

LOCAL LAW NO. 5 OF THE YEAR 2019

A LOCAL LAW AMENDING CHAPTER 280, ZONING, OF THE CODE OF THE CITY OF OSWEGO, NEW YORK

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF OSWEGO, NEW YORK, AS FOLLOWS:

Chapter 280
Zoning Ordinance of the City of Oswego, New York

[HISTORY. Adopted City of Oswego Common Council 5-12-1980 as Ch. 7 and Ch. 123 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

- Planning Board – See Ch. 40.
- Dangerous buildings – See Ch. 83.
- Moving of buildings – See Ch.84.
- Business Improvement Districts – See Ch. 87.
- Economic Development Zone – See Ch. 106.
- Fire prevention and building construction – See Ch. 126.
- Flood damage prevention – See Ch. 133.
- Housing standards – See Ch. 149.
- Junkyards – See Ch. 153.
- Sewers – See Ch. 199.
- Streets and sidewalks – See Ch. 211.
- Theatrical performances, shows and exhibitions – See Ch. 232.
- Trailers – See Ch. 236.
- Utility poles – See Ch. 245.
- Vacant property – See Ch. 249.
- Water – See Ch. 263.

ARTICLE I
General Provisions

§ 280-1. Authority; adoption.

The Common Council of the City of Oswego, in Oswego County, New York, acting under the authority of Article 2-A of the General City Law of the State of New York, hereby adopts and enacts this chapter as a comprehensive amendment to the ordinance known as the “Zoning Ordinance of the City of Oswego, New York,” adopted May 28, 1940, re-adopted May 12, 1980, and all subsequent amendments thereto.

§ 280-2. Title.

This chapter shall be known as the “Zoning Ordinance of the City of Oswego, New York.”

§ 280-3. Purpose.

- A. The purpose of this chapter, regulations and the zoning districts as outlined on the Zoning Map is to promote orderly growth and guide future development in accordance with a comprehensive plan, including the City of Oswego 2020 Vision Plan, adopted in June 2002, and the City of Oswego 2020 Strategic Plan, adopted in January 2011, to promote public health, safety, comfort, convenience, economy, aesthetics and general welfare and to promote:
[Amended 4-14-1986; 5-29-2007]
- (1) safe and attractive neighborhoods;
 - (2) the most appropriate use of land to conserve and enhance property value and protect neighborhoods from incompatible activities;
 - (3) the character of existing historic areas, scenic areas and waterways and, where appropriate, to emphasize historic preservation;
 - (4) tourism and economic development;
 - (5) a vibrant, revitalized downtown district;
 - (6) the provision of transportation, water, sewerage, schools, parks and other public requirements;
 - (7) the appearance of the City as a whole by implementing design standards for the exterior appearance of structures and by controlling the use and maintenance of signs;
 - (8) the appropriate use of the waterfront, including adequate public access to the waterfront;
 - (9) compliance with all applicable laws, rules and regulations, local, county, state and federal, governing the use and development of land and the use of structures within the City;
 - (10) implementation of the City of Oswego 2020 Vision Plan, adopted in June 2002, and the City of Oswego 2020 Strategic Plan, adopted in January 2011; and
 - (11) any other purposes specified herein.
- B. This chapter's regulations and zoning districts have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land.
- C. This chapter, its regulations and zoning districts establish comprehensive controls regulating the location, construction, alteration and use of buildings and structures and the development and use of land within the City of Oswego and, for said purposes, divides the City into zoning districts as described herein.

§ 280-4. Applicability.

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

§ 280-5. Interpretation; conflicts with other provisions.

In the interpretation and application of the provisions of this chapter, the regulations set forth below shall govern:

- A. Interpretation of intent of chapter. The provisions of this chapter shall be regarded as the minimum requirements for the protection and promotion of the health, safety and general welfare of the public.
- B. Conflict between laws. This chapter is not intended to interfere with, abrogate or annul any other ordinance, regulation or other provisions of law. When this chapter imposes restrictions different from those imposed by any other statute, ordinance, regulation or

other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

- C. Existing prior permits and variances. This chapter is not intended to abrogate or annul any building permits, certificates of occupancy, variances or other lawful permits issued before the effective date of this chapter.

§ 280-6. Establishment of Districts.

The City of Oswego is hereby divided into the following zoning districts:

- TN1 Traditional Neighborhood 1
- TN2 Traditional Neighborhood 2
- SR Suburban Residential
- UR Urban Residential
- TD Traditional Downtown
- TB Traditional Business
- CB Commercial Business
- WA Waterfront
- MH Maritime Heritage
- IN Industrial
- PD Planned Development

§ 280-7. Zoning Map established.

All land in the City of Oswego shall fall within one of the established land use control districts as shown on the City of Oswego Zoning Map, hereinafter "Zoning Map," which accompanies this chapter. The zoning districts are shown, defined and bounded on the Zoning Map. The Zoning Map is hereby made a part of this chapter and shall be on file in the office of the City Clerk.

§ 280-8. Interpretation of district boundaries.

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

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such lines shall be construed to be coincident with said boundaries.
- B. Where district boundaries are so indicated that they are approximately parallel to center lines or right-of-way lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as is indicated on the Zoning Map. If no such distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- C. Where district boundaries are so indicated that they follow the lot lines approximately, said district boundaries shall be construed to be coincident with such lot lines.

- D. Where the boundary of a district follows a railroad line, such boundary shall be construed to be located midway between the main tracks of said railroad line.
- E. Where the boundary of a district follows the Oswego River or a stream, such boundary shall be construed to be at the midpoint, or coincident with the center line, of the river or of such stream.
- F. Where the boundary of a zoning district follows the Lake Ontario shoreline, the district boundary shall be construed to be such shoreline coincident with the limits of the City of Oswego; but if in the future water areas are filled and the shoreline advanced or if docks, piers and such other structures attached directly to the shoreline, or not directly attached but forming part of the physical facilities located on the shore, are constructed, such zoning district shall include these areas and facilities.
- G. In all other cases, where dimensions are not shown on the Zoning Map, the location of the boundaries shown on said map shall be determined by use of the scale appearing thereon.

§ 280-9. Lots in more than one district.

If a lot is divided by a zoning district boundary, the respective district regulations shall apply to each portion of the lot, except that:

- A. The regulations of the more restrictive district may be applied to the entire lot.
- B. The Board of Appeals may establish requirements within the intent of this chapter which represent a compromise between the requirements of the districts involved and which are approximately proportional to the area of the lot that lies within each different district. In no case shall such requirements be less restrictive than the regulations in the least restrictive district.

ARTICLE II. Terminology

§ 280-10. Word usage.

Words used in the present tense include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary. The word “shall” is always mandatory. The word “may” is permissive. A “building” or “structure” includes any part thereof. “Building or other structure” includes all other structures of every description regardless of dissimilarity to conventional building forms. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for” and “occupied for.” The word “person” includes a corporation, a limited liability company, or a partnership, as well as an individual. The word “lot” includes the word “plot” or “parcel.”

§ 280-11. Definitions.

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

ABUTTING — Land having a common property line or district boundary line or separated only by a private street, alley or easement.

ACRE — To calculate lot area herein, an acre consists of 43,560 contiguous square feet.

ADEQUATE — That which is barely sufficient or suitable; as much as necessary, average or fair.

ADJOINING LAND USE — Any use of land immediately next to, or contiguous with, any existing or proposed use of land permitted as of right or by special permit, in any zoning district established herein.

ADULT ARCADE — Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas. **[Added 10-22-2001]**

ADULT BOOKSTORE or ADULT VIDEO STORE — A commercial establishment which offers for sale or rental for any form of consideration any one or more of the following on 35% or more of its sales floor: **[Added 10-22-2001]**

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET — A nightclub, bar, restaurant or similar commercial establishment which regularly features: **[Added 10-22-2001]**

- A. Persons who appear in a state of nudity;
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL — A hotel, motel or similar commercial establishment which: **[Added 10-22-2001]**

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown to six or more patrons, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. **[Added 10-22-2001]**

ADULT THEATER — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities. **[Added 10-22-2001]**

ADVERTISING — Any announcement, description or presentation calling public attention to goods or services offered for sale.

AGRICULTURAL PRODUCTS — Crops, livestock and livestock products as generally set forth in Section 301(2) of the New York Agriculture and Markets Law.

AGRICULTURAL USE — Management of land for agriculture; truck gardens; horticulture; or orchards, including the sale of products grown directly on such land and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds. The raising of cows, horses, pigs, poultry and/or other livestock is prohibited. **[Added 10-28-1996 by L.L. No. 4-1996; amended 8-11-1997]**

AGRICULTURALLY-RELATED PRODUCTS — Non-agricultural products typically sold at a farm market to attract customers and promote the sale of agricultural products. Such items include but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, clothing and other items promoting the farm enterprise operating the farm market and agriculture in New York.

AIRPORT — Landing fields, aircraft parking and service facilities, passenger and baggage terminals, and related facilities for operation, service, fueling, repair, storage, charter, sales and rental of aircraft, operated by an airport authority or governmental entity.

ALLEY — A narrow service way providing a secondary means of access to abutting properties.

ALTERATION — A change or rearrangement in the structural or nonstructural parts of a building or structure or an enlargement other than repairs and modification in building equipment.

AMUSEMENT ARCADE — Any public place of amusement or public place of business in which five or more mechanical amusement devices are installed, and includes any place open to the public, whether or not the primary use of the premises is devoted to the operation of such amusement devices.

ANIMAL HOSPITAL — An establishment where a full range of medical services are provided to small and/or large animals by one or more veterinary doctor and staff. This use shall be deemed to include, as necessary for treatment or observation, overnight animal boarding for not more than five animals. **[Added 10-28-1996 by L.L. No. 4-1996]**

ANIMAL SHELTER — A lot and/or building or part thereof used for the care of lost, abandoned or neglected animals.

ANTIQUe SALES — Retail sales of relics or objects generally 50 years of age or older.

APPLICANT — Any person who shall submit an application, permit, plans or related information for approval pursuant to this chapter.

ARCHITECT — A person licensed and registered as an architect by the State of New York or who has been issued a limited permit to practice architecture in the State of New York.

ART GALLERY AND STUDIO — A place where art such as paintings, sculptures or other works are created, exhibited or sold.

ATTIC — That space of a building which is immediately below and wholly or partly within the roof framing. An "attic" with a finished floor shall be counted as 1/2 story in determining the permissible number of stories.

AUTO WRECKING — The dismantling or disassembling of used motor vehicles or trailers or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

AUTO WRECKING YARD — A facility including buildings and land area where auto wrecking occurs.

AUTOMOTIVE BODY WORK — Repairs that produce relatively high levels of noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles: auto body customizing; sun roof installation; auto body sheet metal, fiberglass or plastic repair, replacement, prepping or painting; auto body or frame media blasting; chassis and frame cleaning, fabrication, straightening or welding; transmission repair and replacement; any other types of automotive work not included in the definition of "automotive repair."

AUTOMOTIVE REPAIR — Repairs and servicing that produce relatively low levels of noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles: air conditioning, starting and charging service; brake repair and replacement; engine oil changes, fluids replacement; exhaust system repair and replacement; automotive electrical work, including audio sound system installation; shock absorber, spring, and strut replacement; upholstery work; tire balancing and tire installation; wheel alignment; windshield and glass installation; transmission repair and replacement; tune-ups, diagnostics; spark plug replacement, emission control service; and other repairs of a similar nature.

AUTOMOTIVE SALES — Any area of land, including structures thereon, that is used for the retail sale, lease or rental of motor vehicles and accessories and which may or may not include facilities for lubrication, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means. **[Added 10-28-1996 by L.L. No. 4-1996]**

AUTOMOTIVE WASH/CAR WASH — A structure or building designed for washing, waxing, simonizing or similar treatment of automotive vehicles as its principal function. A filling station having portable washing equipment shall not be deemed to be an "automotive wash" where such use is an accessory service to the principal service of the station. **[Added 10-28-1996 by L.L. No. 4-1996]**

AWNING — A shelter, projecting over a property, supported entirely from the exterior wall of a building and comprising a collapsible frame covered completely with lightweight, non-rigid material.

BAKERY, WHOLESALE — A facility that produces baked goods, primarily for sale off premises.

BANK — A building or structure utilized for the direct transactional services to the public, including the maintenance of checking and saving accounts, certificates of deposit, etc., and the providing of related incidental financial services associated with a bank. **[Added 10-28-1996 by L.L. No. 4-1996]**

BANNER — An advertising sign made of fabric or paper. **[Added 6-22-1992]**

BAR OR LOUNGE — A retail establishment offering alcoholic beverages for consumption where the majority of its gross sales income comes from the sale of alcoholic beverages rather than food and food items.

BARBERSHOP, BEAUTY SHOP AND TANNING SALONS OR BOOTHS — A building or structure utilized for the shaving, cutting, styling or treating of hair, including, as incidental uses, additional related cosmetic and/or beauty services, such as manicures, pedicures, facials and the retail sale of cosmetic products. This definition shall include tanning salons or booths. **[Added 10-28-1996 by L.L. No. 4-1996]**

BASEMENT — A story partly below finished grade. A "basement" shall be counted as one story in determining the permissible number of stories if at least 1/2 of its height, measured from floor to ceiling, is above finished grade.

BEDROOM — A room within a dwelling primarily designed for sleeping purposes.

BILLBOARD — A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than upon the lot on which such sign is located.

BOARDINGHOUSE — A private dwelling in which at least three but not more than six rooms are offered for rent, where table board is furnished only to roomers, and no transients are accommodated. A rooming house or a furnished rooming house shall be deemed a "boardinghouse."

BOATHOUSE — A building which has direct access to a body of navigable water, is used for the storage of boats or vessels and associated equipment and does not have bathroom or kitchen facilities and is not designed or used for lodging or residency.

BODY PIERCING — The creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.

BODY PIERCING STUDIO — A facility in which body piercing is performed.

BOTTLE REDEMPTION CENTER — A business primarily engaged in the exchange of returnable beverage containers, such as bottles and cans, and which separates, sorts, stores or processes such containers for shipment for eventual use in new products. This definition excludes businesses where the exchange of returnable beverage containers is incidental to the primary purpose of the business.

BREW PUB — An eating and drinking establishment where beer is brewed on the premises for on-site consumption. The brewing and retail sale of such beverages is accessory to the eating and drinking establishment. The definition of a brew pub excludes restaurants and bars or lounges.

BROADCASTING FACILITIES — A place where radio, television or movies are produced or broadcast.

BUFFER AREA — An area reserved for plantings, fencing or other similar screening devices for the purpose of creating a transitional area wherein adjoining uses do not detract from one another.

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

BUILDING AREA — Total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings exclusive of steps. All dimensions shall be measured between exterior faces of walls. **[Amended 8-24-2009]**

BUILDING FRONT LINE — Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

BUILDING HEIGHT — 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 and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

BULK STORAGE — The storage of chemicals, petroleum products and other materials in above-ground containers for subsequent release to distributors or retail dealers or outlets. In addition, the definition includes all storage of more than 1,100 gallons, if the product is to be used on site and is not for resale.

BUSINESS — A lawfully-operating commercial entity that holds all necessary permits or licenses to do so.

BUSINESS GOODS — Unless elsewhere defined by this code, a shop, store, or office engaged in the sale of specialized commodities and goods to other businesses, industries or institutions, or one providing specialized services to such businesses, industries and institutions, including but not limited to business offices, business or commercial schools, building supplies, catering establishments, data processing, hospital equipment and supplies, medical and dental laboratories, motion-picture production, office machine sales and service, printing and publishing, radio and television studios, sign painting and technical schools.

BUSINESS OFFICE — Any office use not satisfying the definition of "professional offices" or "medical or dental offices" shall be considered a "business office" for purposes of this chapter. **[Added 10-28-1996 by L.L. No. 4-1996]**

CANOPY — Any permanent awning or rigid shelter that projects from a building or structure facade and extends for all or a portion of the building or structure's frontage. A canopy may be supported by posts.

CASH-FOR-GOLD BUSINESS — An establishment primarily engaged in buying used gold or jewelry.

CEMETERY — A type of civic use where land is used or intended to be used for the burial or entombment of human remains and dedicated for similar purposes but may not include a structure for the purpose of the cremation of human remains.

CITY — As used herein, the City of Oswego, New York.

CIVIC USE — A type of use that includes the performance of educational, recreational, cultural, medical, safety, municipal, governmental and other uses strongly vested with public or social importance.

A. Examples of civic uses include, but are not limited to:

- (1) Museums and other not-for-profit membership corporations established for cultural, social or recreational purposes;
- (2) municipal buildings;
- (3) public libraries;
- (4) public parks, playgrounds and recreational areas operated by a governmental authority;
- (5) public safety services, such as police, fire and ambulance/emergency services and associated facilities; and
- (6) public transportation and associated facilities.

CLEAN FILL — Uncontaminated inert solid material, including earth, sand, gravel, rock or any other similar material.

CLUB — A building or use catering exclusively to club members of a not-for-profit corporation, as defined in the Not-For-Profit Corporation Law of the State of New York, and their guests for social, indoor recreational or educational purposes and not operated for profit. Such a "club" may include YMCA, YWCA, YMHA, lodge, religious and similar organizational facilities, except that they shall not provide dormitory accommodation. **[Amended 3-14-1983]**

CODE — The Code of the City of Oswego, New York.

COLD STORAGE FACILITY — The storage of materials, commodities or goods in a cold and refrigerated place for the purpose of preserving such materials, commodities or goods.

COMMERCIAL STORAGE FACILITY — A building or group of buildings where units are accessed from within the building that are rented or leased for the storage of personal items, business and household goods, but not hazardous substances. Access to each building exists through a secure central entrance. Storage of goods by local businesses is limited to low-volume storage and shipment by vehicles no larger than a standard, two-axle, full-size van. Numerous daily deliveries and/or frequent removal of goods for sale by local businesses at another site are not consistent with the intent of this use. This definition excludes the definition of warehouse.

COMMERCIAL USE — A type of use that includes the sale, rental, service, and distribution of goods and/or the provision of services other than those classified as industrial or civic uses.

COMMERCIAL VEHICLE — A vehicle of more than one ton's capacity used for the transportation of persons or goods primarily for gain and/or a vehicle of any capacity carrying a permanently affixed sign exceeding one square foot in area or lettering of a commercial nature.

COMMUNITY CENTER — A meeting hall, place of assembly, museum, art gallery or library, not operated primarily for profit.

CONDOMINIUM — The individual ownership of one dwelling unit within a multidwelling building, with an undivided ownership interest in the land and other components of the building shared in common with the owners of dwelling units in the building. **[Added 10-11-2005]**

CONSERVATION EASEMENT — A legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values.

CONSTRUCTION COMPANY, LARGE — A business providing general contracting and/or building construction services for residential, farm, industrial or commercial uses, and which may involve outdoor storage of materials used in the trade, machinery or equipment.

CONSTRUCTION COMPANY, SMALL — A business providing general contracting and/or building construction services for residential, farm, industrial or commercial uses, and which does not involve outdoor storage of materials used in the trade, machinery or equipment.

CONSUMER SERVICES — Unless otherwise defined by this code, an establishment or use that primarily renders services to persons rather than engaging in the sale of products.

A. Examples of consumer services include, but are not limited to:

- (1) arts and crafts studios;
- (2) appliance repairs and rental;
- (3) banks, savings and loans and credit unions;
- (4) barbershops and beauty parlors;
- (5) catering with no on-site food service;
- (6) dressmakers and tailors;
- (7) express mail/courier without warehouse;
- (8) jewelry and watch repair;
- (9) laundry services, including laundromats and dry cleaning;
- (10) locksmiths;
- (11) nail salons and spas;
- (12) pet grooming;
- (13) photographer's studio;
- (14) print shops;
- (15) shoe repair;
- (16) tanning salons;
- (17) travel agencies;
- (18) upholstering shops; and
- (19) businesses providing similar services to those listed above.

B. As an accessory use only, consumer services may include retail sales of items related to the services being provided.

C. Consumer services do not include professional office use or motor vehicle related services.

CONTROLLED SUBSTANCES — Includes any substance defined in §220.00 of the New York State Penal Law and any other illicit substance that violates State or Federal law.

CONVALESCENT HOME AND CLINIC — See definition of "nursing home." **[Added 10-28-1996 by L.L. No. 4-1996]**

CONVENIENCE STORE — A place that sells groceries, and/or alcohol for off-premises consumption, and/or common retail goods and that is open more than 15 hours a day.

CORRECTIONAL FACILITY — A secured institution under the supervision of the judiciary, correctional departments of any local, state or federal governments, or any law enforcement agency in which persons are or may be lawfully held in custody after arrest or as a result of conviction of a crime.

COUNTY — The County of Oswego.

COVERAGE — The lot area or percentage of lot area covered by the building or structure, including accessory buildings and structures as well as paved areas. **[Amended 4-12-2010]**

DAY CARE CENTER — A facility providing childcare services for compensation in accordance with the applicable laws and regulations of the State of New York.

DECK — A structure, typically made of wood, built to extend the finished floor surface of a building into outdoor areas.

DISTRICT — Any part of the City for which the regulations governing the use and occupation of property are the same.

DOCK — Any permanent or seasonal structure projecting from or along the shore into the waterways of the City, including piers and wharfs used as a berthing place for boats or vessels to load or unload.

DORMITORY — A building, or part thereof, used as group quarters for unrelated individuals sharing common cooking, social and hygienic facilities, including fraternity and sorority houses.

DRIVE-THRU FACILITY — Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

DRIVEWAY — A passage leading from the public street rights-of-way used by motor vehicles to access workable parking spaces.

DRUG PARAPHERNALIA — Any objects, devices, instruments, apparatus or contrivances whose primary and traditionally exclusive use is in connection with the illegal use of any and all controlled substances.

DUMP — Land used for disposal by abandonment, dumping, burial, burning or any other means of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING, MULTIPLE-FAMILY — A building used as living quarters by three or more families, as defined hereafter, living independently of each other in distinct and separate dwelling units. Each such dwelling unit shall consist of not more than two adult persons for each conventional bedroom in the dwelling and shall contain adequate common cooking, social and hygienic facilities. Studio apartments containing combined sleeping and social areas shall be occupied by no more than two adult persons. In no case shall a rooming house, boardinghouse, dormitory, single-family dwelling or two-family dwelling be classified or construed as a "multiple-family dwelling." **[Amended 10-24-1988]**

DWELLING, ONE-FAMILY — A detached building consisting of or intended to be occupied as a residence by one family only, as "family" is hereafter defined. In no case shall a lodging house, boardinghouse, dormitory, two-family dwelling or multiple-family dwelling be classified or construed as a "one-family dwelling."

DWELLING, TWO-FAMILY — A detached building consisting of or intended to be occupied as a residence by two families living independently of each other, with separate cooking, social and hygienic facilities, as "family" is hereafter defined. In no case shall a lodging house,

boardinghouse, dormitory, one-family dwelling or multiple-family dwelling be classified or construed as a "two-family dwelling."

DWELLING UNIT — Building or part thereof used as living quarters for one family. The terms "dwelling," "one-family dwelling," "two-family dwelling" or "multiple-family dwelling" shall not include a motel, hotel, boardinghouse, tourist home, dormitory, mobile home or similar structure.

EARTHMOVING OPERATIONS — Any mining, quarrying, clean fill excavation or removal of earth products prior to processing for the purpose of sale or any other commercial purpose. Earth products include, but are not limited to, topsoil, clean fill, sand, gravel, clay or stone. The removal of topsoil and clean fill operations for the necessary and normal operations directly undertaken in connection with the construction of a building for which a building permit has been issued or the development of a subdivision plan is not within the purview of this definition. **[Added 10-28-1996 by L.L. No. 4-1996]**

EASEMENT — A right granted by the owner of a parcel of real property to another party for use of all or part of the parcel for a specified purpose.

ENGINEER — A person licensed and registered as a professional engineer by the State of New York or who has been issued a limited permit as a professional engineer in the State of New York.

ESCORT — A person who, for consideration, agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. **[Added 10-22-2001]**

ESCORT AGENCY — A person or business association, who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. **[Added 10-22-2001]**

EXCAVATION — The process of the removal of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means. **[Added 1-25-1993; amended 10-28-1996 by L.L. No. 4-1996]**

FAMILY — **[Amended 10-24-1988; 2-10-1997; 5-8-2006]**

- A. Purpose. It is the purpose of this chapter to define the definition of "family" in order to promote the legitimate preservation of the character of single-family areas, without violating the United States Due Process Clause and the New York State Due Process Clause by not excluding a group which is, in every but biological sense, a single family or a household which poses no threat to the good of preserving the character of the traditional single-family neighborhood.
- B. The definition of "family" shall be:
 - (1) Those related by blood, marriage or adoption, likely to be found in a unitary family; or
 - (2) Not more than four unrelated individuals living in a stable nontransient household group; or
 - (3) Not more than four unrelated individuals living in a stable transient household group.
- C. It shall be a rebuttable presumption that a group of five or more persons living in a single dwelling unit to produce evidence that they constitute the definition of "functionally equivalent traditional family."
- D. Factors in determining a group as a "functionally equivalent traditional family" shall be:
 - (1) The group shares the entire dwelling unit; and
 - (2) The group lives and cooks together as a single housekeeping unit; and

- (3) The group shares expenses for food, rent, utilities and other household expenses; and
- (4) The group is previously established as permanent and stable; and
- (5) Each member of the group has equal access to all living areas within the single dwelling unit.

E. A community residence family-care home or group home established pursuant to the New York State Mental Hygiene Law or governed by the Fair Housing Act shall be deemed a functionally equivalent traditional family for the purpose of this definition.

FARM — A tract of land consisting of five or more acres devoted to the production of agricultural commodities such as crops, livestock grazing, raising of hay for cows to produce milk and other dairy products, raising of poultry, raising of horses and the growing of fruit.

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

FLOOR AREA — The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

A. In particular, the "floor area" of a building or buildings shall include:

- (1) Basement spaces, if included in the count of the number of stories or used for commercial purposes other than storage.
- (2) Elevator shafts and stairwells at each floor.
- (3) Floor space used for mechanical equipment, with structural headroom of seven feet six inches or more.
- (4) Penthouses.
- (5) Attic spaces providing structural headroom of seven feet six inches or more, whether or not a floor has actually been laid.
- (6) Interior balconies and mezzanines.
- (7) Enclosed porches.
- (8) Accessory uses not including space used for accessory off-street parking.

B. "Floor area" of a building shall not include:

- (1) Accessory water tanks and cooling towers.
- (2) Uncovered steps; exterior fire escapes.
- (3) Terraces, breezeways, open porches and outside balconies.
- (4) Accessory off-street parking spaces.
- (5) Accessory off-street loading berths.

FOOD PROCESSING — The preparation, processing, or canning and packaging of food products.

FOOD PROCESSING FACILITY — A facility that processes food for off-site consumption, where the gross floor area of the establishment exceeds 2,500 square feet, and/or less than 25% of the gross floor area is devoted to on-site display and retail sale of such products to the general public. Food processing excludes restaurants, markets and similar establishments where such activity is customarily carried on as a secondary part of the business.

FUNERAL SERVICE — An establishment engaged in undertaking services such as preparing the human dead for burial, arranging funeral services and managing funerals. Typical uses include funeral homes or mortuaries.

GARAGE, PARKING — A covered structure, often of several stories, that provides automobile parking space.

GARAGE, RESIDENTIAL — An attached or detached accessory building used for the storage of vehicles or trailers by the families who reside upon the premises, including any covered parking space or carport.

GASOLINE STATION — Building or land used for sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing vehicles, but not including painting or body repairs.

GLARE — Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

GOLF COURSE — A tract of land for playing golf, improved with tees, greens, fairways and hazards, and may include clubhouses, shelters, bathrooms, restaurant and bar facilities and/or a golf driving range as permitted accessory uses.

GREEN SPACE — A permeable open area that is either natural or landscaped.

GROUP RESIDENCE — A place of residence and/or domicile by one or more persons, wherein the residential quarters are considered an integral component of a recognized program of custodial supervision or care, together with required supervisory personnel. The occupancy described herein is excluded from the definition of "family."

HEAD SHOP — A retail establishment that offers for sale, use or display paraphernalia or items designated or marketed for use with tobacco products, inhalants commonly referred to as vaping products and inclusive of e-cigarettes, marijuana, or controlled substances. Head Shop may alternatively be known as a Smoke Shop, a Vape Shop, a Cannabis Dispensary, or anything similar in use.

HEAVY EQUIPMENT STORAGE/SALES/SERVICE — Storage, rental, sales and service of farm and heavy equipment and machinery, including logging equipment, tractor-trailers, and related farm and heavy transportation equipment such as bulldozers, backhoes, engines, compressors, trucks over 2.5 tons, tractors, construction equipment and other heavy machinery, vehicles or motors.

HOME OCCUPATION — Accessory use of a service character conducted within a dwelling by residents thereof which is clearly secondary to dwelling use for living purposes and does not change the character or have any exterior evidence of such use and which conforms to the additional conditions set forth in Section 280-77.1 of this Chapter. **[Amended 3-14-1983]**

HOSPITAL — An institution providing health services and medical or surgical care, primarily for temporary inpatients, to persons suffering from illness, disease, injury, deformity or other abnormal physical or mental condition, and including, as an integral part of the institution, related facilities such as laboratories, out-patient facilities or training facilities. "Hospital" does not include institutions for the permanent care of or occupation by the poor, infirm, incurable or insane. **[Added 10-28-1996 by L.L. No. 4-1996]**

HOTEL — A building or any part thereof which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances. "Hotel" shall not include "adult motel" as defined elsewhere in this section. **[Amended 10-22-2001]**

INDUSTRIAL USE, INDUSTRIAL PARK — A planned, coordinated development of a tract of land with two or more separate industrial sites and/or buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

INDUSTRIAL USE, HEAVY — A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRIAL USE, LIGHT — A use engaged in the design, assembly or processing of a product predominantly from previously prepared materials or finished products or parts, including processing, fabrication, assembly, treatment, bottling, packaging, incidental storage, sales, and distribution of such products. This use excludes basic industrial processing and must not produce high volumes of polluting wastes.

INDUSTRIAL USE, SERVICE — The sale, rental, leasing, service or repair of equipment of equipment, machinery or vehicles typically used in industrial use or transportation.

INDUSTRIAL USE, WATERFRONT — Industrial uses that require a location in, on, over or adjacent to water, including Lake Ontario and the Oswego River, and that require the use of water as an integral part of the activity. Such uses may include, where permitted, docking, loading and unloading aggregate transshipping facilities, such as transferring freight between vessels to storage or to other transportation, such as barges, truck or railroad cars.

JUNK — Includes scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe fittings, used tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition but subject to being dismantled.

JUNKYARD — An area of land with or without buildings used for or occupied by the storage, keeping or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. The deposit on a lot of two or more wrecked or broken-down vehicles or the major parts thereof for three months or more shall be deemed to make the lot a "junkyard."

KENNEL — An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling these animals is conducted as a business.

LABORATORY, INDUSTRIAL — Facility or part of a building where scientific and/or research testing is conducted. The quantities of chemical agents in use at one time are small, normally not exceeding one liter. Laboratory operations may include research and development, production/acceptance testing, sample analysis and evaluation, limited detoxification, or a room or building for scientific experimentation or research. Forensic and medical laboratories are excluded from this definition.

LABORATORY, FORENSIC OR MEDICAL — A laboratory typically used for analysis of human blood, tissue, waste or pathogens, particularly as relating to the diagnosis and treatment of illness or disease, or analysis of crime scene evidence. Considered an accessory use.

LANDFILL — A public or private land disposal site employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards and meets the design and operation requirements of 6 N.Y.C.R.R. 360.

LANDSCAPING COMPANY — A business providing general landscaping, snow removal and arbor services for residential, farm, industrial, municipal or commercial uses, and which may involve outdoor storage of materials used in the trade, machinery or equipment.

LARGE-SCALE DEVELOPMENTS — All tracts of land with an area of three acres or more which are developed as a unit under single ownership or control.

LARGE-SCALE RETAIL ESTABLISHMENT — A retail sales establishment with at least one tenant or occupant located in a 40,000-square foot or larger building or structure, or where the total development exceeds 100,000 square feet.

LAWN CARE SERVICE — A business providing lawn maintenance services for residential, farm, industrial, municipal or commercial uses, and which does not involve outdoor storage of materials used in the trade, machinery or equipment.

LIBRARY — A publicly-operated facility housing a collection of books and other printed or recorded materials maintained for reading, consultation, study and research, with a staff trained to provide services to meet the needs of its users. A library may also provide educational, cultural and recreational programs or events, and may provide access to and instruction in the use of online and Internet resources and is a type of civic use.

LOT — Land occupied or which may be occupied by a building and its accessory uses, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street or other means of access as may be determined by the Planning Board to be adequate as a condition of issuance of a building permit for a building.

LOT AREA — The total area within property lines, excluding any part thereof lying within the boundaries of a street or proposed street.

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

LOT DEPTH — The mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

LOT FRONTAGE — The dimension measured from side lot line to side lot line along the lot line shared with the street line. **[Amended 9-8-1980]**

LOT WIDTH — The dimension measured from side lot line to side lot line along a line parallel to the street line at the required minimum front yard depth. **[Amended 9-8-1980]**

LUMBERYARD — Any establishment maintaining on its premises for sale to the public more than 100,000 board feet of lumber or other forest product.

MARINA, COMMERCIAL — A facility for the berthing, fueling, repair and storage of recreational and commercial boats and the provision of related accessory services; a yard where boats are constructed. **[Added 4-14-1986]**

MARQUEE — A permanent roof-like structure attached to and supported by a building and projected therefrom.

MECHANICAL AMUSEMENT DEVICE — Any device operating by payment of fee, such as an electronic arcade game, billiards table or pinball machine, the use or possession of which is not prohibited by any laws of the State of New York.

MEDICAL AND DENTAL OFFICES — A use or building where medical or dental care is offered by a New York State licensed medical provider, such as a physician, dentist, chiropractor, optometrist, ophthalmologist or other provider. This definition excludes professional offices as defined by this code.

MOBILE HOME — A movable living unit, with or without wheels, whether on a foundation or rigid support, capable of being used for living quarters year-round and not built to New York State Uniform Fire Prevention and Building Code regulations. A "mobile home" shall contain at least 380 square feet of floor area. A prefabricated dwelling built to New York Uniform Fire

Prevention and Building Code regulations shall not be considered a "mobile home." **[Amended 10-28-1996 by L.L. No. 4-1996]**

MOBILE HOME PARK — Land on which two or more mobile homes are parked or which is used for the purpose of supplying to the public a parking space for two or more mobile homes.

MOORING SLIP — Any dock, arrangement of piles or methods used to berth, secure or fasten a boat. **[Added 4-14-1986]**

MOTEL — A building or group of buildings containing individual living and sleeping accommodations for hire, each with individual exterior entrances, primarily for the use of transient automobile travelers. The term "motel" includes every type of similar establishment designated as an auto court, tourist court, tourist cabins, motor hotel or motor lodge. "Motel" shall not include "adult motel" as defined elsewhere in this section. **[Amended 10-22-2001]**

MOTOR VEHICLE — Any vehicle propelled or drawn by power other than muscular power and intended for use on public highways.

NOISOME AND INJURIOUS SUBSTANCES, CONDITIONS AND OPERATIONS —

- A. Physical hazard by reason of fire, explosion, radiation or other such cause to persons or property in the same or an adjacent district.
- B. Discharge of any liquid or solid waste into any stream or body of water or into any public or private disposal system or into the ground of any materials of such nature that may contaminate any water supply, including the groundwater supply.
- C. Storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin.
- D. Smoke, measured at the point of emission, of a shade that is darker than No. 3 on the Ringelmann Chart.
- E. Fly ash or dust which can cause damage to the health of persons, animals or plant life or to other forms of property or excessive soil, measured at or beyond any property line.
- F. Offensive or objectionable odors noticeable at the property line or beyond.
- G. Reflected or direct glare caused by any process, lighting or reflecting material in a degree to be objectionable at any property line or beyond.

NUDE MODEL STUDIO — Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, excepting such studios provided by a state-chartered educational institution or nonprofit entities. **[Added 10-22-2001]**

NUDITY or A STATE OF NUDITY — The appearance of a human bare buttocks, anus, male genitals, female genitals or full female breast. **[Added 10-22-2001]**

NURSING HOMES — An approved or licensed establishment which provides full-time convalescent or chronic care, or both, including an assisted living facility, for three or more individuals who are not related by blood or marriage to the operator and who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such an establishment. However, this definition shall also include an establishment or dwelling, also known as a "hospice," which provides full-time palliative and supportive care for the terminally ill individuals and their families. A hospital shall not be construed to be included in this definition. **[Added 8-27-1984; amended 10-28-1996 by L.L. No. 4-1996]**

OPEN SPACE — An unimproved area of land devoted to an open space use, such as public recreation, enjoyment of scenic beauty, conservation of natural resources, preservation of historical or cultural sites, or any similar use.

OPEN STORAGE YARD — Place for the storage of things or materials outside of a building or structure. This definition includes places for the storage of personal property, such as boats and recreational vehicles.

OSWEGO WATERFRONT REVITALIZATION AREA BOUNDARY — That portion of the New York State Coastal Area Boundary within the City of Oswego Local Waterfront Revitalization Program (LWRP) described and mapped in Section One of the Oswego LWRP, adopted on April 28, 1986, by Resolution No. 156-1986, a copy of which is on file in the City Clerk's office and is available for inspection during normal business hours. **[Added 1-12-1987]**

OUTDOOR RECREATION — Any recreational use particularly oriented to and utilizing the outdoor character of an area, including a snowmobile trail bike, jeep or all-terrain vehicle trail; cross-country ski trail; hiking and backpacking trail; bicycle trail; horse trail; playground; picnic area; public beach; or similar use. **[Added 10-28-1996 by L.L. No. 4-1996]**

OWNER — The person or persons holding title to property.

PARK — A tract of land designated for use by the public for active or passive recreation.

PARKING, COMMERCIAL — A parking lot or garage operated by a private entity that is used for temporary parking of motor vehicles and for which service a fee is charged.

PARKING, PUBLIC — A parking lot or garage operated by a public entity that is used for temporary parking of motor vehicles and for which service a fee may or may not be charged.

PARKING LOT — An open area which is used for temporary parking of more than four (4) motor vehicles. A driveway shall not be considered a parking lot.

PARKING SPACE — An off-street space, not located in public space, used for the temporary location of one licensed motor vehicle. Such space shall have access to a street or alley. **[Amended 1-25-1993; 10-28-1996 by L.L. No. 4-1996]**

PAVED AREA — That part of a lot which is covered by an impervious surface other than buildings and structures, such as a driveway, parking area and walkway.

PAWN SHOP — A retail establishment engaged in the lending of money on the security of personal property pledged in the keeping of the pawnshop owner (pawnbroker) or the purchase of goods on the condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period, and the retail sale of such goods and personal property as used merchandise.

PAYDAY LENDING — A company that for compensation lends customers small, short-term loans, typically of \$500 or less, on the agreement that the loan will be repaid shortly by the borrower, often secured against the borrower's future paycheck(s). This definition excludes State or Federally chartered banks, savings associations, credit unions, or industrial loan companies offering direct deposit advance service to their customer that is incidental to their main purpose or business.

PERMIT ADMINISTRATOR — The City of Oswego Permit Administrator, who is an individual employed by the City of Oswego Code Enforcement Department with the responsibilities of that position and also empowered to act as authorized by this zoning code.

PERMITTED ADULT USES — Shall be limited to adult arcades, adult bookstores or adult video stores, adult cabarets, adult motion-picture theaters, adult theaters, escort agencies, and nude model studios. **[Added 10-22-2001]**

PLACE OF ASSEMBLY — Public buildings, schools, halls, convention centers and other spaces and buildings where the general public may congregate, not including social clubs, sportsmen's clubs or other private clubs. **[Added 10-28-1996 by L.L. No. 4-1996]**

PLANNED DEVELOPMENT DISTRICT — A zoning district that may be created anywhere in the City for the purpose of permitting property to be developed:

- A. With one or more uses not otherwise permitted or conditional in the district in which the property is located, subject to certain development regulations and one or more development site plans; or
- B. Subject to development regulations not otherwise permitted in the district in which the property is located.

PLANNING BOARD— The City of Oswego Planning Board

POLICIES AND PURPOSES OF THE OSWEGO LOCAL WATERFRONT REVITALIZATION PROGRAM — Those policies as listed and explained in Section Three, as well as the proposed land and water uses and projects as found in Section Four, of the Oswego Local Waterfront Revitalization Program Document, adopted on April 28, 1986, by Res. No. 156-1986, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. **[Added 1-12-1987]**

PORCH — A covered platform having a separate roof at an entrance to a dwelling or an open or enclosed room attached to the outside of a dwelling.

PRIVATE — Not publicly owned, operated or controlled.

PROFESSIONAL OFFICES — A commercial use or building where personal services, as distinguished from the practice of a trade or business, are rendered by a practitioner of the non-medical or dental learned professions, such as a lawyer or architect, real estate agent, landscape architect, engineer public accountant (as defined in the Education Law of the State of New York) or similar professional. This definition excludes medical and dental offices as define by this code. **[Added 10-28-1996 by L.L. No. 4-1996]**

PUBLIC UTILITY FACILITY — Telephone, electric and cable television lines, poles, appurtenances and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures or pumping stations; telephone exchanges; and all other facilities, appurtenances and structures necessary for conducting a service by a government or public utility. **[Added 10-28-1996 by L.L. No. 4-1996]**

REASONABLE —

That which is logical, not excessive, evidences common sense and fairness.

RECREATIONAL FACILITY, INDOOR — A place designed and equipped for the conduct of sports and leisure-time activities within an enclosed space, including gymnasiums, health and fitness clubs, amusement arcades, movie theaters, stages, dance studios, indoor tennis and racquetball courts, bowling alleys, and indoor swimming pools. This definition excludes indoor sports arenas, auditoriums, and exhibition halls.

RECREATIONAL VEHICLE — A vehicular unit that does not exceed forty feet in overall length, eight feet in width, or twelve feet in overall height, primarily designed as temporary living quarters for recreational, camping or travel use. Such a vehicle either has its own motive power or is designed to be mounted on or drawn by an automotive vehicle. Recreational vehicle includes motor homes, truck campers over seven feet in height, travel trailers and camping trailers, but not vans or trucks with campers less than seven feet in height.

RECREATIONAL USE, WATERFRONT — Recreational uses that require a location in, on, over or adjacent to water, including Lake Ontario and the Oswego River, and that require the use of water as an integral part of the activity. Such uses may include, where permitted, moorings, docks, fishing facilities, boat repair and storage, tour and charter boat facilities, waterborne commerce.

RECYCLING CENTER — A facility subject to state or federal regulation for the collection of mandated, clean, source-separated, recyclable materials such as glass, aluminum, bimetal and plastic containers.

RELIGIOUS INSTITUTION — A church, temple, synagogue, mosque or other similar place of worship. **[Added 10-28-1996 by L.L. No. 4-1996]**

RESIDENTIAL USE — A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy.

RESTAURANT — A retail establishment offering food and beverage for consumption where the majority of its gross sales income comes from the sale of food and food items rather than alcoholic beverages. Temporary facilities used for distribution of food and/or beverages, such as are customarily associated with field days, carnivals, circuses, charitable, religious or institutional bazaars, or similar events, shall not be considered restaurants. Dining rooms and cafeterias which are not open to the general public such as associated with schools, colleges and universities, care homes, private clubs, private businesses and work sites shall not be considered restaurants.

RETAIL SALES — Establishment conducting the sale of goods and services in small quantities for consumption by purchasers rather than resale. "Retail" shall be construed to mean such retail sales as are not specifically set forth or enumerated in this chapter. "Retail Sales" shall not include "Adult Bookstores" "Adult Video Stores" or "Adult Uses" as defined elsewhere in this section. **[Added 8-27-1984; amended 10-28-1996 by L.L. No. 4-1996; 10-22-2001]**

A. "Retail sales" shall include sales by department stores, clothing stores, sporting goods stores, shoe stores, drugstores, appliance stores, furniture stores, electronic merchandising stores, liquor stores, bookstores, grocery stores and other like stores and similar businesses.

B. The following are specifically excluded from "retail sales":

- (1) Auto body repair businesses.
- (2) Automotive repair businesses.
- (3) Small engine repair businesses.
- (4) Outboard motor repair businesses.
- (5) Construction equipment repair businesses.
- (6) Heavy maintenance for truck businesses.
- (7) Repair for truck businesses.
- (8) Gasoline service stations.
- (9) Amusement arcades.

RETAIL STORE — **[Repealed 8-27-1984]**

ROADSIDE AGRICULTURAL SALES — Open air sales that offer locally-produced agricultural products and which may also offer agriculturally-related products and handmade crafts. Such sales are seasonal and temporary in nature and operate without a permanent structure.

SCHOOL — Parochial, private and public schools, colleges, universities and accessory uses; and shall exclude commercially operated schools of beauty culture, business, dancing, driving, music and similar establishments.

SCHOOL, COMMERCIALY OPERATED — Commercially operated schools or studios of beauty, business, culture, dance, driving, music and similar establishments.

SEASONAL SALES — The open air sales of seasonal items customarily associated with holidays, such as Christmas trees, pumpkins and similar items not typically sold year round.

SELF-SERVICE STORAGE FACILITY — A non-residential building, portion of a building or group of buildings available for rent to the public for the purpose of storing household or personal property that contains defined and partitioned storage space or units, or that is subdivided by secured bins, boxes, containers, pods or other mobile or stationary storage devices. This

definition excludes warehouse and commercial storage facility as those terms are used by this code.

SEMINUDE — A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices. **[Added 10-22-2001]**

SEQRA — The New York State Environmental Quality Review Act.

SETBACK — The required horizontal distance between a structure and a property or street line.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration: **[Added 10-22-2001]**

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is in a state of nudity or semi-nude; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude, except for medical procedures involving a licensed medical provider.

SEXUALLY ORIENTED BUSINESS — An adult arcade, adult bookstore or adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center. **[Added 10-22-2001]**

SHOPPING CENTER OR MALL — A group of two or more businesses with common parking facilities located on a single site planned and designed to function as a unit for the site on which it is located. The definition includes large scale retail establishments.

SHOPPING PLAZA — A group of two or more businesses with common parking facilities located on a single site planned and designed to function as a unit for the site on which it is located. The definition excludes large scale retail establishments.

SIGN — Any structure, device or part thereof attached to, painted on or represented on a structure which displays or includes any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement.

SIGN AREA — The area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. One face of the sign shall be counted in computing the area. Any neon tube, string of lights or similar device shall be deemed to have a minimum dimension of one foot. **[Amended 2-10-1997]**

SMALL CRAFT — A small boat or fishing vessel, typically less than 40 feet in length.

SMALL CRAFT MARINE FUELING FACILITY — A fixed fueling facility that primarily dispenses fuel to small craft and which meets all applicable local, state and federal regulations to operate legally.

SMALL ENGINE REPAIR SHOP — Repair or maintenance of small engines, such as those commonly used with lawnmowers, chainsaws, and similar items using the same. Excludes repair or maintenance of automobile, motorcycle and snowmobile engines.

SPECIAL PERMIT — A permit for a particular land use permitted in this chapter by special use, subject to any conditions imposed by the Zoning Board of Appeals, and which complies with the prescribed standards of this chapter to assure that the proposed special use is in harmony with this chapter and will not adversely affect the neighborhood if such conditions are met. A property use subject to a special permit warrants special evaluation of each individual case because of its nature, location or effect on the surrounding neighborhood.

SPECIFIED ANATOMICAL AREAS — The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals. **[Added 10-22-2001]**

SPECIFIED SEXUAL ACTIVITIES — Includes any of the following: **[Added 10-22-2001]**

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C above.

STOREFRONT — In a single-tenant building, the linear distance of that wall of a building which contains the main entrance to the building. In a complex, the linear distance of that wall that encloses a tenant space and contains the tenant's primary access to the outdoors.

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 it, then the space between any floor and the ceiling next above it. A basement shall not be deemed a story unless it meets the criteria set forth in the definition of basement herein. An attic shall not be deemed a story unless it meets the criteria set forth in the definition of attic herein.

STREET — A public way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by all appropriate official City agencies.

STREET LINE — Right-of-way line of a street as dedicated by a deed or record. Where the street width is not established, the street line shall be considered to be 30 feet from the center line of street pavement for purposes of this chapter.

STRUCTURE — Anything constructed or erected, the use of which demands a temporary or permanent location on the soil, or attached to something having a temporary or permanent location on the soil. A structure includes a building as that term is defined herein.

STRUCTURE, TEMPORARY — A structure that is not erected upon or attached to a permanent foundation. Examples include tents, trailers, campers, and non-permanent wood or metal structures.

SUBDIVISION — The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development.

SUBSTANCE ABUSE REHABILITATION CENTER — A dwelling unit, subject to regulation and licensing by the State of New York, which provides supervised residence and a therapeutic environment for up to 15 individuals seeking drug or alcohol rehabilitation for a period not to exceed 30 days for any individual.

SUPERMARKET — Any building or structure or portion thereof, having more than 5,000 square feet in gross floor area, used for the retail sale of a variety of goods, which may include dairy products, baked goods, fresh or prepared meats, beverages, fresh or prepared foods, fresh fruits and vegetables, canned foods, dry goods, and automotive, household, health, and stationery supplies, and which may also include seating for on-site consumption.

SURVEYOR — A person licensed and registered as a land surveyor by the State of New York or who has been issued a limited permit as a professional land surveyor in the State of New York.

SWIMMING POOL — Any man-made container of water having a depth greater than two feet and used for swimming.

TATTOO — The practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment. The term includes the application of permanent cosmetics.

TATTOO PARLOR — An establishment or facility in which tattooing is performed.

TAXI CAB/PERSONAL TRANSPORT SERVICE — A business that transports passengers by vehicle from one location to another location for a fee.

TERRACE — An open porch without a permanent roof.

TEMPORARY USE — A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

THEATER — A building or part of a building devoted to showing motion pictures or stage productions on a paid admission basis.

THEATER, OUTDOOR DRIVE-IN — An open lot or part thereof with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats. **[Amended 10-28-1996 by L.L. No. 4-1996]**

TOURIST HOME — An owner-occupied dwelling in which overnight accommodations and meals are provided or offered for transient guests for compensation, but such use is secondary to the owner occupancy of the dwelling; said overnight accommodations not to exceed seven consecutive nights; sometimes also referred to as "bed-and-breakfasts." **[Added 12-15-1992]**

TRAILER — A vehicle capable of being used as seasonal sleeping or living quarters, not exceeding 380 square feet in floor area, whether self-propelled or towed, or a camper body mounted on a motor vehicle. "Trailer" shall also include any vehicles which may be towed and are capable of being used for carrying goods, equipment, machinery or recreation vehicles, or as a site office.

TRANSIENT — Living and/or sleeping accommodation provided for a fee or barter for a period of less than 30 consecutive days. When used in this Code to refer to a person, it refers to a person who resides in a location under such conditions.

TRANSPORTATION TERMINAL — Any premises used for the garaging or parking of public transportation vehicles and the loading and unloading of passengers.

TRUCKING TERMINAL — A place or building where trucks load and unload freight and where the freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation, such as railroad cars, vessels or barges. A trucking terminal may include areas for storage, servicing or repair of trucks or fleet vehicles associated with the terminal building. This term shall not pertain to accessory off-street loading berths.

USABLE OPEN SPACE — That part of the area of a lot which:

- A. Is devoted to outdoor recreational space, greenery and service space for household activities (such as clothes drying) which are normally carried on outdoors.
- B. Conforms to the minimum dimensions prescribed for the appropriate district.
- C. Is not devoted to private roadways open to vehicular transportation, accessory off-street parking space or loading berths.
- D. Contains no structures, except as specifically permitted in this chapter.
- E. Is structurally safe and adequately surfaced and protected.

- F. Is accessible and available to all occupants of dwelling units for whose use the space is required.

USE — This term is employed in referring to:

- A. The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied; or
- B. Any occupation, business activity or operation conducted (or intended to be conducted) in a building, or other structure, or on land.

USE, ACCESSORY — A use, building or other structure clearly incidental or subordinate, but customary, to a principal use. Accessory uses shall not alter the character of the premises on which they are located or impair the neighborhood and must be conducted on the same zoning lot as the principal use to which it is related, unless this Chapter otherwise permits another location for an accessory use.

USE, CONFORMING — Any established permitted use or any existing use otherwise designated as a conforming use by this chapter. A use established pursuant to the grant of a use variance shall not be considered a conforming use, but shall not be subject to the abandonment provisions of the nonconforming uses and structures article of this chapter.

USE, NONCONFORMING — The use of land or a structure which does not comply with all regulations for the district in which it is located where such use conforms to all applicable laws, ordinances and regulations prior to the enactment or amendment of this chapter.

USE, PRINCIPAL — An activity that may be carried on independently of any other activity and which generally characterizes the primary purpose for which land and/or the principal structures thereon are intended and designed.

USE, PROHIBITED — A use of a building, structure, lot or land, or part thereof, that is not specifically listed as a permitted use, use subject to site plan review, accessory use or special permit use. Any use not specifically permitted as one of the above shall be deemed to be prohibited.

VARIANCE, AREA — The authorization by the Zoning Board of Appeals for the use of land in a manner that 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 that is otherwise not allowed or is prohibited by the applicable zoning regulations.

VERMIN — Pests or nuisance animals, such as those that spread diseases or odor.

WAREHOUSE — A use engaged in the storage of manufactured products, supplies and equipment that will be sold elsewhere or, subsequently, transported to another location for sale or consumption, but excludes bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized dangerous conditions. This definition does not include self-service storage facility.

WATERWAYS OF THE CITY OF OSWEGO — Areas which include:

- A. That area of land within which or upon which the flow of water is ordinarily confined due to existing topography; and
- B. All lakes, rivers, streams and other bodies of water within the jurisdiction of the City of Oswego which are navigable in fact or upon which vessels with a capacity of one or more persons can be operated. It shall not include waters which are surrounded by land held in single private ownership at every point in their total area.
[Added 1-12-1987]

WHOLESALE STORE — Establishments or places of business primarily engaged in selling merchandise to retailers, industries, commercial institutions, 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. [Added 10-28-1996 by L.L. No. 4-1996]

YACHT CLUB, PRIVATE MARINA — A building or use for members of a group or association for the purpose of engaging in recreational and competitive boating or other water-related sports. [Added 4-14-1986]

YARD, FRONT — A yard extending along the full length of the front lot line between the side lot lines.

YARD, REAR — A yard extending along the full length of the rear lot line between the side lot lines.

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

YARD, SIDE — A yard situated between the building and the side line of the lot and extending from the front yard (or from the front lot line, if there is no required front yard) to the rear yard (or rear lot line).

ZONING BOARD OF APPEALS — The City of Oswego Zoning Board of Appeals.

Article III Districts

§ 280-12. Traditional Neighborhood 1 (TN1) District.

The following apply to the TN1 District.

- A. Purpose. The purpose of the TN1 District is to provide for traditional single-family housing, including high density housing, and limit other uses to preexisting nonconforming uses, while preserving greenspaces.
- B. Uses. The permitted uses for the TN1 District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the TN1 District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

§ 280-13. Traditional Neighborhood 2 (TN2) District.

The following apply to the TN2 District.

- A. Purpose. The purpose of the TN2 District is to provide for a compatible mixture of private residences of varying density and commercial uses, where the permitted commercial uses historically have coincided with residential use.
- B. Uses. The permitted uses for the TN2 District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the TN2 District are attached to the end of this Chapter within the Table of Bulk Requirements.

- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

§ 280-14. Suburban Residential (SR) District.

The following apply to the SR District.

- A. Purpose. The purpose of the SR District is to accommodate single-family development, and related uses, in those areas of Oswego where public water is available and where adequate roads, drainage systems and related infrastructure are already in place.
- B. Uses. The permitted uses for the SR District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the SR District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

§ 280-15. Urban Residential (UR) District.

The following apply to the UR District.

- A. Purpose. The purpose of the UR District is to provide for a compatible mixture of private residences of varying density, including other than single-family housing, and multiple mixed commercial uses, where the permitted mixed commercial uses historically have coincided with residential use, in areas where new single-family home development is unlikely to occur.
- B. Uses. The permitted uses for the UR District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the UR District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

§ 280-16. Traditional Downtown (TD) District.

The following apply to the TD District.

- A. Purpose. The purpose of the TD District is to establish a visually attractive, inviting and economically vibrant city core that stimulates a diverse economic base for those who work, visit and reside in the district. Re-use and renovation of existing structures is encouraged. Future development should be compatible with the TD District's quaint character. It should help promote a safe, pleasant, livable and pedestrian-oriented district that preserves and enhances the City's unique cultural, historical and architectural heritage.
- B. Uses. The permitted uses for the TD District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the TD District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

- E. Design standards. The mandatory and applicable design standards for TD District are incorporated at the end of this chapter within the attached Design Standards.

§ 280-17. Traditional Business (TB) District.

The following apply to the TB District.

- A. Purpose. The purpose of the TB District is to establish a transition between the Traditional Downtown District and the Commercial Business District. The TB District emphasizes compatible pedestrian and vehicular traffic and preservation of the City's cultural, historical and architectural heritage.
- B. Uses. The permitted uses for the TB District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the TB District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.
- E. Design standards. The mandatory and applicable design standards for TB District are incorporated at the end of this chapter within the attached Design Standards.

§ 280-18. Commercial Business (CB) District.

The following apply to the CB District.

- A. Purpose. The purpose of the CB District is to establish an area for larger scale commerce that is primarily accessible by vehicle. It includes shopping malls, lifestyle centers and large-scale retail establishments, as well as many other uses.
- B. Uses. The permitted uses for the CB District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the CB District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.
- E. Design standards. The mandatory and applicable design standards for CB District are incorporated at the end of this chapter within the attached Design Standards.

§ 280-19. Waterfront (WA) District.

The following apply to the WA District.

- A. Purpose. The WA District is unique because it largely comprises publicly-owned lands. Encouraged uses include civic uses that are open to the public, such as public green spaces, as well as uses that attract visitors and promote waterfront recreation, entertainment and living. Uses must complement and not compete with the permitted uses in the TD District and BD District. Development of the WA District should be consistent with the City of Oswego Waterfront Master Plan.
- B. Uses. The permitted uses for the WA District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the WA District are attached to the end of this Chapter within the Table of Bulk Requirements.

- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.
- E. Design standards. The mandatory and applicable design standards for WA District are incorporated at the end of this chapter within the attached Design Standards.

§ 280-20. Maritime Heritage (MH) District.

The following apply to the MH District.

- A. Purpose. The City of Oswego has long been an important port on Lake Ontario. The purpose of the MH District is to foster uses that preserve and are consistent with the City's maritime industries, history and culture and to be a transition between these maritime uses and the WA District. Where applicable, development of the MH District should be consistent with the City of Oswego Waterfront Master Plan.
- B. Uses. The permitted uses for the MH District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the MH District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.
- E. Design standards. The mandatory and applicable design standards for MH District are incorporated at the end of this chapter within the attached Design Standards.

§ 280-21. Industrial (IN) District.

The following apply to the IN District.

- A. Purpose. The purpose of the IN District is to establish a suitable location for industrial uses within the City. Because industrial uses may have considerable impacts upon infrastructure, utilities, transportation, waste water treatment and electricity, the location of the IN District and the standards it requires will ensure that industrial users have access to these resources. The IN District also allows for industrial parks, transportation and communication facilities, as well as the manufacture, storage, or distribution of products. Compatible commercial uses, such as offices, laboratories, restaurants, and uses designed and limited to serve persons working in the district, also may be allowed in the IN District. Because non-compatible uses have the potential to encroach upon or displace industrial uses, they are not appropriate for the IN District.
- B. Uses. The permitted uses for the IN District are attached to the end of this Chapter within the Table of Uses.
- C. Bulk requirements. The applicable bulk requirements for the IN District are attached to the end of this Chapter within the Table of Bulk Requirements.
- D. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

§ 280-22. Planned Development (PD) District.

In Planned Development Districts, where specifically permitted by the Common Council, multiple-family and condominium dwelling units may be constructed to conform to the following regulations:

- A. Provision is included for Planned Development Districts to permit establishment of areas in which diverse residential, commercial and industrial uses may be brought together as a compatible and unified plan of development which is in the interest and general welfare of the public, with any such district containing a minimum of five acres or more.
- B. Area, yard, coverage, height and supplementary regulation requirements shall be comparable to minimum requirements in appropriate residential, commercial or industrial zoning districts for each specific use, except where the Planning Board finds that it is in the public interest to modify these requirements.
- C. No multiple-family or condominium dwelling units are permitted in basements.
- D. Site plan approval. Site plan approval shall be required.
- E. Findings required for approval of plans for development. The Planning Board shall recommend the approval with modifications or disapproval of the site plans. The Planning Board may recommend to the Common Council establishment of a Planned Development District, provided that it finds facts submitted with the plans established that:
 - (1) Uses proposed will not be detrimental to present and potential surrounding uses.
 - (2) Land surrounding the proposed development can be planned in coordination with the proposed development and that it be compatible in use.
 - (3) The proposed zoning change is in conformance with the intent of the Comprehensive Plan.
 - (4) Existing and proposed streets are suitable and adequate to carry anticipated traffic within and in the vicinity of the proposed district.
 - (5) Existing and proposed utility services are adequate for proposed development.
 - (6) Each phase of the proposed development, as proposed to be completed, contains the required parking spaces and landscaped areas necessary for creating and sustaining a desirable and stable environment.
- F. Public hearings for planned development approval. The Common Council may amend the Zoning Map after holding a public hearing, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with site plans approved by the Common Council. An appropriate notation to that effect shall be made on three sets of plans. One set shall be retained by the City Clerk, and one set shall be retained by the Zoning Administrator.
- G. Planned development approval by the Common Council shall be secured by the owner for each phase of development.
- H. Bulk requirements. The applicable bulk requirements for multiple family and condominium dwelling units in a PD District are attached to the end of this Chapter within the Table of Bulk Requirements.
- I. Supplementary regulations. Supplementary regulations shall be as set forth in Article X hereof.

ARTICLE IV
AO-IN Adult Overlay of the Industrial District
[Added 10-22-2001]

§ 280-40.1. Purpose.

- A. The AO-IN Adult Overlay of the Industrial District is intended to address the purpose and findings set forth in § 280-80.3 of this chapter.
- B. The AO-IN Adult Overlay of the Industrial District may be overlaid upon any part or all of any Industrial District established pursuant to this chapter which is found to be appropriate for such treatment, pursuant to the procedure for amendment of the Zoning Map in accordance with Article XIV Amendments, of this chapter.

§ 280-40.2. Overlay district.

The AO-IN Adult Overlay of the Industrial District shall be mapped upon the Zoning Map only in conjunction with the underlying IN Industrial District. Any lot in the AO-IN Adult Overlay of the Industrial District may continue to be used in accordance with the regulations applicable in the underlying district in the same manner as though the AO-IN Adult Overlay of the Industrial District did not exist.

§ 280-40.3. Permitted uses.

The conversion of all or a portion of any structure for only the following uses is permitted as of right in the AO-IN Adult Overlay of the Industrial District. The initial conversion, however, is subject to site plan approval in accordance with the provisions of Article VI of this chapter:

- A. Adult arcades;
- B. Adult bookstores;
- C. Adult video stores;
- D. Adult cabarets;
- E. Adult motion-picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios.

§ 280-40.4. Bulk requirements; supplementary regulations.

Area, yard, coverage and height, supplementary regulations and site plan approval requirements for the AO-IN Adult Overlay of the Industrial District are the same as required in the IN Industrial District as set forth in § 280-21 of this chapter.

ARTICLE V
Special Permits

§ 280-41. Requirements for special permit.

In authorizing any special permit, the Board of Appeals shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and that of the immediate neighborhood in particular. For every such special permit use, the Board of Appeals shall determine, as applicable, that:

- A. Such use will be in harmony with and promote the general purposes and intent of this chapter.
- B. Such use will be in harmony with the permitted uses in the general area of the property and shall not be detrimental to such uses.
- C. The proposed use will not have a significant adverse impact on adjacent properties.
- D. The lot shall be of sufficient size, appropriate and adequate for the proposed use and the reasonably anticipated operation and expansion thereof.
- E. The proposed use conforms to any special requirements or conditions as set forth hereafter.
- F. Access facilities, entrances and exits shall not have the effect of creating traffic congestion or a potentially unsafe condition. In this regard the Board of Appeals shall consider the estimated traffic to and from the site and the use of the site by customers and/or the public. Vehicle entrances and exits shall be clearly visible from the street.
- G. All proposed curb cuts and/or driveways have been approved by the appropriate agency or agencies having jurisdiction.
- H. There is adequate off-street parking and loading facilities sufficiently constructed for the anticipated number of occupants, both employees and patrons or visitors, and further that the layout for the spaces and driveways adequately addresses all safety issues.
- I. There is adequate buffering and screening between the proposed site and adjoining properties in order to adequately protect the characteristics and uses of the adjacent properties and land uses.
- J. The applicant shall demonstrate that there is an adequate supply of water to the site and that adequate provisions have been made for sewage, refuse or other waste.
- K. The applicant shall demonstrate that there has been adequate provision for the collection and disposal of all drainage and stormwater runoff from the site.
- L. The proposed use shall be in compliance with all applicable design standards as set forth in this chapter.
- M. The location, size of the use, nature and intensity of the operations, site layout and its relation to streets and highways giving access to the site shall be such that the proposed use will not be hazardous, inconvenient or detrimental to the neighborhood. In applying this standard, the Board shall consider, among other things, convenient and safe routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, and the general character and intensity of the development of the neighborhood.
- N. The applicant has secured all necessary permits from any federal, state or local authority, including site plan approval; provided, however, that the Board of Appeals may, in its sole discretion, grant conditional approval and establish a time frame for final approval upon the issuance of any required permits. In this regard, the applicant shall demonstrate that all necessary permits have been applied for. Conditional approval shall not be applicable for permits required for ingress and egress.
- O. The applicant has demonstrated compliance with all wetlands and all flood zone regulations.
- P. The proposed use shall have adequate lighting, but such lighting will not shine directly on or result in unnecessary glare to adjacent properties.

§ 280-41.1. Special conditions and safeguards for certain special permit uses.

No authorization for a building shall be granted by the Board of Appeals for any use listed in this section, unless the Board of Appeals shall specifically find that, in addition to meeting all the general standards set forth in § 280-41, the proposed special permit use also meets the special conditions and safeguards required in this section or as otherwise set forth in this Chapter.

§ 280-42. Special provisions applicable to medical facilities.

Philanthropic institutions, convents, hospitals, clinics, sanitariums and nursing and convalescent homes shall conform to the following additional regulations:

- A. Lot area minimum: 100,000 square feet.
- B. Yard minimums: 50 feet.
- C. The Oswego County Health Department shall give written certification that hospitals and sanitariums in the proposed location will not have a detrimental effect on the general level of health in the surrounding neighborhood.

§ 280-43. Special provisions applicable to outdoor drive-in theaters.

Outdoor drive-in theaters shall be governed by the following regulations:

- A. Projection screens and parking areas shall be no closer than 50 feet to any street line and no closer than 100 feet to a residential district.
- B. Projection screens shall not be visible from any major street.
- C. All parking areas, accessways and driveways shall be paved with dustless material.
- D. Loudspeakers shall be limited to the individual type designed to be heard by the occupants of one car.
- E. Entrances and exits shall connect only to major streets and shall be designed so as not to interfere with or impede traffic flow.
- F. Entrance car reservoir spaces shall be provided to accommodate no less than 5% of the theater's parking capacity.

§ 280-44. Special provisions applicable to excavations and earthmoving operations.

Excavations and earthmoving operations which are not incidental to construction of a building shall be governed by the following requirements:

- A. All excavation operations shall not adversely affect drainage or structural safety of adjoining lots and buildings. They shall not contribute to soil erosion by wind or water or create or involve any kind of noisome or injurious substances, conditions or operations.
- B. Open excavations deeper than 10 feet or having a slope greater than 30° from the horizontal shall be surrounded by a fence at least six feet high and no closer than 50 feet to the edge of the excavation or other hazardous condition.
- C. The slope of a pile of any material excavated shall not exceed its normal angle of repose.
- D. No excavation shall take place closer than 100 feet to a vertical plane created by the projection of any length of the lot line vertically into the ground, nor shall any mechanical equipment be stationed or supplies or excavated material stored any closer than 100 feet to the lot line.

- E. Before any excavation starts, plans shall be submitted to the Board of Appeals indicating:
- (1) Existing topography, showing contour lines at vertical intervals of no more than two feet; drainage courses and other pertinent physical conditions; areas to be excavated; and the extent of such excavations.
 - (2) Proposed rehabilitation of the area after excavation operations cease, including finished grades, drainage and such other information as is necessary to fully explain the site conditions after operations cease.
 - (3) All drawings and plans shall be approved by the Permit Administrator prior to consideration by the Board of Appeals.
- F. Before any excavations are made, performance bonds shall be posted with the City Clerk in an amount equal to the estimated cost of rehabilitation of the site as determined by the Permit Administrator, except that none of the foregoing provisions shall apply to installation, construction, erection, laying, repair, maintenance and removal of electric, telephone and gas lines.
- G. Prior to the release of any performance bonds, the Permit Administrator shall certify that the finished grades, drainage and other features pertinent to rehabilitation of the land all conform to the plans, or modifications thereof, approved by the Board of Appeals, and that topsoil to a depth of six inches has been distributed over all excavated portions of the site being rehabilitated.

§ 280-45. Special provisions applicable to landfills.

In any district, the dumping of refuse and waste material for landfill is prohibited. Loam, rock, stone, gravel, sand, cinders and soil may be used for landfill to grades approved by the Permit Administrator only if approved by permit. No landfill shall commence until a permit has been issued. Applications for landfill permits shall be made by the property owner to the Permit Administrator on forms he shall prescribe. No landfill permit shall be issued until the application has been approved by the Common Council following its referral to the Permit Administrator. The Permit Administrator may refer a request, when he deems it necessary, to the Planning Board for an advisory opinion. The Council, from time to time, shall establish a schedule of fees to defray administrative costs involved in processing the application.

§ 280-46. Special regulations for gasoline stations.

In all districts where permitted, gasoline or motor vehicle service stations shall comply with the following special regulations:

- A. A gasoline station lot shall not be located within 200 feet of any lot occupied by a school, public library, theater, religious institution, hospital, fire station or other public gathering place unless a street lies between such establishment and the gasoline station. Measurement shall be made between the nearest respective lot lines.
- B. Lot size shall be at least 20,000 square feet.
- C. Lot frontage shall be at least 150 feet.
- D. Lot depth shall be at least 125 feet.
- E. Pumps and lubricating and other service devices shall be located at least 35 feet from front lot line and side and rear lot lines.
- F. All fuel and oil shall be stored at least 20 feet from any property line.

- G. All automobile parts and dismantled vehicles are to be stored within an enclosed building; no repair work is to be performed outside a building.
- H. No signs shall extend beyond pumps nor exceed 20 feet in height.
- I. There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be 40 feet.
- J. A suitably curbed landscaped area shall be maintained at least five feet in depth along all street frontage not used as a driveway.
- K. No automobile service establishment shall have an opening in the roof, side or rear walls less than 15 feet from any lot line.

§ 280-47. Special regulations for public utility substations and facilities.

In all districts where permitted, public utility substations and facilities shall comply with the following special regulations:

- A. Low profile equipment shall be used, where feasible.
- B. The facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
- C. A landscaped area at least 15 feet wide shall be maintained in front, rear and side yards.

ARTICLE VI Site Plan Approval.

§ 280-48. Approval by Planning Board required.

The Planning Board, at a regular public meeting of the Board, shall review and approve or approve with modifications all permitted uses listed as requiring site plan approval before a building permit is issued.

§ 280-49. Site plan application requirements.

- A. An application for site plan review shall be made in writing and shall be accompanied by three prints of a site plan drawn to scale and be prepared by an architect, landscape architect, engineer, land surveyor or planner and include the following information:
 - (1) The title of the drawing, including the name and address of the applicant and of the professional(s) responsible for the preparation of such drawing, and a north arrow, scale and date.
 - (2) A survey and photographs of the property, showing existing features, including contours, large trees, buildings, structures, streets, utility easements, rights-of-way, land use, zoning and ownership and addresses of the surrounding property.
 - (3) A site plan showing proposed lots, blocks, building locations and land use areas.
 - (4) Traffic circulation, parking and loading spaces and pedestrian walks.
 - (5) Landscaping plans, including site grading, landscape design and open and recreation areas.
 - (6) Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations and sections.

- (7) Preliminary engineering plans, including street improvements, storm drainage systems, public utility extensions, water supplies and sanitary sewer facilities.
 - (8) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as required by the Planning Board.
 - (9) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.
 - (10) A description of the proposed uses, including hours of operation, number of employees, expected volume of business, and type and volume of traffic expected to be generated.
 - (11) Proof of approval for any necessary permits from federal, state, county or local agencies; provided, however, that the Planning Board may, in its sole discretion, grant conditional approval and establish a time frame for final approval upon the issuance of any required permits. In this regard, the applicant shall demonstrate that all necessary permits have been applied for.
 - (12) If requested in accordance with § 280-50(H), a check made payable to the City for payment of expenses to be incurred by the City in connection with the review of the project by professionals such as engineers, planners and/or attorneys.
- B. With respect to property within the Oswego Waterfront Revitalization Area boundary, the owner shall demonstrate how the proposed development will enhance the waterfront area or otherwise fulfill the city's waterfront revitalization program and, in addition, provide, where possible, for visual and physical access to the shore and water in conformance with the city's waterfront revitalization program. **[Added 4-14-1986]**

§ 280-50. Site plan approval procedure.

- A. The Planning Board shall review the site plan and supporting data before approval or approval with stated conditions is given, taking into consideration, as appropriate, at a minimum the following: **[Amended 10-28-1996 by L.L. No. 4-1996]**
- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, structures and traffic controls, with particular attention to vehicular and pedestrian safety.
 - (2) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (3) Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.
 - (4) Adequacy of drainage and stormwater facilities.
 - (5) Adequacy of water supply and sewage disposal facilities.
 - (6) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between applicant's adjoining lands, including maximum retention of existing vegetation with particular regard to achieving maximum compatibility and protection to adjacent residential districts.

- (7) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - (8) Adequacy of fire lanes and other emergency zones and water supply for firefighting purposes.
 - (9) Compatibility of building design with existing characteristics of the neighborhood.
 - (10) Harmonious relationship between proposed uses and existing adjacent uses.
 - (11) Compliance with all applicable design standards.
 - (12) Compliance with requirements for wetlands and flood zone regulations. In this regard, the site plan shall show all wetlands and flood zone areas on the map.
- B. With respect to property within the Oswego Waterfront Revitalization Area boundary, the Planning Board shall consider how the proposed development will enhance the waterfront area or otherwise fulfill the policies and purposes of the Oswego Local Waterfront Revitalization Program and, in addition, provide, where possible, for visual and physical access to the shore and water in conformance with the city's waterfront revitalization program. **[Added 1-12-1987]**
- C. The Planning Board may require changes or additions in relation to yards, driveways, entrances and exits, landscaping and location and height of buildings and enclosures to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Board, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with changes or additions. Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.
- D. The Planning Board shall conduct a public hearing on the application for site plan approval. The public hearing shall be conducted within 60 days of the receipt of a complete application and shall be advertised, at the expense of the applicant, in a paper of general circulation in the City at least five days prior to said hearing. Notice of said hearing shall also be given to the owners of all adjoining properties.
- E. Prior to making any determination, the Planning Board will cause a review of the proposal pursuant to the requirements of the State Environmental Quality Review Act (SEQRA).
- F. Within 60 days of the close of the public hearing, the Planning Board shall render a decision on the site plan application.
- G. The Planning Board shall act by resolution to approve, approve with modifications or disapprove the site plan application. A resolution either approving or approving with modifications shall include the authorization for the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the submitted site plan. Any modifications required by the Planning Board shall be deemed a condition of approval. If the site plan has been disapproved, the Planning Board's resolution shall state the reasons for such decision.
- H. Reasonable costs incurred by the Planning Board for private consultation fees of a planner, engineer or attorney or other expense in connection with the review of a proposed site plan shall be charged to the applicant. In this regard, the Planning Board may require such costs to be paid in advance and may deny an application upon failure of the applicant to make payment within 60 days of the date of the original application submission.

§ 280-51. Performance bond.

The Planning Board may require as a condition of site plan approval that the owner file a performance bond in such amount as it determines to be in the public interest, to ensure that the proposed development will be built in compliance with the accepted plans.

ARTICLE VII Off Street Parking and Loading

§ 280-52. Requirements.

For every building hereafter erected, altered or changed in use, there shall be provided off-street parking spaces at least as set forth below:

- A. Residential uses. **[Amended 10-11-2005; 7-9-2007; 12-10-2017]**
 - (1) TN1, TN2, SR and UR Districts:
 - (a) One- and two-family dwellings as well as condominium dwellings: two parking spaces for every dwelling unit.
 - (b) Multiple-family dwellings: five parking spaces for every three dwelling units.
 - (c) Professional residence-offices: three parking spaces, plus one additional parking space for every 200 square feet of office space.
- B. Hotels, motels, tourist homes, boardinghouses, dormitories, fraternities, sororities or nursing homes: three parking spaces, plus one space for every guest room or person.
- C. Hospitals: three parking spaces, plus one space for every two beds.
- D. Places of public assembly: one parking space for every five seats; or one parking space for every 100 square feet of floor area.
- E. Business, professional and medical offices: three parking spaces, plus one space for every 200 square feet of office area.
- F. Commercial and business uses in groups over 20,000 square feet of business floor area: one parking space for every 100 square feet of business area.
- G. Commercial and business uses as individual establishments on separate lots: one parking space for every 300 square feet of business area, plus one parking space for every motor vehicle used directly in the business.
- H. Restaurants and eating and drinking establishments: one parking space for every 100 square feet of floor area.
- I. Industrial, wholesale, warehouse, storage, freight and trucking uses: one parking space for every motor vehicle used directly in the business, plus additional parking as required by the Board.
- J. Unspecified uses: as required by the Planning Board based upon use intensity, turnover, customers, employees and vehicles used.
- K. Unless specified otherwise, the regulations in this Article apply to districts not covered by the Design Standards.

§280-53. Special parking and loading space requirements.

- A. The Planning Board, under its powers of site plan review and approval, may modify requirements for parking and loading spaces and:

- (1) Require additional spaces if it finds the requirements insufficient.
 - (2) Require fewer spaces if it finds the requirements excessive.
 - (3) Permit spaces for separate uses to be combined in one parking lot.
- B. The Planning Board shall take into account existing parking spaces in the vicinity of the proposed development.

§ 280-54. Location, size and access of off-street parking areas.

- A. Required parking shall be provided within 500 feet of the use for which it is intended. If provided on a separate lot, such parking areas shall be held in the same ownership as the lot containing the use.
- B. A parking plan shall be submitted to the Planning Board for approval for any parking area in Residential TN1, TN2, SR and UR Districts containing more than two required parking spaces. The paved area of the property shall not exceed 25% of the total area of the property. This plan shall be a part of a site plan, in which case it shall be reviewed and approved in accordance with §§ 280-48 through 280-51. The location and dimensions of all access roadways shall be approved by the Permit Administrator. **[Amended 1-25-1993; 5-29-2007]**
- C. Off-street parking for one-family, two-family and multiple-family residences. **[Amended 5-29-2007; 7-9-2007]**
- (1) Driveways for one-family, two-family and multiple-family residences may be counted in calculating required off-street parking spaces (including stacked parking), except that parking on driveways in front yards may be calculated only if permitted by a special permit.
 - (2) Parking for new two-family dwellings constructed after August 1, 2007, shall be placed in a single parking lot located on the property, without stacked parking.
- D. Unobstructed and direct access shall be provided between every parking area and a public street. Access roadways shall cross front yards approximately perpendicular to the street line. The minimum width of access roadways shall at least conform to the following schedule:

Minimum Aisle Width (feet)	Number of Aisle	Maximum Number of Spaces Served
8	1	5 or less
10	1	6 to 20
10	2	20 or more

- E. Parking spaces shall be at least 8 1/2 feet wide and 18 feet long. **[Amended 10-15-2013]**
- F. If a parking area is attendant controlled, the parking plan may not show aisles, driveways and spaces, but shall show landscaping, lighting and access to public streets. The plan shall also show the location, dimensions and elevations of the attendant's structure and the waiting areas for patrons. Parking in an attendant-controlled facility shall be provided at a rate of 250 square feet of parking area for each space required.

§ 280-55. Off-street parking areas in required yards and usable open spaces.

- A. Open or enclosed parking areas shall not encroach on any required yard or usable open spaces, except that in residential districts open parking areas may be located within three feet of any lot lines in side or rear yards.

- B. Open parking areas may be permitted in front yards by special permit if it can be shown to the satisfaction of the Board of Appeals that such areas will benefit the public, not impede pedestrian movement, be aesthetically suitable and be adequately landscaped.
- C. Open parking spaces, in public space, between the curb and sidewalk and between the sidewalk and property line, as well as between the curb and property line in cases where there are no sidewalks, shall be prohibited. [Added 5-29-2007]

§ 280-56. Location, size and access for off-street loading areas.

- A. All off-street loading areas shall be located on the same lot as the use for which they are permitted or required and shall not be located within required front yards, side yards, off-street parking areas or accessways.
- B. Each required loading space shall be at least 35 feet long, 12 feet wide and 14 feet high.
- C. Accessways, at least 12 feet in width and 14 feet of vertical clearance, shall connect all loading spaces or areas with a street. Such accessways may be coincidental with access roadways or driveways to parking areas.

§ 280-57. Surfacing and landscaping of off-street parking and loading areas.

- A. All parking or loading areas shall be paved with concrete, asphalt or brick and shall be adequately drained. [Amended 1-25-1993]
- B. In residential districts, parking areas for three or more vehicles adjoining side or rear lot lines shall be screened from adjacent residential lots by walls, fences or hedges to prevent the viewing of parked automobiles from the minimum side yard or rear yard of such adjacent lots.
- C. In nonresidential districts, parking or loading areas shall be visually screened so that vehicles parked therein shall not be visible at ground level from any residential lot within 100 feet. Lighting for parking areas shall not be directed toward any residential lots or buildings.
- D. At least 10% of the total required off-street parking area shall be landscaped according to a landscaping plan approved as a part of site plan approval.

ARTICLE VIII
Signs

§ 280-58. Signs.

- A. This Article regulates signs within the City of Oswego that are visible from the right-of-way and from beyond the property where erected. These regulations balance the need to protect the public safety and welfare, the need for a well-maintained and attractive community and the need for adequate identification, communication and advertising for all land uses. The regulations for signs have the following objectives:
 - (1) To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised.
 - (2) To allow and promote positive conditions for meeting a sign user's needs, while at the same time avoiding nuisances to nearby properties and promoting an attractive environment.
 - (3) To reflect and support the desired character and development patterns of the various districts and conform to applicable design standards.

- (4) To allow for adequate and effective signs in commercial and industrial districts while preventing signs from dominating the visual appearance of the area.
- B. These regulations allow for adequate and multiple types of signs for a site. The provisions do not necessarily assure or provide for a property owner's desired level of visibility for the signs.
- C. Unless specified otherwise, the regulations in this Article apply to districts not covered by the Design Standards.

§ 280-58.1 General sign regulations. [Amended 3-14-1983]

- A. No sign shall be constructed, erected, altered or relocated until a sign permit has been issued by the Permit Administrator. Application for a sign permit shall be made by the property owner to the Permit Administrator on forms he shall prescribe. The Permit Administrator may refer an application for a sign permit to the Planning Board for an advisory opinion. The Common Council, from time to time, shall establish a schedule of sign permit application fees to defray the administration costs in processing the application.
- B. An application for a sign in public space shall be approved by the Common Council before the issuance of a sign permit.
- C. Signs, including support structures, shall be removed within 60 days following the closing of the permitted facility for which the sign was issued. **[Added 5-8-2006]**
- D. This section regulates the number, size, placement and physical characteristics of signs. The regulations are not intended to and do not restrict, limit or control the content and message of signs. The regulations of this section apply to all districts in the City.
- E. No sign may be erected unless it conforms to the regulations of this Article.
- F. Nonconforming signs are addressed in § 280-86.

§ 280-59. Signs in residential districts or for residential uses.

The following signs are permitted as of right in residential districts or for residential uses when located on the immediate property:

- A. "For rent" and "for sale" signs. All such signs shall be removed within ten days after the sale, lease or rental of the premises. **[Amended 5-8-2006]**
 - (1) One "for rent" sign not exceeding one square foot in area displayed inside the window of the residential dwelling for which a rental unit is offered.
 - (2) One "for sale" sign not exceeding five square feet in area on each face for any one residential structure, subdivision or project.
- B. Directional or informational real estate signs not exceeding four square feet in area on each face. **[Amended 5-8-2006]**
- C. Signs necessary for public safety or welfare.
- D. One ground sign per lot shall be allowed by special permit in TN1, TN2, SR and UR Residential Districts for licensed professional offices, if such offices are allowed therein, that are otherwise allowed in those districts by special permit. Such signs shall be set back at least 10 feet from any street line or any other lot line and shall not exceed 20 square feet in area on each face.
- E. Lighting, as identified in § 280-65, of ground signs in TN1, TN2, SR and UR Residential Districts may be allowed by special permit for licensed professional offices,

if such offices are allowed therein,, but in no case shall the sign be illuminated more than one hour before or one hour after the regular business hours of the professional office.

- F. Non-illuminated warning, “private drive,” “posted” or “no trespassing” signs, not exceeding two square feet per face.

§ 280-59.1. Exempt signs.

Exempt signs. The following signs are exempt from the provisions of this section but may be subject to other portions of the City of Oswego Code:

- (1) Signs not visible from a right-of-way, private or public road or other private property.
- (2) Building numbers.
- (3) Signs carved into or part of materials which are on an integral and permanent part of the building, noting the name of the building and its date of erection.
- (4) Painted wall decorations and painted wall highlights that present no message or indication of a use and are meant strictly for artistic, decorative or design use or enhancement.
- (5) Public and/or governmental signs, including traffic or similar regulatory devices.
- (6) Flags and insignia of any government, except when displayed in connection with a commercial promotion.
- (7) Holiday decorations.
- (8) Elections signs advertising a candidate for public office or any other public ballot initiative are exempt from these regulations. Such signs must be displayed only on private property.

§ 280-60. Signs in business and industrial districts.

The following signs are permitted as of right in business and industrial districts:

- A. All signs permitted under § 280-59.
- B. Business signs, with a total area not to exceed three square feet for each one lineal foot of building frontage.
- C. Non-illuminated professional A-frame or “inverted-T” signs in public space having a total area not to exceed 20 square feet (including both sides); meeting all of the following: **[Amended 5-8-1995; 7-10-2006]**
 - (1) Professional-grade portable signage shall be placed within four feet of the curb, not at the building wall or in the middle of the sidewalk, except in areas where green space is within the first four feet from the curb, the applicant would have the option to place the sign in green space or inside the sidewalk, whichever is beneficial to the store owner.
 - (2) Every business that wants to use public space for an A-frame or inverted-T sign must first obtain approval from the Common Council for use of the public space as well as a permit for the sign.

- (3) A-frame or inverted-T signs shall only be permitted to advertise the business that they front.
 - (4) Placement of signs shall be at the curb directly in front of the business only during business hours.
 - (5) Signs shall be removed during high winds, and removed when the business is closed. Signs shall be maintained by business owners.
 - (6) The City will issue an identifiable sticker with the permit that must be visibly placed on each sign to show code compliance and that the proper permit was obtained.
- D. Marquee illuminated flashing portable signs are prohibited both on private properties as well as on public space. **[Added 7-10-2006]**

§ 280-61. Post signs. [Amended 7-11-2005]

Post signs shall meet the following requirements:

- A. The top of a post sign shall not exceed 20 feet in height above the average grade. The bottommost part of a post sign shall not be less than 10 feet above grade at the site of the sign placement.
- B. Said sign shall be set back at least 10 feet from any street line or any other lot line.
- C. Said sign shall not exceed 80 square feet in area on each face. The supports for the sign shall not exceed two-post construction (non-lattice type).

§ 280-61.1. Ground signs. [Added 7-11-2005]

- A. Ground signs shall not exceed 30 square feet on each face, except for ground signs in TN1, TN2, SR, and UR as permitted in § 280-59 which shall not exceed 20 square feet on each face.
- B. Said sign shall be set back at least 10 feet from any street line or any other lot line.
- C. The top of a ground sign shall not exceed four feet in height above the average grade at the site of the sign placement. The bottommost part of a ground sign shall be at grade or may be within a planter.

§ 280-61.2. Flag/feather signs.

Flag/feather signs shall meet the following requirements:

- A. Said sign shall not be placed in public space.
- B. Said sign shall not exceed 30 square feet of area.
- C. Said sign shall be placed a minimum of 12 feet from any public walkway/or sidewalk.
- D. No more than two signs shall be placed per property street frontage.
- E. The sign permit shall be valid for 120 days only.
- F. The sign permit fee shall be \$0.50 per square foot of signage on each face.

§ 280-62. Building signs.

Signs attached to or supported by a building and having their display face parallel to a wall shall not:

- A. Project more than one foot beyond the building line or into any required yard.
- B. Be installed above the cornice line of the main roof of the building to which they are affixed.
- C. Be painted directly upon an exterior wall.
- D. Exceed 30 square feet, if it is a banner.

§ 280-63. Projecting signs. [Amended 10-14-1197; 8-13-2012]

- A. Except as permitted by the Design Standards, projecting signs may be permitted in district only. All projecting signs shall be subject to review by the Planning Board. Projecting signs that will be located over City property and City rights-of-way require review and approval by the Oswego Common Council.
- B. Signs attached to or supported by a building and having their display face perpendicular to a building shall be permitted once they have met the following requirements:
 - (1) The sign shall measure no more than 18 inches by 24 inches and must be attached to a black steel mounting bracket secured to the facade of the building and extending no more than 36 inches from the facade.
 - (2) The lowest point of the perpendicular sign must extend at least eight feet from the height of the sidewalk, and the height can be adjusted upward to accommodate the architectural variations of the facades belonging to particular buildings in the City. No signs will be allowed at a height of greater than 12 feet.
 - (3) If multiple businesses exist in a building storefront, multiple signs can be considered. The separation between signs must be at least eight feet, and there can be no more than three feet separate mounted signs on a facade 25 feet wide. The Planning Board will consider an alternate sign to identify multiple businesses in a building; for example, three business names on one mounted sign meeting the specifications previously described in § 280-63B(1) above.
 - (4) Signs shall be centered on the building facade, whenever possible, and no signs will be allowed within eight feet of each other.

§ 280-64. Restrictions on signs for safety reasons.

- A. Every sign shall be designed and located in such a manner as to:
 - (1) Not impair public safety.
 - (2) Not restrict clear vision between a sidewalk and street.
 - (3) Not be confused with any traffic sign or signal.
 - (4) Not prevent free access to any door, window or fire escape.
 - (5) Withstand a wind pressure loads of at least 30 pounds per square foot.
- B. Portable signs, except A-frame signs permitted by § 280-60C, sandwich board and sidewalk or curb signs shall not be permitted in any district or public space. **[Amended 5-8-1995]**

§ 280-65. Illuminated and flashing signs.

- A. Signs may be illuminated by a steady light, provided that such lighting will not be directed or create glare onto other properties or be a hazard to traffic.
- B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or traffic control.

§ 280-66. Criteria for erection of other signs.

Other signs may be permitted under recommendation of the Planning Board to the Common Council if the Board finds that such a sign:

- A. Is in the public interest and not to the detriment of the public safety or welfare or not detrimental to surrounding properties.
- B. Is of a character, size and location that it will be in harmony with the orderly development of the district.

§ 280-66.1. General construction and placement criteria for signs.

- A. All signs installed after the effective date of this section shall have attached to the sign a nameplate giving the sign permit number and the name and address of the owner, person or corporation responsible for the general requirements and maintenance as outlined herein.
- B. All internally illuminated signs shall be constructed in conformance with the Standards for Electric Signs (UL 48) of the Underwriters' Laboratories Inc., and bear the seal of the Underwriters' Laboratories label. The sign shall be inspected and certified by an electrical inspection agency approved by the City.
- C. All transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.
- D. All signs, including attached wall, projecting and suspended wall signs, shall be securely anchored and shall not swing or move in any manner.
- E. All signs, sign finishes, supports and electric work shall be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys and anchors.
- F. All signs shall be painted and/or fabricated in accordance with generally accepted sign industry standards.
- G. All signs and sign structures shall be erected and attached totally within the site.
- H. Vision clearance area. No sign may be located within a vision clearance area. No support structure(s) for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less. "Vision clearance areas" are triangular shaped areas located at the intersection of any combination of streets, roads, rights-of-way, private roads, alleys or driveways. The sides of the triangle extend 15 feet from the intersection of the vehicle traveled areas. The height of the vision clearance area is from 48 inches above grade to 10 feet above grade.
- I. Vehicle area clearances. When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign shall be at least 14 feet above the grade. Vehicle areas include driveways, alleys, parking lots, loading, maneuvering areas, etc.

- J. Pedestrian area clearances. When a sign extends over private sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign shall be at least 8-1/2 feet above the grade.
- K. Signs may be erected in required yards and setback areas, unless otherwise specified in this chapter.

ARTICLE IX Mobile Home Parks

§ 280-67. Mobile homes - prohibited.

Mobile homes are prohibited within the City of Oswego. Unless already in place at the enactment of this regulation, no person shall park a mobile home anywhere within the City of Oswego nor shall any mobile home already in place at the enactment of this regulation be replaced, added onto, or otherwise modified. § 280-68. (Reserved)

§ 280-69. (Reserved).

ARTICLE X Supplementary Regulations

§ 280-70. Swimming pools.

A swimming pool may be maintained as an accessory use in any district subject to the following regulations:

- A. No swimming pool shall be constructed or erected until a building permit is granted. Application for a building permit shall be accompanied by a plan showing the exact location and construction of the pool, filtering system, power supply, existing buildings, water, sewer, power and gas lines, the method of disposal of wastewater and type, size and location of fencing. A building permit shall be required for any enlargement or other major alteration of a swimming pool.
- B. Yards. A swimming pool shall not be located in a front yard, and the pool and the appurtenances thereto shall be located so as to have a yard not less than five feet in width on all sides, except where the pool is attached to a principal structure.
- C. Fences. Pools shall be surrounded by a fence or barrier at least four feet in height, strong enough to make the pool inaccessible to small children, and shall have a gate equipped with self-closing, self-locking devices. Any structure adjacent to the pool may serve as a portion of the fence. A pool whose basic structure or whose walls have a minimum height of four feet, which provides fencing, will not require separate fencing. However, with such pools, all stairs, pool ladders or pool-entering devices must be removed or raised to prevent access when the pool is not in use.
- D. Lighting. Pool lighting shall not shine or reflect onto adjoining property.
- E. Overhead power lines. No overhead power lines shall pass over the pool nor be maintained within 20 feet of the pool.
- F. Maintenance equipment. All heating, filtering, disinfectant and recirculating equipment shall be located at least five feet away from property lines and be effectively enclosed or screened from view from adjacent properties.
- G. Filling. No pool shall be filled between the hours of 7:00 a.m. and 8:00 p.m.
- H. Maintenance and abandonment of swimming pools. [Amended 6-11-2012]

- (1) Every swimming pool presently constructed or installed or hereinafter constructed or installed shall be maintained at all times in such manner as never to constitute a nuisance, hazard or menace to the public health or safety.
 - (a) The water contained in swimming pools shall, at all times, be properly chlorinated and the quality maintained so as to be suitable for human bathing and swimming.
 - (b) At no time shall the water contained in a swimming pool or, if the swimming pool has been drained, shall rain water or water from some other source be permitted to accumulate or pond in the swimming pool such that the water becomes stagnant and could harbor mosquito larvae or other vector.
- (2) No in-ground swimming pool shall be abandoned, or its use permanently discontinued unless the owner of the property shall fill in the swimming area with clean soil and restore the surface of the ground to its original grade within 30 days of abandonment or discontinuance of the use of the swimming pool.
- (3) If the pool is an aboveground swimming pool, the owner of the property shall demolish the swimming pool, remove the demolition debris from the property, and restore the land on which the swimming pool was located to its original condition within 30 days of abandonment or discontinuance of the use of the swimming pool.
- (4) Any such hazard that may exist or develop in or in consequence of or in connection with any swimming pool, shall be abated by the person in possession, owning or having jurisdiction over such swimming pool within 10 days of receipt of the notice from the City Code Enforcement Officer.
 - (a) In the event the person in possession, owning or having jurisdiction over a swimming pool does not abate a swimming pool hazard or hazards within 10 days of receipt of the notice from the City Code Enforcement Officer or permits a swimming pool hazard or hazards to recur more than three times during any one calendar year, the swimming pool shall be deemed to be abandoned.
 - (b) In the event the owner of the property on which a swimming pool has been abandoned or its use permanently discontinued shall fail to fill an in-ground swimming pool with clean soil, or demolish an aboveground swimming pool and remove the debris within 30 days after receipt of written notice from the Code Enforcement Officer, the person in possession, owning or having jurisdiction over such swimming pool shall be issued a court appearance ticket pursuant to § 280-99 of this chapter.
 - (c) In the event that an abandoned or permanently discontinued in-ground or aboveground swimming pool has not been filled in or removed resulting from a court action, the City reserves the right to enter the owner's property to fill in or remove the abandoned swimming pool. The cost of filling or removal of a pool on the owner's property shall be charged against the property upon which the pool exists, in the same manner as a local assessment, provided for in the Charter of the City of Oswego. **[Added 4-8-2013]**

I. Modifications.

The Permit Administrator may make modifications to these requirements in individual cases, with respect to the nature or location of pools, fences, gates or locking devices, provided that the protection as sought hereunder is not reduced.

§ 280-71. Storage of motor vehicles and recreational vehicles. [Amended 3-14-1983; 3-25-1991; 5-8-1995; 7-11-2005 by Res. No. 268-2005]

In any residential district, the following regulations shall apply:

- A. Vans, buses and trucks of more than 3/4 ton carrying capacity, motor vehicles used for drag or stock car racing and an abandoned, discarded or junked vehicle as defined in § 253-2 must be parked in an enclosed garage.
- B. Trailers, campers, boats, snowmobiles and other recreation vehicles shall be parked in a garage or side or rear yard and no more than two trailers, campers, boats, snowmobiles and other recreation vehicles may be stored outdoors on a lot in a residential district. All outdoor storage shall occur as inconspicuously as practicable on the lot.
 - (1) Use of a parked trailer, camper or recreational vehicle for temporary living quarters shall be limited to no more than 30 days per calendar year. **[Added 10-15-2013]**
- C. Exceptions to these parking location regulations may be granted after issuance of a special permit; however, in no case shall a special permit be granted for the storage of an abandoned or junk vehicle, as defined in § 253-2.

§ 280-72. Utility, temporary storage (pods) and permanent storage buildings. [Amended 10-15-2013]

- A. No utility, temporary storage (pod) or permanent storage building shall be erected until a building permit has been issued therefor.
- B. No utility, temporary storage (pod) or permanent storage building shall be erected in a front yard or public space.
- C. Utility, temporary storage (pod) and permanent storage buildings up to 10 feet in height and not more than 144 square feet in area may be permitted in side and rear yards, no less than six feet from the side or rear property line.
- D. Any utility, temporary storage (pod), or permanent storage building greater than 144 square feet in area, regardless of height, shall be classified as an accessory building and shall conform to yard setback and coverage requirements.
- E. For the purpose of this section, the height shall be measured from the average ground grade to the highest point of the roof.

§ 280-72.1. Solar panel structures.

- A. No ground-mounted or roof-mounted solar panel structure shall be erected until a building permit has been issued therefor.
- B. Solar panel structures shall not be erected in a front yard.
- C. Solar panel structures shall not be erected or mounted on facades of buildings.
- D. Solar panel structures shall be classified as "accessory uses" and conform to height limitations and lot coverage requirements of the district in which the panels are located.
- E. Solar panel structures shall be set back from property lines 10 feet in side yards and rear yards, or the height of the solar structure, whichever is greater.
- F. For the purpose of this section, the allowed height of the solar structure shall be measured from the average ground grade to the highest point on the solar panel.

- G. Solar panels mounted on roofs shall not protrude more than 10 feet above the peak of the roof or higher than the height limitation of the principal building/accessory building, whichever is less.
- H. Solar panels shall not glare or reflect onto neighboring properties in proximity to the panel installation.

§ 280-72.2. Wind energy systems. [Added 11-23-2009]

- A. Purpose. It is the purpose of this section to regulate the placement, construction and installation of wind-energy-producing systems while promoting the safe, effective and efficient use of such systems. These regulations relate to siting of wind-energy-producing systems in the City of Oswego and do not address large-scale wind farms which are typically intended to sell energy directly to power companies or retail users.
- B. Findings. The City of Oswego finds and declares that wind energy is an abundant, renewable and nonpolluting energy resource of the City and that its conversion to electricity will reduce the City's dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
- C. The City of Oswego further finds and declares that regulation of siting and installation of wind turbines is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public and for preserving the aesthetics of the community.
- D. Definitions. As used in this section, the following terms shall have the meanings indicated:

EMERGENCY PROCEDURES PLAN — A document filed with the Oswego Code Enforcement Office detailing the procedures to shut down a wind energy system in case of emergency.

SYSTEM HEIGHT — With regard to a wind energy system, the combination tower height plus blade length.

TOWER — With regard to a wind energy system, the structure on which the wind turbine is mounted.

TOWER HEIGHT — With regard to a wind energy system, the height above grade of the fixed portion of the tower.

TURBINE — The parts of a wind energy system, including the blades, generator and tail.

WIND ENERGY SYSTEMS — A wind energy conversion system consisting of a win turbine, tower and associated control or conversion electronics which has a rated capacity of no more than 25 kW for residential use and no more than 125 kW for business zones and is not for resale to any other individual and/or commercial entity, and not more than 1.5 MW systems for industrial zones.

- E. Site plan review: The following submission guidelines shall be required for Planning Board applications:
 - (1) Wind system design.
 - (a) Tower: The tower shall be either steel lattice or solid tube monotower and designed to handle the maximum potential load as certified by a New York State licensed engineer. In addition, under no circumstances shall the height of the system exceed the height specified by the manufacturer of the system.

- (b) Minimum blade height: The minimum distance between the ground and the turbine blades must be 25 feet, measured at the lowest point of the blade arc.
 - (c) Color: The tower shall maintain a neutral, nonreflective exterior color that blends with the surrounding environment.
 - (d) Advertising: No wind tower, turbine, building or other structure associated with a wind energy system may be used to advertise or promote any product or service. A weather-resistant sign on the exterior of the tower, no greater than two square feet in size, shall include the name and address of the current owner, twenty-four-hour emergency phone number and the model and serial number of the system. Such weather-resistant sign shall be viewable by a Code Enforcement Officer. Such sign shall also warn of electrical shock or high voltage. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind turbine, tower, building or other structure associated with a wind energy system so as to be viewable from any public road.
 - (e) Lighting: Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be designed to minimize glare on abutting properties and, except as required by the FAA, be directed downward with full cutoff fixtures to reduce light pollution.
 - (f) Access to tower: The base of the tower shall not be climbable for a distance of 15 feet or the tower shall be enclosed with a six-foot-tall fence.
 - (g) Emergency access: To the greatest extent possible, existing roadways shall be used for access to the tower. In case a new roadway must be constructed to access the wind energy system, it shall be constructed to allow for the passage of emergency vehicles. Each application shall include a letter from the Oswego Fire Department certifying acceptable emergency access to the wind system.
 - (h) System braking: The wind energy system shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, turbine components or enclosed shelter. The applicant shall file an Emergency Procedures Plan with the City of Oswego Code Enforcement Office explaining how the wind energy system may be shut down in case of an emergency.
- (2) Plot plan and development drawings: All plans and drawings shall be prepared by a New York State licensed engineer that describe the following:
- (a) Property lines and physical dimensions of the proposed site, including contours at five-foot intervals;
 - (b) Location, dimensions and types of all existing structures and uses on the site;
 - (c) Location and elevation of the proposed on-site wind energy system;
 - (d) Location and size of structures or trees above 30 feet within a five-hundred-foot radius of the proposed wind energy system;
 - (e) Location of all roads and other service structures proposed as part of the installation;

- (f) Location of all existing aboveground utility lines, transmission towers and existing wind energy systems within 1,200 linear feet of the site;
- (g) Where applicable, the location of all transmission facilities proposed for installation;
- (h) Soil type at construction site, along with an engineering analysis of the tower showing compliance with the Uniform Statewide Building Code;
- (i) Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information can be supplied by the manufacturer;
- (j) Compliance with the requirements contained in the New York State net metering law and accompanying regulations unless the applicant intends, and so states on the application, that the wind energy system will not be connected to the utility grid;
- (k) Wind survey or other substantiation demonstrating that the proposed site is capable of meeting the manufacturer's specified electrical output. Any such wind survey or other substantiation must be conducted at the exact proposed construction site so as to demonstrate the existence of sufficient wind to power the system;
- (l) Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material;
- (m) Shadow/flicker: Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that flicker does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.
- (n) Land clearing, soil erosion and habitat impacts: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations and ordinances.
- (o) Scenic view impact: A wind energy system shall not be installed in a location where the Planning Board determines the wind system to be detrimental to the general neighborhood character. Final determination of permissible system height and location on a lot shall be decided by the Planning Board as part of the site plan review. A wind energy system shall not be installed in a location that would substantially detract from or block a scenic view, as viewed from any public road, right-of-way, publicly owned land or privately owned land within the City of Oswego.
- (p) State Environmental Quality Review Act requirements: A full environmental assessment form, including a visual impact analysis, shall be submitted with the application for site plan review.
- (q) Visualizations: The Planning Board shall select between three and eight sight lines, including from the nearest building with a view of the wind facility, for preconstruction and postconstruction view representations. Sites for the view representations shall be selected from populated areas or public ways within a one-mile radius of the wind facility. View representations shall have the following characteristics:

- [1] Within 21 days of filing of a special permit, the applicant shall arrange for a balloon test (with a balloon diameter of at least eight feet), or a crane test, at the proposed site to illustrate the height and position of the proposed tower. The date (and alternate dates to

allow for inclement weather), time and location of such test shall be advertised in the City's official newspaper at least 15 days, but not more than 21 days, prior to the primary date of the test. The balloon or crane test shall be conducted for at least two days, one of which shall be a Saturday or a Sunday.

- [2] The applicant will submit photographs showing the wind energy system imposed on the photograph with the tower height established in reference to a balloon flown to the proposed height at the site.
 - [3] View representations shall be in color and include actual preconstruction photographs and accurate postconstruction simulations of the height and breadth of the wind energy system (e.g., superimpositions of the wind facility onto photographs of existing views).
 - [4] Scaled use shall depict a one-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features, buildings and tree coverage.
 - [5] Each view representation shall include a description of the technical procedures followed in producing the visualization (distances, angles, camera lens, etc.).
 - (r) Avian impact study: No impact study for birds and bats will be required for residential wind systems of 100 feet and under; industrial and commercial towers over 100 feet in height will require an avian impact study.
- F. Required permits: No person, being the owner or occupant of any land or premises within the City of Oswego shall use or permit the use of land or premises for the construction of a tower for an on-site wind energy system without first obtaining site plan approval from the Planning Board and a special use permit from the Zoning Board of Appeals.
- (1) Special use permit: In addition to the criteria established by definition in § 280-90, the following criteria are hereby established for purposes of granting a special use permit for a wind energy system:
 - (a) Ownership: Ownership of the wind energy system shall be the same as the owner of the fee interest in the real property upon which it is located. In the event of transfer of ownership of the property, the ownership of the wind energy system shall also be transferred to the new owner or the system shall be decommissioned and removed.
 - (b) Zoning district lot requirements: Wind energy systems are permissible in the SR, UR, CB, and Industrial districts only. A wind energy system shall not be allowed on any parcel unless a main structure occupied by inhabitants more than 25% of the time exists thereon. In any event, there shall be no more than one wind energy system per parcel.
 - (c) Net metering requirements: The applicant shall certify that he/she will comply with the requirements contained in the New York State net metering law and accompanying regulations unless the applicant intends, and so states on the application, that the wind energy system will not be connected to the utility grid.
 - (d) Proximity to radio, television, telephone and wireless internet systems: A wind energy system shall not be located in an area where its proximity interferes with existing fixed broadcast, retransmission or reception antennas for radio, television, or any microwave transmission systems such as cell phone towers or wireless Internet transmission systems.

- (e) Noise limitations: Noise emanating from wind energy systems shall not exceed 50 decibels, as measured at the closest property line. The maximum noise level may be exceeded during short-term events such as severe storms involving high wind speeds (greater than 30 miles per hour).
 - (f) Height: The height of the system shall not exceed 100 feet for residential applications and 200 feet for commercial applications and 300 feet for industrial applications.
 - (g) Lightning protection: All wind energy systems shall have lightning protection.
 - (h) Underground electrical connection: All power lines from the wind turbine to interconnecting electrical equipment must be located underground and meet all applicable national and state electrical codes, and underground power lines shall be recorded with the New York Underground Facility Protection Organization (UFPO).
- (2) Setbacks: Wind energy systems shall comply with all setbacks within the affected zoning district, in addition to the requirements listed below, If setback requirements overlap between the affected zone and this section, the more stringent requirement(s) supersede(s):
 - (a) All wind energy systems will be placed in the rear yard;
 - (b) Setback distances shall be equal to 125% of the system height from all adjacent property lines;
 - (c) Setback distances shall be equal to 125% of the tower fall/collapse zone from any dwelling inhabited by humans on the proposed site;
 - (d) Anchor points for guy wires for the on-site use of a wind energy system tower shall be located no closer than five feet from the property line and shall not be placed on or across any aboveground electric transmission distribution lines. Cover all anchors and guy wires. All guy covers or cables shall be colored with high visibility orange or yellow paint for 10 feet above the ground.
- G. Public hearing: No action shall be taken by the Zoning Board of Appeals to issue a special use permit until after a public notice and hearing. Notice of the public hearing shall be published in the official newspaper of the City of Oswego at least 10 days before the date set for such hearing, and written notice of the hearing shall be mailed to the applicant or his/her agent at the address provided in the application at least 10 days before such hearing. The City of Oswego Zoning Office, in turn, shall be responsible for notifying, by USPS certified mail, all property owners of record within 200 feet of the boundary line of the property to which the application relates of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the City Assessor. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.
- H. Waiver: The City of Oswego Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.
- I. Insurance. Prior to the issuance of any special use permit under this chapter, the applicant shall provide the Zoning Board of Appeals proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, that liability insurance has been obtained to cover any property damage or personal injuries which might result from the failure of the wind energy system or any part thereof. In the event of a transfer of ownership of the property containing a wind energy system, the new owner shall be required to provide the Zoning Board of Appeals proof that it has obtained the requisite

property and personal liability insurance coverage under this section. An insurance policy issued under this section shall provide for notice to the Zoning Board of Appeals in the event that such policy is cancelled. Such insurance policy may be an existing homeowners' or farm insurance policy for the property on which the wind energy system is to be located. The Oswego Common Council, in consultation with the City of Oswego's insurers, may set the level of insurance required under this section at whatever level it deems adequate.

- J. Power to impose conditions: In granting any site plan approval, special use permit or variance for an on-site wind-energy-producing system, the Zoning Board of Appeals or Planning Board, as the case may be, may impose reasonable conditions to the extent that such Board finds that these conditions are necessary to minimize any adverse effect or impact on neighboring properties or on the community.
- K. Inspections: The Code Enforcement Office shall have the right at any reasonable time to enter, in the company of the owner or his/her agent, the premises on which a wind energy system is being or has been constructed to inspect all components of the installation. When practicable, the City officers shall provide the owner with written notice of his/her intent to conduct an inspection at least 24 hours before such inspection. Upon inspection, the City officers may order the owner to make repairs or alterations to the system in the event that the system is deemed deficient or dangerous and may order that the wind energy system cease operation until such repairs or alterations are made. In the event that the wind energy system is deemed to pose an immediate danger to life or property, the City officers shall have the right to enter the property forthwith, without the owner being present, and to take such action as is deemed reasonably necessary to eliminate such danger.
- L. Failure to repair. In the event the owner of a wind energy system fails to make the repairs or alterations requested by the City officers within 60 days, the City officers shall order the owner to remove the wind turbine and all accessory structures from the property within 45 days. If the owner fails to remove the tower within such time, the City shall arrange to have the wind turbine and all accessory structures removed. The total expense of such removal shall constitute a lien on the real property on which the wind turbine and accessory structures were located until paid or otherwise satisfied or discharged.
- M. Nonuse. If any wind energy system is not operated for a continuous period of six months, the City will notify the owner by registered mail and provide 45 days for a response.
 - (1) In the response, the owner shall set forth reasons for the operational disruption and provide a timetable for corrective action. Such timetable for corrective action shall not exceed 45 days.
 - (2) If the owner is unable to place the wind energy system back in service on or before 120 days from the date the City mailed the notice required under this section, the owner shall remove the wind turbine and all accessory structures from the site, as well as restore the site to its original condition, within 30 days. Failure to remove the wind turbine/accessory structures and restore the site in accordance with these regulations shall be a violation of this chapter. In the event the owner fails to remove the wind turbine/accessory structures and restore the site as required by this section, the City may arrange to have such work completed. The total expense of such work shall constitute a lien on the real property upon which the wind turbine and accessory structures were located until paid or otherwise satisfied or discharged.

§ 280-73. Supplementary height regulations.

District building height regulations shall not apply to the following structures placed on top of buildings: flagpoles, radio or television antennas, transmission towers or cables, spires or cupolas, chimneys, elevators or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers or any similar structures or accessory uses, provided that no such structures in their

aggregate coverage occupy more than 10% of the roof area of the building and do not protrude more than 10 feet above the roof line.

§ 280-74. Supplementary yard regulations.

- A. Use of required yards. No principal or accessory use shall be located in any required front or side yard unless specifically permitted by the regulations of the district in which the use is located.
- B. Corner lots. On a corner lot, each side which abuts a street shall be deemed a front lot line, and the required yard along each such lot line shall be a required front yard. The owner may decide which of the remaining yards shall be the required side yard and the required rear yard.
- C. Side yards for attached buildings. Side yards for semidetached houses or row houses shall be required in the end lots of the total structure.
- D. Through lots. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.
- E. Principal buildings on the same lot. If two or more principal residential buildings are located on the same lot, one building's exterior walls containing windows shall be separated from the nearest point on any adjacent building by a horizontal distance, perpendicular to the wall with windows, equal to at least twice the width of the required side yard for the particular district in which the buildings are located.
- F. Accessory buildings.
 - (1) Accessory buildings unattached to principal buildings shall be no closer to the principal buildings than 12 feet or a distance equal to the height of each such accessory building, whichever is the greater.
 - (2) Any accessory building physically attached to a principal building is deemed part of such principal building in applying bulk regulations.
- G. Where property and building lines are not parallel, yard setbacks shall be based on an average of the two extreme dimensions at each building line and the absolute allowable minimum yard setback in each case being at least 50% of the required setback as stated in other sections of this chapter.

§ 280-75. Projections into required yards and open spaces.

- A. Open fire escapes may project beyond the building line a maximum of six feet into required side or rear yards or courts. They may not project into required front yards or usable open spaces nor shall they be placed on walls facing toward a street, except with the permission of and in compliance with conditions imposed by the Common Council of the City of Oswego, New York.
- B. An arbor, open trellis, flagpole, unroofed steps, unroofed terrace (not more than three feet above ground level) or recreation, athletic or drying yard equipment shall be permitted in any required yard, court or usable open space. **[Amended 10-28-1996 by L.L. No. 4-1996]**
- C. Other permitted projections beyond the building line into a required yard, court or usable open space are:
 - (1) An awning or movable canopy for a maximum projection of six feet.
 - (2) Cornices or eaves for a maximum projection of three feet.

- (3) Window sills or belt courses for a maximum projection of 12 inches.

§ 280-76. Open space requirements for multiple-family developments.

- A. Required area. For every multiple-family dwelling unit there shall be provided an area of at least 300 square feet of usable open space.
- B. Location. Such required usable open space may be provided in more than one plot.
- C. Slope. The maximum slope of required usable open space shall not exceed 5%.
- D. Planning Board review. The Planning Board in its review of the site plan for any multiple-family development may require active recreational equipment to be installed and maintained to serve the needs of residents.

§ 280-77. Special provisions applicable to drive thru facilities.

- A. Location. No drive thru facility shall be located within 500 feet of any lot line of a day care center, school or place of worship.
- B. Traffic impact. The Planning Board shall, in each individual case, consider the potential traffic impact of the proposed drive thru facility on the adjoining road system and on the parking areas affected. Where said Board determines that such traffic may have a significant, adverse impact, it may deny the application or it may require such reduction in scale or other modification of the size and nature of the proposed facility as, in the opinion of said Board, will be adequate to reduce the estimated impact to an acceptable level.
- C. Waste material. All waste material shall be stored in rodent proof containers which shall be kept in a screened or enclosed location and shall be removed from the premises each day, with the exception of Sundays and holidays.

§ 280-77.1. Home occupations.

- A. Home occupations shall be carried on wholly within the dwelling or an accessory building to the equivalent of one-third (1/3) the ground floor area of the dwelling.
- B. Not more than one nonresident person outside the family shall be employed.
- C. There shall be no exterior storage of materials used in the occupation and no storage in any location of merchandise available for sale on the premises.
- D. The traffic generated by such home occupation shall not increase the volume of the traffic, pedestrian or vehicular, so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.
- E. No retail sales of goods, except those produced on the premises and those which are clearly incidental to the providing of service involved in the home occupation, and no other exterior indication of the home occupation or variation from the residential character of the principal building are permitted.
- F. Home occupation includes artists, baby-sitting, cooking, drafting, dressmaking, laundering, upholsterer, photographer, professional residence-office and other trades and businesses of a similar nature.
- G. Home occupation excludes the following uses: animal hospitals, antique or other retail sales involving merchandise for sale on the premises, barber or beauty shops, clinics, commercial stables or kennels, convalescent homes, garages or repair of motor vehicles, electrical, radio and television repair, furniture refinishing, mortuary, music

or dancing instruction in groups, restaurants, woodworkings, machine shops, pattern making, sheet metal shops, tinsmithing shops, animal grooming, contracting offices and other trades and businesses of a similar nature. Furthermore, if a use is prohibited in a district, it is prohibited as a home occupation in that district.

- H. Home occupations shall be compatible with the residential use of the property and the neighborhood.
- I. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 8:00 p.m.
- J. A home occupation may be carried out in the home in a residential district without obtaining a special permit as a home occupation under this chapter, as long as the activity is carried out exclusively by a permanent inhabitant of the residence, the activity brings no clients or customers to the residence, and no sign of any sort relating to the activity is displayed on or at the residence. Nonetheless, such a home occupation shall observe all limitations imposed on home occupations in this chapter.

§ 280-77.2. Environmental performance standards.

No use shall be established through the Planned Development District, site plan or special permit approval processes, nor otherwise be permitted in conformance with this chapter, that does not comply with the following environmental performance standards of use, occupancy and operation, in addition to all applicable local, state and federal laws or regulations. Continued conformance with such standards, once applicable, shall be a requirement for the continuance of any certificate of occupancy.

- A. Noise. All uses and activities emitting any sound must comply with Chapter 165 of this code.
- B. Odor. Unless permitted by applicable local, state or federal law or regulation, the emission of any offensive or obnoxious odor discernible at the property line of the lot from which the odor is emitted is prohibited.
- C. Toxic or noxious materials. Unless permitted by applicable local, state or federal law or regulation, no land use or operation shall be permitted which permits or causes the escape of any toxic or noxious materials, including fumes, gases or other matter, outside the building in which the use is conducted.
- D. Smoke and other particulate matter. In no case shall the emission of smoke or other particulate matter violate the City of Oswego Code, including § 149-27(B) of this code, or any applicable air resource local, state or federal law or regulation. Unless permitted by applicable local, state or federal law or regulation, smoke, measured at the point of emission, of a shade that is darker than No. 3 on the Ringelmann Chart, shall be prohibited.
- E. Fire and explosive hazards. There shall be no activities or storage involving flammable and/or explosive materials without adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry and except in accordance with all applicable local, state and federal laws and regulations, including this Chapter 126 of this code. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, New York State Department of Environmental Conservation regulations, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be fully observed.
- F. Radioactivity or electromagnetic disturbance. No activity shall be permitted which emits dangerous radioactivity beyond the building in which such activity is located, and the handling, storage or disposal of radioactive materials or waste by-products shall be conducted in strict accordance with applicable state and federal requirements, including § 126-23(A), § 199-60(B)(11) and § 207-3(B)(4) of this code. No activity

shall be permitted which causes electrical disturbance adversely affecting the operation of radios, televisions or any equipment other than that of the creator of such disturbance unless state or federal regulation requires such operation to be permitted.

- G. Heat. Unless permitted by applicable local, state or federal law or regulation, no unreasonable heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. A rise in temperature of 1° F. along any adjoining property line shall be considered perceptible.
- H. Lighting and glare. Unless permitted by applicable local, state or federal law or regulation, no unreasonable reflected or direct glare caused by any process, lighting or reflecting material in a degree to, shall be permitted at any property line or beyond.
- I. Insects, rodents and vermin. Storage of any material or waste either indoors or outdoors in such a manner that it facilitates the breeding of insects, rodents or vermin is prohibited.
- J. Vibration. No activity shall cause or create a steady-state or impact vibration discernible at any lot line in accordance with the following method of measurement:
 - (1) Method of measurement. For the purpose of measuring vibration, a three-component measuring system approved by the Code Enforcement Office shall be employed.
 - (2) Maximum permitted steady-state and impact vibration displacement. No activity shall cause or create a steady-state or impact vibration displacement by frequency bands in excess of that indicated in the following table:

	Vibration Displacement	
Frequency (cycles per second)	Steady-State (inches)	Impact (inches)
Under 10	0.0005	0.0010
10 to 19	0.0004	0.0008
20 to 29	0.0003	0.0006
30 to 39	0.0002	0.0004
40 and over	0.0001	0.0002

§ 280-77.3. Internal conversions in dwellings.

With regard to any internal conversion of a dwelling permitted by this Chapter, the following limitations shall apply:

- A. Internal conversion of an attached garage or porch to living space. With regard to the internal conversion of an attached garage or porch to living space, a kitchen shall not be installed unless it is replacing an existing kitchen.
- B. Internal conversion of preexisting nonconforming use for additional living space. With regard to the internal conversion of preexisting nonconforming use for additional living space, a kitchen shall not be installed unless it is replacing an existing kitchen.
- C. Internal conversion of pre-existing industrial use to condominiums or multiple family dwellings. Notwithstanding the limitations set forth in paragraphs A and B, kitchens shall be allowed with the internal conversion of pre-existing industrial use to condominiums or multiple family dwellings.

§ 280-77.4. Two-family dwellings in TN2 and SR Districts.

Only new two-family dwellings are allowed by special use permit in the TN2 and SR Districts. Conversions of existing dwellings into two-family dwellings are not permitted.

§ 280-77.5. Residential dwellings in TD and TB Districts.

No residential dwellings are permitted on the first floor in the TD and TB Districts.

§ 280-77.6. Group Residences and Substance Abuse Rehabilitation Centers.

Notwithstanding any other portion of this Code, group residences shall have no more than 8 occupants residing in such a facility when such facility is located in the TN2 and UR Districts.

Furthermore, notwithstanding any other portion of this Code, substance abuse rehabilitation centers shall have no more than 8 occupants residing in such a facility when such facility is located in the SR District.

**ARTICLE XI
Miscellaneous Structures**

§ 280-78. Temporary uses and structures.

Unless otherwise expressly provided in this chapter, temporary uses and structures are permitted subject to the standards hereinafter established.

- A. Permits for temporary uses and structures may be issued by the Permit Administrator for a period not exceeding one year for incidental nonconforming uses, provided that such permits are conditioned upon agreement by the owner to remove the structure or use within 30 days upon expiration of the permit. No temporary use or structure shall be sited prior to the issuance of a permit.
- B. The Permit Administrator shall set forth in the permit any conditions or requirements applicable to the temporary use or structure, such as conditions related to setbacks, parking, signage, buffers, lighting, water, hours of operation and duration of operations.
- C. Except as permitted below, temporary structures shall not be used as sales offices.
- D. Temporary structures shall not be used or as places for human habitation.
- E. The following temporary uses and structures are permitted, subject to the conditions described below:
 - (1) Temporary art and craft, festival, show, exhibit or sale by not-for-profits.
 - (a) A temporary outdoor art and craft, festival, show, exhibit or sale may be permitted in any district by any not-for-profit organization when approved by the Permit Administrator on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of any undue adverse impact on surrounding properties and districts. Such use shall be limited to a period not to exceed three days per event.
 - (b) A temporary indoor art or craft show, festival, exhibit or sales may be permitted in any nonresidential district or in any public park in a residential district subject to prior approval by the Permit Administrator. Such use shall be limited to a period not to exceed three days per event.
 - (2) Real estate office, contractor's office, equipment shed and construction staging areas.
 - (a) Real estate offices containing no sleeping or cooking accommodations unless located in a model dwelling unit may be permitted in any district when accessory to a new housing development are permitted.

- (b) Contractors' offices, equipment sheds and construction staging areas containing no sleeping or cooking accommodations may be permitted in any district when accessory to a construction project. Temporary storage shall be allowed as an accessory use to the contractor's office or equipment shed.
- (3) Seasonal sales and temporary roadside agricultural sales.
 - (a) Seasonal sales and roadside agricultural sales may be permitted in any nonresidential district when approved by the Permit Administrator on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of undue adverse impact on surrounding properties and districts.
 - (b) The duration of a permit for seasonal sales shall not exceed 60 days.
 - (c) No permit for roadside agricultural sales shall not issue outside of the period between April 15th and November 15th during any calendar year.
- (4) Temporary outdoor sales for businesses.
 - (a) A temporary outdoor sale may be permitted on the lot where a business occupies the lot with a primary use in nonresidential districts when approved by the Permit Administrator on the basis of the adequacy of the lot size, parking provision, traffic access and the absence of any undue adverse impact on the surrounding neighboring properties and districts.
 - (b) Such use shall be limited to a period not to exceed seven consecutive calendar days.
- (5) Other similar temporary uses.
 - (a) A permit for a similar temporary use may issue in nonresidential districts when approved by the Permit Administrator on the basis of the adequacy of the lot size, parking provision, traffic access and the absence of any undue adverse impact on the surrounding neighboring properties and districts. Such uses include, but are not limited to, carnivals, festivals, fairs, and circuses.
- F. A temporary use shall be operated only during those hours or on any days of the week as specified in this section or as otherwise approved by the Permit Administrator on the basis of the nature of the temporary use and the surrounding uses.
- G. No temporary storage facility shall be maintained within any district, except as accessory to an ongoing and approved construction site.
- H. Nothing in this chapter shall be construed as prohibiting private garage and yard sales or requiring the issuance of a permit therefor, provided that the following standards are met:
 - (1) No such sale shall last longer than three consecutive calendar days.
 - (2) No premises shall be the site of more than two such sales within one calendar year.
 - (3) All sales shall be conducted on the owner's property. Multiple-family sales are permitted, provided that the sale is held on the property of one of the active participants.
 - (4) No goods purchased for resale may be offered for sale.

- (5) No consignment goods may be offered for sale.
- (6) No directional or advertising sign associated with the sale shall exceed four square feet in area.
- (7) No directional or advertising sign shall be displayed more than 24 hours prior to the sale, and each such sign shall be removed immediately upon completion of the sale.

§ 280-79. General landscaping requirements and bufferyards.

It is the intent of this section to encourage quality landscape design, construction and maintenance for the purposes of environmental preservation; heat, glare and wind reduction; site beautification; and buffering or screening. For purposes of this section, the landscaped area shall include the area required or permitted, under this section, to be devoted to landscaping, water features and environmental improvement, which may include existing and new vegetation, berms, lighting, site and street furnishings and ornamental features which are integrated with the vegetation. The following are the minimum landscaping requirements:

- A. Along any district boundary where a nonresidential district abuts a residential district, there shall be provided within the nonresidential district a landscaped area at least 20 feet wide, which shall be suitably landscaped and maintained to provide visual screening from adjacent residential properties.
- B. Where any nonresidential land use in a residential district abuts any residential land use, there shall be provided by the nonresidential use a landscaped area at least 15 feet wide, which shall be suitably landscaped and maintained to provide visual screening from adjacent residential properties.
- C. In any Planned Unit Development District, landscaping shall be provided as required by the Planning Board.
- D. Specifications.
 - (1) Required landscaping shall consist of shade trees, deciduous shrubs, evergreens, well-kept grassed areas and ground cover.
 - (2) One shade tree at least eight feet in height and at least two inches in diameter measured at a point six inches above finished grade level shall be planted no nearer than five feet to any lot line for each 500 square feet of required landscaped area; and one deciduous shrub or evergreen shall be planted for every 200 square feet of required landscaped area.
 - (3) All such landscaping shall be maintained in a healthy growing condition with ground cover or grassed areas. Dead material shall be replaced, and plant material shall be regularly pruned and nourished to maintain health.
 - (4) The Planning Board may require fencing or suitable landscaping to provide adequate screening of property. Such fencing shall be erected so that the finished or smooth side faces the public.
 - (5) In nonresidential areas, erosion control plans shall be incorporated into all landscape plans.
- E. Bufferyards.
 - (1) In addition to standard setbacks and the planting requirements outlined in this section, additional bufferyards shall be used to establish a greater separation where dissimilar land uses are located adjacent to each other. Careful site planning can minimize the need for constructed bufferyards by the preservation

of natural topographic features, preservation of vegetation and sensitive location of site improvements and land uses.

- (2) The type and extent of plantings, fencing and walls required for bufferyards shall be proportionally greater for increased degrees of incompatibility among adjacent land uses.

§ 280-80. Fences, hedges and walls.

- A. In residential districts, fences, hedges and walls not exceeding a height of four feet in a front yard or six feet in a side or rear yard shall be permitted. Fences, hedges and walls up to eight feet in height may be permitted by the Board of Appeals anywhere on a lot when it finds that:
 - (1) They will contribute to the aesthetic appearance of the neighborhood and are an integral part of the premises.
 - (2) They will not adversely affect the access of adjoining lots to light and air.
- B. In nonresidential districts adjoining residential districts, fences, hedges and walls shall not exceed eight feet in height along the boundary; elsewhere there shall be no restriction on the height of fences, hedges or walls.
- C. No obstructions higher than two feet above an adjacent curb elevation shall be permitted on a corner lot within a triangular area consisting of intersecting street lines and a line connecting points on the street lines, 30 feet from the point of intersection.
- D. All fences in public space shall require approval of the Common Council.
- E. Unless specified otherwise, the regulations in this Article apply to districts not covered by the Design Standards.

§ 280-80.1. Outdoor use and storage of upholstered furniture. [Added 10-14-1997; amended 10-15-2013]

Outdoor use or storage of any upholstered furniture, including mattresses, manufactured primarily for indoor use shall be prohibited from being visible on the property from any public space, sidewalk, street or highway. Outdoor use or storage of such furniture as aforesaid shall also be prohibited on any unenclosed porch which is located, in whole or in part, on public space in the City of Oswego, New York.

§ 280-80.2. Location of head shops restricted.

Where the use of a head shop is allowed within this Code, it shall be unlawful to establish or maintain any head shop within 500 feet of any area zoned for residential use.

§ 280-80.3. Adult uses. [Added 10-22-2001]

- A. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any speech, including sexually oriented speech. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to speech protected by the First Amendment and New York Constitution, or to deny access by the distributors and exhibitors of sexually oriented speech to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

B. Findings. The Mayor and members of the City Council of the City of Oswego are all residents of the city and represent one of the seven wards in the city or the city-at-large. The Mayor and members of the Council are familiar with the city and the issues raised by sexually oriented businesses in the city and throughout the country. The Mayor and Council are also cognizant that AIDS, hepatitis and other sexually transmitted diseases are serious health concerns in the local community. Based on the Mayor and Council's local knowledge and evidence concerning the impacts or secondary effects of adult uses on the community, as presented in reports made available to the Council, on findings involving the effects of sexually oriented businesses and public nudity incorporated in judicial decisions such as, but not limited to, *Town of Islip v. Caviglia*, 73 N.Y.2d 544 (1989); *Stringfellow's of New York, Ltd. v. City of New York*, 91 N.Y.2d 382 (1998); *City of Erie v. Pap's A.M.*, 146 L. Ed.2d 265 (2000); *City of Renton v. Playtime Theatres. Inc.*, 475 U.S. 41(1986); *U.S. v. O'Brien*, 88 S.Ct. 163 (1968); *Steam Heat vs. Silva*, 230 A.D.2d 800 (2nd Dept. 1996); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); and on studies in other communities, including, but not limited to: Kansas City, Missouri (April 1998); Whittier, California (July 1994); Denver, Colorado (January 1998); and Newport News, Virginia (March 1996), and from publications such as the New York Planning Federation article "Everything You Ever Wanted to Know About Adult Entertainment Regulations," and the Adult Use Manual of Massachusetts Chapter APA & City Solicitor& Town Counsel Association; the Mayor and Council find:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are not properly controlled by the operators of the establishments. Further, there are not adequate legal provisions making the owners of these establishments responsible for the activities that occur on their premises.
- (2) Employees of sexually oriented businesses engage in or may be requested to engage in sexual behavior as a result of the type of employment in which they are engaged.
- (3) Sexual acts, including masturbation, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows.
- (4) The "entertainment" offered at sexually oriented businesses often encourages sexual activities, which create unhealthy conditions.
- (5) Persons frequently visit sexually oriented businesses for the purpose of engaging in sexual activities within the premises of such sexually oriented businesses.
- (6) Communicable diseases may be spread by sexual activities, including, but not limited to, human immunodeficiency virus (HIV), AIDS, hepatitis B, and venereal diseases.
- (7) AIDS, HIV, hepatitis B and venereal diseases are serious health concerns in the local community.
- (8) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to regulate those activities and maintain those facilities.
- (9) Numerous studies and reports have determined that semen is found in certain areas of sexually oriented businesses, particularly where persons view adult-oriented films or adult entertainment.
- (10) The Council further determines that sexual encounter centers, as defined herein, do not serve a legitimate purpose, offer a location at which sexual activities and acts of prostitution can readily occur, and provide a location at which sexually transmitted diseases may be spread. The Council thus determines that sexual encounter centers should be prohibited.

- (11) The Council further determines that adult hotels or motels, as defined herein, offer a location at which sexual activities and acts of prostitution can readily occur due to the offering of short-term or hourly rooms with beds, and provide a location at which sexually transmitted diseases may be spread. The Council thus determines that adult hotels or motels should be prohibited.
- (12) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this chapter.

C. Definitions. As used in this section, the following terms shall have the meanings indicated hereinafter; the definitions contained within § 280-11 of this chapter shall also apply.

ESTABLISHMENT — Includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business.
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
- (3) The additions of any sexually oriented business to any other existing sexually oriented business.
- (4) The relocation of any sexually oriented business.

PERMITTED ADULT USES — Shall be limited to adult arcades, adult bookstores or adult video stores, adult cabarets, adult motion-picture theaters, adult theaters, escort agencies, and nude model studios.

PERMITTEE — A person in whose name a permit to operate a sexually oriented business has been issued by the Permit Administrator, as well as the individual listed as an applicant on the application for a permit.

PERSON — An individual, proprietorship, partnership, corporation, association or other legal entity.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS — The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on date of enactment.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS — Includes any of the following:

- (1) The sale, lease or sublease of the business.
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.
- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

D. Uses permitted. The following uses as hereinbefore defined, adult arcades, adult bookstores or adult video stores, adult cabarets, adult motion-picture theaters, adult theaters, escort agencies, and nude model studios, shall be designated “permitted adult uses.” Adult uses shall be a permitted use in AO-IN Adult Overlay of the Industrial District only, provided that:

- (1) A permitted adult use may not be operated within 500 feet of:
 - (a) A church, synagogue or regular place of worship.

- (b) A public or private elementary or secondary school.
- (c) A boundary of any residential district.
- (d) A public park adjacent to any residential district.
- (2) A permitted adult use may not be operated within 500 feet of another adult use or on the same lot or parcel of land.
- (3) A permitted adult use may not be operated in the same building, structure or portion thereof containing another adult use.
- (4) For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot.
- (5) For purposes of Subsection D(2) of this section, the distance between any two adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (6) All adult uses shall be conducted in an enclosed building with a setback from any public street of at least 100 feet. Regardless of location or distance, no one who is passing by any enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.
- (7) Under no circumstances shall sexual encounter centers or adult hotels or motels as defined herein be permitted uses.

E. Inspection requirements.

- (1) A person may operate an adult use business only within an AO-IN Adult Overlay of the Industrial District of the City of Oswego only in accordance with the provisions of this section.
- (2) Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, rules and regulations of the Health Department, Fire Department and City Code Enforcement Officer.
- (3) The Health Department, Fire Department, and the City Code Enforcement Officer and other code enforcement officials shall complete their certification that the premises is in compliance, or not in compliance, within 20 days of the inspection of the premises by such officials. The certification shall be promptly presented to the Permit Administrator and within 10 days of the receipt of all required certifications verifying that the premises is in compliance, together with a completed application for an adult use permit and permit application fee of \$25, the Permit Administrator shall issue an adult use permit to the applicant.
- (4) The Code Enforcement Office shall suspend the right to conduct such adult use by suspending an adult use permit for a period not to exceed 30 days if he determines that the owner and/or operator or an employee of the owner and/or operator has:
 - (a) Violated or is not in compliance with any section of this chapter.

- (b) Engaged in illegal use of alcoholic beverages while on the adult use business premises.
 - (c) Refused to allow an inspection of the adult use business premises as authorized by this chapter.
 - (d) Knowingly permitted gambling by any person on the adult use business premises.
 - (e) Knowingly allowed possession, use or sale of controlled substances on the premises.
 - (f) Knowingly allowed prostitution on the premises.
 - (g) Knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the permitted and/or licensed premises.
- (5) An owner or operator of a sexually oriented business shall permit representatives of the City Police Department or any other law enforcement agencies having jurisdiction, Health Department, Fire Department, Code Enforcement Officer or other city departments or agencies to inspect the premises of an adult use business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.
 - (6) Prior to any suspension, the Permit Administrator shall provide to the owner and/or operator a notice stating the grounds for the suspension. The notice stating the grounds shall be provided to the owner and/or operator in writing. The owner and/or operator has the right to appeal this notice in writing to the Permit Administrator within 10 days of receipt of said notice. The Permit Administrator may not suspend the right to conduct such adult use until 15 days after the notice is given to the owner and/or operator or until after receiving the owner's and/or operator's response, whichever is sooner.

F. Enforcement.

- (1) A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any way which is contrary to those regulations shall be subject to criminal prosecution under this Code or by civil injunction by the City Attorney in any court of competent jurisdiction.
- (2) The continuation of a violation of the provisions of this section shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.
- (3) Each violation of the provisions of this section shall subject the owner and/or operator to a fine in the amount of \$1,000 for each such violation in addition to any other penalties otherwise imposed hereunder.

ARTICLE XII

Nonconforming Uses

§ 280-81. General regulations for nonconforming uses.

- A. These provisions shall apply to all nonconforming uses existing on the effective date of this chapter and to uses that become nonconforming by reason of any amendment thereof and to buildings or other structures housing such uses.
- B. Continuance. Any nonconforming use may be continued indefinitely, except as hereinafter provided.
- C. Abandonment. [Amended 12-10-2012; 6-10-2013]

- (1) If active and continuous operations or occupancy are ceased by a nonconforming use for an uninterrupted period of one calendar year or more, the building, structure or lot occupied by such nonconforming use shall immediately thereafter and henceforth be eligible for or occupied by only conforming uses.
- (2) Notwithstanding the provisions of § 280-81C(1), if a prior nonconforming use has ceased its nonconforming use for one year or more, the owner may apply to the Zoning Board of Appeals for a special permit to use the building, structure or lot for the purpose that it was originally constructed.
- (3) In making its decision, the Zoning Board of Appeals shall consider the following criteria:
 - (a) Whether the owner can establish the original constructed use of the building or structure to justify reinstatement of the nonconforming use.
 - (b) Whether the owner has adequate parking on the property available to meet the requirements of § 280-52 of the Zoning Ordinance.
 - (c) Whether the proposed use of the building, structure or lot is in harmony with the neighborhood and will not adversely increase the population and vehicular density of the neighborhood.
 - (d) Whether the proposed use of the building, structure or lot is the most economically viable alternative to reestablish the original use of the property.
 - (e) Whether it is necessary that the special permit be granted with conditions.
- D. Change to another nonconforming use. A nonconforming use may be changed to another nonconforming use by special permit from the Board of Appeals, if the said Board deems the proposed nonconforming use to be sufficiently similar in nature to the existing nonconforming use and closer in character to surrounding conforming uses than is the existing nonconforming use.
- E. Extension. A nonconforming use shall not be enlarged or extended or relocated to a different position on the lot which it occupies. **[Amended 6-14-1993]**
- F. Any nonconforming use, as hereinbefore or hereinafter referred to, is an affirmative defense in any action or proceeding. **[Added 3-14-1983]**
- G. In an Industrial District included in an Economic Development Zone (EDZ), an existing nonconforming residential use may be continued with respect to the same number of existing one-family dwellings situate on the premises; however, the size of the one-family dwellings and accessory uses shall not be subject to the requirements of Subsection E of this section. **[Amended 7-10-1995]**

§ 280-82. Damaged nonconforming uses.

If a nonconforming use and a building or other structure of nonconforming bulk sustains an amount of damage or destruction by any cause, which amount is officially appraised to be 75% or more of its true value, the building, other structure or tract of land shall thereafter be eligible for and occupied by only a conforming use, and the damaged portions of the building or other structure shall, if rebuilt or reconstructed, conform to pertinent use and bulk regulations for that district.

§ 280-83. Maintenance, repair and alteration of nonconforming uses.

- A. Maintenance and repairs. Customary maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and minor alterations, so long as they do not increase or expand the nonconforming use.
- B. Structural alterations. No structural alterations are permitted, except when required by law or when adapting or remodeling a building or other structure for a conforming use.

§ 280-84. Buildings nonconforming in bulk.

- A. Changes or alterations. Buildings and structures which are only nonconforming in bulk may be altered, moved, reconstructed or enlarged, provided that each change does not increase the degree of, or create any new, nonconforming bulk in such building and does not violate any other provisions of this chapter.
- B. Reduction in lot area. No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this chapter.

§ 280-85. Existing undersized lots.

Any vacant lot in a residence district with an area or width less than the minimum required by the district regulation in which it is located and which is not adjoined by another vacant lot under the same ownership may be used for:

- A. A one-family residence, provided that the following minimum standards are met:
 - (1) Lot area minimum: 3,800 square feet.
 - (2) Lot width at building line: 40 feet.
 - (3) Front yard: 25 feet.
 - (4) Rear yard: 25 feet.
 - (5) Side yards: 14 feet total, four feet minimum.
 - (6) Maximum coverage: 30%.
 - (7) Maximum building height: three stories or 35 feet, whichever is less.
 - (8) Minimum habitable floor area: 650 square feet, excluding basement.
 - (9) Supplementary regulations: as set forth in Article X.
- B. Parking and garage, provided that site plan approval is obtained from the Planning Board and landscaping and screening is installed.

§ 280-86. Nonconforming signs.

- A. The lawful use of a sign or signs existing at the time of adoption of this chapter may be continued, even though the sign does not conform to the regulations and limitations of this section, until one or more of the following occurs:
 - (1) The structure, size, location, advertising display matter or accessories of any or all signs previously granted approval and permits are altered, modified, changed, reconstructed or moved.
 - (a) The structure, size, location, advertising display matter, lettering, color scheme or accessories of any or all signs on the property for which approval and/or permits have not been granted are altered, modified, changed, reconstructed or moved.

- (b) The nonconforming sign is damaged or destroyed by fire, explosion or act of God to the extent of more than 60% of the actual value thereof.
 - (c) The use of the property on which the nonconforming sign is located is discontinued.
 - (d) The nonconforming sign falls into a state of disrepair and/or becomes unsafe.
- (2) Nonconforming signs may not be enlarged, extended, relocated or altered in any way, except to make them conform to provisions of this chapter. This provision shall not restrict routine maintenance of nonconforming signs involving replacement of electrical parts and repainting. Ordinary maintenance and repairs may be made to any nonconforming sign, provided that the structure, advertising display matter, lettering, color scheme or accessories are not altered, modified, changed, reconstructed or moved, and provided that such ordinary maintenance and repairs do not exceed 20% of the value of the sign in any one-year period.
- (3) Nothing contained in this section shall be deemed to require any change in the plans or construction of any sign upon which actual construction was lawfully initiated prior to the effective date of this section. "Actual construction" is hereby defined as the actual placing of the sign and/or structure materials in their permanent position in compliance with the previously obtained approval and permits.

Article XIII
Board of Appeals; Variances

§280-87. Continuation of Board of Appeals. [Amended 5-23-1994]

The Board of Appeals of the City of Oswego existing at the time of adoption of this amendment shall continue to serve. The Board shall consist of seven members holding no elective office in the City, one of whom shall serve as Chairman, and shall receive no compensation for their services. Each member shall be appointed by the Mayor for terms of three years, beginning upon the date of the expiration of present appointments of existing members. In case of vacancies in the membership of the Board, the Mayor shall appoint new members to serve the unexpired part of the term of the vacant position.

§ 280-88. Powers and duties of Board of Appeals.

- A. The Board of Appeals shall be empowered and required to:
- (1) Hear and decide appeals from any order, requirement, decision or determination of the Permit Administrator.
 - (2) Hear and decide all matters referred to it by the Permit Administrator.
 - (3) Decide any question involving interpretation of any provision of this chapter.
- B. In exercising the above-mentioned powers and duties, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, decision or determination as ought to be made, and to that end have all the powers of the Permit Administrator from whom the appeal is made.
- C. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Permit Administrator or to decide in favor of the applicant any matter upon which such Board is required to pass.

- D. Every decision of the Board of Appeals shall be subject to review in accordance with Article 78 of the Civil Practice Laws and Rules, and such decision may be so appealed by any person aggrieved or by an officer, department, board or bureau of the city.
- E. Any appeal from a decision of the Permit Administrator properly filed with the Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Permit Administrator certifies to the Board of Appeals that, by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property.
- F. The Board of Appeals shall have the power to grant a restraining order to stay all proceedings in furtherance of the action appealed from, over any action by the Permit Administrator from whom the appeal is taken, upon notice to the Permit Administrator and on due cause shown.

§ 280-89. Variances. [Amended 10-9-2007]

A. Area variances.

- (1) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.
- (2) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (c) whether the requested area variance is substantial;
 - (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- (3) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Use variances.

- (1) The Board of Appeals, on referral from the Zoning Administrator or on application by any person allegedly aggrieved by the strict application of any of the requirements of this chapter or desiring to deviate therefrom, shall have the power to grant use variances, as set forth herein. Application for variance shall be made to the Zoning Administrator in such form as he/she may prescribe.

- (a) Referral to Planning Board. At least 45 days before the date of public hearing held in connection with any application for a use variance submitted, the Board of Appeals shall transmit to the Planning Board a copy of said application, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the granting of the use variance applied for. **[Added 6-10-2013]**
- (2) No such use variance shall be granted by the Board of Appeals without the applicant showing that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) The alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 280-90. Special permits.

- A. Application and issuance of special permit. On referral by the Permit Administrator after application has been made to him for a building permit, or on direct application, the Board of Appeals is hereby authorized to issue a special permit for any use for which this chapter requires the obtaining of such permit from the Board of Appeals, subject to applicable regulations of this chapter.
- B. Referral to Planning Board. At least 45 days before the date of public hearing held in connection with any application for a special permit submitted, the Board of Appeals shall transmit to the Planning Board a copy of said application, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the granting of the special permit applied for.
- C. Time limit, transfer and revocation. The Board of Appeals shall grant all special permits with no time limit for specified use approved by the special permit. Transfer of use to a new owner shall require the same conditions and requirements as specified in the granted special permit. Any special permit granted by the Board of Appeals is revocable or subject to reconsideration (rehearing) should any problem arise resulting from the use thereof, based on referral to the Board by the Permit Administrator. **[Amended 4-26-2004; 5-10-2010]**
- D. Submission of plans. Each application for a special permit shall be accompanied by three copies of a proposed site plan. The location of the subject lot and all streets within a radius of 1,000 feet shall be shown on a separate drawing.

§ 280-91. Procedures of the Board of Appeals.

A. Form of application.

- (1) The Board of Appeals shall act in strict accordance with the procedures specified by law and by this chapter and shall determine its own rules of conduct. All appeals and applications made to this Board shall be taken in writing on forms prescribed by the Board.
- (2) The Chairman of the Zoning Board of Appeals shall be empowered to administer oaths during any proceeding before the Board.
[Added 3-14-1983]

B. Contents of application for variance, appeal or special permit.

- (1) Any person allegedly aggrieved by the strict application of any of the requirements of this chapter or desiring to deviate therefrom may apply to the Board of Appeals for a variance from any such requirements. Such application shall state the specific provisions of this chapter from which variance is sought and shall state precisely the interpretation which is sought and the details of the variance which is sought, together with the special circumstances which allegedly justify such variance.
- (2) Appeals or applications shall be taken within such time as shall be prescribed by the Board of Appeals by general rule by the filing with the Permit Administrator from whom the appeal is taken, and with the Board of Appeals, of a notice of appeal, specifying the grounds thereon.
- (3) The Permit Administrator shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.

C. Public hearing.

- (1) The Board of Appeals shall, after due notice, hold a public hearing on every appeal or application for a variance or for a special permit referred or taken to said Board or upon which it is required to pass, in accordance with this chapter and the law. The Board of Appeals shall have published a notice of each such public hearing in a newspaper of general circulation in the City at least 10 days prior to such hearing.
- (2) All property owners within a one-hundred-foot radius of the property which is subject to appeal or application shall be notified of the public hearing, in writing, by first class mail, by the Recording Secretary for the Zoning Board of Appeals.
[Amended 3-25-1991]

D. Findings and conclusions. After such public hearing and after considering the application, the Board of Appeals shall either grant or deny the variance or special permit and shall make written findings of fact and conclusions concerning the subject matter of such hearing, including the reasons for granting or denial of the relief sought. As to any proposed use, such findings of fact and conclusions shall be made concerning such use as described and represented by the applicant.

E. Reporting and filing of decisions, permits and variances.

- (1) Every official and final decision of the Board of Appeals shall be by written resolution, each of which shall contain a full record of its findings in the particular case, and each of which shall be filed in the City Clerk's office, together with all pertinent documents. The Board of Appeals shall notify the Common Council and Planning Board, in writing, of each special permit and variance issued or granted under provisions of this chapter.

- (2) The Board of Appeals may employ such clerical or other assistants as may be necessary, provided that it shall not at any time incur expenses beyond the amount of appropriation made and then available for that purpose.

§ 280-92. Relief from decisions; appeals.

Any persons aggrieved or allegedly aggrieved by a decision, determination, act or refusal to act of a body or officer exercising judicial, quasi-judicial, administrative or corporate functions relating to this chapter may petition for relief to a proper court of law in accordance with the provisions of Article 78 of the Civil Practice Law and Rules of the State of New York.

**ARTICLE XIV
Amendments**

§ 280-93. Amendment procedure.

- A. The Common Council may, after public notice and hearing, amend or repeal the regulations or districts established by this chapter or appurtenant Zoning Map either on its own motion or on petition by owners of property in accordance with provisions of § 83, Article 5-A, of the General City Law of the State of New York.
- B. All such petitions shall be addressed to the Common Council and shall be filed with the City Clerk who shall forward them to the Common Council.
- C. The Common Council shall transmit a copy of each proposed zoning change to the Planning Board with the request that its advisory opinion on such proposed change be submitted to the Common Council.
- D. The Planning Board may petition the Common Council for changes in this chapter or appurtenant Zoning Map, which proposed changes shall be given public notice and hearing and voted upon by the Common Council.

§ 280-94. Review of proposed amendments by Planning Board.

- A. The Planning Board shall submit its advisory opinion, in writing, to the Common Council.
- B. If the Planning Board does not submit such written advisory opinion to the Common Council within 45 days after the date of referral, the Common Council shall consider such change or amendment to be favorable to the Planning Board.

§ 280-95. Public hearings on amendments.

- A. A public hearing shall be called by the Common Council relative to any proposed change in this chapter or appurtenant Zoning Map before it shall vote upon such change.
- B. The Common Council shall have published a notice of any public hearing to amend the text or schedules of this chapter or appurtenant Zoning Map in a newspaper of general circulation in the City at least 10 days prior to the date set for such hearing. Such notice shall describe the area, regulations or requirements of the proposed amendment.
- C. The Common Council shall have a copy of such notice served or posted by registered mail to the Clerk of any town whose boundaries are within 500 feet of property affected by the proposed amendment and shall similarly notify the County Planning Department. Within seven days of the final action on such amendments, the City Clerk shall notify the County Planning Department of the Council's action.

- D. All property owners within a one-hundred-foot radius of and within a proposed zone change area shall be notified of the public hearing, in writing, by first class mail, said notice to be mailed by the City Clerk's office at least five days prior to said hearing. [Amended 2-14-1994]

ARTICLE XV
Administration and Enforcement

§ 280-96. Enforcement official designated.

This chapter shall be enforced by the Zoning Administrator of the City of Oswego, who shall be the Permit Administrator or any other officer or employee of the City of Oswego as designated by resolution of the Common Council. No building permit or certificate of compliance shall be issued by the Zoning Administrator for any purpose except in compliance with the provisions of this chapter.

§ 280-97. Inspections; notice of violations.

- A. The Permit Administrator is authorized to inspect and examine or cause to be inspected and examined any building, structure, place, premises or use in the City with regard to the provisions of this chapter and to issue a written order for the proper remedying or compliance, within a reasonable period of time, of any condition found to be in violation thereof, subject to the provisions of this chapter.
- B. The police shall report all violations to the Permit Administrator, Chief of Police and Fire Chief, shall, at the request of the Permit Administrator or on their initiative, examine or investigate any building, structure, use or premises with regard to any provision of this chapter and shall issue reports and recommendations to the Permit Administrator regarding any violations thereof.

§ 280-98. Legal action by Permit Administrator.

If an unlawful condition or use is found not to have been properly remedied or made to comply with the provisions of this chapter by the expiration of a reasonable time period, the Permit Administrator is empowered to immediately institute any appropriate action, charge or proceedings in the proper legal court for the prevention, cessation or discontinuance of any condition, use, occupancy or act in, on, of or around any building, structure or tract of land, and for the prosecution of any owner, occupant or offender. Furthermore, the Permit Administrator is empowered to conduct administrative hearings to ascertain facts pertinent to a written complaint, unlawful condition or uses which do not comply with the conditions of this chapter. Administrative hearings shall not be published as public notices.

§ 280-99. Authorization to issue appearance tickets.

Pursuant to the provisions of Chapter 495 of the Laws of 1978 of the State of New York, and § 150.20, Subdivision 3, of the Criminal Procedure Law, the Permit Administrator of the City of Oswego, or the persons duly designated by him, in writing, and filed in the City Clerk's office of the City of Oswego, are hereby specially authorized to issue and serve appearance tickets with respect to any violation of any provisions of this chapter upon any person or persons when he has reasonable cause to believe that such person or persons has committed a violation in his presence.

§ 280-100. Legal action by residents and property owners.

If the Permit Administrator fails to proceed with any action in accordance with § 280-97 within a ten-day period following written request by any person, then any three or more persons residing or owning property in the district or in an adjacent district wherein an alleged violation of this

chapter exists and who are jointly or severally aggrieved by such violation may institute such appropriate action, charge or proceeding.

§ 280-101. Penalties for offenses.

- A. A violation of any provision of this chapter shall be punishable by a fine of up to \$1,000. Each day of continued violation shall constitute a separate additional violation. If more than one provision is violated, each provision violated shall be considered a separate violation, each liable to the maximum penalties as herein specified. [Amended 6-12-2006]
- B. Criminal penalties for violations.
 - (1) Any person who willfully or recklessly violates any provision of this chapter; willfully or recklessly violates or fails to comply with any requirements of an order of the Code Enforcement Department; or willfully makes or causes any other person to make any false or misleading statement on any notice or other document required to be filed pursuant to this chapter or on any application or any accompanying document for the granting of any permit or any other action by the said Department pursuant to this chapter shall be guilty of an offense punishable by a fine of not less than \$1,000 nor more than \$2,500 for each violation or by imprisonment for up to 15 days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York. [Amended 4-26-1982; 6-12-2006]
 - (2) A person commits a willful violation when he intentionally acts, or intentionally fails to act, to cause a desired result that violates this chapter. A person commits a reckless violation when he acts, or fails to act, with a conscious disregard of a substantial risk that the act or failure to act will result in a condition, constituting a violation of this chapter, which will endanger the life, health, safety or general welfare of another person.
 - (3) In a prosecution for a willful or reckless violation of a provision of this chapter, evidence of prior service of civil process or of prior judgments from the same violation and relating to the same premises shall be admissible on the issue of the defendant's knowledge of the existing violation.
 - (4) Evidence that the defendant had knowledge or notice of the violation and failed to correct the same for more than one month or take reasonable action to explain to the Code Enforcement Department this failure shall be evidence of the willfulness of defendant's action. This subsection shall not be construed to prevent conviction for a willful violation on other grounds.
 - (5) Any person who refuses entry or access to an officer or an inspector of the Code Enforcement Department to any premises or any part thereof that the officer or inspector is lawfully authorized to inspect or who unreasonably interferes with an authorized inspection shall be guilty of an offense, punishable by a fine of not more than \$500 or by imprisonment for not more than five days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

§ 280-102. Administrative fees.

The Common Council may from time to time by resolution establish a schedule of fees for any permits, applications or administrative processing required under this chapter. No application shall be processed or permit issued until the required fee is paid to the City Chamberlain.

§ 280-103. Building permits. [Amended 3-14-1983; 10-9-2007]

- A. Permit required.

- (1) All persons proposing to construct, erect, alter, extend, relocate or structurally change any building, structure or portion thereof, shall apply to the Permit Administrator for a building permit. Applications shall be made solely by the property owner. Applications shall include detailed floor plans, showing all scaled dimensions, together with specified uses. No building, structure or portion thereof shall be constructed, erected, altered, extended, relocated or structurally changed until a building permit has been issued by the Permit Administrator. **[Amended 7-12-2010]**
 - (2) In the TD Traditional Downtown, TB Traditional Business, and the CB Central Business Districts, all persons proposing to construct, erect, alter, extend, relocate or structurally change the facades of buildings, including but not limited to siding, windows and painting of facades, shall apply to the Permit Administrator for a building permit. Such application shall comply with the Design Standards, as amended, and shall be referred to the Planning Board for compliance with the Design Standards prior to issuance of a building permit.
- B. The Permit Administrator shall, after determining whether or not such proposed construction, erection, alteration, extension, relocation or structural change is in violation of any provisions of this chapter, either approve or disapprove any such application and shall issue a building permit for any such application which he approves.
 - C. Any such application for any proposed construction, erection, alteration, extension, relocation or structural change of a building, structure or portion thereof shall be accompanied by two copies of all plans drawn to scale showing the dimensions and location on the lot or in the building of the proposed construction, erection, alteration, extension, relocation or structural change, and showing its relation to any existing buildings or other structures.
 - D. All applications for a building permit shall be made in duplicate, and the Permit Administrator, in issuing a building permit, shall return to the applicant one copy of the approved application and plans, marked with approval. If disapproved, the reasons shall be stated on one copy of the application and plans and that copy shall be returned to the applicant.
 - E. If approval is required by the Board of Appeals, Planning Board or other agency for any such proposed construction, erection, alteration, extension, relocation or structural change, such approval shall be obtained in writing and submitted along with the application for a building permit.
 - F. Every building permit issued shall become void after the expiration of one calendar year immediately following the date of issuance, and any further work on any premises after the expiration date or extension period of such building permit has passed shall constitute a violation of this chapter. Prior to such expiration date, the applicant may either apply for a new building permit or make application to the Board of Appeals for an extension of the expiration date of the original building permit.
 - G. The Board of Appeals may for just cause extend the expiration date of any building permit for a reasonable time period and may attach reasonable conditions to such extension relating to work involved or situations that exist as a result of the work.
 - H. Any building permit issued after effective date of this amendment in violation of provisions of this chapter shall be null and void and of no effect, and no further proceedings for revocation and nullification thereof will be necessary; and any work undertaken or use established pursuant to any such permit shall be unlawful and liable to penalties in accordance with this chapter.
 - I. The Permit Administrator shall inspect or cause to be inspected any building, structure or portion thereof after completion of any work for which a building permit was issued.

- J. Excavation relating to the construction on the same lot of a building for which a building permit has been issued shall be permitted in any district. In the event that construction of a building is stopped prior to completion, and the building permit thereof is allowed to expire, the premises shall immediately be cleared of any rubbish, building materials or other unsightly accumulations relating to construction; and any excavation to a depth greater than two feet below existing grade shall immediately be filled in and topsoil replaced, or all excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the excavated area. Where necessary, suitable gates will be installed with locks.
- K. No building permit shall be issued for a building, structure or use located on a lot or land which does not have frontage on a dedicated street.
- L. No building permit shall be issued for more than one principal building, structure or use located on a lot or land in a residential district. **[Added 9-8-1980]**

§ 280-104. Zoning certificates of compliance.

- A. Application for a zoning certificate of compliance shall be made to the Permit Administrator:
 - (1) To use a building or structure following construction, erection, alteration, extension, relocation or structural changes, wholly or in part.
 - (2) To change the use of an existing building or a part thereof.
 - (3) To use vacant land or to change the use of land.
- B. The Permit Administrator shall issue a zoning certificate of compliance after inspection of the premises if he is satisfied that the work for which the building permit was issued is completed and complies with all provisions of this chapter and other applicable ordinances.
- C. Every applicant for a zoning certificate of compliance shall refer in his application to the building permit which he was issued or, in case none was needed, he shall submit such additional data as is required in an application for a building permit.
- D. No building or structure following construction, erection, alteration, extension, relocation or structural changes, wholly or in part, and no existing building or part thereof may be changed in use and no vacant land may be changed in use until a zoning certificate of compliance has been issued by the Permit Administrator. **[Amended 3-14-1983]**
- E. A zoning certificate of compliance shall continue in effect as long as such building, structure or portion thereof, or the use of same, or the use of land shall remain in conformity with the provisions of this chapter, including any further amendment thereto or other applicable ordinances.
- F. One copy of every zoning certificate of compliance issued in accordance with this chapter shall be filed with the City Clerk, and one copy shall be retained by the Permit Administrator.
- G. If the Permit Administrator declines to issue a zoning certificate of compliance, his reasons for doing so shall be stated on one copy of the application, and that copy shall be returned to the applicant.

§ 280-105. Denial or revocation of permit. [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

- A. No permit issued pursuant to this Chapter shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special

assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter “unpaid monies”).

- (1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.
 - (2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.
 - (3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.
 - (4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.
 - (5) No application fees shall be refunded upon revocation of the permit.
 - (6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.
 - (7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A “person with a substantial interest” shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.
- B. Notwithstanding the provisions contained in this section to the contrary, when in the opinion of the Director of Code Enforcement the issuance of a permit is necessary to prevent harm to life, safety, or the general welfare of the public, the Director of Code Enforcement shall be authorized to issue said permit for the sole and exclusive purpose of bringing such violations into compliance with the Code of the City of Oswego. Nothing contained herein shall relieve the property owner from complying with all other applicable sections of the Code including, without limitation, the provisions contained in this section. **[Added 4-10-2017 by L.L. No. 2-2017]**

§ 280-106. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

CITY OF OSWEGO, NEW YORK
Motions, Resolutions and Notices

By Councilor Will

WHEREAS, the City of Oswego has completed a comprehensive rewriting of its zoning code, known as Chapter 280 of the Code of the City of Oswego for the first time in forty (40) years; and

WHEREAS, the Common Council has reviewed the environmental impact of adopting the new zoning code, pursuant to the State Environmental Quality Review Act (SEQRA), including a Full Environmental Assessment Form (FEAF) and hereby declares that the adoption of these amendments will have no significant impact on the environment and therefore the adoption of a negative declaration is proper; and

WHEREAS, pursuant to the NYS General Municipal Law and the City of Oswego Zoning Code, the amendments were submitted to the County Planning Department as well as all neighboring towns, and the City of Oswego Planning Board who all had the opportunity to provide advisory opinions or recommendations regarding the proposed amendments; and

WHEREAS, both the County Planning Department and the City of Oswego Planning Board recommended approval and a favorable advisory opinion, respectively, and those comments have been duly considered by the Common Council; and

WHEREAS, the amendments are now ready to be presented to the public for comment and, thereafter, adoption by the Common Council; and

WHEREAS, a public hearing was conducted on April 8, 2019, and prior thereto a significant amount of public outreach and an informal comment period was available which resulted in minor changes to the zoning code, and no further changes are warranted based on the public hearing; and

WHEREAS, the Common Council now determined it to be in the best interest of the City of Oswego to adopt the amendments to the zoning code; now, therefore, be it

RESOLVED, pursuant to SEQRA and upon completion of the FEAF, a negative declaration is hereby adopted as the determination of significance in relation to the amendments contained in Chapter 280 of the Code of the City of Oswego, and the Mayor is authorized to sign Part 3 of the FEAF, and the City Attorney is hereby directed to file the Negative Declaration with the Environmental Notice Bulletin; and it is further

RESOLVED, that the amendments to Chapter 280 of the Code of the City of Oswego, known as the "Zoning Ordinance of the City of Oswego, New York" and also known as Local Law No. 5 of 2019, are hereby adopted; and it is further

RESOLVED, that Local Law No. 5 of 2019 shall become effective upon filing with the New York State Secretary of State pursuant to the NYS Municipal Home Rule Law.

AYES AND NAYS CALLED			ABSENT/ ABSTAIN
	AYES	NAYS	
Councilor McBrearty	✓		
Councilor DeMassi	✓		
Councilor Hill, Jr.	✓		
Councilor Wilmott	✓		
Councilor Gosek ★	✓		
Councilor Tesoriero, Jr.	✓		
Councilor Corradino	✓		
TOTAL	7	0	

ADOPTED LOST

Approved April 9 2019

Recommended by Planning and Development
Committee

Chairman Ronald G. Tesoriero

I certify that the foregoing resolution was duly passed by the Common Council on the 8th day of April 2019

MARK TESORIERO City Clerk
WILLIAM J. BARLOW, JR. Mayor