than 1,000 (one thousand) animal units are located on one agricultural establishment.

AGRICULTURAL USE, INTENSIVE. The use of land for agriculture, in which 1,000 (one thousand) or more animal units are located on one agricultural establishment.

AGRICULTURE The use of land for the raising or keeping of livestock or the growing of crops in the open or in a greenhouse, including any necessary accessory structures, but not including processing of the agricultural product. Manure may be spread or otherwise disposed of on a parcel used for agriculture, provided that said manure is a by-product of an agricultural activity that is occurring on the same parcel. Types of agriculture include dairying, pasturage, horticulture, floriculture, apiculture, aquaculture, viticulture, production of maple sap, tree farms, and mushroom farms. However, the raising of hogs or pigs for commercial purposes shall not be construed to be "agriculture."

AIRSTRIPS, PRIVATE Land used for the purpose of landing, taxiing, taking off or storing of private aircraft, pursuant to the regulations of the appropriate authority.

ALTERATION As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ANIMAL UNIT. One animal unit is equal to 1,000 pounds of livestock or other domestic animal.

ANTENNA A system of electrical conductors that transmits or receives frequency signal. Such signals shall include, but are not limited to, radio, television, cellular, paging, digital and/or data communications, personal wireless communications services (PWS) and microwave communications.

AQUACULTURE. Land devoted to the breeding, hatching, and/or raising of fish or other aquatic plants or animals for profit.

AREA, LOT The total area within the boundary lines of a lot.

AREA VARIANCE See Variance, Area

AUTOMOBILE BODY SHOP A building used for the repairing or painting of the exterior and/or undercarriage of motor vehicle bodies, in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair.

AUTOMOBILE REPAIR SHOP An establishment where motor vehicle fuels and lubricants are sold and where towing, repairs, servicing, greasing, and adjusting of automobiles and other motor vehicles may be performed. All sales and storage of accessories and repairing and servicing shall be conducted within a wholly enclosed building or buildings.

AUTOMOBILE SALES A lot, building, or structure where new or used automobiles, trucks, or motorcycles are available for sale.

BANK An institution where money is deposited, kept, lent, or exchanged.

BAR A business establishment licensed by the State of New York to serve alcoholic beverages and which 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.

BARBER SHOP See Hairdressing Establishment.

BARN A building used to house animals and feed for those animals.

BASEMENT A portion of a building which is partly underground, but in which more than one-half of its height, measured from floor to ceiling, is above the average finished grade at the point where the grade meets the exterior walls of the building. (See also Cellar)

BATCHING PLANT, ASPHALT OR CONCRETE An industrial facility used for the production of asphalt or concrete, or asphalt or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises, and the storage and maintenance or required equipment, but does not include the retail sale of finished asphalt or concrete products.

BEAUTY SHOP See Hairdressing Establishment.

BED AND BREAKFAST ESTABLISHMENT A single family dwelling in which the residents thereof provide overnight accommodation and meals to travelers. A bed and breakfast establishment shall contain a maximum of five (5) rooms available for overnight guests.

BUFFER YARD A land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. Also see Section 7.2 (L).

BUILDABLE AREA The space remaining on a zoning lot after the minimum yard requirements of this law have been complied with.

BUILDING Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING AREA The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured from exterior wall to exterior wall.

BUILDING, ACCESSORY See Accessory Building.

BUILDING PERMIT Written approval from the Code Enforcement Officer to develop, construct or alter a structure or building.

BUILDING SETBACK LINE A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this law.

CALIPER A measurement of the diameter of a tree.

CAMPER See Trailer

CAMPGROUND An area used for a range of overnight camping experiences, from tents to serviced trailer sites, including accessory facilities which support the use, such as administration offices and laundry facilities, but not including the use of manufactured homes on a year round basis.

CELLAR A portion of a building which is wholly or partly underground and in which more than one-half of its height, measured from floor to ceiling, is below the average finished grade at the point where the grade meets the exterior walls of the building. (See also Basement).

CEMETERY Land that is set apart or used as a place for the internment of the dead.

CERTIFICATE OF COMPLIANCE A certificate issued by the Zoning Inspector that certifies that conditions specified in this zoning law have been met, that the parcel is properly zoned for the use that is proposed, and that the intended use is allowable. Said

certificate shall acknowledge any adjustments to the requirements of this law granted by the Zoning Board of Appeals. Certificates of compliance will be issued after all necessary construction has been completed and prior to occupancy of the structure.

CERTIFICATE OF OCCUPANCY A permit issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building.

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

CLUB A building or portion thereof or premises owned and/or operated by a corporation or association for a social, educational or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business. The term "club" shall also refer, where the context requires it, to the members of such organization.

CODE ENFORCEMENT OFFICER The official, appointed by the Town Board, who is responsible for enforcing the Town's Building Code.

COMMERCIAL RECREATION A recreational facility operated as a business and open to the public for a fee. Types of commercial recreation include miniature golf courses and bowling alleys.

COMMERCIAL SCHOOL A school conducted for the purpose of gain, including dancing schools, music schools, business and secretarial schools.

CONTRACTOR'S YARD A yard of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work.

COVERAGE That percentage of the lot area covered by the building area.

CULTURAL FACILITY Public libraries, museums, art galleries and other similar community institutions.

DAY CARE FACILITY (1) An establishment where care is provided for two or more children, who are not of common parentage, for a period of less than 24 hours per day. Programs could include those for children who are under the minimum age to attend public school and/or pre-school, after-school and school-vacation care for school-aged children. (2) An establishment where care is provided for two or more adults on a daily basis for a period of less than 24 hours per day, but shall not include a residential care facility or nursing home.

DECIDUOUS A plant that loses its leaves at least once during the year.

DOMESTIC, HOME HEALTH CARE OR MEDICAL CARE WORKER A person employed by one or more persons resident in a family, who may occupy dwelling space provided as part or all of his or her compensation without payment of rent, for the purpose of rendering domestic or home health care or medical care services solely for one or more of the residents. The dwelling space provided for a domestic or home health care or medical care worker may include a separate bedroom and bathroom, but shall not include a separate kitchen, nor shall such dwelling space include a separate entrance from the outside to the room or rooms provided for him/her.

DRIVE THROUGH WINDOW An accessory use to a commercial building, usually a bank or a restaurant, in which a customer drives his/her automobile up to an opening in the building, from which the customer transacts business without getting out of the vehicle.

DRUG STORE A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines, but where nonmedical products are sold as well.

DWELLING UNIT A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel or other such use of a transient nature.

DWELLING, SINGLE FAMILY A building that contains one dwelling unit.

DWELLING, TWO FAMILY A building that contains two dwelling units. The units could be side-by-side, sharing a common wall, or the units could be on separate floors, one above the other.

DWELLING, MULTIPLE FAMILY A building that contains three or more separate dwelling units.

ESSENTIAL SERVICES The erection, construction, alteration, or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings. "Essential Services" shall not include "Telecommunications Towers."

EVERGREEN A plant that holds its leaves throughout the year.

FACTORY-BUILT HOUSING A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.

FAMILY (1) One or more persons, all living together as a single, stable and bona fide housekeeping unit, so long as such persons together occupy and either own, lease or rent the whole of a dwelling unit in a family-like living arrangement and in a functional equivalent of a natural family and use all rooms and housekeeping facilities in common, and provided that no more than one domestic or home health care or medical care worker is employed on the premises.

(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 share the entire dwelling unit;
- (c) The occupants live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers shall not be deemed to be occupied by the functional equivalent of a traditional family;
- (d) The group shares expenses for food, rent, or ownership costs, utilities and other household expenses;
- (e) The group is permanent and stable. Evidence of such permanency and stability may include:
 - (i) The presence of minor dependent children regularly residing in the household who are enrolled in a local school;
 - (ii) Members of the household have the same address for the purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;
 - (iii) Members of the household are employed in the area;
 - (iv) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling unit.
 - (v) Common ownership of the furniture and appliances among the members of the household
 - (vi) The group is not transient or temporary in nature.

(4) It shall be presumptive evidence that a single dwelling unit is occupied by more than one family if any one or more of the following features exist on the premises:

- (a) more than one mailbox, mail slot, or post office address
- (b) more than one doorbell
- (c) more than one gas meter
- (d) more than one electric meter
- (e) separate entrances for segregated portions of the dwelling unit
- (f) partitions or locked internal doors barring access between segregated portions of the dwelling unit, including bedrooms.
- (g) separate written or oral leases or rental agreements, or the payment of rent for portions of the dwelling unit among its owner and residents; or

- (h) two or more kitchens, each of which contain a range, stove, or oven; refrigerator; and sink.

FARM STAND, SEASONAL A use, accessory to an agricultural use as defined by this law, in which agricultural products are sold on a seasonal basis. Agricultural products includes items such as farm produce, Christmas trees, maple syrup, and wool, but does not include items such as farm implements.

FEED AND GRAIN STORAGE FACILITY A structure in which is stored agricultural produce, and which may include facilities for wholesale distribution, or an accessory retail outlet, for sale of such agricultural produce to the general public.

FENCE An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FENCE, PRIVACY An opaque fence that will visually isolate, conceal or seclude objects, things, places or people.

FINANCIAL INSTITUTION The premises of a bank, savings and loan company, trust company, finance company, mortgage company, or investment company.

FLOOD or FLOODING A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOR AREA, GROSS The sum of the area of all floors in a building, measured from the exterior faces of the outside walls.

FLOOR AREA, GROSS COMMERCIAL AND INDUSTRIAL The sum of the gross floor areas of a building, or portion of a building devoted to such uses, including accessory storage areas located within selling or working space, such as counters, racks or closets and any basement floor areas devoted to retailing activities, to the production or processing of goods or to business or professional offices.

FLOOR AREA, GROSS RESIDENTIAL The sum of the area of all floors in a building, measured from the exterior faces of the outside walls, but excluding any porch, verandah, unfinished attic, basement or cellar, carport, garage or sunroom (unless such sunroom is habitable at all seasons of the year).

FINISHED GRADE The elevation at which the finished surface of the surrounding lot meets the walls or supports of a building or structure. If the finished grade is not reasonably horizontal, the average elevation of all sides of the structure shall be used for purposes of computing the height of the building or structure.

FOOD PROCESSING ESTABLISHMENT A commercial establishment in which food is processed or otherwise prepared for human consumption, but the food is not consumed on the premises.

FORESTRY The use of land for the purpose of conservation and/or the growing and cutting of trees for the purpose of producing commercial or non-commercial wood products such as furniture and firewood, but shall not include the manufacturing or processing of such products.

FRONTAGE The minimum straight line distance between the intersection of the side lot lines and the front lot line.

FUEL OIL AND GASOLINE STORAGE The commercial storage of crude petroleum, gasoline, naphtha, benzine, kerosene, propane or other flammable liquid for wholesale sale or for delivery to customers off-site, regardless of whether the fuel is stored above the ground, underground, or in mobile tank cars or trucks.

GARAGE, PRIVATE An accessory building, or part of the principal building, which is designed and used primarily for the storage of motor vehicles that belong to the occupants of the dwelling unit with which it is associated.

GARAGE SALE See Yard Sale

GAS STATION A retail establishment where motor vehicle fuels and lubricants are sold to individuals. Light maintenance activities such engine tuneups, carburetor cleaning and minor repairs may be conducted, but such activities shall not include collision service or painting.

GAS STATION WITH MINI-MART A place where gasoline and minor accessories such as motor oil and lubricants are sold directly to the public on the premises in combination with the sale of food items typically found in a grocery store.

GOLF COURSE A public or private area operated for the purpose of playing golf, and which may include a club house and accessory driving ranges.

GREENHOUSE A building for the growing of flowers, plants, shrubs, trees and similar vegetation, which are sold, either at wholesale or retail, directly from the lot on which the greenhouse is located.

GROCERY STORE A retail establishment primarily selling food.

HAIRDRESSING ESTABLISHMENT A commercial establishment providing a personal service to men, women or children by shampooing, cutting, styling, tinting or treatment of hair, by giving manicures, pedicures or facial treatments or by the use of

cosmetic products, and, without limiting the generality of the foregoing, includes a barber shop and beauty salon.

HEAVY EQUIPMENT STORAGE AND SERVICE An establishment where heavy machinery and equipment are stored and /or are offered for hire, and in which the machinery and equipment may be serviced and repaired. Such machinery includes excavating equipment, well-digging equipment, and farm machinery.

HEIGHT The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Accessory roof construction such as a chimney, steeple or antenna shall not be included.

HISTORIC RESOURCE Any historic building, structure, facility, site 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 on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in 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 is also considered to be an historic resource.

HOME BASED BUSINESS An accessory use, in which an occupation is conducted for gain in a dwelling unit by the resident or residents.

HOME BASED BUSINESS, MINOR A home occupation in which no persons other than members of the family residing on the premises are engaged in the occupation, which accommodates both dwelling and home based business parking needs off the street, and in which no equipment is used other than that normally used in household, domestic, or general office use.

HOME BASED BUSINESS, MAJOR A home occupation in which one or more people, other than members of the family residing on the premises, may be employed on the premises, and which accommodates both dwelling and home occupation parking needs off the street.

HOTEL A building or group of buildings where sleeping accommodations are provided to the public for transient occupancy. A hotel may or may not include group dining facilities.

HOUSEHOLD PET Small animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic rabbits, domestic tropical birds, goldfish, and mice.

INN See Hotel.

JUNK The outdoor storage or deposit of any of the following shall constitute junk:

- (1) One or more junk motor vehicles
- (2) one or more junk mobile homes
- (3) one or more pieces of farm machinery which are no longer in condition for agricultural use
- (4) one or more unusable pieces of construction equipment
- (5) one or more abandoned or inoperable household appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- (6) one or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- (7) disassembled auto parts which, taken together, equal in bulk one motor vehicle

JUNK MOBILE HOME A structure, transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit, which is currently not inhabited and is no longer habitable under the New York State Uniform Fire Prevention and Building Code. Includes but is not limited to mobile homes, manufactured homes, travel trailers, and campers.

JUNK MOTOR VEHICLE. An unregistered, old, or secondhand motor vehicle, no longer intended or in condition for legal use on the public highways; or, used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicles. A vehicle is considered junked when it meets all of the following conditions:

- (1) It is unlicensed.
- (2) It is either stored, abandoned, wrecked, discarded, dismantled, or partly dismantled.
- (3) It is not in any condition for legal use upon the public highways
- (4) It is in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair.

JUNK STORAGE AREA. The areas of any parcel of land or water used or intended to be used for the placement, storage or deposit of junk.

JUNKYARD. The outdoor storage or deposit of any of the following:

- (1) two or more junk motor vehicles
- (2) two or more junk mobile homes
- (3) two or more pieces of farm machinery which are no longer in condition for agricultural use,
- (4) two or more unusable pieces of construction equipment
- (5) two or more abandoned or inoperable household appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.

- (6) two or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- (7) Any combination of the above or parts of the above that total two or more items.

KENNEL Any premises on which four (4) or more domestic animals, excluding livestock, are housed, boarded, trained, bred, raised for commercial purposes or sold. The term "kennel" shall not include the keeping of animals in a veterinary hospital for the purpose of observation and/or recovery necessary to veterinary treatment. The term "bred" shall not mean a household pet that has not more than one litter per year per household.

LANDSCAPING Any combination of living plants (such as grass, ground cover, shrubs, vines hedges, or trees) and nonliving landscape material (such as rocks, pebbles, mulch, walls, fences, or decorative paving materials). Landscaping may include the preservation and incorporation of existing trees and vegetation into site development.

LAUNDROMAT A building where coin-operated laundry machines, using only water, detergents and additives, are made available to the public.

LIBRARY A building containing printed and pictorial material for public use for purposes of study, reference and recreation.

LINE, STREET The dividing line between the street and the lot.

LIVESTOCK Poultry, dairy and beef cattle, horses, sheep, goats, or any similar domestic animal used for human consumption, but not including swine.

LOADING AND UNLOADING SPACE, OFF-STREET An open hard-surfaced area of land other than a street or a public way, the principal use of which is for standing, loading and unloading of motor vehicles, tractors and trailers to avoid undue interference with public streets and alleys.

LOGGING The removal or cutting of logs from harvestable timber for commercial purposes.

LOT A parcel of land with frontage on a street or road, whether or not occupied by a building or structure, which is in one ownership.

LOT AREA See Area, Lot.

LOT, CORNER A lot located at the intersection of, and abutting upon, two or more streets. A corner lot is not a through lot.

LOT COVERAGE See coverage.

LOT DEPTH The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT LINES The property lines bounding a lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line.

LOT OF RECORD Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Cattaraugus County.

LOT, THROUGH A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

LOT WIDTH The mean horizontal distance between the side lot lines measured within the lot boundaries.

LUMBER AND BUILDING MATERIAL STORAGE AND SALES A building or structure in which lumber, and other building, construction and home improvement materials are offered for retail sale.

MACHINE SHOP A tool and die making facility that may contain equipment such as lathes and milling machines.

MANUFACTURING The making of goods and articles by hand or machine process. All manufacturing activities shall comply with the performance requirements set forth in Article 9 of this law.

MANUFACTURED HOME A transportable, factory-built home designed to be used as a year-round single-family dwelling that is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 United States Code Sec. 5401). A manufactured home is sometimes referred to as a "HUD Code home." The term "Manufactured Home" does not include a mobile home or a trailer.

MANUFACTURED HOME PARK A lot under single ownership that is designed for the placement of two or more manufactured homes.

MANUFACTURED HOME SPACE A plot of land within a manufactured home park designed for the accommodation of one manufactured home.

MEDICAL CLINIC A building or structure where two or more members of the medical profession, physicians, dentists, chiropractors, osteopaths, and/or occupational and physical therapists, provide diagnosis and treatment to the general public without overnight accommodation. A medical clinic may include such uses as reception areas, offices, consultation rooms, x-ray facilities, minor operating rooms and/or a pharmacy, providing that all such uses have access only from the interior of the building.

MINING, QUARRYING, SAND AND GRAVEL EXTRACTION, STRIPPING OF TOPSOIL An open land area where sand, gravel, stone and rock fragments are mined or excavated or top soil is stripped as an industrial operation for sale or off-site use. This definition shall not include grading a lot in preparation for construction of a building.

MOBILE HOME A transportable, factory-built home, designed to be used as a year-round, single family dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. "Mobile home" does not include a trailer.

MODULAR HOME Factory-built housing that is certified as meeting the New York State Building Code. Typically, modular homes are partially assembled in a factory and are delivered to a site in pieces, where they are assembled. Once certified as meeting New York State Building Code, modular homes shall be subject to the same standards as site-built homes.

MORTUARY A building used for human funeral services. Such buildings may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the storage of caskets and other related funeral supplies; and (c) the storage of funeral vehicles. A mortuary shall not include facilities for cremation.

MOTEL A hotel primarily for transients traveling by automobile, with a parking space on the lot for each lodging unit, and with access to each such unit directly from the outside. A motel may or may not include group dining facilities.

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

NON-CONFORMING BUILDING Any building, legally existing at the time of enactment of this law, which does not meet the regulations on building size or location on a lot for the district in which such building is located.

NON-CONFORMING LOT Any lot, legally existing at the time of enactment of this law, where the area, frontage and/or dimensions do not conform to the provisions of this law.

NON-CONFORMING USE A use of land or building, legally existing at the time of enactment of this law, which does not conform to the regulations of the district in which it is located, but which complied with applicable regulations at the time the use was established.

NURSERY SCHOOL A privately-owned school for two or more children ages two to five, which provides instruction as well as child care.

NURSING HOME A building in which the proprietor, either for profit or not-for-profit, supplies lodging and meals and in addition, provides nursing, medical or similar care and treatment. A nursing home includes a rest home or a convalescent home.

OFFICE A building or portion of a building wherein services are performed involving predominately administrative, professional, or clerical operations. An office shall not include a retail commercial use, any industrial use, clinic, financial institution or place of amusement or place of assembly.

PARKING LOT An open area of land, other than a street, used for the temporary parking of two or more motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers or residents, but does not include the storing of impounded or wrecked vehicles.

PARKING SPACE An area exclusive of driveways, ramps, or columns, in which one vehicle can be parked.

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

PERSONAL SERVICE ESTABLISHMENT A business where professional or personal services are provided for gain and where the retail sale of goods, wares, merchandise, articles or things is only accessory to the provision of such services, including but not limited to the following: barber shops, beauty shops, tailor shops, laundry or dry-cleaning shops, and shoe repair shops.

PHOTOGRAPHIC STUDIO Premises used for portrait and commercial photography, including developing and processing of film, sale of film and photographic equipment, and repair or maintenance of photographic equipment.

PLACE OF WORSHIP A building, such as a church, chapel, temple, synagogue, or mosque, in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The building may include such accessory uses as a nursery school, a school of religious education, or parish hall.

PLANNED UNIT DEVELOPMENT A development approved according to the provisions of Section 7.3 of this law.

PLANNING BOARD The Planning Board of the Town of Olean, Cattaraugus County, New York.

PLANT NURSERY Land used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock for wholesale or retail sale.

PRINCIPAL USE See Use, Principal.

PRIVATE SCHOOL A privately-owned academic or religious school, whose primary purpose is to provide an academic education for children in grades Kindergarten through Twelve.

PUBLIC USE Public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY Any person, firm, corporation or municipal department duly authorized under public regulation to furnish to the public electricity, gas, steam, telephone, fiber-optics, transportation, water or sewer.

REPAIR SHOP, GENERAL An establishment in which are repaired small items such as household appliances, vacuum cleaners, television sets and computers.

REPAIR SHOP, PERSONAL SERVICE An establishment in which are repaired personal items such as clothing, shoes, and jewelry.

RESEARCH AND DEVELOPMENT FACILITIES A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

RESTAURANT An establishment which is primarily engaged in serving food and beverages which are consumed on its premises by customers seated at tables and/or counters either inside or outside the building, and, as an accessory use, may be engaged in providing customers with take-out service of food and beverages for off-site consumption.

RESTAURANT, DRIVE-THROUGH An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RETAIL BUSINESS A building in which merchandise is offered for sale at retail, including storage of limited quantities of such merchandise, sufficient only to supply such store.

RIDING STABLES An establishment in which horses are boarded and may also be available for hire. A riding stable may also provide lessons in riding, handling, training, and care of horses.

SAWMILL A building, structure or area where timber is cut, sawed or planed, either to finished lumber or as an intermediary step and may include facilities for the kiln drying of lumber and may include the distribution of such products on a wholesale basis.

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 the NYS Coastal Management Program is also included.

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 high schools.

SELF-SERVICE STORAGE FACILITIES A building or buildings used for the storage of household goods and materials, in which individuals rent self-contained storage units that are exclusively available to the individual renter.

SETBACK, BUILDING The least horizontal distance permitted between a lot line of a lot and the nearest portion of any building on such lot.

SIGN Any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, persons, products, businesses or activities, whatever the nature of the material and the manner of composition or construction.

SIGN, AWNING Any visual message incorporated into an awning attached to a building.

SIGN, FREESTANDING Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

SIGN, GROUND A type of freestanding sign, in which the entire bottom of the sign is generally in contact with or in close proximity to the ground.

SIGN, ILLUMINATED Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

SIGN, OFF-PREMISES A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the parcel where such sign is located.

SIGN, PORTABLE A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

SIGN, PROJECTING A sign which is attached to the building wall or structure and which extends horizontally more than six (6) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

SIGN, ROOF Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

SIGN, WALL Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

SITE PLAN A scale drawing showing the relationship between the lot lines and building or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, and densities. See also Article 10 of this law.

SPECIALIZED ANIMAL RAISING AND CARE The primary use of land and /or buildings for the raising and care of rabbits, birds, fur bearing animals or other commercial animals of a similar nature.

SPECIAL USE Any use of land or buildings or both that require special approval from the Zoning Board of Appeals as described herein. See also Article 11 of this law.

START OF CONSTRUCTION The first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or manufactured home subdivision "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

STORY That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the

floor and the ceiling next above it. A basement shall be considered a story; however, a cellar shall not be considered a story.

STORY, HALF The portion of a building located wholly or in part within a sloping roof and in which there is sufficient space to provide a height between finished floor and finished ceiling of at least seven feet, six inches over a floor area equal to at least fifty percent of its total floor area.

STREET A public or private way which affords the principal means of access to abutting properties.

STRUCTURAL ALTERATIONS Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders.

STRUCTURE Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TELECOMMUNICATIONS ACCESSORY STRUCTURES Non-habitable buildings or structures used in conjunction with a tower or other telecommunications facility, and which are located on the same lot as those facilities. Examples of telecommunications accessory structures include transmission equipment and storage sheds.

TELECOMMUNICATIONS FACILITIES Towers and/or antennas and associated accessory structures, if any, together used in connection with the provision of cellular telephone service, personal communications services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services.

TELECOMMUNICATIONS TOWER A structure on which transmitting and/or receiving antenna(s) is located. It includes, but is not limited to, lattice towers, guyed towers, monopoles, and similar structures.

THEATER A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

THEATER, DRIVE-IN A theater consisting of a screen or screens and parking area where the public is able to view projected movies from a private automobile.

TOWNHOUSE A building containing two or more dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by common or party walls without openings. Townhouses may also be known as row houses.

TRANSIENT AMUSEMENT ENTERPRISE A commercial recreational enterprise where temporary buildings or structures have been erected for the purposes of a circus, carnival or similar activity.

TRAILER A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for the temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up. A self-propelled recreational vehicle shall also be construed to be a trailer. A trailer is not a mobile home or a manufactured home.

TREE A self supporting woody plant normally growing to a mature height of at least 15 feet.

USE The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

USE, ACCESSORY See Accessory Use

USE, PRINCIPAL The primary purpose for which a lot is used.

USE, SPECIAL See Special Use

USE VARIANCE See Variance, Use

VARIANCE, AREA The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VETERINARY HOSPITAL A building or part thereof used by veterinarians primarily for the purposes of consultation, diagnosis and office treatment of household pets or livestock, but shall not include long-term boarding facilities for animals.

WAREHOUSE A building used primarily for the storage of goods and materials.

WELDING SHOP A business where pieces of metal are welded.

WHOLESALE BUSINESS Place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT The open, unoccupied space on a lot, which extends across the full width of the lot between the front lot line and the nearest wall or supporting member of a building or structure. Where the front wall of an enclosed porch or verandah extends in front of such building or structure, the front wall shall be deemed to be the front wall of said porch or verandah.

YARD, REAR That open area of a lot which extends across the full width of a lot between the rear lot line and nearest wall or supporting member of a principal building or structure.

YARD, SIDE That open area of a lot which extends from the front yard to the rear yard of a lot between a side lot line and the nearest wall of the principal building on the lot. If there is no required front yard or rear yard, the side yard shall extend from the front lot line to the rear lot line.

YARD SALE The sale of personal property belonging to the occupants of the dwelling unit on whose premises the sale is conducted.

ZERO LOT LINE DEVELOPMENT A residential subdivision in which building lots may be provided for the erection of detached one-family dwellings having no side yard on one side of a dwelling.

ZONING INSPECTOR The official, appointed by the Town Board, responsible for the administration and enforcement of this zoning law.

ZONING PERMIT A permit issued by the Zoning Inspector, prior to the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this zoning law.

ARTICLE 5 GENERAL PROVISIONS

Section 5.1 General Regulations

- (A) **Uses Prohibited.** Any use not specifically permitted in this law shall be deemed to be prohibited.
- (B) **Minimum Requirements.** The provisions of this zoning law shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.
- (C) **Relationship with other Laws.** Where the conditions imposed by any provision of this zoning law upon the use of land or buildings, or upon the bulk of buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this law or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall govern.
- (D) **Affect on Existing Agreements.** This law is not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations of this law are more restrictive, or impose higher standards or requirements, than such easements, covenants or other private agreements, the requirements of this law shall govern.

Section 5.2 Application of Regulations

- (A) **Application.** Except as hereinafter provided:
 - (1) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
 - (2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards specified herein for the district in which such a building is located.
 - (3) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this law shall be included as a part of a yard or other open space similarly required for another building.
 - (4) No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this law. If already less than the minimum required under this law, said area, dimension or capacity shall not be further reduced.

- (B) **Responsibility.** The final responsibility for the conforming of buildings and use to the requirements of this law shall rest with the owner or owners of such building or use and the property on which it is located.

Section 5.3 Lot Area and Dimension

- (A) **Contiguous Parcels.** When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.
- (B) **Lots or Parcels of Land of Record.** Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this law, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts or usable open spaces are not less than seventy-five (75) percent of the minimum required dimension of areas.

Section 5.4 Access to Public Street

Except as otherwise provided for in this law, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or plotted street, unless a permanent easement of access to a public street was of record prior to the adoption of this law.

ARTICLE 6 ESTABLISHMENT OF DISTRICTS

Section 6.1 Districts

For the purposes and provisions of this law, the Town of Olean establishes the following zoning districts:

A-R	Agricultural Residential District
R-1	Rural Residential District
C-1	Commercial District
I-1	General Industrial District
I-2	Special Industrial District
FO	Floodplain Overlay District

Section 6.2 Zoning Map

The locations and boundaries of the aforesaid zoning districts are hereby established on a scaled map, entitled "Zoning Map of the Town of Olean," which is kept on file by the Town Clerk. This map is hereby made a part of this zoning law and shall have the same force and effect as if the zoning map together with all notations, references and other information shown thereon were fully set forth and described herein.

Section 6.3 Tax Map Parcels in Zoning Districts

This section is intended to provide guidance in interpreting the Zoning Map.

(A) Parcels in the Rural Residential (R-1) District

The following parcels and areas are located in the Rural Residential District:

- (1) The length of Godfrey Hollow Road, from Route 16 North to the end of Godfrey Hollow Road, extending 250 feet in depth from the road right-of-way line on both the east and west sides of the road.
- (2) The length of David Drive, from Godfrey Hollow Road to the end of David Drive, extending 250 feet in depth from the road right-of-way line on both sides of the road.

- (3) The following parcels in the general vicinity of Montana, Kansas, Michigan and Nevada Streets. The following parcels located on tax map 85.019, dated February 3, 1976:

85.019-1-16	85.019-1-34
85.019-1-17	85.019-1-36
85.019-1-18	85.019-1-38
85.019-1-19	85.019-1-39
85.019-1-20	85.019-1-40
85.019-1-21	85.019-1-41.1
85.019-1-22	85.019-1-42
85.019-1-23	85.019-1-43
85.019-1-24	
85.019-1-25	
85.019-1-30	
85.019-1-32	
85.019-1-33	

The following parcels located on tax map 85.016, dated February 4, 1976:

85.016-1-18
85.016-1-19
85.016-1-20
85.016-1-21
85.016-1-22

- (4) The length of Johnson Road, from the City of Olean boundary line to the end of Johnson Road, extending 250 feet in depth from the road right-of-way line on both sides of the road.
- (5) The length of Windfall Road, from the City of Olean boundary line to the Town of Portville boundary line, extending 250 feet in depth from the road right-of-way line on both sides of the road.
- (6) Dugan Road from Windfall Road to the intersection of Dugan Road with Happy Hollow Road on the east and the intersection of Dugan Road with Park Avenue on the west, extending 250 feet in depth from the road right-of-way line on both sides of the road.
- (7) The area of Dugan Road, Andrews Street, Seneca Avenue, Goodrich Avenue, Park Avenue and Happy Hollow Road, as shown on the Zoning Map. The northernmost boundary of this area is a line 650 feet north of and parallel to Park Avenue on the west side of Dugan Road and line 600 feet north of and parallel to Happy Hollow Road on the east side of Dugan Road.

- (8) The area of Hillcrest Road from the City of Olean boundary line to the west to a line 150 feet east of and parallel to Hillcrest Road on the east.
- (9) The area of King Street and Queen Street, to a depth of 250 feet north of the City of Olean boundary line. This area is bounded on the east by an extension of the City of Olean boundary line to a depth of 250 feet and on the west by Hillcrest Avenue.
- (10) The length of McCann Hollow Road from Route 16 South to the end of McCann Hollow Road, extending 250 feet in depth from the road right-of-way line on both sides of the road.
- (11) The length of Kamery Road, from McCann Hollow Road to the end of Kamery Road, extending 250 feet in depth from the road right-of-way line on both sides of the road.
- (12) The area of Rock City Hill Road. The northernmost boundary of this area is the north intersection of Rock City Hill Road with Route 16. The southernmost boundary of this area is the south intersection of Rock City Hill Road with Route 16. This area is bounded by Route 16 on the west and on the east by a line 250 feet east of and parallel to Rock City Hill Road.

(B) Parcels in the Commercial (C-1) District

The following parcels and areas are located in the Commercial (C-1) District:

- (1) The area of Route 16 North, from the City of Olean boundary line on the south to the point at which Route 16 crosses the railroad line on the north. The western boundary of this area is the railroad line and the eastern boundary is Route 16. This area includes the following tax map parcels, which are located on Tax Map 94.007, dated February 17, 1976.

94.007-1-1
94.007-1-2
97.007-1-3
97.007-1-4
97.007-1-5
97.007-1-6.1
97.007-1-6.2
97.007-1-7

- (2) The area of Route 16 North, from the point at which Route 16 crosses the railroad line on the south extending north to the Town of Hinsdale boundary line. The eastern boundary of this area is the railroad line and the R-1 District

surrounding Kansas and Montana streets. The western boundary is Route 16 North.

- (3) The area of East State Street, extending from the City of Olean boundary line to the Town of Portville boundary line. This area is bounded by the rail line to the north and the Allegheny River to the south.

(C) Parcels in the General Industrial (I-1) District

The following parcels and areas are located in the General Industrial (I-1) District:

- (1) The following parcels located on tax map 94.020, which is dated February 13, 1976:

94.020-1-24.1	94.020-1-23
94.020-1-24.2	94.020-1-23.2

- (2) The following parcel located on tax map 94.076, which is dated February 5, 1976:

94.076-1-1

- (3) The area in west Olean bounded on the west by the Town of Allegany boundary line and on the east and south by the City of Olean boundary line. The northern boundary of this area is the rail line. This area includes the following tax map parcels, which are located on tax map 94.003, which is dated February 23, 1976:

94.003-3-2
94.003-3-3
94.003-3-4
94.003-3-5.1
94.003-3-5.2
94.003-3-6
94.003-3-11
94.003-3-12

(D) Parcels in the Special Industrial (I-2) District

The following tax map parcels, located on tax map 94.001, which is dated February 24, 1976, are located the Special Industrial District:

94.001-2-13.2
94.001-2-13.3
94.001-2-13.4
94.001-2-13.5

Section 6.4 Interpretation of District Boundaries

In the event uncertainty exists regarding the boundaries of any of the aforesaid zoning districts shown on the zoning map, the following rules shall apply:

- (A) Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, railroads, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines.
- (B) Where district boundaries are indicated as approximately following the Town of Olean boundary line, lot lines, or the projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- (C) Where district boundaries are indicated as approximately parallel to the Town of Olean boundary line, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed to be parallel thereto.
- (D) When a district boundary is questionable, it shall be referred to the Zoning Board of Appeals and it shall, to the best of its ability, establish the exact boundary, using the above criteria. This determination shall be considered final and conclusive, and may only be altered by amendment to the zoning map by the Town Board, following the procedures established in Article 14 of this law. A copy of the zoning map showing the determination of the Zoning Board of Appeals shall be kept on file by the Town Clerk.

Section 6.5 Lots Located in More Than One Zoning District

- (A) If a lot is divided into more than one zoning district, the regulations for each zoning district shall govern each portion of the lot, provided, however, that each portion of the lot separately conforms to all regulations of the applicable zoning district. In the event that the lot cannot conform to all regulations for each zoning district, the regulations for the district in which the greater part of the lot lies shall govern. However, no lot shall have more than one single family dwelling.
- (B) 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.

Section 6.6 Zoning of Streets, Alleys, Public Ways, Waterways and Rights-of Way

Where the center line of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

ARTICLE 7 DISTRICT USE REGULATIONS

Section 7.1 Zoning Districts

(A) Agricultural Residential District (A-R)

(1) Purpose

The purpose of the Agricultural Residential District is to protect and promote agricultural uses, while at the same time providing an area for outdoor recreational opportunities and for large lot residential development in areas that are not served by municipal water and sewer services.

(2) Permitted Uses

The following uses are allowed in the Agricultural Residential District:

- Agricultural use, general
- Bed and Breakfast establishments
- Day Care facilities
- Farm Stands, seasonal
- Forestry
- Golf courses
- Greenhouses
- Minor home based businesses
- Manufactured and mobile homes
- Nursery Schools
- Places of Worship
- Plant nurseries
- Public Uses
- Riding Stables
- Single-family dwellings
- Two-family dwellings

(3) Special Permitted Uses

- a. The following uses are permitted in the Agricultural Residential District subject to obtaining a Special Use Permit from the Zoning Board of Appeals:

- Accessory Apartments
- Agricultural use, intensive
- Airstrips, private
- Campgrounds
- Cemeteries
- Contractor's Yard

Clubs
Commercial recreation
Drive-in theaters
Essential Services
Feed and grain storage facilities
Food processing establishment
Heavy Equipment Storage
Hotels and motels
Kennels
Lumber and building materials sales
Major home based businesses
Mining, quarrying, sand and gravel extraction
Nursing homes
Private schools
Restaurants
Sawmills
Specialized animal raising and care
Telecommunications facilities
Transient Amusement enterprises
Veterinary hospitals

- b. The following uses are permitted in the Agricultural Residential District subject to obtaining a Special Use permit from the Olean Town Board:

Junkyards
Manufactured home parks

(4) Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, permitted above, and which are located on the same lot as the principal building or use, shall be allowed.

(B) Rural Residential District (R-1)

(1) Purpose

The purpose of the Rural Residential District is to provide an opportunity for a variety of residential development.

(2) Permitted Uses

The following uses are allowed in the Rural Residential District:

Single-family dwellings
Minor home based businesses

(3) Special Permitted Uses

The following uses are permitted in the Rural Residential District subject to obtaining a Special Use Permit from the Zoning Board of Appeals:

Accessory Apartments
Bed and Breakfast establishments
Day Care facilities
Essential Services
Golf courses
Major home based businesses
Nursery schools
Places of Worship
Private schools
Public Uses

(4) Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, permitted above, and which are located on the same lot as the principal building or use, shall be allowed.

(C) Commercial District (C-1)

(1) Purpose

The purpose of the commercial district is to permit and promote opportunities for retail businesses and commercial facilities that meets the needs of the residents of the Town of Olean and surrounding areas. Areas for commercial development are necessary in the Town both to meet the needs of its residents for services and also to promote a balanced employment base and a diversified tax base within the Town.

(2) Permitted Uses

The following uses are allowed in the Commercial District:

- Banks and Financial Institutions
- Bed and Breakfast Establishments
- Commercial schools
- Clubs
- Day Care facilities
- Feed and grain storage facilities
- Food processing establishments
- Grocery stores
- Greenhouses
- Hairdressing establishments
- Heavy equipment storage
- Hotels and motels
- Laundromats
- Lumber and building material sales
- Medical clinics
- Minor Home Based businesses
- Mortuaries
- Nursing homes
- Nursery schools
- Offices
- Places of worship
- Plant nurseries
- Personal service establishments
- Photographic studios
- Private schools
- Public uses
- Repair shops, general
- Repair shops, personal service
- Restaurants
- Retail businesses
- Single family dwellings
- Two family dwellings
- Theaters
- Warehouses
- Wholesale businesses

(3) Special Permitted Uses

- a. The following uses are permitted in the Commercial District subject to obtaining a Special Use Permit from the Zoning Board of Appeals:

Accessory Apartments
Automobile body shop
Automobile repair shop
Automobile sales
Bars
Batching Plant, Asphalt or Concrete
Cemeteries
Commercial recreation
Contractor's yard
Drive through restaurants
Drive through windows
Essential services
Fuel oil and gasoline storage
Gas stations
Gas stations with mini-market
Major Home based businesses
Multiple family dwellings
Research and development facilities
Self-service storage facilities
Veterinary hospitals
Welding shops

- b. The following uses are permitted in the Commercial District subject to obtaining a Special Use permit from the Olean Town Board:

Junkyards

(4) Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, permitted above, and which are located on the same lot as the principal building or use, shall be allowed.

(D) General Industrial District (I-1)

(1) Purpose

The purpose of the General Industrial District is to allow light industrial uses which do not adversely affect the health, safety and welfare of the residents of

Olean and which promote a balanced employment base and a diversified tax base within the Town.

(2) Permitted Uses

The following uses are allowed in the General Industrial District:

- Automobile body shops
- Automobile repair shops
- Machine Shops
- Manufacturing
- Offices
- Research and Development facilities
- Warehouses
- Welding Shops
- Wholesale businesses

(3) Special Permitted Uses

The following uses are permitted in the General Industrial District subject to obtaining a Special Use Permit from the Zoning Board of Appeals:

- Batching Plant, asphalt or concrete
- Contractor's yard
- Day care facilities
- Essential Services
- Food processing establishments
- Heavy Equipment Storage
- Public Uses
- Telecommunications Facilities

(4) Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, permitted above, and which are located on the same lot as the principal building or use, shall be allowed.

(E) Special Industrial District (I-2)

(1) Purpose

The purpose of the Special Industrial District is to allow light industrial uses which do not adversely affect the health, safety and welfare of the residents of Olean and which promote balanced employment and a diversified tax base. An

additional purpose of this district is to allow a place within the town for adult uses.

(2) Permitted Uses

The following uses are allowed in the Special Industrial District:

- Automobile body shops
- Automobile repair shops
- Heavy equipment storage
- Lumber and building material sales
- Machine Shops
- Manufacturing
- Offices
- Research and Development facilities
- Warehouses
- Welding Shops
- Wholesale businesses

(3) Special Permitted Uses

The following uses are permitted in the District subject to obtaining a Special Use Permit from the Zoning Board of Appeals:

- Adult Uses
- Batching Plant, Asphalt or Concrete
- Contractor's yard
- Day Care Facilities
- Essential Services
- Fuel oil and gasoline storage
- Food processing establishments
- Public Uses
- Self-service storage facilities
- Telecommunications facilities

(4) Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to the principal building or use, permitted above, and which are located on the same lot as the principal building or use, shall be allowed.

(F) Floodplain Overlay District (F-O)**(1) Purpose**

The purpose of the Floodplain Overlay District is to protect the health, safety and welfare of the residents of the Town of Olean and to minimize the public and private losses from hazards due to periodic or intermittent flooding. These purposes shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside of the floodplain area or uses permitted within the floodplain area will be free from flooding or flood damage.

(2) Applicability

The Floodplain Overlay district shall include all areas identified as areas of special flood hazard within the Town of Olean by the Federal Emergency Management Agency (FEMA). The areas of special flood hazard are identified and defined on the following documents prepared by FEMA:

- a. Flood Insurance Rate Map, Map Index Panel No. 360089 0001-0010, whose effective date is February 1, 1979.
- b. Flood Boundary and Floodway Map, Map Index Panel No. 360089 0001-0010, whose effective date is February 1, 1979.
- c. A scientific and engineering report entitled "Flood Insurance Study, Town of Olean, New York, Cattaraugus County," dated August, 1978.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at the Town Hall, Town of Olean.

(3) Permitted, Accessory and Special Permitted Uses

Permitted uses, special permitted uses and accessory uses shall be those designated in the underlying zoning district. However, such uses shall be subject to the special restrictions contained in Local Law 1-2000, entitled "Local Law for Flood Damage Prevention," and dated January 24, 2000.

(4) Yard, Area, and Other Dimensional Regulations

All permitted uses, special permitted uses and permitted accessory uses shall conform to the yard area and other dimensional regulations that are specified in Section 7.2 of this law for the underlying zoning district. In addition, the uses

shall conform to any special dimensional regulations contained in Local Law 1-2000, entitled "Local Law for Flood Damage Prevention," and dated January 24, 2000.

(G) Table of Permitted Uses

Table 7.1, Permitted Uses, which is located on the following pages, is a compilation of all permitted and special permitted uses for each district defined above. It is an integral part of this zoning law.

Table 7.1: Table of Permitted Uses

TYPE OF USE	USE DISTRICT				
	A-R	R-1	C-1	I-1	I-2
AGRICULTURAL					
Agricultural use, general	P				
Agricultural use, intensive	SP				
Farm Stands, Seasonal	P				
Feed and grain storage facilities	SP		P		
Forestry	P				
Greenhouses	P		P		
Kennels	SP				
Plant nurseries	P		P		
Riding Stables	P				
Specialized animal raising and care	SP				
RESIDENTIAL	A-R	R-1	C-1	I-1	I-2
Single-family dwellings	P	P			
Two-family dwellings	P		P		
Multiple family dwellings			SP		
Accessory apartments	SP	SP	SP		
Manufactured/Mobile homes	P				
Manufactured home parks	SP				

District Use Regulations

Town of Olean Zoning Law

GENERAL	A-R	R-1	C-1	I-1	I-2
Accessory uses	P	P	P	P	P
Adult Uses					SP
Airstrips, private	SP		SP		
Cemeteries	SP		P		
Clubs	SP		P	SP	SP
Day Care facilities	P	SP	P	SP	SP
Essential Services	SP	SP	SP		
Golf courses	P	SP			
Home based business, minor	P	P	P		
Home based business, major	SP	SP	SP		
Medical clinics			P		
Mortuaries			P		
Nursing Homes	SP		P		
Nursery Schools	P	SP	P		
Places of worship	P	SP	P		
Private schools	SP	SP	P	SP	SP
Public uses	P	SP	P	SP	SP
Telecommunications facilities	SP				

COMMERCIAL	A-R	R-1	C-1	I-1	I-2
Automobile body shop			SP	P	P
Automobile repair shops			SP	P	P
Automobile sales			SP		
Banks & Financial Institutions			P		
Bars			SP		
Bed and Breakfast Establishments	P	SP	P		
Campgrounds	SP				
Commercial recreation	SP		SP		
Commercial schools			P		
Drive through windows			SP		
Gas stations			SP		
Gas stations with mini-market			SP		
Grocery Stores			P		
Hairdressing establishments			P		
Heavy Equipment Storage	SP		P	SP	P
Hotels and motels	SP		P		
Laundromats			P		
Lumber and building material sales	SP		P	P	P
Offices			P	P	
Personal service establishments			P		
Photographic studios			P		
Repair shops, general			P		
Repair shops, personal service			P		
Restaurants	SP		P		
Restaurants, drive-through			SP		
Retail businesses			P		
Self-service storage facilities			SP		SP
Transient amusement enterprises					
Theaters	SP		P		
Theaters, drive-in	SP				
Veterinary hospitals	SP		SP		

District Use Regulations

Town of Olean Zoning Law

INDUSTRIAL	A-R	R-1	C-1	I-1	I-2
Batching Plant, Asphalt or Concrete Contractor's Yard	SP		SP SP	SP SP	SP SP SP SP
Fuel oil and gasoline storage	SP		P	SP	
Food processing establishment	SP		SP		P
Junkyards					P
Machine shops					P
Manufacturing					
Mining, quarrying, sand and gravel extraction, stripping of topsoil	SP			P	P
Research and development facilities			SP		
Sawmills	SP		P	P	P
Warehouses				P	P
Welding shops			SP	P	P
Wholesale Businesses			P	P	P

Key to Abbreviations:

P ----- Permitted
 SP --- Permitted by Special Use Permit
 No letter -- Not permitted

Districts:

A-R Agricultural Residential District
 R-1 Rural Residential District
 C-1 Commercial District
 I-1 General Industrial District
 I-2 Special Industrial District

Adopted: February 8, 2000

Table 7.2: Table of Dimensional Regulations

District	Minimum Lot Size (2)	Minimum Lot Width (feet)	Minimum Yard Requirements (feet)			Maximum Building Height (ft.)	Maximum Lot Coverage
			Front (3)	Side (4)	Rear (4)		
A-R	1 acre	150	50	25	50	40	25%
R-1	1 acre	100	25	20	25	35	30%
C-1	20,000 SF	75	25	15	20	40	50%
I-1	30,000 SF	150	50	20	30	60	50%
I-2	30,000 SF	150	50	20	30	60	50%
FO (1)							

Notes:

(1) Dimensional regulations in the FO Floodplain Overlay District are those of the underlying district in which the parcel is located. In addition, special requirements of Local Law [number] , entitled "Local Law for Flood Damage Prevention," may apply.

(2) The Cattaraugus County Board of Health may require a larger minimum.

(3) Along any U.S., State or County Highway, no residential or accessory building shall be located within 50 feet of the existing or proposed right-of-way.

(4) Commercial and industrial uses shall not be located or conducted within 30 feet of any lot line of any other lot in a R-1, Rural Residential District.

SF means "square feet."

Districts:

A-R Agricultural Residential District
 R-1 Rural Residential District
 C-1 Commercial District
 I-1 General Industrial District
 I-2 Special Industrial District
 FO Floodplain Overlay District

Section 7.2 Dimensional Regulations

(A) Table of Dimensional Regulations

Table 7.2, Table of Dimensional Regulations, contains the minimum lot size, minimum lot width, minimum yard requirements, maximum building height and maximum lot coverage for each land use district. This table is hereby declared to be an integral part of this law.

(B) Exceptions to Height Regulations

The height limitations contained in Table 7.2, Table of Dimensional Regulations, do not apply to spires, belfries, cupolas, water tanks, ventilators, chimneys, silos, grain elevators, antennas, radio or television towers, or any appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(C) Measurement of Required Yards

The minimum front yard for a lot shall be determined by measuring at right angles from the nearest street right-of-way line. The rear and side yards shall be determined by measuring at right angles from the rear and side property lines, respectively.

(D) Projections into Required Yards

The following encroachments into required yards are permitted:

- (1) Eaves, cornices, cantilevered roofs, or bay windows may project three feet into any yard.
- (2) Open and unenclosed porches, verandahs, decks and steps may project ten (10) feet into any front yard or rear yard and eight (8) feet into any side yard.
- (3) An open, hard-surfaced and uncovered terrace or patio may project into any yard in a residential district, if such terrace is completely unenclosed except by a guard rail or parapet wall not exceeding the maximum height permissible for a fence in the same location. No such terrace shall project into any required front yard more than eight (8) feet. The provision of an awning or similar temporary covering for such a terrace shall be permitted.
- (4) A chimney, attached to the wall of a building, may project three feet into any yard, provided that the chimney is not wider than eight feet.

(E) Yards to be Open

Where yards are required in this law, they shall be construed as permanently maintained open spaces. They shall not be less in depth, or width, or area than the minimum

specified, and they shall be, at every point, open and unobstructed from the ground to the sky, except as specifically mentioned in these regulations.

(F) Corner Lots

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

(G) Through Lots

In the case of a lot running through from one street to another street, the frontage on which the majority of the buildings in the block face shall be considered the primary frontage for the purposes of this law. 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 lot shall, however, be treated as a front for purposes of determining required setbacks and locations of permitted structures and uses.

(H) Minimum Floor Area

- (1) The minimum interior gross floor area for a seasonal residence shall be 450 square feet.
- (2) The minimum interior gross floor area for a permanent, year-round residence shall be 800 square feet.

20 x 22 =
440

(I) Building Separation

All detached buildings on the same lot, such as a house and a garage, shall be separated by a minimum distance of five (5) feet.

(J) Accessory Buildings

- (1) Accessory buildings or structures shall not be located in a required front yard or a required side yard. Accessory buildings or structures shall not be located in the Floodplain Overlay (FO) District.
- (2) No accessory building or structure may be located closer to the rear lot line than the applicable side yard requirements. Where an accessory building is erected in the required rear yard on a corner lot, it shall not be located closer to any street than the required front yard distance.
- (3) No accessory building may exceed 15 feet in height.

- (4) Notwithstanding any other provision of this law, clothesline poles, flag poles, garden trellises, fences and retaining walls shall be exempt from any setback requirements.

(K) Visual Clearance at Driveways and Intersections

- (1) On corner lots no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular areas formed by the intersecting street lines on such lots and a line drawn between two points thirty feet distant from the intersection, measured along said street lines.
- (2) On any lot where a private driveway enters a street, no obstruction to visibility from motor vehicles between three (3) feet above ground level and ten (10) feet above ground level shall be located within the triangular area formed by the street property line, the private drive line and a line connecting them at points ten (10) feet from their intersection.

(L) Buffer Yard

- (1) Where any business or industrial use abuts a residential district, the required yard shall contain a landscaped area adjacent to the residential use, a minimum of eight (8) feet in width. The buffer yard shall contain hedges or trees and shall be planted with grass or other planting material. The entire area shall be attractively maintained and kept clean of all debris and rubbish. Parking, storage of merchandise or trash, or other such uses shall not be allowed in the buffer yard.
- (2) In areas where a buffer yard is required but a natural buffer is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer, provided its specifications are approved by the Zoning Board of Appeals.
- (3) All fences and vegetative material shall conform to the visual clearance requirements in Section K.

(M) Reduction in Minimum Lot Size Requirements

Minimum lot area requirements in the R-1 Rural Residential District may be reduced by 25 percent if *either* an approved combined sewage treatment system *or* an approved public water supply system is provided, and by 50 percent if *both* approved systems are provided.

(N) Fences in Residential Districts

- (1) Any fence erected in a required front yard shall be of an open design, such as chain link, ornamental iron, rail or picket fencing. Opaque fences such as basket-

weave and stockade are not permitted within the required front yard. No fence may be erected in a required front yard which exceeds four (4) feet in height, measured from ground level. A clearance of three inches shall be allowed for installation purposes and shall not count in determining the height of a fence.

- (2) No privacy fence may be erected in the front of a residence. For through lots, that yard which is used as a rear yard and which would normally be considered a rear yard for lots other than through lots shall be considered a rear yard for purposes of erecting a fence. Any privacy fence erected on the street side of a corner lot shall be restricted to the same setback requirements as a building or structure.
- (3) No fence may be erected which exceeds six (6) feet in height above ground level, except that a clearance of three inches shall be allowed for installation purposes and shall not count in determining the height of a fence.
- (4) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials. All chain link fences shall be installed with the knuckle portion of the fence up and with the barb portion of the fence on or near the ground. No fence may be electrified, except that a low voltage electrified wire may be buried for the purposes of confining a household pet on its owner's property.
- (5) A fence shall be constructed of one material, such as stone, wood or wrought iron. If painted, all sections of a fence on a particular lot shall be stained or painted one color. In general, fencing should exhibit a consistent design character for the entire lot.
- (6) The restrictions on fencing in this section shall not apply to parcels used for agriculture, as defined in Article 4.

(O) Fences in Commercial and Industrial Districts

- (1) No fence may be erected which exceeds six (6) feet in height above ground level, except that a clearance of three inches shall be allowed for installation purposes and shall not count in determining the height of a fence. However, a fence not to exceed eight feet may be approved during site plan review or special use permit review, if the approving authority finds that such height is necessary for the public health, safety or welfare.
- (2) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials. All chain link fences shall be installed with the knuckle portion of the fence up and with the barb portion of the fence on or near the ground. No fence may be electrified, except that a low voltage electrified wire may be buried for the purposes of confining a household pet on its owner's property.

- (3) A fence shall be constructed of one material, such as stone, wood or wrought iron. If painted, all sections of a fence on a particular lot shall be stained or painted one color. In general, fencing should exhibit a consistent design character for the entire lot or the entire development.

(P) Manure Storage

Manure that is a by-product of any allowable agricultural use, such as keeping of livestock, may be stored on the parcel on which it is produced. However, any manure piles or storage facilities may not be placed within the required yard areas.

Section 7.3 Planned Unit Development

(A) Purpose

Planned Unit Developments (PUD) are allowed in the Town of Olean in order to encourage the establishment of common open space, to achieve economy in the provision and maintenance of public facilities, to allow flexibility in design, to preserve natural drainage systems, and to preserve the natural and scenic features in the Town.

(B) Authorization to Review Planned Unit Developments

- (1) The power to approve, approve with conditions, or disapprove Planned Unit Developments is hereby vested in the Olean Town Board.
- (2) When approving an application for a Planned Unit Development, the Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed development.
- (3) Where an application for a Special Use Permit would otherwise be required for a use that is proposed to be part of a Planned Unit Development (for example, a golf course), the Town Board shall consider that use as part of the entire application for a Planned Development. A separate Special Use Permit shall not be required.

(C) Applicability

- (1) A Planned Unit Development must be located in the Agricultural-Residential District.
- (2) All Planned Unit Developments shall contain a minimum of five (5) acres.
- (3) The maximum number of dwelling units permitted in a Planned Unit Development shall be determined by dividing the total land area of the site by the minimum lot size required for the applicable zoning district. A fraction of a unit greater than one-half shall be rounded up to the nearest whole number. A fraction of a unit of one-half or less shall be rounded down to the nearest whole number.
- (4) Permitted Uses

Planned Unit Developments encourage a mix of land uses and/or a mix of housing types. Multiple family housing, including apartments, townhouses, and zero lot line development may be allowed. Any use permitted in the Agricultural-Residential district may be allowed. Other uses that are not specifically permitted in Section 7.1 may be permitted by the Town Board, provided that they are

consistent with the intent and purpose of this law, provided that they will not have an injurious or negative impact on adjacent properties, and provided that they meet the criteria in Section 7.3 (G).

(5) Yard and Area Requirements

- a. The Town Board may approve minimum front side and rear setbacks that may be less than those otherwise required for the zoning district in which the site is located.
- b. The Town Board may approve lots that have minimum areas and minimum widths that are less than those that would otherwise be required for the zoning district in which the site is located.

(6) Required Open Space

- a. Land area saved by the reduction in the minimum lot size must be placed in dedicated open space. The area of dedicated open space must be equivalent to, or more than, the total reduction in lot sizes.
- b. The required open space may be used for active or passive recreation or to preserve significant scenic or natural features of the site.
- c. The required open space may be publicly or privately owned.

(D) Pre-Application Conference

Prior to submitting a formal application, the applicant may meet with the Town Board to informally discuss the proposed project. At this time the applicant can inform the Town Board of the proposal prior to the preparation of a detailed Planned Unit Development application. The Town Board can review the basic design concept and advise the applicant as to potential problems and concerns and can generally determine the type of information that would be required for the Planned Unit Development application.

(E) Application Requirements

The application shall contain the following items:

- (1) A map of the existing site, showing the following information:
 - a. a vicinity map, showing the project site in relation to the surrounding area
 - b. scale and north arrow
 - c. site boundaries and dimensions
 - d. location and type of existing vegetation
 - e. The 100 year floodplain and/or any New York State designated wetlands

- f. Existing structures and their current uses
 - g. Existing roads and other improvements
 - h. Location of public utilities and utility easements
 - i. Any other data that may be required by the Town Board
- (2) A map showing the major details of the proposed Planned Unit Development. This map shall be at a scale of not less than 1" = 100'. The plan shall contain sufficient detail to evaluate the land planning, building design, and other features of the proposed Planned Unit Development. The plan shall contain the following information:
- a. scale and north arrow
 - b. Proposed name of the development
 - c. Topography of the site showing existing and proposed contours at no greater than five foot intervals.
 - d. The location and size of all existing and proposed buildings, structures and improvements.
 - e. A landscaping plan
 - f. Streets, walkways and easements to be reserved for public use.
 - g. Location and general dimension of all proposed impervious paved areas such as streets, walks, parking lots, tennis courts, etc.
 - h. Proposed open spaces with an indication as to use and ultimate ownership
 - i. Proposed drainage systems and runoff control
 - j. Proposed utility distribution
 - k. Proposed traffic circulation showing access to the existing street system.
 - l. Perspective sketches showing general architectural concepts of all new or remodeled buildings.
 - m. Maximum height, dimensions, and square footage of all buildings.
 - n. Area and dimensions of all lots proposed to be created as part of the project
 - o. A lighting plan
 - p. Any other information required by the Town Board
- (3) A written statement containing the following information:
- a. A statement of the present and future ownership and tenancy of the Planned Unit Development.
 - b. A development schedule indicating the approximate date when construction of the Planned Unit Development, including any phases of the development, can be expected to begin and to be completed.
 - c. Copies of any special agreements, conveyances, restrictions, or covenants which will govern the use, maintenance and continued protection of the Planned Unit Development and its common areas, including the required open space areas.

At its discretion, the Town Board may waive the requirement for submittal of one or more of the above listed items.

(F) Review of the Application

- (1) The applicant shall submit an application for a Planned Unit Development to the Zoning Inspector, who shall forward it to the Town Board.

- (2) Referral to the Planning Board

The Town Board may refer the application to the Planning Board for its review and recommendation. The Planning Board shall report back to the Town Board within 45 days from the date the referral is received.

- (3) Public Hearing

- a. Within 62 days from the date that a completed application is received by the Zoning Inspector, the Town Board shall hold a public hearing on the application.
- b. Notice of the public hearing shall be printed in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof.
- c. The Town Board shall mail notice of said hearing to the applicant at least ten (10) days before said hearing.
- d. The Town Board shall send notice of such hearing to every owner of a parcel that is within five hundred (500) feet of the parcel that is the subject of the application. Such notices shall be mailed at least ten (10) days prior to the public hearing.

- (4) Town Board Decision

- a. The Town Board shall decide on the application within sixty-two (62) days after the date of the public hearing. The time within which the Town Board must reach its decision may be extended by mutual consent of the applicant and the board.
- b. The decision of the Town Board shall be filed in the office of the Town Clerk within five days of the date of the decision, and a copy of the decision shall be mailed to the applicant.

(G) Criteria for Review

In acting on an application for a Planned Unit Development, the Town Board shall consider the following criteria:

- (1) Individual lots, buildings, streets, and parking areas shall be designed and located to minimize alteration of the prominent natural features of the site. Natural features include, but are not limited to, streambeds, wooded hillsides and land forms with slopes greater than twenty-five percent (25%).
- (2) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between the development and the land.
- (3) Individual lots, buildings, and units shall be arranged and situated to relate to each other and to surrounding properties and to decrease the land area devoted to motor vehicle access.
- (4) Individual lots, buildings, units, and parking areas shall be situated to avoid the adverse effects of shadows, noise, and traffic on the residents of the site and on adjacent sites.
- (5) The design of the Planned Unit Development shall preserve any significant natural, scenic, or historic features of the site.
- (6) The Planned Unit Development shall be in harmony with the general purposes, goals, objectives and standards of this zoning law, and with the *Comprehensive Master Plan and Rural Development Policies for the Town of Olean*, adopted April 21, 1992.
- (7) The Planned Unit Development shall not adversely affect neighboring property.
- (8) The Planned Unit Development shall have an adequate water supply and an adequate system for the disposal of sewage. All water supply and sewage disposal systems must meet all requirements of the Cattaraugus County Department of Health.
- (9) Streets and storm water drainage systems shall meet all the requirements of the Town of Olean and New York State Department of Environmental Conservation (DEC).

- (10) A single structure shall not exceed 120 feet in length, unless it meets the following guidelines:
- A prominent shift in the mass of the structure shall occur at each 120 foot interval (or less). The shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in roof line.
 - A combination of both a roof line and a facade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered as compliance with this section.
- (11) The Planned Unit Development shall meet all the parking requirements of this zoning law. Use of shared parking areas is encouraged.
- (12) The adequacy of the proposed landscaping.
- (13) The adequacy of lighting for the Planned Unit Development and its lack on impact on neighboring properties.
- (14) The adequacy of the internal circulation system.
- (15) The relationship of the proposed development to the one hundred (100) year floodplain, to state designated wetlands and to other geologic hazards.
- (16) The Planned Development shall contain the open space required by Section 7.3 (C) (6). The open space may be used for recreational purposes, or it may be used to preserve natural areas or scenic viewsheds. The open space area or areas shall be conveyed in such a manner that they remain permanent open space. The open space area or areas on the parcel may be conveyed to the Town of Olean, or it may be held as private open space. In assessing the suitability and usability of the required open space, the Town Board shall use the following criteria:
- All Planned Unit Developments shall contain open space that is equivalent in area to the total reduction in lot size.
 - The usability of open space intended for a recreational or public use shall be determined by the size, shape, topography, and location of the open space in relation to the particular use proposed for that site.
 - Open space intended for a recreational or public use shall be easily accessible.
 - Open space shall include irreplaceable natural features, such as, but not limited to, stream beds, significant stands of trees, scenic vistas, and rock outcroppings.

- e. The suitability of open space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings or from a significant length of public streets.
- f. Open space shall not include areas devoted to public or private streets.

(H) Ownership and Maintenance of Open Space

- (1) Open space areas may be either public open space or private open space. As used herein, "public open space" means land owned by the Town of Olean or some other governmental agency. "Private open space" means lands which shall be owned in common by all of the owners of all of the lots in a Planned Unit Development, lands owned by a Homeowners Association, or lands owned by a not-for-profit corporation or other similar legal organization.
- (2) If the open space is offered to the Town of Olean, the Town Board shall decide whether or not to accept the open space dedication. In making its determination, the Town Board shall consider the intended use of the land, the size and location of the land, the availability of the open space to the public, and the cost of development and/or maintenance of such open space.
- (3) If the open space is not dedicated to the Town of Olean, it shall be protected by legal arrangements, satisfactory to the Town Board, sufficient to assure its maintenance and preservation for whatever purpose is intended.
 - a. Covenants or other legal arrangements shall specify ownership of the open space, the method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Town Board, and any other specifications deemed necessary by the Town Board.
 - b. In addition, The Town of Olean shall be legally empowered to enforce the covenants in the event of failure of compliance. If the Town is required to perform any maintenance work, the Town shall be empowered to place a lien upon the properties in the development until said cost has been repaid to the Town.
 - c. The covenant shall further require that the applicant and/or property owner shall be a member of any association formed to own and maintain the open space; such membership shall continue until all of the lots of record have been sold.

(I) Expiration of Approval for the Planned Unit Development

Construction of an approved Planned Unit Development shall commence within two years of the approval of a Planned Unit Development and shall continue in accordance with the schedule approved by the Town Board. If construction does not commence within this time period, or if construction does not continue according to the established schedule, the approval of the Planned Unit Development shall expire. An extension of the original approval may be granted by the Town Board, prior to its expiration, upon written application by the developer.

(J) State Environmental Quality Review Act

Prior to taking final action on an application for Planned Unit Development, the Town Board shall comply with all the requirements of the State Environmental Quality Review Act.

ARTICLE 8 NON-CONFORMING BUILDINGS AND USES

Section 8.1 Continuation of Use

Except as otherwise provided herein, any lawfully established use of a building or land existing at the time of the enactment of this local zoning law or amendments thereto may be continued, even though such use does not conform with the provisions of this local law.

Section 8.2 Discontinuance of Use

- (A) Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this law, such premises shall not thereafter be used or occupied by a non-conforming use.
- (B) Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued, as evidenced by vacancy, for a period of twelve consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a non-conforming use, such use shall not after being discontinued or abandoned be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district in which it is located.
- (C) Where no enclosed building is involved, voluntary discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

Section 8.3 Change of Use

The non-conforming use of any building, structure or portion thereof may be changed, with the approval of the Zoning Board of Appeals, to a use of a more restricted classification, and when so changed shall not thereafter be changed to a less restricted classification.

Section 8.4 Repairs and Alterations

Normal maintenance of a non-conforming building is permitted. However, such building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost twenty-five (25) percent of the true value of the building, unless changed to a conforming use.

Section 8.5 Extension

A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building designed or manifestly arranged for such use, which

existed prior to the enactment of this law, shall not be deemed the extension of such non-conforming use.

Section 8.6 Restoration

No building damaged by fire, flood or other causes to the extent of more than seventy-five (75) percent of its true or full value, as computed through the use of equalization rates current at the time, shall be repaired or rebuilt except in conformity with the regulations of this law. All buildings not repaired must be razed within a period of twelve months.

Section 8.7 District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.