

PART I

CHARTER OF THE CITY OF OLEAN, NEW YORK EN

Charter

ARTICLE I. IN GENERAL

Sec. 1.001. Short title.

This local law may be known and cited as the "Charter of the City of Olean, New York."

Sec. 1.002. Definitions and rules of construction.

(a) General Construction Law. Unless the context requires otherwise, the General Construction Law, as now or hereafter amended, applies to this charter.

(b) Additional definitions and rules of construction. Unless the context requires otherwise, the following definitions and rules of construction apply to this charter. In the event of a conflict between the provisions of this subsection and the General Construction Law, the provisions of this subsection control.

(1) Catchlines of sections, subsections, etc.; effect of history notes. Catchlines for sections, subsections or paragraphs that are printed in boldface or italicized type are intended as mere catchwords to indicate contents and are not titles or part of the law, nor shall they be so deemed when amended or reenacted. History or source notes appearing in parentheses after sections are not intended to have any legal effect but are merely intended to indicate the derivation of the matter contained in the section. All references to articles, divisions or sections are to the chapters, articles, divisions or sections of this charter.

(2) Charter. "Charter" means the charter of the City of Olean, New York.

(3) City. "City" means The City of Olean, New York.

(4) Common council, council. "Common council" or "council" means the common council of the city.

(5) County. "County" means Cattaraugus County, New York.

(6) Liberal construction. This charter is to be liberally construed.

(7) May. "May" is to be construed as being permissive.

(8) Must. "Must" is to be construed as being mandatory.

(9) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and

phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(10) Official titles. All references to officers, employees, boards, commissions and authorities are to officers, employees, boards, commissions and authorities of the city.

(11) Shall. "Shall" is to be construed as being mandatory.

(12) State. "State" means the State of New York.

(13) Tense. Words used in the past or present tense include the future as well as the past and present.

Sec. 1.003. Repealer.

(a) All resolutions, ordinances, local laws and special acts of a general and permanent nature in conflict with this charter are repealed, except that:

(1) No special act published in the Consolidated Laws is repealed unless so stated in this charter; however all portions of such acts that are inconsistent with this charter are superseded. This subsection does not revive any portion of any such special act previously repealed by the city.

(2) No local law codified in the publication known as the Olean City Code (which document may not be official as of the date of adoption of this charter) is repealed.

(3) Local Law No. 1-1966 (compiled as sections 264--273 of the city's 1971 charter compilation) are saved from repeal.

(4) The provisions of N.Y. Laws (1915) ch. 535, § 99, as amended N.Y. Laws (1916) ch. 543, § 1 (compiled as section 331 of the city's 1971 charter compilation) are converted into an ordinance.

(5) The last two (2) sentences of N.Y. Laws (1915) ch. 535, § 31 (being the last two (2) sentences of section 118 of the 1971 charter compilation) are converted into an ordinance; provided that all references in such sentences to the city clerk are changed to the city assessor.

(6) The provisions of N.Y. Laws (1915) ch. 535, §§ 82--1985, 88--1990, as amended Local Law No. 1-1941 (compiled as sections 250--254, 257--260 and 262 of the 1971 charter compilation) are converted into a local law that is not repealed by this charter.

(7) The provisions of N.Y. Laws (1915) ch. 535, §§ 91, 92, 97 and Local Laws Nos. 18-1940, 3-1964 (except § 8), 6-1968 (except §§ 5, 6, 10) (all compiled as sections 274, 276, 278--281, 300--309, 315, 316, 321--324, 329, 333 of the city's 1971 charter compilation) are converted into a local law that is not repealed by this charter.

(8) The provisions of N.Y. Laws (1915) ch. 535, § 100, as amended N.Y. Laws ch. 543, § 1 and Local Laws Nos. 3-1979, 1-1987 and 1-1989 are converted into a local law that is not repealed by this charter.

(9) The provisions of N.Y. Laws (1915) ch. 535, § 34, as amended L.L. No. 3-1934, § 5 (compiled as section 188 of the 1971 charter compilation) are converted into as local law that is not repealed by this charter; provided, however, that the second sentence of such section is repealed.

(10) The provisions of N.Y. Laws (1915) ch. 535, § 55, as amended L.L. No. 3-1934, § 5 (compiled as section 189 of the 1971 charter compilation) are converted into an ordinance.

(b) Resolutions, ordinances, local laws and special acts not in conflict with this charter are not repealed and are continued in full force and effect.

Sec. 1.004. Effective date.

(a) If approved by the voters at the November 1991 general election, this charter shall take effect on January 1, 1994.

(b) Notwithstanding the provisions of subsection (a) of this section:

(1) The first election for the mayor and councilmembers under this charter shall be held on the first Tuesday in November 1993 and the provisions of this charter applicable to the terms of elected officials and wards shall apply to such election.

(2) The conversion of certain legislation into local laws or ordinances described in § 1.003(a)(4)--(a)(10) takes effect on January 1, 1992.

Sec. 1.005. Severability.

The sections, paragraphs, sentences, clauses and phrases of this charter are severable. If any phrase, clause, sentence, paragraph or section is declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections.

Sec. 1.006. Creation and name; powers in general.

The citizens of the state who may from time to time reside within the territorial limits of the City of Olean are hereby created a municipal corporation in perpetuity to be known as the City of Olean. The city may take and hold in trust real or personal property for any public purpose, upon terms as may be prescribed by the grantor or donor and may provide for the execution of such trusts. The city may sue or be sued, prosecute and defend in any court of law or equity.

Sec. 1.007. Status as a town.

Except as otherwise stated in this charter, the city shall be a town of the county. All provisions of law not inconsistent with this charter that are applicable to towns in the county shall apply to the city. All acts required by law to be performed by the board of town auditors in towns of the county shall be performed by the common council. The city shall for all purposes relating to the assessment and collection of taxes constitute a separate town in the county. The county legislature shall levy upon the city the proportionate share or amount of tax authorized by state law for the respective towns.

Sec. 1.008. Boundaries.

The boundaries of the city shall be as established on the effective date of this charter; such boundaries are ratified and confirmed.

Sec. 1.009. City court.

The city court as heretofore created and organized is ratified and confirmed.

Sec. 1.010. Other agencies, bureaus, etc.

Other agencies, bureaus, departments, boards, commissions or offices not provided for in this charter exist as provided for by state law.

ARTICLE II. GOVERNING AUTHORITY

DIVISION 1. GENERALLY

Sec. 2.001. Suspension of licenses.

The mayor may summarily suspend any license granted by the common council. Such suspension shall be effective until the next regular council meeting. At such meeting the common council shall investigate the matter and dispose of the same as it may see fit.

Secs. 2.002--2.020. Reserved.

DIVISION 2. MAYOR

Sec. 2.021. Election; term; qualifications.

The mayor shall be elected by the voters of the city for a term of four (4) years. He shall be a resident of the city.

Sec. 2.022. Compensation.

The mayor shall receive as compensation the sum of fifty thousand dollars (\$50,000.00) per annum, payable in monthly installments, for the first term of office following the adoption of this charter. Thereafter, the council may determine the annual salary of the mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the term of the mayor elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6)

months. The mayor shall receive the actual and necessary expenses incurred in the performance of the duties of his office.

Sec. 2.023. Chief executive officer; other duties.

The mayor shall be the chief executive officer of the city. The mayor shall have such other powers and duties as or provided by state law, this charter, local law, city ordinance or city resolution.

Sec. 2.024. Enforcement of laws.

The mayor shall see that the laws of this state, and the legislation adopted by the common council are faithfully executed. The mayor shall cause the arrest of all persons violating same.

Sec. 2.025. Supervision of departments, offices, etc.; delegation of powers.

(a) Except as otherwise provided by law, the mayor shall direct and supervise all departments, offices and agencies of city government.

(b) The mayor may authorize any city officer or department head who is subject to his authority and supervision to exercise any of his powers with respect to subordinates in that officer's or department head's department, office or agency.

Sec. 2.026. Office of mayor.

There is established the office of mayor. The office shall assist the mayor in the performance of official duties. All salaried personnel in the office of mayor shall be appointed by the mayor. Compensation for salaried personnel in the office of mayor shall be determined annually in the budget process.

Sec. 2.027. Communications and recommendations to common council.

The mayor shall communicate to the common council at its first meeting in January of each year a general statement of the affairs of the city in relation to its finances, government and improvements, with such recommendations as he may deem proper. The mayor shall recommend to the common council from time to time such measures as he may deem necessary or expedient for it to take in order to expedite or carry into effect any legislation which it shall have passed.

Sec. 2.028. Approval or disapproval of legislation.

(a) Every order, ordinance, resolution and act of which the mayor approves shall have its approval in writing on a transcript thereof signed by him officially. The transcript of every such order, resolution, ordinance and act of which he disapproves shall be returned by him to the common council or clerk, with his objections in writing thereon or thereto attached, which shall be filed with the city clerk. The common council shall at its next regular meeting after such return proceed to reconsider such order, resolution, ordinance

or act. If the same is then passed by a concurring vote of two-thirds of all the members of the common council then in office, it shall have full force and effect, but if not so passed by such concurring vote of two-thirds of the members of the common council then in office, such order, resolution, ordinance or act so disapproved by the mayor shall have no force or effect. This subsection does not apply to local laws.

(b) The approval of local laws shall be as provided in Municipal Home Rule Law §§ 20 and 21.

(c) If any order, resolution, ordinance or act, a transcript of which shall be presented to the mayor, shall relate to special and distinct matters, or to one (1) or more items of appropriation or payment of money, the mayor may approve such order, resolution, ordinance or act, and sign the transcript thereof as to one (1) or more of said matters or items specified, and disapprove it as to others. In such case he shall attach to the transcript a statement of the items of which he does not approve, with his objections thereto, and such matters and items shall not take effect unless reconsidered and passed by the common council in the same manner as in the case of the mayor refusing to approve of an entire order, resolution, ordinance or act. This subsection does not apply to local laws.

(d) If such transcript shall not be returned by the mayor to the common council or clerk within ten (10) days after it was passed by the common council, Sunday excepted, such order, resolution, ordinance or act shall be of like effect and force as if duly approved by him, unless within such time his term of office shall have expired, in which case the same shall have no force. This subsection does not apply to local laws.

Sec. 2.029. Signing appointments, permits and licenses; execution of deeds, contracts and other papers.

The mayor shall sign all appointments to office made by the common council and all permits and licenses granted by the common council. When authorized so to do by the common council, he shall execute in behalf of the city all deeds, contracts and other papers to be executed as the act of the city.

Sec. 2.030. Oaths, affidavits and acknowledgments.

The mayor may administer oaths and take affidavits. The mayor may take proof and acknowledgment of other deeds and other instruments if there has been filed with the county clerk a certificate of the mayor's election. Such certificate must be under the seal of the city and signed by the city clerk.

Secs. 2.031--2.040. Reserved.

DIVISION 3. COMMON COUNCIL

Sec. 2.041. Composition.

The common council shall consist of seven (7) councilmembers. One (1) councilmember shall be elected by the voters of each of the wards. Each councilmember must be a resident of the ward from which he is elected.

Sec. 2.042. Wards.

The city is divided into seven (7) wards. The boundaries of the wards shall be established by ordinance.

Sec. 2.043. Terms of office.

Councilmembers are elected for terms of two (2) years, except that the councilmembers elected from wards I, III and V at the November 1993 general election shall have terms of one (1) year. Thereafter councilmembers elected from such wards shall be elected for terms of two (2) years.

Sec. 2.044. Compensation.

(a) The salary of each councilmember shall be three thousand and five hundred dollars (\$3,500.00) per annum, payable in monthly installments, for the first term following the adoption of this charter. Thereafter, the council may determine the annual salary of councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of councilmembers elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties of office.

(b) The president of the common council shall receive an additional five hundred dollars (\$500.00) per annum.

Sec. 2.045. General duties.

It shall be the duty of each councilmember to:

- (1) Attend meetings of the common council and serve upon committees when appointed;
- (2) Report to the mayor all city officers who are guilty of misconduct or neglect of duty.

Sec. 2.046. President.

(a) At the first meeting of the common council in January of each year the common council shall select by a majority vote a councilmember to be president of the common council.

(b) The president of the common council shall preside at meetings of the common council. The president may vote on any question submitted to the common council.

(c) If a vacancy exists in the elected office of mayor, the president of the common council shall be vested with all the powers and perform all the duties as mayor of the city until the vacancy shall be filled. When so serving as mayor, the president shall remain president of the common council.

Sec. 2.047. Quorum.

A quorum shall consist of a majority of the common council.

Sec. 2.048. Voting.

Except as otherwise provided, each councilmember present at any meeting of the common council shall have a vote on every question brought before the common council for its consideration. No councilmember shall be excused from voting on any question except by a concurring vote of two-thirds of all present. The president of the common council when presiding shall have a vote as councilmember. No person whose election as councilmember shall be contested shall be entitled to vote on any question connected with any such contest.

Sec. 2.049. Time of regular meetings.

The common council shall hold its first annual meeting on January 2 of each year. If January 2 is a Saturday, Sunday or public holiday, the meeting shall be held on the next succeeding day which is not a Saturday, Sunday or legal holiday. The common council shall hold regular meetings at least twice in each month.

Sec. 2.050. Special meetings.

The mayor, the president of the common council or any three (3) councilmembers may call a meeting of the common council by filing a written notice with the city clerk. The city clerk shall give notice of the meeting in the manner prescribed by law and the common council.

Sec. 2.051. Rules of proceedings, compelling attendance and prescribing powers and duties of officers.

The common council shall determine the rules of its proceedings. Such rules shall not be subject to the approval of the mayor and shall be valid without his approval. The common council may compel the attendance of absent members. The common council may prescribe the powers and duties of all officers appointed, subject, however, to the provisions of this charter.

Sec. 2.052. Standing committees.

The president of the common council shall appoint the standing committees for a term of one (1) year. The president of the common council shall announce the standing committees at the first common council meeting in January of each year.

Sec. 2.053. Power to issue subpoenas.

(a) The common council and the committees thereof shall have the power to issue subpoenas to compel persons to appear and testify before either of them and to compel persons to produce all books, papers or documents in respect to any matter pending before either of them.

(b) Any action of the common council adopted or proceeding taken under or by virtue of the powers conferred by this section shall be valid without the approval of the mayor, and no copy thereof need be presented to the mayor.

Sec. 2.054. Administering oaths and affirmations.

The chairman of each committee of the common council or the presiding officer of the common council shall have power to administer oaths or affirmations to all persons appearing before the common council or before such committee to testify upon any matter.

Sec. 2.055. Ordinances.

(a) The subject matter of each ordinance shall be clearly stated in the title to the ordinance.

(b) No ordinance shall be adopted by the common council unless the title thereof has been published at least once in a newspaper of general circulation in the city. Such publication must be at least ten (10) days prior to the meeting at which it is proposed to adopt the ordinance.

(c) Notwithstanding the provisions of subsection (b), emergency ordinances may be adopted without prior publication of the title.

(d) Unless provided otherwise, ordinances become effective upon adoption.

Sec. 2.056. General powers.

(a) The common council shall exercise all the corporate powers conferred by this charter, and except as otherwise provided by law shall have control and management of the property, real and personal, belonging to the city and all finances thereof. No debt or liability which may become a charge against the city shall be created or contracted except by authority of the common council unless otherwise provided.

(b) The common council may make, establish, publish, modify, amend or repeal ordinances, by-laws, regulations, rules and resolutions for the purpose of exercising any power granted to it.

Sec. 2.057. Powers over parks and other public places.

The common council may by vote of a majority of its members to enact ordinances for the government and protection of all public parks, squares, gardens and places in the city. All such places shall be subject to all ordinances with respect thereto.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 3.001. Officers designated.

- (a) The elected officers of the city are the mayor and the councilmembers.
- (b) The appointed officers of the city are the city clerk, city auditor and the city attorney.

Sec. 3.002. Appointment of appointed officers and department heads.

- (a) The mayor shall appoint, subject to confirmation by a majority vote of the common council, all city officers provided for by this charter, or created by the council, or authorized or approved by the council, or required by state law.
- (b) The mayor shall appoint, subject to confirmation by a two-thirds majority vote of the common council, all city department heads.

Sec. 3.003. Terms of office.

- (a) The term of office of all elected officers of the city shall commence on January 1 next succeeding their election. Except as stated otherwise, the terms of office of all elected officers of the city shall expire on December 31 in the last year of their respective terms. Every elected city officer shall hold his term of office until his successor shall have been elected and shall have qualified, unless the office has become vacant.
- (b) The term of office of appointed officers shall be until their respective successors are appointed and confirmed by the common council in the manner provided for in this charter.

Sec. 3.004. When office becomes vacant.

In addition to other circumstances provided by law, city offices become vacant under any of the following circumstances:

- (1) The incumbent is removed from office, resigns, dies, or ceases to be a resident of the city; or in case of councilmembers, ceased to be residents of their respective wards.
- (2) When a person dies after his election or appointment and before his term of office has commenced.

(3) At any election any two (2) or more persons running for the same office shall each receive an equal number of votes, being the highest in number, in consequence of which there shall be a failure to elect.

Sec. 3.005. How resignations made.

The resignation of a city officer must be made in writing to the common council and filed with the city clerk.

Sec. 3.006. Removal, suspension or termination of department heads and appointed city officers.

Except as otherwise provided by this charter, state law, or personnel rules, the mayor shall have the power to remove, suspend or terminate, subject to approval by a two-thirds majority vote of the common council, any appointed city officer or department head.

Sec. 3.007. Filling vacancies.

(a) All vacancies in an appointive city office shall be filled by appointment by the mayor in the manner provided for an original appointment to the office.

(b) Vacancies in the office of councilmember occurring prior to the expiration of the term shall be filled for the balance of the unexpired term by appointment by the mayor subject to confirmation by a two-thirds majority vote of the common council.

(c) Vacancies in the office of mayor shall be filled by special election for the remainder of the unexpired term. The common council within thirty (30) days after such vacancy occurs shall by resolution order the election to be held not less than twenty (20) days nor more than thirty (30) days after the adoption of such resolution. The city clerk shall immediately thereafter publish a notice of such election once a week until such election is held in two (2) newspapers published in the city. Certificates of nomination for the offices to be filled at a special election shall be filed with the city clerk at least fifteen (15) days before the election. Every special election shall be conducted and the vote canvassed by the inspectors of election in the same manner as that provided by the Election Law, except that the statement of the result of the election and all papers relating to such election shall be filed with and returned to the city clerk by the inspectors of election.

Sec. 3.008. Discipline of appointed officers.

(a) This section does not apply to persons who are subject to Civil Service Law § 75.

(b) Written charges against any appointed city officer may be filed with the mayor alleging the officer

(1) Is guilty of misconduct or neglect of duty;

(2) Is incompetent or without capacity to perform the duties of office; or

(3) Is guilty of some delinquency seriously affecting his general character.

(c) The mayor must designate the time and place when he will hear, try and determine such charges. A copy of the charges with a notice of the time and place of hearing thereon must be served upon the accused at least three (3) days prior to such hearing.

(d) The mayor shall be present at the time and place designated by him for the hearing and proceed to hear, try and determine the charges. The accused shall have the right to be present at his trial and be heard in person and by counsel, and to give and furnish evidence in his defense. The trial shall be open to the public.

(e) The mayor has the power to issue subpoenas in his name and to compel the attendance of witnesses upon any proceeding authorized by this section, and any person served with a subpoena is bound to attend in obedience to the command thereof. The mayor may compel the attendance of witnesses and compel them to testify in the same manner as in the case of any officer or board authorized by law to issue subpoenas and take testimony.

(f) Subject to section 3.006, if the mayor shall find the accused guilty of the charges made against him he may punish him by reprimand, by forfeiting and withholding pay for a specified time, by suspension without pay during a fixed period or by dismissal from office.

Sec. 3.009. Increasing and diminishing compensation.

(a) The salary or compensation of an elective officer of the city shall not be increased or diminished during the continuance of the term of office to which such officer shall have been elected, except that the common council may increase the salary of an elected officer after the election of the officer, if his duties shall have been increased.

(b) The salary or compensation of any appointive office or position, except compensation on per diem basis, shall not be increased during any fiscal year, after the same shall have been fixed and provided for in the budget for such fiscal year.

Sec. 3.010. Blanket bonding.

The city may obtain blanket bonding for city officers and employees in accordance with Public Officers Law § 11(2).

Secs. 3.011--3.020. Reserved.

DIVISION 2. CITY CLERK

Sec. 3.021. Salary.

The city clerk shall receive for his services as city clerk such salary as the common council may prescribe. Except as stated in this charter, the city clerk shall not receive any other fee or award from the city.

Sec. 3.022. Status as town clerk.

The office of the city clerk is declared the town clerk's office for the purpose of depositing, filing and entering for record therein all books and papers required by law to be deposited, filed or entered for record in a town clerk's office. The city clerk shall possess the powers, discharge the duties and receive the fees of a town clerk.

Sec. 3.023. Clerk of common council.

The city clerk shall be present at all meetings of the common council and shall act as clerk of the common council. The clerk shall record all local laws, bylaws, rules, ordinances, resolutions and proceedings of the common council.

Sec. 3.024. Clerk for officers and boards.

The city clerk shall act as clerk for such officers and public boards within the city as the common council may direct.

Sec. 3.025. Custody of seal, records, books and papers.

Except as otherwise provided by this charter the city clerk shall have the custody of the city seal and all city records, books and papers.

Sec. 3.026. Transcript of orders, resolutions and ordinances requiring mayor's approval.

The city clerk shall within forty-eight (48) hours after the passage by the common council of any order, resolution, ordinance, act or proceeding of the common council requiring the approval of the mayor, deliver to the mayor a transcript of the same, either personally or by leaving the same at his office, place of business or residence. The transcript shall be certified by the clerk to be a true copy thereof and contain the date of the passage of the legislation therein by the common council.

Sec. 3.027. Transcripts of papers or records; production of books and papers.

The city clerk shall furnish a transcript or copy of any other paper or record kept by him as clerk upon payment of the fee established therefor. The city clerk shall receive the fee from all persons requesting the information, except where the copy of the record to be furnished is to be used for a municipal purpose. The books and papers of his office shall be produced on reasonable demand made by anyone who wishes to secure information for themselves.

Sec. 3.028. Recordation of ordinances, etc.

Every local law, ordinance, rule, regulation, resolution and bylaw, together with his certificate of the time and manner of the publication thereof, shall be recorded by the city clerk in books provided by the city and kept for that purpose.

Sec. 3.029. Abstracts of unpaid taxes, special assessments or unpaid water rents against land.

It shall be the duty of the city clerk upon the request of any person therefor to make careful search of the books and records in his office for any unpaid taxes or local improvement assessments upon or against any parcel of land and make a proper abstract thereof, showing the year in which each item was levied, the amount of such item or sum and the amount required at the date of the certification to pay the tax or assessment. The city clerk shall also certify on such abstract the amount of any unpaid water rent to the time that the last bill was rendered prior to the date of certification, if the water bill is or may be a lien against the property. The city clerk shall certify the abstract as the city clerk, and shall be entitled to a fee of ten dollars (\$10.00) for each separate parcel of land so searched. Such fee shall be paid by the party requesting the search.

Sec. 3.030. Countersigning and recording permits and licenses.

The city clerk shall countersign all permits for sewer connections, gas connections, street excavations or other licenses granted by the common council, and shall keep an accurate record of all such licenses and permits in books to be provided by the city for that purpose. Such record shall specify the date of each license or permit, to whom issued, the amount paid therefor and such other matters as may be required by the common council.

Sec. 3.031. Registrar of vital statistics.

The city clerk shall be the registrar of vital statistics.

Sec. 3.032. Treasurer of city.

The city clerk shall be the treasurer of the city.

Sec. 3.033. Duty to receive city money.

The city clerk shall receive from any officer or employee of the city any money belonging to the city and receive all moneys belonging to the city coming from any source whatever.

Sec. 3.034. Keeping account of and depositing money.

The city clerk shall keep an accurate account of all moneys received by him belonging to the city and shall, the day immediately following receipts by him of any such moneys, deposit the same in full in an official depository.

Sec. 3.035. Custodian of city money.

The city clerk shall be the custodian of all moneys of the city and of all commissions and departments thereof, and shall keep and preserve the same in such manner and in such banks or trust companies as shall be determined by the common council.

Sec. 3.036. Transfers between depositories.

The city clerk may transfer any city moneys from one (1) official depository to another only upon check countersigned by the city auditor.

Sec. 3.037. Monthly statement of cash receipts.

The city clerk shall present to the common council once each month a summary statement of all his cash receipts of the month preceding.

Sec. 3.038. How payments made.

Except as otherwise provided in this charter, the city clerk shall pay out money only upon warrants issued by the city auditor under the authority of the common council. The city clerk shall draw the moneys on deposit to the credit of the city only for the payment of claims ordered to be paid by the common council or pursuant to the lawful direction of some court. If the city clerk draws or appropriates money for any other purpose, it shall be deemed a malfeasance in office and cause for removal therefrom.

Sec. 3.039. Powers and duties in regard to taxes.

The city clerk shall possess all powers and perform all duties now possessed and performed by town tax collectors, except as otherwise provided in this charter. The city clerk shall collect and receive at his office all taxes and assessments levied in the city and retain possession of all warrants and assessment rolls delivered to him for collection.

Sec. 3.040. Collector of water revenues.

The city clerk shall be the collector of all water rents and miscellaneous water revenues.

Secs. 3.041--3.050. Reserved.

DIVISION 3. CITY ATTORNEY

Sec. 3.051. Qualification.

The city attorney shall be an attorney at law, admitted to practice in the state.

Sec. 3.052. Salary.

The city attorney shall receive such salary as the common council may fix.

Sec. 3.053. Counselor and advisor of city and departments.

The city attorney shall be the legal advisor of and attorney and counselor for the city and for all officers and departments thereof in matters relating to their official duties.

Sec. 3.054. Prosecuting and defending suits; preparation of contracts, bonds and other instruments.

The city attorney shall prosecute and defend all suits for and on behalf of the city and the departments thereof and such other suits, matters and controversies as he shall by resolution or ordinance be directed to prosecute or defend. The city attorney prepare all contracts, bonds and other instruments in writing in which the city is concerned and shall indorse on each his approval of the form and correctness thereof.

Secs. 3.055--3.070. Reserved.

DIVISION 4. CITY AUDITOR

Sec. 3.071. Compensation.

The city auditor shall receive such compensation as is fixed by the common council.

Sec. 3.072. General duties.

The city auditor shall perform such duties as may be prescribed by the mayor and such other duties as may be required by the general laws of the state.

Sec. 3.073. Personnel management.

The city auditor shall collect and explain all personnel management and human resources planning information pertaining to the city's past and current work force.

Sec. 3.074. Chief fiscal and accounting officer.

The city auditor shall be the chief fiscal officer and the chief accounting officer of the city.

Sec. 3.075. Books of financial and budgetary control over departments and offices.

The city auditor shall keep, maintain, and operate all general financial books of the city and shall maintain budgetary control over all departments and offices of the city.

Sec. 3.076. Uniform system of accounts; annual report.

The accounting structure of the city shall be in accordance with the uniform system of city accounts prescribed by the state department of audit and control. The city auditor shall compile and file the annual report required by General Municipal Law article 3 [§ 30 et seq.].

Sec. 3.077. Control of expenditures in relation to appropriations.

The city auditor shall exercise such accounting control over expenditures that no department, bureau or officer of the city shall be permitted to exceed its budget appropriations or to encumber such an appropriation at a rate faster than allowed by the auditor under a quota or allotment prescribed by him. It shall be the duty of the city auditor to maintain at all times control over the expenditures of every department, bureau, officer and financial activity of the city to the end that the amounts appropriated therefor

shall not be overexpended. The city auditor may exercise every reasonable means by way of quotas or allotments or otherwise to so restrict expenditures that every department shall keep within its budget appropriation.

Sec. 3.078. Budget transfers.

The city auditor may transfer part or all of any unencumbered balance of an appropriation for an expense item from one (1) line to another within any given department, bureau or officer's appropriation but shall not transfer to or from any appropriation for salaries or wages without securing authority therefor by resolution adopted by the common council. The city auditor shall not make or allow to be made any transfer from one (1) department, bureau or officer's appropriation to another department, bureau or officer without being authorized so to do by resolution of the common council.

Sec. 3.079. Monthly statement of revenue and expenditures.

The city auditor shall submit to the common council each month a summary statement of revenues and expenses for the fiscal year up to the close of the preceding month, detailed as to revenues and appropriations in such manner as to show the exact progress being made under the budget and the exact financial condition of the city.

Sec. 3.080. Annual financial statement.

The city auditor shall submit once a year and more often if the common council requires it, a complete financial statement showing the assets and liabilities of the city.

Sec. 3.081. Prescribing books, records and accounts to be kept and reports to be made.

The city auditor shall prescribe the books, records and accounts to be kept, maintained and operated by the departments, bureaus and officers of the city. The city auditor shall prescribe the scope and frequency of reports to be submitted by such departments, bureaus and officers.

Sec. 3.082. Examination and approval of accounts and claims against city.

The city auditor shall examine all accounts and claims against the city and all the commissions and departments thereof and approve or disapprove the same by written endorsement thereon prior to the presentation of the same to the common council for action.

Sec. 3.083. Payment by warrants.

The city auditor shall issue all warrants for payment of money by the city and all the commissions and departments thereof. Such warrants shall be directed by the city clerk and be accompanied by a schedule or detailed abstract certified by the clerk to be correct of all claims authorized by the common council to be paid.

Sec. 3.084. Liability for approval of unauthorized bills or claims.

The city auditor and his sureties shall be personally liable to the city for the amount of any bill or claim against the city that is not authorized by this charter, or which is prohibited by this charter and which the auditor shall wilfully or negligently approve.

Sec. 3.085. Accurate account of money; examination of records of city clerk.

The city auditor shall keep an accurate account of all taxes and assessments and of all moneys due to or receivable by the city. The auditor shall conduct audits and examinations of the records and accounts of the city clerk in order to prove the accuracy of the reported receipts of that office.

Sec. 3.086. Auditing books of officers, bureaus and departments; report to council.

(a) The city auditor shall examine and audit the books of accounts of the various officers, bureaus and departments of the city and the records thereof at least twice each year. The auditor shall on such examination report to the common council whether such records and books of account are true and correct and whether all moneys received and disbursed have been fully and properly accounted for.

(b) Upon the death, resignation, removal or expiration of the term of any officer or employee the city auditor shall audit the accounts of such officer or employee. If such officer or employee shall be found indebted to the city the auditor shall immediately give notice thereof to the common council and to the city attorney.

Sec. 3.087. Accounts and claims to be itemized, verified and presented to auditor.

All accounts and claims against the city, including those for services rendered or moneys expended by any officer or employee of the city whose compensation is not otherwise provided for by this charter which would be valid claim against the city if rendered or expended by an officer thereof, shall be itemized, and certified by the creditor and presented to the city auditor who shall inquire into the justice of such account and may send for and compel the attendance of persons and production of books and papers and may examine the claimant, claimants and others on oath in relation thereto. The auditor shall report to the common council on all such accounts before payment and if unfavorable give the reasons therefor.

Sec. 3.088. Report to common council on all accounts.

The city auditor shall report to the common council on all accounts and if unfavorable give the reasons therefor.

Sec. 3.089. Audit and payment of payrolls.

The city auditor shall audit the payrolls of the regular officers and employees of the city. The payrolls when so audited shall have the same force and effect as though audited by the common council and shall be paid by the city clerk upon the warrant of the auditor.

ARTICLE IV. DEPARTMENTS

DIVISION 1. GENERALLY

Sec. 4.001. Appointment of department heads.

(a) All department heads shall be appointed by the mayor subject to confirmation by a two-thirds majority vote of the common council.

(b) Subsection (a) does not apply to any department head who is designated by section 3.001 as an officer of the city.

Sec. 4.002. Control generally.

The mayor shall establish rules and regulations for the government and discipline of all city departments. The mayor may discipline members of city departments in accordance with law.

Sec. 4.003. Certification of bills.

Each city officer and department head shall certify to the correctness of the payrolls and contracts for work done or services performed within such department head's or officer's jurisdiction and deliver same to the city auditor for inspection and approval prior to payment.

Sec. 4.004. Uniform allowance for members of police and fire departments.

All members of the police and fire departments who are required by police or fire department rules or regulations to wear a uniform shall be paid a yearly uniform allowance in a manner to be determined by the common council.

Secs. 4.005--4.020. Reserved.

DIVISION 2. DEPARTMENT OF FIRE, BUILDING AND EMERGENCY SERVICES

Sec. 4.021. Created.

There is in city government a department to be known as the department of fire, building and emergency services.

Sec. 4.022. Chief of fire, building and emergency services.

The chief of fire, building and emergency services is the department head of the department of fire, building and emergency services.

Sec. 4.023. General powers and duties.

It shall be the duty of the department of fire, building and emergency services to provide for fire safety and prevention, emergency services, disaster preparedness, and enforcement of all building codes, including inspections.

Secs. 4.024--4.030. Reserved.

DIVISION 3. POLICE DEPARTMENT

Sec. 4.031. Created.

There is in city government a department to be known as the police department.

Sec. 4.032. Chief of police.

(a) The chief of police is the department head of the police department.

(b) The chief of police shall at least once each month make a detailed report to the city auditor of the moneys received by the police officers and the disposition of same.

Sec. 4.033. Duties generally.

(a) It shall be the duty of the police force to see that the police regulations and the by-laws, local laws and ordinances of the city are observed and to discover and report all violations thereof.

(b) The police force shall have such other duties as shall be prescribed by resolution, order, bylaws, local laws, or ordinances of the common council.

Sec. 4.034. Fees.

All fees received by members of the police department shall belong to and be the property of the city and shall be accounted for to the common council and paid over to the city clerk immediately upon receipt.

Secs. 4.035--4.040. Reserved.

DIVISION 4. RESERVEDEN

Secs. 4.041--4.050. Reserved.

DIVISION 5. DEPARTMENT OF PUBLIC WORKS

Sec. 4.051. Created.

There is hereby created in the city government a department to be known as the department of public works.

Sec. 4.052. Director--Generally.

(a) The head of the department of public works shall be the director of the department of public works and shall possess a professional engineer's license issued by the state. The director shall possess a thorough knowledge of the operation of a municipal public works department and shall have had ten (10) years of progressively responsible

municipal employment experience in administrative and engineering work, including street, sewer and building construction.

(b) The director of the department of public works shall receive such salary as the common council may fix.

Sec. 4.053.Same--Powers and duties.

(a) Subject to the provisions of law and ordinance, the director of the department of public works shall have cognizance, direction and control of:

(1) The construction, maintenance, alteration, repair, care, cleaning, paving, flagging and improving of the streets, highways, sidewalks and public places of the city;

(2) The construction, alteration and repair of all city buildings and bridges belonging to the city;

(3) All public sewers and drains and public works of the city;

(4) The construction and maintenance of water and sewage treatment facilities and lines and the employment, control and supervision of all persons employed upon such work;

(5) The maintenance of city parks;

(6) The city forester and all city tree and shrubbery programs for and upon public lands and rights-of-way.

(b) The director of the department of public works shall inspect the condition of the streets, avenues, highways, sidewalks, crosswalks, areaways, subways, curbing, paving, street lights, sewers, drains and public works of the city with sufficient frequency to ascertain their condition, and report at once to the common council whenever the same shall not be in good repair and proper condition. The director shall also have general supervision and control of all work performed under any contract of the city for local or other improvements to be performed within or upon any of the public streets, ways or places, or with reference to the public works and ways within the jurisdiction of the department of public works and shall cause the same to be performed in full compliance with the provisions of any contract therefor.

(c) The director of the department of public works shall supervise the collections and disposal of all garbage and rubbish in the manner provided by the common council. The director shall have supervision and control of the persons employed in connection with such work.

(d) The director shall, whenever a license or permit is required to connect with any gas or water pipe, sewer, to excavate in a street, or do any other act relating to streets or public works under his control, countersign such license or permit and return the same to the permittee or licensee before such work shall be commenced.

(e) The director of the department of public works shall, upon application by any lot owner in the city furnish to such owner, the line of the street upon which the lot abuts and the grade and line upon which sidewalks abutting upon the property shall be laid. The director shall also perform such surveying and engineering work and discharge such other duties for the city as the common council may prescribe.

(f) The director of the department of public works shall devote his time exclusively to the service of the city. (Local Law No. 1-98, § 2, 1-13-1998)

Secs. 4.054--4.060. Reserved.

DIVISION 6. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 4.061. Created.

There is hereby created a department within the city to be known as the department of community development.

Sec. 4.062. Director.

(a) The head of the department of community development shall be the director of community development. The director shall be a graduate of an accredited college or university with a degree in regional or city planning and a minimum of one year's experience in municipal direction or planning, or a minimum of five (5) years related experience in municipal development and five (5) years actual general business experience in related and equivalent fields. The director's salary shall be provided in the budget of the department of community development and shall be fixed from time to time by the common council.

(b) The director may appoint and dismiss department personnel as authorized by the mayor and common council.

Sec. 4.063. General duties.

(a) The department of community development shall coordinate, implement, and execute the general policies and directives of the city and of such state and federally funded programs as the city may elect to participate in. The department shall develop and administer programs for future rehabilitation of housing and neighborhood development within the city. The department shall prepare and submit all applications made by or on behalf of the city for specially funded revenue sharing programs available to the city under federal, state or private grants-in-aid and shall prepare and submit all applications for any federal, state or private grant-in-aid programs that the city may be eligible for and elect to participate in. The department shall furnish information and assist in the financing, construction and maintenance of all local programs including the construction and operation of public off-street parking facilities and any future housing construction programs within the city.

(b) The department shall assist the zoning board of appeals in the orderly development under the master plan of the city and shall make appropriate recommendations as may be necessary to update the master plan from time to time. The department shall carry on and coordinate a comprehensive plan of code enforcement and enforcing all local codes regulating the construction of dwellings, carrying on of certain occupations and businesses and such other codes as may be from time to time enacted by the common council. The department shall assist in the orderly development of the central business district and in promoting comprehensive and orderly industrial growth within the city.

(c) All activities of the department shall be under the general supervision of the director of community development. The department shall also act as a general liaison between the city departments and furnish such information as may be required to coordinate the orderly progress of the city.

ARTICLE V. FINANCE, TAXATION AND ASSESSMENTS

DIVISION 1. GENERALLY

Sec. 5.001. Fiscal year.

The fiscal year of the city shall commence on June 1 of each year.

Sec. 5.002. Annual budget.

By February 15 of each year the mayor shall prepare and submit to the common council a proposed budget for the next fiscal year. The common council shall adopt a budget for the next fiscal year on or before April 15 of each year.

Sec. 5.003. Transfer of unencumbered balances of funds.

(a) The common council may transfer any unencumbered balance of any fund to any other fund with the approval of the mayor, but not otherwise. Until so transferred no part of the money shall be diverted from such funds or be used for any other purpose than that for which the same was specifically set apart.

(b) Subsection (a) shall not apply to any fund which has been raised for any local improvement unless approval of the qualified voters of such city is first obtained. Such question may be submitted at any general election or at a special election.

Sec. 5.004. Passing upon accounts and claims.

(a) Except as otherwise provided in this charter, the common council shall pass all accounts and claims against the city, subsequent to the examination thereof and the report thereon by the city auditor, as a board of auditors and shall possess the powers and duties of town auditors. No unliquidated claim shall be received for audit by the common council unless made out in detail specifying:

(1) Whether it is for labor or services;

(2) The time when, the place where, by whom and under whose direction and by what authority it was performed;

(3) If for merchandise, materials or other articles furnished, the items thereof, by whom ordered, and when and to whom delivered;

(4) That no payments have been made thereon and that no offsets exist except those stated.

(b) All claims received by the city for audit shall be certified as true and correct by the creditor.

Sec. 5.005. Bond of bidders.

Bidders on city contracts shall be required to enter into such bond as the common council may require for the faithful performance of the contract and the common council may require such additional security as it sees fit.

Sec. 5.006. Majority vote and approval of mayor necessary for tax, assessment.

No tax or assessment shall be made except by the concurring vote of a majority of all the members of the common council in office. Except as otherwise provided, no tax, levy, assessment, order, resolution or ordinance shall take effect until after the same shall have been approved in writing by the mayor.

Sec. 5.007. Lien for taxes and assessments; actions for collection.

All city taxes and assessments charged upon real estate, including those for local improvements shall be a lien upon the same from the time of completing the tax roll therefor. Such lien shall be prior and superior to all other liens and incumbrances. All such taxes and assessments may also be recovered in an action brought by the city against any person liable therefor, and the lien thereof may be foreclosed by action in the same manner and by the same proceedings as in an action for the foreclosure of a mortgage upon real estate. In any action to recover any taxes or assessments or to foreclose the lien thereof the assessment or tax roll shall in all cases be prima facie evidence of the right of recovery of the amount of such tax and assessment and interest and no property shall be exempt from levy and sale for the payment of same.

Sec. 5.008. Power to issue bonds.

The common council shall have the power to issue bonds of the city for any municipal purpose other than for current operating expenses of city government.

Secs. 5.009--5.020. Reserved.

DIVISION 2. PROPERTY TAXES

Sec. 5.021. Recapitulation in tax roll and certification to city auditor.

When city taxes are fully apportioned and extended it shall be the duty of the city assessor to insert in the tax roll a recapitulation or summary of the footings of the several pages thereof, and certify to the city auditor the total amount of the taxes so extended thereon.

Sec. 5.022. Time of payment and penalties.

The city clerk shall receive city property taxes during the month of May without any additional fee or penalty whatever. On the first day of the month following, there shall be added and collected a penalty of one (1) percent. On the first day of each successive month there shall be added to all such unpaid taxes, and collected, an additional penalty of one (1) percent for each month.

Sec. 5.023. Notice of time of payment and penalties.

The city clerk shall immediately upon receiving the property tax roll and warrant cause a notice to be published once in each week for four (4) successive weeks. The notice shall be to the effect that he has received the tax roll and warrant and that he will receive the taxes at his office, together with penalties aforesaid within the times specified in section 5.022.

Sec. 5.024. Collection of unpaid taxes.

On August 1 of each year the property taxes remaining unpaid shall be declared to be delinquent and the city clerk shall proceed in the same manner as town collectors for the purpose of collecting such taxes, together with all costs and charges thereon, except as otherwise provided in this charter.

Sec. 5.025. Relaying delinquent taxes.

If the property tax shall remain uncollected at the time of making the next general tax assessment roll thereafter, such tax may again be levied. It may be levied as directed by the common council until it is finally paid. Any delinquent tax so levied shall be designated upon the tax roll as delinquent giving the time when the same became delinquent. Penalties thereon shall be collected at the rate of one (1) percent for each month from June 1 following the publication of notice.

Sec. 5.026. Payment of unpaid taxes to city by county.

(a) If any tax on real estate placed upon the tax list for city purposes and duly delivered to the city clerk shall be unpaid at the time the city clerk is required by law to return his warrant for the collection of state and county taxes the clerk shall deliver to the common council an account of the taxes remaining due. The account shall contain a description of the lands upon which such taxes were unpaid as the same were placed upon the tax list and the amount of the tax so assessed. Upon making oath before any officer authorized to administer oaths that the taxes remaining in any such account remain unpaid, and that after diligent efforts he has been unable to collect the same, the city clerk shall be credited by the common council and the city auditor with the amount thereof.

(b) Upon receiving any such account from the city clerk the common council shall cause the city auditor to compare it with the original tax list. If it is found to be a true transcript the auditor shall add to such account his certificate to the effect that he has compared it with the original tax list and found it to be correct and shall immediately present the account, affidavit and certificate to the county treasurer.

(c) Out of the moneys in the county treasury raised for contingent expenses or for the purpose of paying the amount of taxes so returned unpaid, the county treasurer shall pay to the city clerk the amount of taxes and penalties so returned as unpaid. If there are no moneys in the treasury applicable to such purpose, the county legislature at the time of levying such unpaid taxes, as provided in the subsection (d) shall pay to the city clerk the amount thereof by voucher or draft on the county treasurer in the same manner as other county charges are paid. The city clerk shall immediately report such payment to the city auditor.

(d) Such account, affidavit and certificate shall be laid by the county treasurer before the county legislature. The county legislature shall cause the amount of such unpaid taxes, with seven (7) percent of the amount in addition thereto, to be levied upon the lands upon which the same were due. If imposed upon the lands of any corporation, then upon such corporation. When collected the same shall be returned to the county treasurer to reimburse the amount so advanced; together with the expenses of collection.

(e) Any person whose lands are included in any such account may pay the tax assessed thereon, with five (5) percent added thereto, to the county treasurer, at any time before the county legislature shall have directed same to be levied.

(f) The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the county legislature as are provided by law in relation to the county taxes (Local Law No. 2-00, § 1, 3-28-1900)

ARTICLE VI. MISCELLANEOUS PROVISIONS

Sec. 6.001. Municipal year.

The municipal year of the city shall begin on January 1.

Sec. 6.002. Service of notices.

Whenever any real property in the city is owned by two (2) or more persons jointly, or as tenants in common, a notice required by this charter served on one (1) of such persons shall be sufficient notice to all. Whenever an owner does not reside within the city it shall be sufficient to serve such a notice on the occupant or lessee of such real property or their agent or person who has charge or control thereof. Any notice may be served upon a corporation by serving any director, officer or managing agent thereof.

Sec. 6.003. Control of public buildings.

The mayor, city clerk and director of the department of public works shall have the custody, control and management of the public buildings belonging to said city.

Sec. 6.004. Liability for and recovery of expenses.

Whenever any act or thing may be done or caused to be done by the common council or any officer of the city at the expense of any person as provided in this charter, such expense may be recovered in an action by the city against such person. Such person shall be liable therefor in addition to any penalty that may be prescribed and the same may also be collected in the manner that taxes are collected.

Sec. 6.005. Notice of defects in streets, sidewalks, etc.; notice of injuries.

The city shall not be liable for any damage or injury sustained in consequence of defects in, want of repair, or obstruction of any of the highways, streets, alleys, sidewalks, crosswalks or public places of the city unless notice in writing shall have been served upon the mayor or acting mayor at least twenty-four (24) hours before happening of the casualty from which such injury or damage may have resulted and unless notice in writing shall have been served upon the mayor within forty-eight (48) hours in case injury is sustained by a resident, and within five (5) days in case the injury is sustained by a nonresident, after the happening of the casualty from which such damage or injury may have resulted. Each of such notices shall particularly state such defect, want of care or obstruction, and the location thereof, and shall be served by delivering to, and leaving the same with the mayor or acting mayor personally.

Sec. 6.006. Notice of claims for injury from defects in streets, sidewalks, etc.

(a) All claims for injury to person or property alleged to have been caused or sustained by reason of defects in, want of repair or obstruction of any of the highways, streets, street lights, alleys, sidewalks or crosswalks or public places in the city, shall be presented in writing to the common council within thirty (30) days after the date of the alleged injury.

(b) Such statement in writing shall state the time, place, cause, nature and extent of the alleged injuries as far as practicable, and shall be verified by an affidavit of the claimant or his agent or attorney to the effect that same is true to his knowledge or his best information and belief.

(c) The omission to present any such claim in the manner and within the time limit in this section shall be a bar to any action against the city therefor.

Sec. 6.007. Record of conveyances, wills, decrees and maps.

The city assessor shall keep a record of all land conveyances in the city. Such record shall comprise the date and consideration of such transfer, the names of the grantors and a sufficient description of the premises conveyed so that the same may be identified therefrom. Every deed and will relating to real property in the city, and every judicial decree establishing the right of inheritance to real property in the city shall be presented

at the office of the city assessor and stamped, countersigned and numbered in sequence by the city assessor before being recorded in the office of the county clerk. Every map or plot of land within the city showing a subdivision of land into blocks or lots shall together with an exact duplicate thereof be presented, stamped, and countersigned and numbered, as hereinbefore required in reference to conveyances before being recorded in the office of the county clerk. The city assessor shall file the duplicate of such map or plot as a record of the city.

CHARTER COMPARATIVE TABLE

The original Charter, Articles I through VI, was adopted at referendum November 1991 and became effective January 1, 1994. Subsequent amendments are listed in the table below.

Local Law No.	Adoption Date	Referendum Date	Section this Charter
1-98	1-13-1998	Rpld	4.041--4.044
2-00	3-28-2000	Added	4.053(a)(5), (6) 5.026(c)

PART II

OLEAN CODE OF LOCAL LAWS

Chapter 1, GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code; short title for part.

The legislation embraced in this part II shall constitute and be designated the "Olean Code of Local Laws" and may be so cited.

State law references: Codification of local laws, Municipal Home Rule Law § 20(3).

Sec. 1-2. Definitions and rules of construction.

As used in all local laws, unless the context requires otherwise:

Generally. The provisions shall be liberally construed to effect the purposes expressed therein or implied from the expression thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for

interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted.

Affidavit. When an affidavit is authorized or required, it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state unless a particular officer is specified before whom it is to be taken.

State law references: Similar provisions, General Construction Law § 12.

Armed forces of the United States. "Armed forces of the United States" means the Army, Navy, Marine Corps, Air Force, and Coast Guard, including all components of such forces, and the National Guard, when in the service of the United States pursuant to call, as provided by law. Pursuant to this definition, no person shall be considered a member or veteran of the armed forces of the United States unless service in an armed force is or was on a fulltime active duty basis other than active duty for training.

State law references: Similar provisions, General Construction Law § 13-a.

Bond and undertaking. A provision authorizing or requiring a bond to be given shall be deemed to have been complied with by the execution of an undertaking to the same effect.

State law references: Similar provisions, General Construction Law § 14.

Calendar day. A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day.

State law references: Similar provisions, General Construction Law § 19.

Charter. "Charter" means the Charter of the City of Olean, New York.

Chattels. "Chattels" includes goods and chattels. Where "chattels" appears and pertains to an action to recover the same, it includes all specific personal property such as but not limited to certificates of stock, bonds, notes, or other securities or obligations.

State law references: Similar provisions, General Construction Law § 15.

City. "City" means the City of Olean, New York.

Code. "Code" means the Olean Code of Local Laws, as established and designated in section 1-1.

Common council. "Common council" means the common council of the city.

Computation of days. A number of days specified as a period from a certain day within which, after which, or before which an act is authorized or required to be done means the number of calendar days exclusive of the calendar day from which the reckoning is made. If the period is a period of two days, Saturday, Sunday, or a public holiday must be

excluded from the reckoning if it is an intervening day between the day from which the reckoning is made and the last day of the period. In computing any specified period of time from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified period of time is reckoned shall be excluded in making the reckoning.

State law references: Similar provisions, General Construction Law § 20.

Computation of months. A number of months after or before a certain day shall be computed by counting such number of calendar months from such day, exclusive of the calendar month in which the day occurs, and shall include the day of the month in the last month so counted having the same numerical order in days of the month as the day from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

State law references: Similar provisions, General Construction Law § 30.

Conflicting or overlapping provisions. Local laws are the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where a local law imposes greater restrictions upon the subject matter than the other provisions the provision imposing the greater restriction or regulation controls. Local laws prevail over ordinances and resolutions.

Corporate limits, corporation limits. "Corporate limits," "corporation limits" or "city limits" means the legal boundaries of the city.

County. "County" means Cattaraugus County, New York.

Delegation of authority. A provision that requires a city officer or city employee to do an act authorizes the officer or employee to delegate and authorize subordinates to perform the required act.

Effect of holidays. When any period of time, computed from a certain day, within which or after which or before which an act is authorized or required to be done ends on a Saturday, Sunday or a public holiday, the act may be done on the next succeeding business day, and, if the period ends at a specified hour, the act may be done at or before the same hour of the next succeeding business day. Where time is extended by virtue of the provisions of this paragraph, the extended time shall not be included in the computation of interest, except that when the period is specified as a number of months, the extended time shall be included in the computation of interest.

State law references: Similar provisions, General Construction Law § 25-a.

Gender. Whenever words of the masculine or feminine gender appear, unless the sense of the sentence requires otherwise, they shall be deemed to refer to both male or female persons. This construction shall apply to gender-indicative suffixes or prefixes as well as to gender-indicative words. Whenever the reference is to a corporation, board, body,

group, organization or entity comprising more than one person or to an assemblage of persons or to an inanimate object, the reference shall be construed to be neuter in gender.

State law references: Similar provisions, General Construction Law § 22.

Heretofore or hereafter. "Heretofore" or "hereafter," when used in any provision, relates to the time the provision takes effect.

State law references: Similar provisions, General Construction Law § 23.

Keeper or proprietor. "Keeper" or "proprietor" includes persons, whether acting by themselves or through servants, agents, or employees.

May is to be construed as being permissive.

Mayor. "Mayor" means the mayor of the city.

Month. "Month" means a calendar month.

State law references: Similar provisions, General Construction Law § 31.

Municipal officers. A reference to several officers of the city holding the same office or to a board of such officers shall refer to the single officer holding the office, when but one person is chosen to fill the office in pursuance of law.

State law references: Similar provisions, General Construction Law § 32.

Must is to be construed as mandatory.

Newspapers. "Daily newspaper" or "newspaper published each business day" means a newspaper customarily published on each business day of the year, whether or not the newspaper is published on any other day. In this paragraph "business day" does not include a Saturday, Sunday or legal holiday.

State law references: Similar provisions, General Construction Law § 60.

Nighttime. "Nighttime" includes the time from sunset to sunrise.

State law references: Similar provisions, General Construction Law § 51.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Notice. When a notice is required to be given to a board or body, service of the notice upon the clerk or chairperson of the board or body is sufficient.

State law references: Similar provisions, General Construction Law § 33.

Now. "Now," in any provision referring to other ordinances or local laws in force, or to a person in office or to any facts or circumstances as existing, relates to the local laws or ordinances in force or to the person in office or to the facts or circumstances existing, respectively, immediately before the taking effect of the provision.

State law references: Similar provisions, General Construction Law § 34.

Number. Words in the singular number include the plural and in the plural number include the singular.

State law references: Similar provisions, General Construction Law § 35.

Oath, affidavit, and swear. "Oath" or "affidavit" includes every mode authorized by law of attesting the truth of that which is stated. "Swear" includes every mode authorized by law for administering an oath.

State law references: Similar provisions, General Construction Law § 36.

Or, and. "Or" may be read "and," and "and" may be read "or" if the sense requires it.

Owner. "Owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of the building or land.

Person. "Person" includes a corporation and a joint stock association. When used to designate a party whose property may be the subject of any offense, "person" includes the state or any other state, government, or country which may lawfully own property in the state.

State law references: Similar provisions, General Construction Law § 37.

Personal property. "Personal property" includes chattels, money, things in action and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property or any debt or financial obligation is created, acknowledged, evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership. Oil wells and all fixtures connected with oil wells, situated on lands leased for oil purposes and oil interests, and rights held under and by virtue of any lease or contract or other right or license to operate for or produce petroleum oil, are deemed personal property for all purposes except taxation.

State law references: Similar provisions, General Construction Law § 39.

Preceding, following. "Preceding" and "following" mean next before and next after, respectively.

Property. "Property" includes real property and personal property.

Public holidays designated. Public holiday includes the following days in each year: January 1, known as New Year's Day; the third Monday in January known as Dr. Martin Luther King, Jr., Day; February 12, known as Lincoln's Birthday; the third Monday in February, known as Washington's Birthday; the last Monday in May, known as Memorial Day; the second Sunday in June, known as Flag Day; July 4, known as Independence Day; the first Monday in September known as Labor Day; the second Monday in October, known as Columbus Day; November 11, known as Veterans Day; the fourth Thursday in November, known as Thanksgiving Day; and December 25, known as Christmas Day; and, if any of such day except Flag Day is Sunday, the next day thereafter; and each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer or other general religious observances. "Half-holiday" includes the period from noon to midnight of each Saturday which is not a public holiday.

State law references: Similar provisions, General Construction Law § 24.

Public place. "Public place" means any park, cemetery, schoolyard or open space adjacent thereto, and all beaches, canals and other waterways.

Public works department, public works director, etc. The terms "public works department" and "department of public works" are synonymous. The terms "public works director," "director of public works" and "director of the department of public works" are synonymous.

Quorum and majority. Whenever three or more public officers are given any power or authority or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of the whole number of such persons or officers, at a meeting duly held at a time fixed by law or by any bylaw duly adopted by the board or body or at any duly adjourned meeting duly held upon reasonable notice to all of them shall constitute a quorum, and not less than a majority of the whole number may perform and exercise such power, authority or duty. In this paragraph "whole number" means the total number which the board, commission, body, or other group of persons or officers would have were there no vacancies and none of the persons disqualified from acting. Any meeting referred to in this paragraph may be adjourned by a less number than a quorum.

State law references: Similar provisions, General Construction Law § § 13, 41.

Real property. "Real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

State law references: Similar provisions, General Construction Law § 40.

References to officials, departments, etc. References to officers, employees, boards, departments and commissions are to be interpreted as if followed by the words "of the city."

References to repealed provisions. If any legislation is repealed and, in substance, reenacted, a reference to the repealed provision shall be deemed a reference to the reenacted provision.

State law references: Similar provisions, General Construction Law § 80.

Residence. "Residence" means the place adopted by a person as the person's place of habitation, and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps is the person's residence.

Seal. "Seal" means the city or corporate seal.

Shall is to be construed as mandatory.

Sidewalk. "Sidewalk" means any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians. "Sidewalk" does not include a parkway.

Signature. "Signature" includes any memorandum, mark or sign written, printed, stamped, photographed, engraved or otherwise placed upon any instrument or writing with intent to execute or authenticate the instrument or writing.

State law references: Similar provisions, General Construction Law § 46.

State. "State" means the State of New York.

Street. "Street" includes any street, avenue, boulevard, road, alley, lane, viaduct or other public highway in the city.

Subway. "Subway" means that area of a city street lying between the vehicular traffic lane and the dedicated street limit.

Tenant, occupant. "Tenant" or "occupant," as applied to a building or land, includes any person holding a written or oral lease or who occupies the whole or a part of the building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Week. "Week" means seven days.

Writing and written. "Writing" or "written" includes every legible representation of letters upon a material substance, except when applied to the signature of an instrument.

State law references: Similar provisions, General Construction Law § 56.

Year. "Year" means 365 days, but the added day of a leap year and the day immediately preceding shall, for the purpose of such computation, be counted as one day. "Year"

means 12 months. "Half year" means six months. "Quarter of a year" means three months.

State law references: Similar provisions, General Construction Law § 58.

Sec. 1-3. Catchlines of sections, subsections, etc.; effect of history notes, cross references, and state law references.

(a) Catchlines for sections, subsections, paragraphs, or other portions of this Code that are printed in boldface type are intended as mere catchwords to indicate the contents and are not titles or part of the law, nor shall they be so deemed when amended or reenacted.

(b) History or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the derivation of the matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code, or which otherwise appear in footnote form, are provided for convenience and have no legal effect.

(c) All references to chapters, articles, divisions, subdivisions, or sections are to the chapters, articles, divisions, subdivisions, or sections of this Code unless otherwise specified.

Sec. 1-4. Effect of repeal of legislation.

(a) The repeal of legislation includes any legislation amendatory of the legislation repealed. The repeal of any provision which repeals any provision of prior legislation does not revive such prior provision. Provisions repealing prior legislation which are substantial reenactments of provisions of the prior legislation shall be construed as a continuation of the provisions of the prior legislation, modified or amended according to the language employed, and not as new enactments.

(b) The repeal of legislation or part thereof does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or any liability, penalty, forfeiture, or punishment incurred prior to the time the repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if the repeal had not been effected. Unless otherwise specifically provided by law, all actions and proceedings, civil or criminal, commenced under or by virtue of any legislation so repealed and pending immediately prior to the taking effect of the repeal may be prosecuted and defended to final effect in the same manner as they might if the provisions were not so repealed.

(c) When two numbers in a schedule of repeals are connected by a dash, both such numbers are included as well as all intermediate numbers.

State law references: Similar provisions, General Construction Law § § 90--1996.

Sec. 1-5. Amendments or additions to Code.

(a) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of the Olean Code of Local Laws is hereby amended to read as follows:" The new provisions may then be set out in full as desired.

(b) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Olean Code of Local Laws is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section may then be set out in full as desired.

(c) All chapters, articles, sections, subsections, paragraphs, or provisions desired to be repealed should be specifically and expressly repealed by chapter, article, section, subsection, or paragraph number, as the case may be. Sec. 1-6. Altering Code. It shall be unlawful for any person in the city to change or amend by additions or deletions any part or portion of this Code, to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

Sec. 1-7. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to the Code shall include all substantive permanent and general parts of local laws of a general and permanent nature adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest legislation included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of local laws included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

- (1) Organize the material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this local law" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____," inserting section numbers to indicate the sections of the Code which embody the substantive sections of the local laws incorporated into the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of local laws inserted into the Code; but, in no case shall the codifier make any change in the meaning or effect of material included in the supplement or already embodied in the Code.

Sec. 1-8. General penalty; continuing violations.

(a) In this section "violation of this Code" means:

(1) Doing an act that is prohibited or made or declared unlawful or an offense by local law or by rule or regulation authorized by local law;

(2) Failure to perform an act that is required to be performed by local law or by rule or regulation authorized by local law; or

(3) Failure to perform an act if the failure is declared an offense, a misdemeanor, or unlawful by local law, or by rule or regulation authorized by local law.

(b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$250.00, imprisonment for a term not exceeding 15 days, or any combination thereof. With respect to violations that are continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit, or franchise.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

State law references: Penalties for violation of local laws, Municipal Home Rule Law § 10(4)(b).

Sec. 1-9. Prosecution where different penalties exist for same offense.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-10. Severability of parts of Code.

The sections, paragraphs, sentences, clauses, and phrases of this part of the Code are severable. If any phrase, clause, sentence, paragraph, or section is declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections.

Sec. 1-11. Provisions considered as continuation of existing legislation.

The provisions appearing in this Code, so far as they are the same as legislation existing at the time of the adoption of this Code, shall be considered as a continuation of this part of the Code and not as new enactments.

Sec. 1-12. Legislation not affected by Code.

Nothing in this Code or the legislation adopting this Code shall affect legislation:

- (1) Promising or guaranteeing the payment of money by or to the city, authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (2) Appropriating funds, or establishing or relating to the annual budget;
- (3) Imposing taxes which are not inconsistent with this Code;
- (4) Establishing positions, classifying employees, or setting salaries not codified in this Code;
- (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, or vacating any street or public way;
- (6) Establishing or prescribing street grades;
- (7) Providing for local improvements and assessing taxes therefor;
- (8) Constituting or establishing or amending the charter;
- (9) Which rezones specific property;
- (10) Dedicating, accepting, or rejecting any plat or subdivision;
- (11) Annexing or deannexing property;
- (12) Whose purpose has been accomplished;
- (13) Which is special although permanent in effect;
- (14) Which is temporary although general in effect.

Sec. 1-13. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the legislation adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code does not authorize or allow any use or the continuance of any use of a structure or premises in violation of any legislation in effect on the date of adoption of this Code.

Chapter LL2

ADMINISTRATION

CROSS REFERENCES

Definitions and rules of construction generally, § LL1-2.

ORDINANCE REFERENCES

**Administration, Ch. 2.
Officers and employees, § 2-101 et seq.**

STATE LAW REFERENCES

**Unconsol. L. § 9103 (McKinney).
Authority to authorize appearance tickets, Municipal Home Rule Law § 10(4)(a).
Appearance tickets, Criminal Procedure Law § 150.10 et seq.**

ARTICLE I IN GENERAL

Sec. LL2-1. through Sec. LL2-20. (Reserved)

ARTICLE II CONTINUITY OF GOVERNMENT IN EVENT OF PUBLIC DISASTER

Sec. LL2-21. Definitions. [L.L. No. 1-1964, § 2]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ATTACK — Any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shell fire, or nuclear, radiological, chemical, bacteriological, or biological means, or other weapons or processes.

DULY AUTHORIZED DEPUTY — A person authorized to perform all the powers and

duties of a public office if the office is vacant, or at such time as it lacks administration, due to the death, absence, or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general, special, or local law other than this local law.

EMERGENCY INTERIM SUCCESSOR — A person designated pursuant to this local law for possible temporary succession to the powers and duties, but not the office, of a city officer if neither such officer nor any duly authorized deputy is able, due to death, absence from the city, or other physical, mental, or legal reason, to perform the powers and duties of the office.

PUBLIC DISASTER — A disaster, catastrophe, or emergency, actual or imminent, of such unusual proportions or extent that:

- (a) A substantial number of the residents of the city either sustain injury, become ill, are infected with disease, have their lives imperiled, are killed, or die as the result of injury, disease, or exposure, or the property of a substantial number of such residents is imperiled, damaged, or destroyed; and
- (b) It is necessary and essential in the interest of public safety, health, and welfare that the continuity of the government of the city be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergency conditions. Such disasters, catastrophes, and emergencies may include but shall not be limited to conflagrations, explosions, earthquakes, or other convulsions of nature, floods, tidal waves, pestilence, riots, insurrections, storms, prolonged failure of electric power or essential transportation services, or any incident or occurrence which causes or threatens to cause danger to life, health, or property from exposure to noxious materials or radiation.

Sec. LL2-22. Intent of article. [L.L. No. 1-1964, § 1]

The state defense emergency act, in section 29-a thereof [Unconsol. L. § 9134.a (McKinney)], authorizes political subdivisions of the state to provide for the continuity of their governments in the event of an actual or imminent attack upon the United States by an enemy or foreign nation. General Municipal Law § 60 authorizes political subdivisions to provide for the continuity of their governments in the event of other public disasters, catastrophes, or emergencies. Based on the authority contained in such laws, this local law is adopted so that on such occasions the government of the city may continue to function properly and efficiently under emergency circumstances.

Sec. LL2-23. Designation, status, qualifications, and terms of designation of emergency interim successors. [L.L. No. 1-1964, § 3]

- (a) Elective officers. Within 30 days after first entering upon the duties of his office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies, or emergency interim successors, or combination thereof, to perform the powers and duties of the office.

- (b) Appointive officers. Each officer or body of officers empowered by law to appoint officers shall within the time specified in subsection (a), in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies, or emergency interim successors, or combination thereof, for each such officer. Where such a body of officers consists of members having overlapping terms, such body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such board within 30 days after a new member elected or appointed to such body of officers first enters upon the duties of his office as a member of such body of officers.
- (c) Review of designations. The incumbent in the case of those elective officers specified in subsection (a) of this section, and the appointing officer or body of officers specified in subsection (b) of this section shall from time to time review and, as necessary, promptly revise the designations of emergency interim successors to insure that at all times there are at least three duly authorized deputies, or emergency interim successors, or combination thereof, for each elective and appointive officer of the city.
- (d) Qualifications. No person shall be designated to, nor serve as, an emergency interim successor unless he is legally qualified to hold the office of the person to whose powers and duties he is designated to succeed.
- (e) Status of emergency interim successor. A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator, and such a designation shall remain effective until replaced by another by the authorized designator.
- (f) Compensation. An emergency interim successor shall serve without salary, unless otherwise provided by local law. He shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of his powers and duties.

Sec. LL2-24. Assumption of powers and duties of officer by emergency interim successor. [L.L. No. 1-1964, § 4]

If, in the event of an attack or a public disaster, an officer described in subsection (a) or subsection (b) of section LL2-23 of this local law, or his duly authorized deputy, if any, is unable, due to death, absence from the city, or other physical, mental, or legal reasons, to perform the powers and duties of the office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except for the power and duty to discharge or replace duly authorized deputies and emergency interim successors of such officer, perform the powers and duties of such officer. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until, where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by

law.

Sec. LL2-25. Recording and publication of designations. [L.L. No. 1-1964, § 5]

The name, address, and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the city clerk, and each designation, replacement, or change in order of succession of any emergency interim successor shall become effective when the designator files with such clerk the successor's name, address, and rank in order of succession. Such clerk shall keep an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors, and such file shall be open to public inspection. The clerk shall notify in writing each designated person of the filing of his name as an emergency interim successor, his rank in order of succession, and also shall notify in writing any person previously designated who is replaced or whose place in order of succession is changed.

Sec. LL2-26. Qualification for taking office. [L.L. No. 1-1964, § 6]

At the time of their designation, or as soon thereafter as possible, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

Sec. LL2-27. Quorum and vote requirements. [L.L. No. 1-1964, § 7]

In the event of an attack or a public disaster, the president of the common council, or his emergency interim successor performing his powers and duties, may suspend quorum requirements for the common council. If quorum requirements are suspended, any local law, ordinance, resolution, or other action requiring enactment, adoption, or approval by an affirmative vote of a specified proportion of members may be enacted, adopted, or approved by the affirmative vote of the specified proportion of those voting thereon.

Sec. LL2-28. Committee chair approval of certain purchase orders. [L.L. No. 117-96, 11-26-1996]

- (a) Any provision of this chapter to the contrary notwithstanding, whenever any purchase order is submitted by a department the payment of which will exceed 80% of the budgeted line, the auditor shall not approve such payment unless the mayor and chairman of the common council committee having oversight for such department shall each specifically authorize such expenditure by written approval provided therefor to the auditor. In the event the mayor or committee chair shall be unavailable to authorize the purchase order, the common council president shall have the power to approve the expenditure on behalf of one but not both of the unavailable parties.
- (b) Approval by the mayor and the committee chair of the common council committee having general oversight of any department of the city required by this section shall not be required with respect to the following purchases:
 - (1) Tree program;
 - (2) Budgeted equipment purchases (i.e. trucks, cars, etc.);
 - (3) Salt;

- (4) Chemicals;
- (5) Gasoline;
- (6) Utilities including telephone;
- (7) Personnel salaries, benefits, etc.;
- (8) Leases and rentals.

Sec. LL2-29. through Sec. LL2-35. (Reserved)

ARTICLE III
OFFICERS AND EMPLOYEES

Sec. LL2-36. Residency requirement — Established. [L.L. No. 2-1991, §§ 1—6, 7-23-1991; L.L. No. 5-08, 9-23-2008]

- (a) Findings. Through adoption of this section, the common council makes a legislative determination that those who are residents of the city take a great interest in promoting the public safety, health and general welfare of this community as do nonresidents who are employed by the city. The common council further declares that ability, "work ethic" and "a team player attitude" are the qualities most desirable of its employees. The common council therefore concludes that residency by its employees and officers within the community, while preferred, will not be a requirement of employment. Candidate selection will follow past practice in accordance with Civil Service Law and Rules with the following exception: In the event there are two or more candidates with the same qualifications and one is a city resident, the position will be awarded to the city resident.
- (b) Definition. Residency shall mean, for the purpose of this section, the actual principal domicile of an individual, where he normally sleeps and maintains usual personal and household effects.
- (c) Residency for new employees. Except as otherwise provided by law, the common council hereby establishes a residency requirement for all prospective employees of the community. Every person initially employed by the city on or after October 1, 1991, shall, as a qualification of employment, become a resident of the city within six months of the date of initial service for the city. During the time of service of such employees, no individual shall cease to be a resident of the city.
- (d) Posting. A copy of this section shall be provided to all employees upon initial appointment. However, the failure of the employer to do so shall not affect the application of this section to any employee appointed after its effective date. A copy of this law shall also be posted on all notice boards normally used by the employer for employee communications.
- (e) Breach of residency requirement. Should it be alleged that an employee is not in compliance with subsection (c) or (d) of this section, as the case may be, the employee's supervisor, upon becoming aware of the allegation, shall provide the employee written notice of his alleged violation and shall allow the employee seven calendar days in which to respond. Where there is failure to respond or where the

response is not, in the judgment of the employee's supervisor, sufficient to satisfy the requirements of this section, the employee's supervisor shall set a hearing date to hear the charge of nonresidency and to make a record of this hearing. Should an employee establish residency to the satisfaction of the employee's supervisor prior to the hearing date, it shall result in a cancellation of the hearing authorized by this section.

- (f) **Hearing.** The employee shall be sent a notice of the hearing date at least 15 days prior to the hearing. The hearing record and the determination of the supervisor conducting the hearing as to whether the employee is a nonresident in violation of this section shall be referred to the mayor for his review and decision. Should the mayor decide that an employee is a nonresident in violation of this section, the employee shall be dismissed in accordance with the statutory and/or contractual procedures, if any, applicable to him under such circumstances. Upon re-establishing residency, an individual having so resigned may apply for reinstatement to his position and shall be reinstated in accordance with Civil Service Law and Rules if the position is vacant.
- (g) **Waiver of requirements.** If the common council determines by resolution that it is in the best interests of the city to do so, the provisions of subsections (c) and (d) of this section may be waived with respect to an incumbent or incumbents of a particular title or titles in accordance with the following standards:
 - (1) **Lack of applicants.** The requirement of residency may be waived in those instances where the employer has difficulty hiring the most qualified person because of the residency requirement.
 - (2) **Necessity for nonresidency.** The requirement of residency may be waived in those instances where it is determined that residency is not in the best interest of the municipality.

Such a waiver shall not in any way affect the application of subsections (c) and (d) of this section with respect to any other title or titles.

Sec. LL2-37. Same—Waiver for building inspection/code enforcement officer. [L.L. No. 2-1990, §§ 1—4]

- (a) **Findings.** The common council recognizes that positions in the building inspection/code enforcement office require a high degree of specialization and training, and that employees having such specialized skills and capabilities will promote the health, safety, and general welfare of the people of the city.
- (b) **Waiver of residency requirement.** The common council makes a legislative determination that the public health, safety, and welfare and the future of this community will be enhanced by waiver of the residency requirement for the hiring of building inspection/code enforcement officers within the city.
- (c) **Definition of residency.** Residency shall mean, for the purposes of this local law, the actual principal place of domicile of an individual, where he normally sleeps

and maintains usual personal and household effects.

- (d) Filling of position by county resident. Notwithstanding any other provision of law, the position of building inspection/code enforcement officer may be filled and held by a person otherwise qualifying residing in the county.

Sec. LL2-38. through Sec. LL2-50. (Reserved)

ARTICLE IV
APPEARANCE TICKETS

Sec. LL2-51. Definitions. [L.L. No. 3-1985, § 3]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

APPEARANCE TICKET — A written notice issued and subscribed by a building inspector or by a code enforcement officer authorized pursuant to this local law to issue such appearance ticket, and directing a designated person to appear in the city court at a designated future time in connection with the alleged commission of a designated offense.

Sec. LL2-52. Legislative findings. [L.L. No. 3-1985, § 1]

It is in the public interest that offenses and violations of local laws and ordinances within the city be promptly and expeditiously enforced by those persons who have the obligation under the charter of the city to enforce the laws and ordinances of the city. In order to simplify and expedite the effect of enforcement of the city's laws and ordinances, it is hereby found to be reasonable to require certain public employees of the city to issue appearance tickets relating to the enforcement of any local law, ordinance, rule, or regulation within the city which affects the public health, safety, and welfare.

Sec. LL2-53. Officers authorized to issue. [L.L. No. 3-1985, §§ 2, 10; L.L. No. 2-02, § 1, 5-28-2002]

- (a) Building inspectors, code enforcement officers, and the fire chief are authorized to issue appearance tickets as defined in the Criminal Procedure Law § 150.10 relating to the enforcement of any local law, ordinance, rule, or regulation of the City of Olean or New York State Uniform Fire Prevention and Building Code, which affects the public health, safety, and welfare of the inhabitants of the city.
- (b) A peace officer as defined by Criminal Procedure Law § 2.10 is authorized under this local law to issue appearance tickets relating to the enforcement of any local law, ordinance, rule, or regulation affecting the public health, safety, and welfare of the inhabitants of the city.

Sec. LL2-54. Issuance, service. [L.L. No. 3-1985, § 4]

A building inspector or a code enforcement officer may issue and serve an appearance ticket under this article with respect to designated offenses of less than felony grade when he has reasonable cause to believe that such person has committed a misdemeanor or has

committed a petty offense in his presence.

Sec. LL2-55. Return. [L.L. No. 3-1985, § 5]

An appearance ticket served under this article must be made returnable in the city court.

Sec. LL2-56. Personal service. [L.L. No. 3-1985, § 6]

An appearance ticket, other than one issued for a traffic infraction relating to parking, must be served personally.

Sec. LL2-57. Filing of information or complaint. [L.L. No. 3-1985, § 7]

A building inspector or a code enforcement officer who has issued and served an appearance ticket must, at or before the time such appearance ticket is returnable, file or cause to be filed with the city court an information, a simplified information, or a misdemeanor complaint charging the person named in such appearance ticket with the offense specified therein. Nothing contained in this section shall authorize the use of a simplified information when not authorized by law.

Sec. LL2-58. Grounds for dismissal. [L.L. No. 3-1985, § 8]

If such accusatory instrument is not sufficient on its face, as prescribed in Criminal Procedure Law § 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument which is sufficient on its face, it must dismiss such accusatory instrument.

Sec. LL2-59. Grounds for warrant of arrest. [L.L. No. 3-1985, § 9]

If, after the serving of an appearance ticket and filing of a information or misdemeanor complaint charging the offense designated therein, the defendant does not appear in the city court at the time such appearance ticket is returnable, the court may issue a summons or a warrant of arrest based upon the information or misdemeanor complaint filed.

ARTICLE V

Sale or Franchise of City-Owned Property
[Adopted 10-25-2016 by L.L. No. 1-2016]

Sec. LL2-60. Vote required for sale, lease, or franchise of City real property.

No sale or lease of City real estate or of any franchise belonging to or under the control of the City shall be made or authorized except by vote of 3/4 of all the members of the Common Council.

Sec. LL2-61. Sale of property acquired by foreclosure proceedings.

- (a) Whenever the City of Olean shall become vested with the title to real property by virtue of as the result of a foreclosure proceeding either directly or indirectly, the City of Olean is authorized to sell and convey the real property so acquired, either with or without advertising for bids, notwithstanding the provisions of any general, specific or local law.
- (b) No such sale shall be effective unless and until such sale shall have been approved

and confirmed by a 3/4 vote of the Common Council, except that no such approval shall be required when the property is sold at public auction to the highest bidder.

Sec. LL2-62. Sale of property not needed for public or municipal purposes.

Notwithstanding the provisions of Subdivision 2b of § 23 of the General City Law, or of any special act, local law or Charter, real property owned by the City which is not needed for a public or municipal purpose may be leased or sold at public sale or by private sale. In the event that the Common Council determines that a private sale would be in the best interests of the City, then a resolution shall be passed by a vote of at least 3/4 of all of the members of the Common Council stating that the private sale is determined to be in the best interest of the City and that the real property which is the subject of the sale has no viable public purpose or municipal purpose. This section shall be deemed not to apply to real property in which the City became the owner by and through a tax sale for nonpayment of real estate taxes.

Sec. LL2-63. Franchise time limit; exception.

No franchise shall be granted or be operative for a period longer than 50 years. The Common Council may, however, grant to the owner or lessee of an existing franchise, under which operations are being actually carried on, such additional rights or extensions in the street or streets in which said franchise exists, upon such terms as the interests of the City may require, with or without advertisements, as the Common Council may determine; provided, however, that no such grant shall be operative until also approved by the Mayor.

Sec. LL2-64. Demand for referendum.

In case a demand is filed as hereinafter provided, the question whether such proposed sale or lease of City real estate or a franchise belonging to or under the control of the City shall be approved shall be submitted to the voters of the City at a general or special election after public notice to be published at least once each week for three weeks in the official paper. Such a demand shall be subscribed and acknowledged by the voters of the City equal in number to at least 10% of the total number of votes cast therein at the last preceding general election and shall be filed in the office of the Clerk before the adoption of the final ordinance or resolution approving and authorizing such sale and lease. If such a demand is filed, as aforesaid, such sale or lease of real estate or such franchise shall not take effect unless, in addition to the foregoing requirements, a majority of the electors voting thereon at such election shall vote in the affirmative.

Chapter LL2.5

BUILDINGS

[HISTORY: Adopted by the Common Council of the City of Olean as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Foreclosure Inspections
[Adopted 5-12-2015 by L.L. No. 2-2015]

§ LL2.5-1. Purpose.

- (a) The City of Olean of Common Council has determined that unsafe and blighted properties pose a threat to life and property in the City of Olean. The Common Council has further determined that certain economic conditions have led to an increase in real property foreclosures under the New York Real Property Tax Law and Real Property Actions and Proceedings Law and that many of these foreclosed properties have become neglected and in violation of Olean City Code Chapter 12. These violations create a continuing safety and health menace to the persons and property in the City of Olean.
- (b) It is the purpose of this article to provide for the safety, health protection and the general welfare of the persons and property in the City of Olean by requiring that foreclosed properties be inspected and issued a certificate of continued occupancy by the Code Enforcement Office prior to the indexing of the record of conveyance by the City Assessor.

§ LL2.5-2. Title.

This article shall be known as the "Foreclosure Inspection Law" of the City of Olean.

§ LL2.5-3. Definitions.

For the purposes of this article only, the following words shall be interpreted and defined as follows:

BUILDING — Any building, structure or portion thereof used for residential, commercial, or industrial purpose.

CERTIFICATE OF CONTINUED OCCUPANCY — That document issued by the City of Olean upon determination by the Code Enforcement Office or its designee that a dwelling is fit for human habitation in accordance with the provisions of the ordinances of the City of Olean and the laws, rules and regulations of the State of New York. This certificate shall be issued in the same manner as a certificate of occupancy under Olean City Code Chapter 26.

DIRECTLY — A conveyance at a public sale under Article 13 of the New York Real Property Actions and Proceedings Law or Article 11 of the New York Real Property Tax Law.

FORECLOSED PROPERTY — Any property in the City of Olean that is being transferred directly or indirectly as a result of a proceeding commenced under Article 13 of the New York Real Property Actions and Proceedings Law or Article 11 of the New York Real Property Tax Law.

INDIRECTLY — A conveyance where the seller is a mortgagee conveying title as a result of having acquired the same through a deed in lieu of a foreclosure or judicially through a tax foreclosure under Article 11 of the New York Real Property Tax Law.

RECORD OF CONVEYANCE — The procedure established under Chapter C, Article VI, Section 6.007 of the Charter of the City of Olean for the indexing and recording of all land conveyances in the City of Olean required before the conveyance can be recorded in the office of the Cattaraugus County Clerk.

§ LL2.5-4. Inspection and certificate of continued occupancy required.

- (a) It shall hereafter be unlawful for a property conveyed directly or indirectly under Article 13 of the New York Real Property Actions and Proceedings Law or Article 11 of the New York Real Property Tax Law without having first been inspected and issued a certificate of occupancy under Chapter 26 of the City of Olean Code of Ordinances.
- (b) The City assessor shall not stamp, countersign or otherwise record any conveyance subject to this article unless such conveyance is accompanied by a certificate of continued occupancy dated within 30 days of the proposed conveyance.

§ LL2.5-5. Application and fee.

The mortgagee or lienholder of a foreclosed property seeking to obtain or transfer title to property for which a certificate of continued occupancy is required under this article shall make application therefor to the City of Olean Code Enforcement Office on application forms furnished for that purpose. The fee for the inspection and certificate shall be as set forth in Chapter 6 and shall be payable to the City of Olean in advance of the inspection.

§ LL2.5-6. Effect of application and inspection.

- (a) Every property subject to this article shall be timely granted a certificate of continued occupancy if such property and any building thereon are in compliance with the Olean City Code and the laws, rules and regulations of the State of New York.
- (b) If such property is found not to be in compliance with the Olean City Code and the laws, rules and regulations of the State of New York, a notice of violation and order to remedy will be issued by the Code Enforcement Office detailing the violations and corrective measures necessary prior to the issuance of the certificate of continued occupancy.
- (c) If the Office of Code Enforcement or the Fire Chief, after an inspection, determines that there is an imminent danger to person or property, the City of Olean may take immediate action to secure the property for the public's safety, and any expense incurred in doing so shall be a lien on the property enforceable in the same manner as a lien for the nonpayment of water and sewer rents.

§ LL2.5-7. Applicability of Chapter 26.

To the extent not specifically addressed herein, any party or property subject to this article shall have all the procedural remedies available under Chapter 26 of the Olean City Code of Ordinances.

Chapter 3, ELECTIONS

Sec. 3-1. Conduct of special elections.

(a) Whenever a special election not governed by the Election Law is called under the authority of the Municipal Home Rule Law or any other law permitting or requiring such a special election, the city clerk shall request the county board of elections to conduct the special election of the city at the city's expense, as if the special election were governed by applicable provisions of the Election Law. If the county board of elections declines to conduct the special election, the city clerk shall conduct it as if it were governed by applicable provisions of the Election Law, excepting that the statement of the result of such election and all papers relating to such election as provided by the Election Law shall be filed with and returned to the city clerk by such inspectors of election.

(b) Voters may not vote in such a special election by absentee ballot.

(L.L. No. 1-1983, § 2, 3)

Sec. 3-2. Compensation of election officials.

The compensation paid inspectors of election, ballot clerks, poll clerks, and all other election personnel of the city shall be determined by the common council by the passage of appropriate resolutions fixing the compensation of the above entitled officials.

(L.L. No. 4-1967, § 1)

State law references: Compensation of election inspectors, poll clerks, etc., Election Law § 3-420.

Sec. 3-3. Election wards.

(a) The following wards shall be the seven election wards of the city:

(1) Ward 1. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of North Union Street Extension (Route 16) and the north line of the city; thence east along the north line of the city approximately 1,800 feet to the east line of the city; thence south along the east line of the city to the center line of Genesee Street; thence west along the center line of Genesee Street to the center line of Third Avenue; thence south along the center line of Third Avenue to the center line of School Street; thence west along the center line of School Street to the east bank of Olean Creek; thence northwest along the east bank of Olean Creek to the center line of North Union Street Extension (Route 16); thence north along the center line of North Union Street Extension (Route 16) to the north line of the city which is the point of beginning.

Ward 1. District 2 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of Genesee Street and the east line of the city; thence

south along the east line of the city approximately 1,350 feet to the north line of the city, thence east along the north line of the city approximately 1,250 feet to the center line of Queen Street; thence south along the center line of Queen Street to the center line of Prospect Avenue; thence west along the center line of Prospect Avenue to the center line of Alder Street; thence south and southwest along the center line of Alder Street to the south line of the Norfolk Southern Corporation right-of-way; thence northwest along the south line of the Norfolk Southern Corporation right-of-way to the east bank of Olean Creek; thence north along the east bank of Olean Creek to a point, said point being the extension of the center line of School Street; thence east along the center line of School Street to the center line of Third Avenue; thence north along the center line of Third Avenue to the center line of Genesee Street; thence east along the center line of Genesee Street to the east line of the city which is the point of beginning.

(2) Ward 2. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of Queen Street and the north line of the city; thence east along the north line of the city approximately 1,450 feet to the east line of the city; thence south along the east line of the city approximately 1,100 feet to the north line of the city; thence east along the north line of the city approximately 1,300 feet to the center line of Cherry Street; thence south along the center line of Cherry Street to the center line of Brook Street; thence west along the center line of Brook Street to the center line of Houghton Avenue; thence south along the center line of Houghton Avenue to the center line of Seneca Avenue; thence northwest along the center line of Seneca Avenue to the center line of Alder Street; thence northeast and north along the center line of Alder Street to the center line of Prospect Avenue; thence east along the center line of Prospect Avenue to the center line of Queen Street; thence north along the center line of Queen Street to the north line of the city which is the point of beginning.

Ward 2. District 2 shall comprise all that part of the city as follows: Beginning at the center line of Brook Street and the center line of Cherry Street; thence south along the center line of Cherry Street and its extension to the south bank of the Allegheny River; thence west, southwest and northwest along the south bank of the Allegheny River approximately 4,300 feet to the east line of the city; thence north along the east line of the city extended to the north bank of the Allegheny River; thence northwest along the north bank of the Allegheny River to the east bank of Olean Creek; thence north along the east bank of Olean Creek to the south line of the Norfolk Southern Corporation right-of-way; thence southeast along the south line of the Norfolk Southern Corporation right-of-way to a point, said point being the extension of the center line of Alder Street; thence northeast along such extension to the center line of Seneca Avenue; thence southeast along the center line of Seneca Avenue to the center line of Houghton Avenue; thence north along the center line of Houghton Avenue to the center line of Brook Street; thence east along the center line of Brook Street to the center line of Cherry Street which is the point of beginning.

(3) Ward 3. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of South 7th Street and the center line of West Greene Street; thence east along the center line of West Greene Street to the center line of South 4th Street; thence south along the center line of South 4th Street and its extension to the

north bank of the Allegheny River; thence southeast and northeast along the north bank of the Allegheny River to the west bank of Olean Creek; thence north along the west bank of Olean Creek to the center line of East State Street (Route 417); thence east along the center line of East State Street (Route 417) to the east bank of Olean Creek; thence south along the east bank of Olean Creek to the north bank of the Allegheny River; thence southeast along the north bank of the Allegheny River approximately 2,660 feet to a point, said point being the extension of the east line of the city; thence south along such extension and east line of the city approximately 1,980 feet to the south line of the city; thence west along south line of the city approximately 2,400 feet to the east line of the city; thence south along the east line of the city approximately 1,250 feet to the south line of the city; thence west along the south line of the city approximately 4,300 feet to the west line of the city; thence north along the west line of the city approximately 3,750 feet to the south bank of the Allegheny River; thence southeast along the south bank of the Allegheny River approximately 370 feet to a point, said point being the extension of the center line of South 7th Street; thence north along such extension to the center line of West Greene Street which is the point of beginning.

Ward 3. District 2 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of West Greene Street and the center line of South 4th Street; thence north along the center line of South 4th Street to the center line of West Henley Street; thence east along the center line of West Henley Street to the center line of South Union Street (Route 16); thence north along the center line of South Union Street (Route 16) to the center line of East State Street (Route 417); thence east along the center line of East State Street (Route 417) to the west bank of Olean Creek; thence south along the west bank of Olean Creek to the north bank of the Allegheny River; thence southwest and northwest along the north bank of the Allegheny River to a point, said point being the extension of South 4th Street; thence north along such extension and center line of South 4th Street to the center line of West Greene Street which is the point of beginning.

(4) Ward 4. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of North 7th Street and the center line of Wayne Street; thence east along the center line of Wayne Street to the west line of the Norfolk Southern Corporation right-of-way; thence southeast along the west line of the Norfolk Southern Corporation right-of-way to the east bank of Olean Creek; thence south along the east bank of Olean Creek to a point, said point being the extension of Laurel Avenue; thence west along such extension and center line of Laurel Avenue to the center line of North Clinton Street ; thence north along the center line of North Clinton Street to the center line of Tompkins Street; thence west along the center line of Tompkins Street to the center line of North Barry Street; thence north along the center line of North Barry Street to the center line of Hamilton Street; thence west along the center line of Hamilton Street to the center line of North Union Street (Route 16); thence south along the center line of North Union Street (Route 16) to the center line of Laurens Street; thence west along the center line of Laurens Street to the center line of North 4th Street; thence north along the center line of North 4th Street to the center line of Washington Street; thence west along the center line of Washington Street to the center line of North 7th Street; thence north along the center line of North 7th Street to the center line of Wayne Street which is the point of beginning.

Ward 4. District 2 shall comprise all that part of the city as follows: Beginning at the intersection of the extension of the center line of Laurel Avenue and the east bank of Olean Creek; thence south along the east bank of Olean Creek to the center line of East State Street (Route 417); thence west along the center line of East State Street (Route 417) to the center line of South Union Street (Route 16); thence south along the center line of South Union Street (Route 16) to the center line of West Henley Street; thence west along the center line of West Henley Street to the center line of South 7th Street; thence north along the center line of South 7th Street and North 7th Street to the center line of Washington Street; thence east along the center line of Washington Street to the center line of North 4th Street; thence south along the center line of North 4th Street to the center line of Laurens Street; thence east along the center line of Laurens Street to the center line of North Union Street (Route 16); thence north along the center line of North Union Street (Route 16) to the center line of Hamilton Street; thence east along the center line of Hamilton Street to the center line of North Barry Street; thence south along the center line of North Barry Street to the center line of Tompkins Street; thence east along the center line of Tompkins Street to the center line of North Clinton Street; thence south along the center line of North Clinton Street to the center line of Laurel Avenue; thence east along the center line of Laurel Avenue and its extension to the east bank of Olean Creek which is the point of beginning.

(5) Ward 5. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of North 12th Street and the center line of Wayne Street; thence east along the center line of Wayne Street to the center line of North 7th Street; thence south along the center line of North 7th Street to the center line of West State Street (Route 417); thence west along the center line of West State Street (Route 417) to the center line of North 9th Street; thence north along the center line of North 9th Street to the center line of Washington Street; thence west along the center line of Washington Street to the center line of North 12th Street; thence north along the center line of North 12th Street to the center line of Wayne Street which is the point of beginning.

Ward 5. District 2 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of West State Street (Route 417) and the center line of South 7th Street; thence south along the center line of South 7th Street to the center line of West Henley Street; thence east along the center line of West Henley Street to the center line of South 4th Street; thence south along the center line of South 4th Street to the center line of West Greene Street; thence west along the center line of West Greene Street to the center line of South 7th Street; thence south along the extension of the center line of South 7th Street to the south bank of the Allegheny River; thence northwest along the south bank of the Allegheny River approximately 1,960 feet to a point, said point being the extension of South 13th Street; thence north along the extension of the center line of South 13th Street to the center line of Irving Street; thence east along the center line of Irving Street to the center line of South 11th Street; thence north along the center line of South 11th Street to the center line of West State Street (Route 417); thence west along the center line of West State Street (Route 417) to the center line of North 12th Street; thence north along the center line of North 12th Street to the center line of Washington Street; thence east along the center line of Washington Street to the center

line of North 9th Street; thence south along the center line of North 9th Street to the center line of West State Street (Route 417); thence east along the center line of West State Street (Route 417) to the center line of South 7th Street which is the point of beginning.

(6) Ward 6. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the west line of the city and the south line of the Southern Tier Extension Railroad Authority right-of-way; thence northeast along the south line of the Southern Tier Extension Railroad Authority right-of-way to the center line of Buffalo Street; thence southeast and east along the center line of Buffalo Street to the center line of North 12th Street; thence south along the center line of North 12th Street to the center line of West State Street (Route 417); thence west along the center line of West State Street (Route 417) to the center line of North 18th Street; thence north along the center line of North 18th Street to the center line of Washington Street; thence west along the center line of Washington Street to the center line of North 19th Street; thence north along the center line of North 19th Street and its extension to the center line of Two Mile Creek; thence southwest along the center line of Two Mile Creek approximately 3,350 feet to the west line of the city; thence north along the west line of the city approximately 900 feet to the north line of the city; thence east along the north line of the city approximately 1,360 feet to the west line of the city; thence north along the west line of the city to the south line of the Southern Tier Extension Railroad Authority right-of-way which is the point of beginning.

Ward 6. District 2 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of North 12th Street and the center line of West State Street (Route 417); thence east along the center line of West State Street (Route 417) to the center line of South 11th Street; thence south along the center line of South 11th Street to the center line of Irving Street; thence west along the center line of Irving Street to the center line of South 13th Street; thence south along the extension of South 13th Street to the south bank of the Allegheny River; thence west and southwest along the south bank of the Allegheny River approximately 5,580 feet to the west line of the city; thence north along the west line of the city approximately 4,550 feet to the center line of Two Mile Creek; thence northeast along the center line of Two Mile Creek approximately 3,350 feet to a point, said point being the extension of the center line of North 19th Street; thence south along such extension and center line of North 19th Street to the center line of Washington Street; thence east along the center line of Washington Street to the center line of North 18th Street; thence south along the center line of North 18th Street to the center line of West State Street (Route 417); thence east along the center line of West State Street (Route 417) to the center line of North 12th Street which is the point of beginning.

(7) Ward 7. District 1 shall comprise all that part of the city as follows: Beginning at the intersection of the north line of the city and the east bank of Olean Creek; thence southwest and southeast along the east bank of Olean Creek to the north line of the city; thence east along the north line of the city approximately 3,350 feet to the center line of North Union Street Extension (Route 16); thence south along the center line of North Union Street Extension (Route 16) to the center line of North Union Street; thence

northwest along the center line of North Union Street to the center line of Gardiner Avenue; thence southwest along the center line of Gardiner Avenue to the center line of Maple Street; thence northwest along the center line of Maple Street to the center line of West Forest Street; thence southwest along the center line of West Forest Street to the center line of Spruce Street; thence northwest along the center line of Spruce Street to the center line of West Pine Street; thence southwest along the center line of West Pine Street extended to the west line of the Norfolk Southern Corporation right-of-way; thence northwest along the west line of the Norfolk Southern Corporation right-of-way to the center line of Franklin Street; thence southwest along the center line of Franklin Street to the center line of Johnson Street; thence northwest and north along the center line of Johnson Street to the northwest line of the city; thence northeast along the northwest line of the city approximately 4,700 feet to the north line; thence east along the north line of the city approximately 820 feet to the east bank of Olean Creek which is the point of beginning.

Ward 7. District 2 shall comprise all that part of the city as follows: Beginning at the intersection of the center line of North Union Street Extension (Route 16) and the east bank of Olean Creek; thence southeast and south along the east bank of Olean Creek to the south line of the Norfolk Southern Corporation right-of-way; thence northwest along the south line of the Norfolk Southern Corporation right-of-way to the center line of Wayne Street; thence west along the center line of Wayne Street to the center line of Buffalo Street; thence west and northwest along the center line of Buffalo Street to the south line of the Southern Tier Extension Railroad Authority right-of-way; thence southwest along the south line of the Southern Tier Extension Railroad Authority right-of-way to the west line of the city; thence north along the west line of the city approximately 1,880 feet to the northwest line of the city; thence northeast along the northwest line of the city approximately 3,350 feet to the center line of Johnson Street; thence south and southeast along the center line of Johnson Street to the center line of Franklin Street; thence northeast along the center line of Franklin Street to the west line of the Norfolk Southern Corporation right-of-way; thence southeast along the west line of the Norfolk Southern Corporation right-of-way to a point, said point being the extension of West Pine Street; thence northeast along such extension to the center line of Spruce Street; thence southeast along the center line of Spruce Street to the center line of West Forest Street; thence northeast along the center line of West Forest Street to the center line of Maple Street; thence southeast along the center line of Maple Street to the center line of Gardiner Avenue; thence northeast along the center line of Gardiner Avenue to the center line of North Union Street; thence southeast along the center line of North Union Street to the center line of North Union Street Extension (Route 16); thence north along the center line of North Union Street Extension (Route 16) to the east bank of Olean Creek which is the point of beginning.

(L.L. No. 1-1992, 4-28-1992; L.L. No. 1-2004, 2-24-2004)

(b) The ward boundaries set out in subsection (a) shall be in effect for the election to be held in November, 1993; however, if there shall be a vacancy in any of the existing 11 wards prior to January 1, 1994, that the eleven existing boundaries shall be applicable to any special election which needs to be called.

(L.L. No. 1-1992, 4-28-1992)

Chapter 4, HEALTH AND HUMAN SERVICES

Sec. 4-1. Hearing of response to proposed location of community residential facility for mentally disabled.

Whenever a sponsoring agency shall notify the mayor in writing that it intends to establish a community residential facility for the mentally disabled at a specified address within the city, the mayor may set the time and place for a public hearing covering the sponsoring agency's notification to the city. Such public hearing shall be held prior to the city's response to the sponsoring agency and the commissioner of the office of mental retardation and development disabilities.

(L.L. No. 2-1982, § 2)

State law references: Hearing held pursuant to local law on site selection of community residential facilities, Mental Hygiene Law § 41.34(c)(2).

Chapter LL4.5

PROCUREMENT POLICIES

[HISTORY: Adopted by the Common Council of the City of Olean as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Best Value for Public Works Contracts

[Adopted 11-24-2015 by L.L. No. 6-2015¹]

§ LL4.5-1. Legislative intent.

It is the intent of this article to enhance the City's ability to identify the lowest responsible bidder on public works construction projects by instituting more comprehensive submission requirements and an evaluation system which is in compliance with New York State General Municipal Law. The City, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects are not necessarily assured by awarding a public works contract solely on the basis of the low price. This article establishing uniformity of guidelines for determining the responsibility of bidders will assure efficient use of taxpayer dollars, will promote public

¹. Editor's Note: This local law also superseded former Art. I, Best Value for Public Works Contracts, adopted 2-25-2014 by L.L. No. 1-2014.

safety, and is in the public interest.

§ LL4.5-2. Applicability.

This article shall apply to construction projects subject to the competitive bidding requirements of General Municipal Law § 103 and advertised for bids on or after the effective date.

§ LL4.5-2.1. Public works.

For purposes of this article, the term "public works" shall mean the following: any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, moving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any public building, structure, highway, roadway, street, alley, bridge, sewer, drain, ditch, sewage disposal plant, water work, parking facility, railroad, excavation, or other project, development, real property, or improvement, or to any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project or development, real property or improvement herein described of any material or article of merchandise, which is paid for out of public funds in an amount exceeding \$250,000. The term also includes any public works leased by the City under a lease containing an option to purchase exceeding the threshold of \$250,000 established hereby.

§ LL4.5-2.2. Responsible bidder questionnaire.

- (a) New York State Vendor Responsibility Questionnaire. Before a public works contract may be awarded pursuant to General Municipal Law § 103, contracting officials shall determine the responsibility of potential contractors and subcontractors by reviewing uniform questionnaires submitted by each contractor and subcontractor for the project. All bidders are required to submit the New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2) form (hereinafter "uniform questionnaire") with appendices A, B, and C to ascertain information as to integrity, responsibility and competence.
- (b) List of subcontractors. Each bidder shall submit a list of the subcontractors used in the calculation of the bid upon submission of the uniform questionnaire.
- (c) Conformity by subcontractors. Subcontractors shall complete the uniform questionnaire and meet the same responsibility standards as contractors to be eligible to work on public work contracts. Questionnaires shall be completed by subcontractors no later than the time and date of the award. The City reserves the right to reject the bid on the basis of unsatisfactory questionnaire responses by a subcontractor designated to perform work by the bidding general contractor.

§ LL4.5-2.3. Requirements.

All general bidders and sub-bidders (including sub-subbidders) for construction projects funded by the City of Olean as set forth above in § LL4.5-2 shall, as a condition of the bid, agree, in writing, that they shall comply with the obligations established by this article.

- (1) The City shall require that all bidders fill out the uniform questionnaire in order to ascertain the financial responsibility, accountability, reliability, skill, judgment, and integrity of the apparent lowest bidder.
- (2) The City shall utilize the Guidelines for Responsibility Determinations as set forth in Executive Order No. 170 (9 NYCRR 4.170) in evaluating the responsibility of contractors and determining the lowest responsible bidder.
- (3) Contractors and all subcontractors shall properly classify their workers as employees rather than as independent contractors, unless those workers meet the definition of "independent contractor" as defined by the Internal Revenue Service, and shall treat said employees accordingly for purposes of workers compensation insurance coverage, unemployment insurance, employment taxes, and social security taxes.
- (4) The contractors and all subcontractors shall require each employee to sign in and out at the beginning and end of each day, and list next to his or her name his or her craft, and to provide such information to the City Director of Public Works ("the Director") on a biweekly basis. Such information shall be kept in the Commissioner's office for a period of three years, and copies of same shall be made available to the public immediately upon Freedom of Information Law (FOIL) request.

§ LL4.5-2.4. Procedure.

- (a) The Director, or other department head soliciting public works bids, shall distribute to all bidders a copy of this article and the uniform questionnaire, and thereafter collect from bidders all information required by this article, and keep such information in his/her offices for a period of three years, review of which will be made available to the public.
- (b) If a bidder fails or refuses to provide all the information required by this article, or provides false information, the bidder's bid will be rejected at the bid opening.
- (c) The Director shall post a list of the three low apparent bidders on the City of Olean website five days after the bid opening.
- (d) If the apparent lowest bidder is deemed not responsible, then the next lowest bidder will be reviewed and so on until the lowest bidder is deemed responsible and selected as the lowest responsible bidder. In the event a bidder fails to furnish the requested information, the bidder shall be deemed disqualified and determined to be not responsible, and the next lowest bidder shall become the apparent lowest bidder.
- (e) Not later than five calendar days prior to a final determination that the apparent lowest bidder is not responsible, the City will notify the party of same, in writing, stating the reasons and setting forth a reasonable time, date and place for the apparent low bidder to appear and be heard.
- (f) If the bid of the lowest responsible bidder appears disproportionately low when compared with estimates obtained by or on behalf of the City and/or compared to other bids submitted (10% or greater disparity), the City reserves the right to inquire

further of the apparent lowest bidder to determine whether the bid contains mathematical errors, omissions and/or erroneous assumptions, and whether the apparent lowest bidder has the capability to perform and complete the contract for the bid amount.

- (g) If a bidder is found to have willfully violated New York Labor Law § 220 within the previous five years, that bidder shall automatically be deemed "not responsible," and his bid shall be rejected unless the Commissioner, subject to review by the Public Works Committee of the Olean City Legislature, determines otherwise. Otherwise, based on all of the information collected pursuant to this article and any other factor deemed relevant, the Commissioner of Public Works, or other department heads soliciting public works bids, shall determine if the apparent lowest bidder is in fact responsible.
- (h) Credit toward bid award. The following criteria shall be used as a credit toward a bid determining the lowest responsible bidder. If the City applies any credit(s) towards a bid, the credit(s) will not reduce the amount of a contract. EXAMPLE: \$1,000,000 bid received a \$50,000 local bidder credit. For purposes of determining the lowest bidder, the contractor's bid is \$950,000. However, the contract price will remain \$1,000,000.
 - (1) The City shall apply a credit equal to 5% or \$50,000, whichever is less, based on the local bidder's bid. A local bidder is an individual or business entity that establishes it has a place of business located in the county where the work is to be performed for at least one year prior to the deadline for submitting bids, and can demonstrate for one year prior to the deadline for submitting bids that it has paid a minimum of \$5,000 in sales tax in the county where the work is to be performed. In the event a local bidder does not bid on the project, a bidder that establishes it has a place of business located within an adjacent county in New York where the work is to be performed for at least one year prior to the deadline for submitting bids will receive a credit equal to 1%, or \$10,000, whichever is less; and
 - (2) The City shall apply a credit equal to 2% or \$20,000, whichever is less, towards the bid of a bidder with a local workforce. "Local workforce" means at least 25% of the bidder's construction employees reside in the county where the work is to be performed or in a county adjacent to the county where the work is to be performed. The bidder is not required to have a place of business in the county where the work is to be performed for this credit to apply.
 - (3) It is the sole responsibility of the bidder to request the credit based upon any of the above criteria.

§ LL4.5-2.5. Incomplete submissions by bidders and subcontractors.

It is the sole responsibility of the contractor to comply with all submission requirements at the time it submits its bid to the City. The submission requirements also apply to all subcontractors, except that the contractor shall submit all subcontractor questionnaires to the City of Olean no later than the date and time of the contract award. Contractor and/or

subcontractor submissions deemed nonresponsive will result in automatic rejection of the bid.

§ LL4.5-2.6. Sanctions.

- (a) Any bidder or subcontractor bidder who fails to comply with any of the obligations described as determined by the Commissioner may, in the sole discretion of the City, and only following an opportunity for the bidder to be heard, be subject to one or more of the following sanctions:
 - (1) Temporary suspension of work on the project until compliance is obtained; or
 - (2) Withholding by the City of payment due under the contract until compliance is obtained; or
 - (3) Permanent removal from any further work on the project; or
 - (4) Liquidated damages payable to the City in an amount equal to 5% of the dollar value of the general contract.
- (b) In addition to the above sanctions, any contractor or subcontractor, or principal officer who has been determined to have violated any of the provisions of this article shall be barred from performing any work on future contracts awarded by the City for six months for the first violation, three years for the second violation, and permanently for the third violation.
- (c) Any sum collected as a penalty pursuant to this section shall be applied toward enforcement and administration costs.

§ LL4.5-2.7. Public records.

All information submitted by a contractor or subcontractor pursuant to this article is a public record and shall be immediately available to any person upon request made pursuant to the Freedom of Information Law (Public Officers Law Article 6).

§ LL4.5-2.8. Materiality.

The requirements of this article are a material part of the bid documents, and the contract and the successful bidder shall insert this article in all subcontracts.

ARTICLE II

Best Value Procurement Policy

[Adopted 3-11-2014 by L.L. No. 2-2014]

§ LL4.5-3. Purpose.

The Olean City Common Council of the City of Olean hereby enacts the following article pursuant to the State of New York General Municipal Law Section 103(1) and of all other applicable laws.

§ LL4.5-4. Definition of best value.

- (a) Accordingly, the City of Olean hereby authorizes the use of the best value standard as part of the City procurement policies.

- (b) Best value is defined in New York State Finance Law Section 163. When awarding contracts under the best value standard, the City must consider the overall combination of quality, price and other elements of the required commodity or service that in total are optimal relative to the needs of the City of Olean. Use of the best value standard must rely, wherever possible, on objective and quantifiable analysis. The best value standard may identify as a quantitative factor whether offers are small businesses or certified minority- or women-owned business enterprises as defined in New York Executive Law Section 310. The best value standard may only be used for purchase contracts, which includes contracts for service work, but excludes any purchase necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law.

§ LL4.5-5. Procurement policy.

The City of Olean shall update its procurement policy in accordance with the provisions of this article.

Chapter 5, STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

Sec. 5-1. City constitutes separate highway district.

The city shall constitute a separate highway district, and the common council shall have the superintendence thereof and within the limits thereof shall have all the powers of commissioners of highways of towns, subject to the provisions of this chapter.

(1971 Charter Laws, § 274; Laws of N.Y. (1915) ch. 535, § 91)

Sec. 5-2. Power of common council generally.

(a) The common council may discontinue any street or mapped street, and lay out, widen, narrow, straighten, open, alter, change, and grade or otherwise improve roads, avenues, streets, public parks or squares, and lanes, crosswalks, and sidewalks within the city. For that purpose the council may receive, accept, acquire, take, and appropriate any lands within the city including such as may have been acquired or are now used, held, or owned for cemetery, railroad, or other public uses or purposes. Lands may be acquired for such purposes by the common council in the manner provided by law.

(b) The common council may include in the annual budget such sums as deemed necessary to defray the city's portion of the construction of new pavements.

(1971 Charter Laws, §§ 276, 333; L.L. No. 3-1964, § 9; L.L. No. 6-1968, § 11)

Secs. 5-3--5-15. Reserved.

ARTICLE II. IMPROVEMENTSEN

DIVISION 1. GENERALLY

Sec. 5-16. Petition for general improvements.

(a) Ten freeholders residing in the city may present to the common council a petition in writing requesting it to consider the making of improvements for any of the purposes stated in section 5-2 and, when lands are necessary to be acquired, it shall describe the land to be taken, the names and residences of the owners thereof, when known, and, if a street is to be narrowed or discontinued, the names of the owners of the adjoining lands when known. The petition shall be filed in the office of the city clerk.

(b) On presentation of such petition, the common council must meet and examine such petition. If it decides that the improvement ought probably to be made, it shall so decide by resolution. It may likewise so decide upon its own motion and without such petition.

(c) Upon making such decision, the common council must fix a time when it will meet and consider objections to the making of such improvement and the taking of such land, if any is to be taken, and it shall thereupon give at least ten days notice by certified mail of the time and place of such hearing. The notice must describe the land proposed to be taken, the names of the owners thereof, when known, and if a street is to be narrowed or discontinued, the names of the owners of the adjoining lands, when known, and the general purpose of the improvement. The notice must be given by certified mail as provided in this subsection to the owner of the land, or in a case of narrowing or discontinuing a street or mapped street, adjoining owners. The notice shall be mailed to the last known place of residence of the owner. Any person interested may be heard and introduce testimony before the common council upon such hearing, and the common council may adjourn such hearing from time to time as it shall deem necessary. If any person upon whom the notice is served does not appear at the time specified and make objections in writing to the petition and to the notice as to its form or sufficiency or generally as to the proposed improvement, specifically pointing out the facts, omissions, or objections thereto, the person shall be deemed to have waived objections.

(d) The common council shall hear and determine the matter. If it shall determine to make such improvements, it shall so declare by resolution to be entered in its minutes, describing the lands if any are to be taken, and thereupon it may proceed to take possession of such lands for such purposes.

(1971 Charter Laws, §§ 278--281; Laws of N.Y. (1915) ch. 535, § 92)

Sec. 5-17. Sidewalk construction.

(a) The common council shall have the power to cause sidewalks on the streets and highways in the city to be constructed upon notice to the affected property owners, and after public hearing conducted by the common council, and to determine and prescribe the manner and location of construction, the materials to be used thereon, and the quality

of such materials, and direct that the whole cost of the work be then assessed upon the property abutting the public street in front of which the work is performed.

(b) If the construction of sidewalks shall be ordered by the common council, the director of the department of public works shall notify the owners of any premises in front of which such work shall be required to be done that if such sidewalk construction is not done by the owners within 20 days, such construction shall be done by the city, and the expense thereof shall be assessed upon the premises.

(c) All notices by the city to landowners shall be served personally or by mailing such notices in the manner prescribed for the mailing of taxes due by the city assessor.

(d) If any such work shall not be done within the time specified, the department of public works shall cause such work to be done, and the full expense thereof shall be charged and a lien assessed upon such premises in accordance with the charter. Notwithstanding the provisions of this section, the expense assessed for such construction shall not include the following:

- (1) The expense of installing that portion of the sidewalk exceeding a width of ten feet;
- (2) The expense of installing curbs or curb cuts when such work is caused to be done pursuant to this article;
- (3) The expense of ornamentation with trees when such work is caused to be undertaken pursuant to this article; and
- (4) The expense of constructing the superstructures over streams or streambeds.

(e) If the city undertakes the ordered work utilizing bonded funds, the cost of construction to be repaid by the owners shall be payable in equal installments over the duration of the bond, not to exceed a five-year period with interest charged at bonded interest, not to exceed six percent per annum.

(f) In this section:

- (1) Sidewalk means that portion of a street outside of the roadway used or set aside for use of pedestrians.
- (2) Street means the entire area conveyed, acquired, or dedicated to public use and passage. The word "street" shall include in its meaning the word "avenue," "alley," "drive," "place," or any other words used to designate the public thoroughfare.

(L.L. No. 3-1990, § 1)

Secs. 5-18--5-30. Reserved.

DIVISION 2. MACADAMIZING, PAVING, CURBING, GUTTERING,

OR FLAGGING OF STREETS

Sec. 5-31. Determination of resident property owners.

(a) In this division, "resident property owner" means an individual residing in the city or a corporation having its principal place of business in the city and who shall be at the time of signing a petition under this division the owner of the legal title to land adjoining the street or section of a street proposed by such petition to be improved. In the case of life estates, the remainderman and not the life tenant shall be deemed to be the owner of the legal title. In the case of joint tenancy, tenancy in common, and tenancy by the entirety, all the joint tenants, tenants in common, and tenants by the entirety owning any one parcel of real property shall be deemed to be one property owner, and the signature upon such petition of any one of such joint tenants in common or tenants by the entirety shall have the same effect as if the petition had been signed by all of such joint tenants, tenants in common, or tenants by the entirety.

(b) The city shall be deemed a resident property owner of any public park, square, or grounds adjoining the street in which any improvement under this division shall be made, and the approval of any petition by the common council shall be equivalent to the signing of a petition under this division by the city as a resident property owner.

(1971 Charter Laws, §§ 304, 305; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, § 3; L.L. No. 6-1968, § 3)

Sec. 5-32. Improvements by state.

Whenever the state or any governmental agency or subdivision thereof improves any road or street within the city, all of the provisions of this division relating to the petition, assessment, and collection of taxes as to that portion to be paid by the abutting property owners and by general tax shall apply, and the common council shall pay to the proper governmental agency such portion of the total expense that is to be borne by the city and by the abutting property owners as may be equitable.

(1971 Charter Laws, § 329; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, § 7; L.L. No. 6-1968, § 9)

Sec. 5-33. Installation of water and sewer lines as prerequisite.

(a) No paving petition under this division shall be received by the common council, nor shall it be acted upon until sanitary sewers and water mains and laterals have been installed in the street which is the subject of the petition.

(b) No street shall be macadamized or paved until after the water main and sewer pipes have been laid on such street or section of a street.

(1971 Charter Laws, §§ 301, 308; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, §§ 2, 3; L.L. No. 6-1968, §§ 2, 3)

Sec. 5-34. Ascertainment and apportionment of costs.

(a) The cost and expense of street macadamizing or paving including curbing, guttering, flagging, engineering bonding indebtedness cost, and all other costs reasonably incidental to the construction of such work shall be computed and ascertained by the department of public works. One-third of such entire cost and expense shall be charged to the city at large, and the remaining two-thirds thereof shall be assessed by the city among the owners or parcels of land lying along and adjoining such street on each side thereof, except as otherwise provided in this chapter.

(b) The city may include in the annual budget such sums as it deems necessary to defray the city's portion of the construction of new pavements.

(1971 Charter Laws, §§ 300, 333; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, §§ 1, 9; L.L. No. 6-1968, §§ 1, 11)

Sec. 5-35. Street paving specifications.

Streets may be paved pursuant to this division in such manner and by the use of such materials as the department of public works has prescribed as minimum standards for street paving at the time of the presentation of the petition. The department of public works shall have the right to amend or alter any paving specifications from time to time as improved engineering standards or methods become available. It shall be the duty of the department of public works to file the current minimum paving specifications in the office of the city clerk, and such specifications shall be available for public inspection.

(1971 Charter Laws, § 300; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, § 1; L.L. No. 6-1968, § 1)

Sec. 5-36. Petition to do work.

(a) Upon the petition of resident property owners who own more than one-half of the lineal foot frontage of land owned by resident property owners abutting on any street or section of a street, the common council shall have power to cause such street or section of a street to be macadamized or paved, curbed, guttered, or flagged.

(b) The signatures to such petition shall be irrevocable. Additional signatures may be affixed to such petition at any time after such petition has been presented to the common council by any resident property owner who shall then own lands, provided that no prior owner of such lands shall have signed such petition. The additional signatures shall have the same effect as if they had been on the petition when the petition was presented to the common council.

(c) Upon receiving a petition under this division, the common council shall cause notice to be published once a week for two successive weeks in some newspaper published in the city stating in substance that a petition has been presented asking that the proposed improvements be made and specifying the street or a portion of the street which it is

proposed to improve. The notice shall state a time and place for the purpose of hearing objections thereto, which hearing may be adjourned from time to time.

(d) Unless written objections are made to the sufficiency of the petition and the grounds of objection specifically stated, the petition shall be deemed sufficient both in form and amount of frontage to authorize the proposed improvements.

(e) If the common council determines to make such improvement, it shall approve the petition and direct the improvement to be made and thereupon determine the probable cost thereof.

(1971 Charter Laws, §§ 300, 302, 303, 306, 307; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, §§ 1, 3; L.L. No. 6-1968, §§ 1, 3)

Sec. 5-37. Performance of work without petition.

(a) Whenever the director of the department of public works shall submit a written recommendation to the common council that any specific street or section of a street, public alley, or way be paved, notwithstanding the fact that no petition as provided for in this division or otherwise shall have been presented to the common council, such recommendation shall be considered by the common council which may approve such recommendation. If the common council approves the paving upon the recommendation of the director of public works, it shall cause notice to be published once a week for two successive weeks in the official newspaper of the city, stating in substance that a recommendation has been presented and approved, subject to a public hearing and that the recommendation is that the proposed improvements be made, specifying the streets or portions of streets which it is proposed to improve, and setting a time and place for the purpose of hearing objections thereto, which hearing may be adjourned from time to time. The common council shall also cause notices of the public hearing to be mailed by certified mail to the owners of the land abutting upon the street, section of the street, or public way or that portion thereof proposed to be paved. Such notice shall be sent to their addresses as the addresses may appear on the last assessment roll and shall notify the owners of such proposed action of the common council regarding the paving of such street or public way.

(b) The property owners shall have the right to appear and be heard thereon before the common council at a public hearing. The hearing shall be held not more than ten days nor less than five days following the last date of publication of notice of hearing in the official newspaper. The common council shall have the power after a hearing of property owners or any interested parties, or in default of their appearance, by a three-fourths vote to order by resolution that such street, way, or portion thereof shall be paved, specifying in such resolution the type of paving, the manner and form of the construction, and the width of the paved portion.

(c) The cost and expense when completed shall be apportioned and assessed as provided in section 5-34.

(1971 Charter Laws, § 309; L.L. No. 6-1968, § 4)

Sec. 5-38. Special assessment generally.

(a) For the purpose of paying for improvements made pursuant to this division, the city auditor shall proceed in the same manner as prescribed for making sewer assessments, except as modified in this division.

(b) Each lineal foot of property shall pay its proportion of the total cost, and one lineal foot shall not be assessed a greater or lesser amount than another. The cost and expense of that portion of any street improvement which shall lie within the bounds of an intersecting street shall be a charge upon the city and may be paid by the city by general taxation. When such improvements have been completed, and at the time the city auditor shall make the assessment therefor, the auditor shall determine the expense of such improvement chargeable to the city and chargeable to the owner of the lots or parcels of land adjacent to such street or public ground so improved.

(1971 Charter Laws, §§ 315, 316; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, §§ 4--6; L.L. No. 6-1968, §§ 6--8)

Sec. 5-39. Payment of taxes and assessments.

The taxes and assessments which are to be levied for the purpose of paying the expense of work done pursuant to this division shall be payable in the same number of equal annual installments as the bonds or other obligation which are to be issued in the payment of the expense of such work, with the option and privilege to the owners to pay the whole of the taxes so assessed within 15 days from the time of the completion of the assessment roll. Such option or privilege may be exercised at the time when any installment becomes due, provided the owner pays the whole amount of interest that would accrue if such owner or owners paid the taxes and assessments in equal annual installments.

(1971 Charter Laws, § 321; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1)

Sec. 5-40. Assessment as lien.

After correction and confirmation of such assessment, the assessment shall be a lien and charge upon the property as provided in this division. The portion thereof to be paid by the property owner shall become a lien upon the property.

(1971 Charter Laws, § 322; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, § 6; L.L. No. 6-1968, § 8)

Sec. 5-41. Collection of taxes; delinquent taxes.

The common council shall cause the assessment levy made for work done pursuant to this article to be collected in the same manner as other taxes in the city, except as otherwise provided in this division. Immediately after the correction and confirmation of the assessments, the common council shall cause the warrant for the collection of the assessment to be delivered to the city clerk, who shall publish in the official paper of the city a notice that he has received such warrant and tax roll and that such taxes or any

installment thereof may be paid to him within 30 days without fee and that upon expiration of such 30 days, the first installment of such taxes will become delinquent and that each succeeding installment thereafter, together with the interest on the whole amount of such taxes remaining unpaid, will be payable one year after the time fixed for the payment of the installment immediately preceding, and will become delinquent 30 days thereafter. The city clerk shall act in accordance with the notice. Such delinquent taxes shall be subject to the same fees and penalties as other delinquent taxes on the city tax roll.

(1971 Charter Laws, § 323; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, § 6; L.L. No. 6-1968, § 8)

Sec. 5-42. Use of assessment funds.

The assessments levied to pay the cost and expense of all improvements pursuant to this division shall become separate and apart from the other funds of the city and used only for the retiring and paying of bonds. The interest paid on any bond anticipation notes and interest on the amount thereof for 90 days after the completion of the assessment of account of such improvement shall be added to and considered a part of the expense of the improvement.

(1971 Charter Laws, § 324; Laws of N.Y. (1915) ch. 535, § 97; L.L. No. 18-1940, § 1; L.L. No. 3-1964, § 6; L.L. No. 6-1968, § 8)

Secs. 5-43--5-55. Reserved.

DIVISION 3. ALTERNATIVE PROCEDURE FOR SIDEWALK

CONSTRUCTION, REPAIR, ETC.

Sec. 5-56. Power of common council and expenses in general.

(a) The common council shall have power to cause sidewalks on the streets and highways in the city to be constructed and cause them to be altered, repaired, cleaned, or to otherwise improve the space between the outside limits of the street, the curb or improved portion of the street, and to determine and prescribe the manner of doing the same, the materials to be used thereon, and the quality of such materials. The council shall direct that the whole of any improvement of work be then assessed upon the property deemed benefitted, or that the whole or part thereof be charged to the city at large, and the remainder, if any, assessed to the property deemed benefitted to the owner or occupant and be collected in the same manner as other taxes are collected by virtue of this act. Such expense shall be a lien on the land or lot. Such expense assessed against the land deemed benefitted may be recovered by action brought against such owner or occupant. Whenever the common council shall determine to require such improvement to be made, a notice thereof shall be served on such owner or occupant, or the common council may cause to be published once in the official paper a copy of the resolution requiring such improvement to be made, stating a period of time of at least 20 days in which such improvement is required to be made. If such improvement is not made within

the required time, the common council may make the improvement. The expense thereof shall be payable by the owners or occupants and shall also be a lien upon the lands or lots. If an owner or occupant elects to make the improvements upon receiving the notice from the city as provided in this section, the owner or occupant shall notify the city of his election to do so before the improvement is commenced, and the city shall be obligated to oversee the construction in order that the improvement meets city specifications.

(b) Notwithstanding the provisions of subsection (a) of this section, the expense assessed any owner or occupant of real property pursuant to this division shall not include the following:

- (1) The expense of installing that portion of a sidewalk exceeding a width of ten feet.
- (2) The expense of installing curbs or curb cuts when such work is caused to be done pursuant to this division.
- (3) The expense of ornamentation with trees when such work is caused to be undertaken pursuant to this division.
- (4) The expense of constructing superstructures over streams or streambeds.

(c) If owners or occupants shall, within the required time and at their own cost and expense, elect to undertake and make the improvement which the common council has caused to be required pursuant to this division, the expense incurred by the owner or occupant for that portion greater than ten feet of sidewalk, curbs, curb cuts, or superstructures over streams and streambeds shall be reimbursed to the owner and paid by the city from the general fund of the city.

(1971 Charter Laws, § 334; Laws of N.Y. (1915) ch. 535, § 100; Laws of N.Y. (1916) ch. 543, § 1; L.L. No. 3-1979, § 1; L.L. No. 1-1987, § 1; L.L. No. 1-1989, § 1)

Sec. 5-57. Making assessments.

After the expense established in section 5-56 shall be determined and ascertained, the common council shall make or cause to make an assessment. The roll thereof shall contain the name of the owner or occupant, if known to the common council, a brief description of the property sufficient for identification, and the amount of the expense. Thereupon, for the purpose of making any such assessment or improvement, the city auditor shall proceed in the same manner as prescribed for making sewer assessments, except as modified in this division.

(1971 Charter Laws, § 335; Laws of N.Y. (1915) ch. 535, § 100; Laws of N.Y. (1916) ch. 543, § 1; L.L. No. 3-1979, § II; L.L. No. 1-1987, § II; L.L. No. 1-1989, § 1)

Sec. 5-58. Installment payments authorized.

If bonds are to be issued to finance improvements pursuant to section 5-56, the assessments which are to be levied for the purpose of paying the expense of such

improvements shall be payable in annual equal installments with the option and privilege to such owner or occupant to pay the whole of such taxes so assessed without interest within 30 days from the time of the completion of such assessment roll. The number of installments shall equal the term, in years, of the bonds or certificates of indebtedness pursuant to section 5-60. Such option or privilege may also be exercised at the time when any installment becomes due, provided that the owner pays in addition the whole amount of interest that would accrue if the owner paid the whole of such assessments in equal annual installments.

(1971 Charter Laws, § 336; L.L. No. 1-1989, § 1)

Sec. 5-59. Repair and maintenance.

(a) In this section:

(1) Sidewalk means that portion of a street outside of the roadway used, or set aside, for the use of pedestrians.

(2) Street means the entire area conveyed, acquired, or dedicated to public use and passage. The word "street" shall include in its meaning the words "avenue," "alley," "drive," "place," or any other words used to designate the public thoroughfare.

(b) It shall be the duty of every owner of any premises abutting on any public street to keep the sidewalk in front of the premises in good order and repair.

(c) It is the privilege, and on notice from the department of public works, it shall be the duty of any owner of any premises or parcel of land within the city to repair and/or reconstruct the sidewalk in front of the premises or parcel between the street line and the curb or improved portion of the street.

(d) If the work shall be ordered by the city, the director of the department of public works shall notify the owner of any premises in front of which the work shall be required to be done, that if the work is not done by the owner within 20 days, the work shall be done by the city, and the expense thereof shall be assessed upon the premises. This notice shall also notify the owner that he may, within 20 days, provide the director of the department of public works a written statement specifying why such work should not be done, it is needed, or can reasonably be delayed. The director shall investigate and make a written final determination including findings of fact and conclusions as to whether such work shall be required. All notices by the city to the landowner shall be served personally or by mailing the notices in the manner prescribed for the mailing of notices and the mailing of taxes due by the city assessor.

(e) If any such work shall not be done within the time specified, the department of public works may cause such work to be done, and the full expense thereof shall be charged against and a lien assessed upon such premises. Notwithstanding the provisions of this section, the expense assessed for such repairs and reconstruction shall not include the following:

- (1) The expense of installing that portion of a sidewalk exceeding a width of ten feet.
- (2) The expense of installing curbs or curb cuts when such work is caused to be done pursuant to this division.
- (3) The expense of ornamentation with trees when such work is caused to be undertaken pursuant to this division.
- (4) The expense of repairing or reconstructing the superstructures over streams or streambeds.
- (5) Where sidewalk was originally constructed by the city utilizing reinforced concrete and the sidewalk is an integral part of the paved portion of the street, the expense in excess of the expense which would be reasonably incurred for the repair of sidewalks which are not constructed of reinforced concrete and are not an integral part of the paving.

(f) Whenever the relocation of any installed sidewalks meeting city standards is necessitated because of the construction or a widening of pavement on any street, the cost or expense therefor shall be paid solely by the city from the general fund. No part of such cost or expense shall be assessed against the premises upon which or abutting which the sidewalk lies.

(g) If the city undertakes the ordered work utilizing bonded funds, the cost of the reconstruction or repair to be repaid by the landowner shall be payable in equal annual installments over the duration of the bond, not to exceed a five-year period with interest charged at the bonded interest, and not to exceed six percent per annum. If general funds of the city are utilized, owners of property shall, or, if bonded funds are utilized, owners of property may, pay the whole of such improvements so assessed in the same manner as city taxes. Thereafter, the option to prepay may be exercised at the time when any installment becomes due, provided that such owner pay, in addition, the whole amount of interest that would accrue if the owner paid the whole of such assessments in equal installments.

(h) If the owner of any lands, the grade or level of which is above the established grade of the sidewalk in front of his lands, shall neglect or refuse to protect such land and to grade such land so as to prevent dirt, earth, stones, or other material from falling, or after service upon him of notice, the director of the department of public works shall cause such work to be done in the same manner as provided in this division.

(1971 Charter Laws, § 337; L.L. No. 1-1989, § 1; L.L. No. 2-1989, § 1; Res. No. 67-96, 8-27-1996)

Sec. 5-60. Certificates of indebtedness or revenue bonds--Issuance.

(a) For the purpose of paying the expense of improvements specified in this article, including that portion to be borne by general tax, and in anticipation of the collection of taxes, the common council shall issue certificates of indebtedness or revenue bonds in

anticipation of such respective amounts and payable at such respective times, not exceeding five years from the date of issue, as the common council may deem advisable, with interest not exceeding six percent per annum.

(b) Such certificates of indebtedness or revenue bonds shall be sold to the highest bidder for cash, at not less than par value. Notice of such sale shall be published once a week for three successive weeks in such newspaper, or as the common council may designate.

(c) The certificates of indebtedness or revenue bonds shall be signed by the mayor and city auditor and countersigned by the city clerk.

(1971 Charter Laws, § 337A; L.L. No. 3-1979, § IV; L.L. No. 1-1987, § IV)

Sec. 5-61. Same--Payment.

If bonds are to be issued to finance improvements specified in this article, the assessments which are to be levied for the purpose of paying the expense of such improvement shall be payable in five annual equal installments with the option and privilege to such owner or occupant to pay the whole of such taxes so assessed without interest within 30 days from the time of the completion of the assessment roll. Such option or privilege may also be exercised at the time when any installment becomes due, provided that the owner pays in addition the whole amount of interest that would accrue if the owner paid the whole of such assessments in equal annual installments.

(1971 Charter Laws, § 337B; L.L. No. 3-1979, § V; L.L. No. 1-1987, § V)

Sec. 5-62. Same--Collection.

(a) After correction and confirmation of an assessment under this division, the corrected or confirmed assessment shall be a lien and charge upon the property as provided in this section. The portion thereof to be paid by the property owner shall become a lien upon the property as provided in this division.

(b) The common council shall cause the assessment levy to be collected in the same manner as is provided for the collection of other taxes in the city, except as otherwise provided. Immediately after the correction and confirmation of such assessments, the common council shall cause the warrant for the collection of such assessment to be delivered to the city clerk, who shall publish in the official paper of the city a notice that he has received such warrant and tax roll, that such taxes or any installment thereof may be paid to him for 30 days without fee, that upon expiration of such 30 days, the first installment of such taxes will become delinquent, and that each succeeding installment thereafter, together with the interest on the whole amount of such taxes remaining unpaid, will be payable one year after the time fixed for the payment of the installment immediately preceding, and will become delinquent 30 days thereafter. The clerk shall then proceed according to such notice. Such delinquent taxes shall be subject to the same fees and penalties as delinquent taxes on the city tax roll.

(1971 Charter Laws, § 337C; L.L. No. 3-1979, § VI; L.L. No. 1-1987, § VI)

Chapter LL6

TAXATION AND ASSESSMENTS

CROSS REFERENCES

Street and sidewalk improvements, § LL5-16 et seq.
Water sewage and sewage disposal, ch. LL7.

ORDINANCE REFERENCES

Finance, § 2-161 et seq.
Taxation and assessments, Ch. 23.
Water, sewage and sewage disposal, ch. 27.

STATE LAW REFERENCES

General authority to levy taxes and assessments, Municipal Home Rule Law § 10(1)(ii)(a)(8), (1)(ii)(a)(9), (1)(ii)(c)(2), (1)(ii)(c)(3).
Utility tax authorized, General City Law § 20-b.

ARTICLE I IN GENERAL

Sec. LL6-1. (Reserved) ²

Sec. LL6-2. Sales tax, use tax, and compensating use tax.

Nothing in this Code or in the local law adopting this Code repeals the sales tax, use tax or compensating use tax levied by L.L. No. 4-1968. Such local law is recognized as continuing in full force and effect as if set out at length in this Code.

Sec. LL6-3. through Sec. LL6-20. (Reserved)

ARTICLE II UTILITY SERVICE TAX

Sec. LL6-21. Definitions. [L.L. No. 2-1937, § 1(2); L.L. No. 1-1938, § 1; L.L. No. 2-1941, § 2]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

GROSS INCOME — Includes receipts received in or by reason of any sale made, conditional or otherwise, except sales referred to in this article with respect to which it is

² Editor's Note: Former Sec. LL6-1, Veterans denied exemption under Real Property Tax Law, section 458-a, was repealed 9-9-2008 by L.L. No. 1-08.

provided that profits from the sale shall be included in gross income, or service rendered for ultimate consumption or use by the purchasers in the city, including cash, credits, and property of any kind or nature, whether or not such sale is made or such service is rendered for profit, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor, or services or other costs, interest, or discount paid, or any other expense whatsoever; also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property, other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made; also receipts from interest, dividends, and royalties, derived from sources within the city other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction, except sales for resale and rentals, within the city whatsoever.

GROSS OPERATING INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony, or telegraphy; in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigeration, telephone, or telegraph service in the city, including cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, services, or other costs, interest, or discount paid; or any other expenses whatsoever.

PERSON — Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees, or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality, and public districts.

UTILITY — Includes every person subject to the supervision of either division of the state department of public service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway, and elevated railroads. Utility also includes every person, whether or not such person is subject to such supervision, who sells gas, electricity, steam, water, refrigeration, telephony, or telegraphy, delivered through mains, pipes, or wires, or furnishes gas, electric, steam, water, refrigerator, telephone, or telegraph service, by means of mains, pipes, or wires, regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets.

Sec. LL6-22. Gross operating income tax on utilities. [L.L. No. 2-1937, § 1(1); L.L. No. 1-1938, § 1; L.L. No. 2-1939, § 1; L.L. No. 24-1940, § 1; L.L. No. 2-1941, § 2; L.L. No. 1-1942, § 2; L.L. No. 1-1944, § 2; L.L. No. 1-1945, § 2; L.L. No. 2-1946, § 2; L.L. No. 1-1947, § 2; L.L. No. 2-1[8, § 2; L.L. No. 3-1949, § 2; L.L. No. 2-1950, § 2; L.L. No. 2-1955, § 2]

Pursuant to the authority granted by General City Law section 20-b, a tax equal to 1% of

its gross income is hereby imposed on every utility doing business in the city which is subject to the supervision of the state department of public service, which has a gross income for the 12 months ending May 31 of this year or any subsequent year in excess of \$500, except motor carriers or brokers subject to such supervision under the Transportation Law and a tax equal to 1% of its gross operating income is hereby imposed for the same period upon every other utility doing business in the city which has a gross operating income for the 12 months ending May 31 in excess of \$500, except omnibus corporations subject to the supervision of the state department of transportation under Transportation Law art. 7 [§ 150 et seq.] upon which omnibus corporations a tax equal to 1/2 of 1% of its gross operating income during the aforesaid periods is hereby imposed; the aforesaid taxes shall have application only within the territorial limits of the city and shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the city, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

Sec. LL6-23. Utility quarterly tax return. [L.L. No. 2-1937, § 1(4); L.L. No. 1-1938, § 1; L.L. No. 2-1939, § 1; L.L. No. 24-1940, § 1; L.L. No. 2-1941, § 2; L.L. No. 1-1942, § 2; L.L. No. 1-1944, § 2; L.L. No. 1-1945, § 2; L.L. No. 2-1946, § 2; L.L. No. 1-1947, § 2; L.L. No. 2-1[8, § 2; L.L. No. 3-1949, § 2; L.L. No. 2-1950, § 2; L.L. No. 2-1955, § 2]

Every utility subject to tax pursuant to this article shall file, on or before September 25, December 25, March 25, and June 25, a return for the three calendar months preceding each such return date including any period for which the tax imposed hereby is effective, each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the city auditor on a form to be furnished by him for such purpose and shall contain such other data, information, or matter as the city auditor may require to be included therein. Notwithstanding the foregoing provisions of this section, any utility whose average gross operating income, as the case may be, for the aforesaid three-month period is less than \$1,500, may file its return for such period on June 25 of each and every year hereafter. The city auditor, in order to insure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by the city auditor. Every return shall have annexed thereto an affidavit of the head of the utility making the return or of the owner or of the co-partner thereof, or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.

Sec. LL6-24. Utility records. [L.L. No. 2-1937, § 1(3)]

Every utility subject to tax under this article shall keep such records of its business and in such form as the city auditor may require, and such records shall be preserved for a period of three years, except that the city auditor may consent to their destruction within that period or may require that they be kept longer.

Sec. LL6-25. Tax due with filing of return. [L.L. No. 2-1937, § 1(5)]

At the time of filing a return as required by this article, each utility shall pay to the city

auditor the tax imposed by this section for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

Sec. LL6-26. Insufficient return; notice of determination; appeal. [L.L. No. 2-1937, § 1(6); L.L. No. 2-1939, § 2]

If any return filed pursuant to this section shall be insufficient or unsatisfactory to the city auditor, and if a corrected or sufficient return is not filed within 20 days after such return is required by notice from the city auditor, or if no return is made for any period, the city auditor shall determine the amount of tax due from such information as he is able to obtain, and, if necessary, may estimate the tax on the basis of external indices or otherwise. The city auditor shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the city auditor for a hearing, unless the city auditor of his own motion shall reduce the tax. After such hearing, the city auditor shall give notice of his decision to the person liable for the tax. The decision of the city auditor may be reviewed by a proceeding under Civil Practice Law and Rules art. 78 [§ 7801 et seq.], if application therefor is made within 30 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be renewed with interest and penalties thereon, if any, shall be first deposited with the city auditor, and an undertaking filed with him, in such amount and with such sureties as a justice of the supreme court shall approve, to the effect that, if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs, and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest, and penalties as a condition precedent to the granting of such order.

Sec. LL6-27. Delivery of notice. [L.L. No. 2-1937, § 1(7)]

Any notice authorized or required under the provisions of this article may be given by mailing such notice to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him under this section, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the notice by the person to whom addressed. Any period of time, which is determined according to the provisions of this article by the giving of notice, shall commence to run from the date of mailing of such notice.

Sec. LL6-28. Penalty for failure to file return, corrected return, or tax. [L.L. No. 2-1937, § 1(8)]

Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the city auditor, if satisfied that the delay was excusable, may remit all or any

portion of such penalty.

Sec. LL6-29. Refund of tax or penalty. [L.L. No. 2-1937, § 1(9); L.L. No. 2-1939, § 2]

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the city auditor or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the city auditor shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the city auditor. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the city auditor, as provided in this article, unless the city auditor, after a hearing as provided in this article, or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding under Civil Practice Law and Rules art. 78 [§ 7801 et seq.] that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article. An application for a refund, made as provided in this article, shall be deemed an application for the revision of any tax or penalty complained of and the city auditor may receive additional evidence with respect thereto. After making this determination, the city auditor shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under Civil Practice Law and Rules art. 78 [§ 7801 et seq.], subject to the provisions contained in this article relating to the granting of such an order.

Sec. LL6-30. Tax charged to utility not customers. [L.L. No. 2-1937, § 1(10)]

The tax imposed by this article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

Sec. LL6-31. Failure to pay tax or penalty shall be made property lien. [L.L. No. 2-1937, § 1(11)]

Whenever any person shall fail to pay any tax or penalty imposed by this article, the city attorney shall, upon the request of the city auditor, bring an action to enforce payment of the tax or penalty. The proceeds of any judgment obtained in any such action shall be paid to the city auditor. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by Tax Law § 186-a is made a lien.

Sec. LL6-32. Power and duties of city auditor in administration and enforcement of tax. [L.L. No. 2-1937, § 1(12)]

In the administration of this article, the city auditor shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports, and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this article, and to subpoena and require the attendance of witnesses and the production of books, papers, and documents.

Sec. LL6-33. Divulging amount of gross income by city officers prohibited;

exception; penalty. [L.L. No. 2-1937, § 1(13)]

- (a) Except in accordance with the proper judicial order as otherwise provided by law, it shall be unlawful for the city auditor, or any agent, clerk, or employee of the city to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or discussed in any return under this article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the city in an action of proceeding under the provisions of this article, or on behalf of the state tax commission in an action or proceeding under the provisions of the Tax Law or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of the returns or of the facts shown thereby, as are pertinent to the action or proceeding, and no more. Nothing in this section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof; the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this section, together with any relevant information which in the opinion of the city auditor may assist in the collection of such delinquent taxes; or the inspection by the city attorney or other legal representatives of the city of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this article.
- (b) Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both, and if the offender be an officer, agent, clerk, or employee of the city he shall be dismissed from office and shall be incapable of holding any office or employment in the city for a period of five years thereafter.
- (c) Notwithstanding any provisions of this section, the city auditor may exchange with the chief fiscal officer of any other city in the state information contained in returns filed under this article, provided such other city grants similar privileges to the city, and provided such information is to be used for tax purposes only, and the city auditor shall, upon request, furnish the state tax commission with any information contained in such returns.

Sec. LL6-34. Taxes and penalties to be deposited in general fund of city. [L.L. No. 2-1937, § 1(14); L.L. No. 1-1942, § 2; L.L. No. 1-1944, § 2; L.L. No. 1-1945, § 2; L.L. No. 2-1946, § 2; L.L. No. 1-1947, § 2; L.L. No. 2-1948, § 2; L.L. No. 3-1949, § 2; L.L. No. 2-1950, § 2; L.L. No. 2-1955, § 2]

All taxes and penalties received by the city auditor for taxes heretofore or hereafter imposed under this article shall be credited and deposited by him in the general fund of the city.

Sec. LL6-35. through Sec. LL6-40. (Reserved)

ARTICLE III
COLD WAR VETERANS PROPERTY EXEMPTION

Sec. LL6-41. Property exemption granted. [L.L. No. 2-08, § 2, 9-9-2008]

The City of Olean hereby provides that qualifying residential real property shall be exempt from city taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate of the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less, for Cold War veterans as described in New York State Real Property Tax Law Section 458-b.

Sec. LL6-42. through Sec. LL6-50. (Reserved)

ARTICLE IV
VETERANS EXEMPTION

Sec. LL6-51. Recomputation of exemption with change in assessment. [L.L. No. 3-08, § 1, 9-9-2008]

Effective July 20, 1994, upon adoption of a local law, a taxing jurisdiction is authorized to increase or decrease each existing Section 458, Subdivision 1 or 2, veterans exemption in proportion to the change in level of all assessments resulting from a revaluation or update:

- (a) "5.(a) Notwithstanding the limitation on the amount of exemption prescribed in subdivision one or two of this section, upon adoption of a local law by the governing board of a county, city, town or village that levies taxes or for which taxes are levied on an assessment roll, if the total assessed value of the real property for which such exemption has been granted increases or decreases as the result of a revaluation or update of assessments, and a material change in level of assessment, as provided in title two of article 12 of this chapter, is certified for the assessment roll pursuant to the rules of the state board, the assessor shall increase or decrease the amount of such exemption by multiplying the amount of such exemption by the change in level of assessment factor. If the assessor receives the certification after the completion, verification and filing of the final assessment roll, the assessor shall certify the amount of exemption as recomputed pursuant to this paragraph to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll."³

Sec. LL6-52. through Sec. LL6-60. (Reserved)

ARTICLE V
Home Improvement Exemption
[Adopted 11-12-2014 by L.L. No. 3-2014]

3. Editor's Note: See § 458, Subdivision 5(a), of the Real Property Tax Law.

Sec. LL6-61. Exemption granted.

Real property in the City of Olean reconstructed, altered or improved subsequent to the effective date of this local law, for residential purpose shall be exempt from taxation and special ad valorem levies by the City of Olean; as provided by Real Property Tax Law Section 421-f and to the extent hereinafter provided.

Sec. LL6-62. Amount of exemption; requirements.

- (a) Such real property shall be exempt for a period of one year to the extent of 100% of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement and for an additional period of seven years; provided, however, that the extent of such exemption shall be decreased by 12 1/2% for each year during such additional period of seven years and such exemption shall be computed with respect to the increase in assessed value as determined in the initial year of such eight-year period following the filing of an original application; provided further, that such exemption shall be limited to \$80,000 in increased market value of the property attributable to such reconstruction, alteration or improvement and any increase in market value greater than such amount shall not be eligible for the exemption granted therein. For the purpose of this section, the market value of the reconstruction, alteration or improvements shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the most recently established state equalization rate, except where the state equalization rate equals or exceeds 95%, in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall equal the market value of such reconstruction alteration or improvement.
- (b) No such exemption shall be granted unless:
 - (1) Such reconstruction, alteration or improvement was commenced subsequent to the effective date of this section; and
 - (2) The value of such reconstruction, alteration or improvement exceeds \$3,000;
 - (3) The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old; and
 - (4) Such reconstruction, alteration or improvements requires the issuance of a building permit; and either a certificate of occupancy or a certificate of compliance evidencing that the reconstruction, alteration or improvement is complete.
- (c) For purposes of this section, the terms "reconstruction," "alteration" and "improvement" shall not include ordinary maintenance and repairs necessary to preserve the real property's current assessed value.

Sec. LL6-63. Filing of application.

Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the State Board of Real Property Services, the original of which shall be filed with the City Assessor. Such original application shall be filed on

or before the taxable status date in the year in which the certificate of occupancy or certificate of compliance was issued. A copy of said application shall also be filed with the State Board of Real Property Services.

Sec. LL6-64. Approval of application.

If the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he/she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the first assessment roll prepared after the taxable status date as provided in the City Charter. The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

Sec. LL6-65. Applicability to one- and two-family dwellings only.

The provision of this article shall only apply to one- and two-family dwellings used exclusively for residential purposes.

Sec. LL6-66. Transfer of exempt property.

In the event that real property granted an exemption pursuant to this article is sold or transferred other than to the heirs or distributees of the owner, the exemption granted hereunder shall cease.

Sec. LL6-67. through Sec. LL6-70. (Reserved)

Chapter LL7

WATER, SEWERS AND SEWAGE DISPOSAL

CROSS REFERENCES

Utility service tax, § LL6-21 et seq.

ORDINANCE REFERENCES

Finance, § 2-161 et seq.

Water, § 27-21.

Sewer rates and charges, § 27-166 et seq.

STATE LAW REFERENCES

Sewer rents, General Municipal Law § 450 et seq.

**ARTICLE I
IN GENERAL**

Sec. LL7-1. through Sec. LL7-20. (Reserved)

ARTICLE II

WATER

Sec. LL7-21. Rents. [1971 Charter Laws, § 188; N.Y. Laws (1915) ch. 535, § 54; L.L. No. 3-1934, § 5]

The common council shall establish a scale of rents to be paid from time to time, either in advance or at such time and times as the common council shall prescribe, for the supply of water to be called water rents. Such scale of rents shall be appropriated to different classes of buildings in the city with reference to their dimensions, values, exposures to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns, and all other buildings, establishments, and trades, yards, number of families, or occupants or consumption of water as near as may be practicable. The common council shall from time to time either modify, amend, increase, or diminish, such rents; and such common council and its respective employees shall be authorized at all times to enter into any building or place where water is used from supply pipes to examine as to water, quantity of water used, and manner of using it. The sum shall be added to the annual budget for the purpose. Such rentals shall be a lien upon the real property upon which the water is used, for 10 years from the time of such use, superior to any mortgage, judgment, or other lien of any nature, except general, city, or school taxes assessed upon the property, and which shall be prior thereto. Any conveyance thereof shall not alter its legality upon a subsequent grantee; provided, however, that a notice shall be mailed to the owner of such real property, whenever the payment of any water rent is delinquent, by the common council or its agents.

Sec. LL7-22. Rules and regulations; creation, modification, and enforcement. [Added 5-12-2015 by L.L. No. 1-2015]

The City of Olean Department of Public Works shall make, publish and enforce all rules and regulations in relation to and for the protection and operation of the Water Department, water system, and all the property and appurtenances thereof and in relation to the management thereof and the supply of water thereby, whether to individuals or corporations, and may alter and modify the same from time to time, and may fix a penalty herein provided for the violation of any said rules and regulations. Rules and regulations, and all amendments, shall be approved by resolution before they shall take legal effect. These rules and regulations are adopted, and specifications adopted hereunder shall be considered as part of the contract between the City of Olean and every person, owner, customer or entity who takes water supplied by the City. Such person using this service shall be bound by this contract, including those using water on a renewable contract basis, in which case the contract may stipulate any conditions which are exceptions to these laws, regulations and specifications.

Sec. LL7-23. through Sec. LL7-40. (Reserved)

ARTICLE III SEWERS AND SEWAGE DISPOSAL

DIVISION 1 GENERALLY

Sec. LL7-41. through Sec. LL7-55. (Reserved)

DIVISION 2
SEWER CONSTRUCTION

Sec. LL7-56. Power to cause. [1971 Charter Laws, § 250; Laws of N.Y. (1915) ch. 535, § 82]

The common council may cause sewers and drains to be constructed, relaid, and repaired in the city at such places and times, in such manner, and of such dimensions and materials as it shall direct and prescribe.

Sec. LL7-57. General conditions. [1971 Charter Laws, § 258; Laws of N.Y. (1915) ch. 535, § 89; L.L. No. 1-1941, § 1]

The common council shall not construct any drain or sewer except:

- (1) Upon petition of a majority of the owners of property to be assessed therefor, unless for an outlet to a drain or sewer constructed upon the aforesaid petition, and then the shortest practical route shall be adopted;
- (2) Upon resolution as provided in section LL7-64;
- (3) In order to comply with state or federal requirements; or
- (4) As otherwise provided by law.

Sec. LL7-58. Expenses. [1971 Charter Laws, §§ 251, 252; Laws of N.Y. (1915) ch. 535, § 83]

- (a) The expense of constructing sewers or drains along any street or alley shall be paid by the owners of the land and real property lying upon or adjoining that portion of the public street or alley through which the sewer or drain is constructed. The expense of constructing a sewer or drain across any street or alley and over or through any land not within any street or alley, together with all manholes, catchbasins, and flush tanks located at the intersection of streets shall be a charge upon and paid by the city by general tax. The public parks, market places, and all other land and property belonging to or in use by the city shall bear and be charged with its proportionate share of such expense. Such expense shall be paid by the city by a general tax.
- (b) The expense of repairing or relaying any drain or sewer in the city shall be paid by a general tax.

Sec. LL7-59. Temporary loans. [1971 Charter Laws, § 253; Laws of N.Y. (1915) ch. 535, § 84)

For the purpose of the payment of the expense of constructing a sewer, the common council may make temporary loans as the work of such construction progresses. In anticipation of the collection of taxes for the payment of such improvement, the interest paid for such temporary loan shall be added to and considered as part of the expenses of such improvement. Such temporary loan and the certificates issued therefor shall be a lien to the same extent as is provided for the lien of bonds for permanent loans. The certificates for such temporary loan shall be signed by the mayor and city auditor,

countersigned by the city clerk, and payable within one year from the date of issuance.

Sec. LL7-60. Purchase or condemnation of land necessary. [1971 Charter Laws, § 254; Laws of N.Y. (1915) ch. 535, § 85]

- (a) The common council may purchase and hold in the name of the city such real estate as is necessary for drain and sewer purposes.
- (b) If in the opinion of the common council it becomes necessary to construct sewers or drains over or through lands not lying in any street or alley and the consent of the owner of any such lands cannot be obtained thereto, the right to use such lands for such purposes may be obtained through the exercise of the power of eminent domain.

Sec. LL7-61. Assessments. [1971 Charter Laws, § 257; Laws of N.Y. (1915) ch. 535, § 88]

- (a) The common council shall ascertain and determine the expense of the construction of any sewer or drain along a street or alley. It shall be the duty of the city auditor to proceed forthwith and assess such amount upon the real property lying upon or adjoining that portion of street or alley along which such sewer or drain has been constructed. Each lineal foot of property shall pay its proportion of the total cost and one lineal foot shall not be assessed a greater or less amount than another, except that as to a corner lot abutting upon two streets, on one of which a sewer has been laid and the expense thereof heretofore assessed upon the lot, the auditor may make the assessment against the corner lot in accordance with the benefits to it.
- (b) Upon making an assessment under subsection (a) of this section, the city auditor shall cause a notice to be posted in five public places in the city, or published at least twice in some newspaper published in the city that an assessment for sewerage purposes has been made, and that at a specified time in such notice, which time shall be at least 10 days after posting of the notice or the first publication thereof, he will be available to the city for the purpose of correcting and confirming such assessment, which he shall have power to do. After the correction and confirmation of the assessment, the assessment shall be a lien and charge upon the property so assessed, and the common council shall cause such lien and charge to be collected in the same manner as is provided for the collection of other taxes in the city.

Sec. LL7-62. Parks adjoining street on which proposed sewer is to be constructed. [1971 Charter Laws, § 259; Laws of N.Y. (1915) ch. 535, § 89; L.L. No. 1-1941, § 1]

The city shall be deemed to be the owner of any public park adjoining the street in which any such sewer or drain is proposed to be constructed, and the approval of any petition for construction of a sewer by the common council shall be deemed equivalent to the signing of the petition by the city.

Sec. LL7-63. Outlets not to be paid for by owners; permit required when owner has paid no assessment. [1971 Charter Laws, § 260; Laws of N.Y. (1915) ch. 535, § 89; L.L. No. 1-1941, § 1]

All drains and sewers constructed for an outlet to a sewer constructed upon petition shall

be paid for by the city by general tax, and shall not be chargeable to abutting property owners. No connection shall be made to any outlet sewer by any person or to a petition sewer by any person on account of whose property no assessment was made to pay for such sewer without the consent of the common council, and no such permission shall be given without the payment of a reasonable charge therefor to be determined by the regulations as the common council may prescribe.

Sec. LL7-64. Public health reasons. [1971 Charter Laws, § 262; Laws of N.Y. (1915) ch. 535, § 90]

- (a) Whenever the common council believes that the public health will be promoted by the construction of a sewer in any public street, alley, or thoroughfare of the city, it may adopt a resolution to such effect and designate a time and place when it will meet to act on such resolution. The common council shall give notice of the time and place of such meeting. The notice must describe the sewer proposed to be constructed and contain the names of the known owners of the lands abutting upon the streets in which the sewer is to be constructed. The notice must be published once a week for two consecutive weeks immediately preceding the time of hearing.
- (b) Any person interested may be heard and introduce testimony before the common council upon the hearing on the resolution, and the common council may adjourn such hearing from time to time as it may deem necessary. The common council shall hear and determine the matter, and, if it shall determine to make such improvements, it shall adopt the resolution. If the common council shall so determine to construct such sewer the same proceedings shall be had thereafter for the construction of the sewer as if the sewer were constructed upon the presentation of a petition. The expense of the construction of such sewer shall be assessed and collected in the same manner as if the sewer had been constructed upon petition.

Sec. LL7-65. through Sec. LL7-80. (Reserved)

ARTICLE 3 SEWER RENTS

Sec. LL7-81. Established. [1971 Charter Laws, § 264; L.L. No. 1-1966, § 1]

There is hereby established a scale of rents pursuant to General Municipal Law art. 14-F [§ 450 et seq.], such rents to be called "sewer rents."

Sec. LL7-82. Levied and assessed against premises; to be based on metered consumption of water; disposition of revenue. [1971 Charter Laws, § 265; L.L. No. 1-1966, § 2]

Sewer rents are hereby levied and assessed against every lot, parcel of land, building, or premises now or hereafter having any connection with the sewer system of the city or otherwise discharging domestic sewage, commercial, institutional, and industrial waste, water, or other liquids either directly or indirectly into the sanitary sewer system of such city. Sewer rents shall be based on the metered consumption of water to the premises connected with and served by the sewer system or any part or parts thereof. The revenue from sewer rents shall be used for the payment of costs of operation, maintenance, and

repairs of the sewer system or such part or parts thereof for which sewer rents have been established and imposed; the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of the sewer system; or such part or parts thereof for which sewer rents have been established and imposed, other than indebtedness, and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property; for the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations; or for the extension, enlargement, or replacement of, or additions to, such sewer systems, or part or parts thereof.

Sec. LL7-83. Amount. [1971 Charter Laws, § 266; L.L. No. 1-1966, § 3]

In addition to any and all fees and charges provided by law, the owner of any parcel of real property within the city limits connected with the sewer system of the city shall pay a sewer rent for the use of such sewer system based upon the metered consumption of water to the premises in an amount to be fixed and determined from time to time by the common council of the city by ordinance. For the purpose of determining the charge to be rendered, premises using the sewerage system whereon the water used is derived in whole or in part from sources independent of the city, the water used thereon supplied from private sources, shall be measured by a city water meter or by a meter acceptable to the water department, to be installed and maintained by the owner or occupant thereof, at his own cost and subject to supervision and inspection by the water department. The sewer rental charged against such property shall be determined by the metered consumption of water used on the premises regardless of the source from which supplied. Such charge shall be at the rate established by ordinance and shall be the same rate that the classification of the premises warrants. Whenever the owner or occupant fails to install such meter and in cases where the water department finds it impractical to insist upon a special meter, the water department may accept the report of the property owner as to the amount of water used on the premises, or the water department may fix and determine the amount ordinarily consumed upon the premises by such method as it may find practicable in the light of the conditions and attendant circumstances of the case in order to determine the sewer rental charge, all in accordance with corresponding rates assessed against other similar property.

Sec. LL7-84. Due and payable; delinquency. [1971 Charter Laws, § 267; L.L. No. 1-1966, § 4]

In the case of premises whereon the water used is supplied by the city through its department of public works, the sewer rental charge provided in this division shall be added to the water bills rendered to the owners, lessees, or occupants of such property and shall be paid at the time the water bill is payable at the office of the city clerk. The bill shall be collected with and addition to the water charge for water service, and no part of the charge for water service shall be accepted without including therewith the sewer rental charge. Such sewer rental charge shall be subject to the same penalty provided for delinquent water bills, and it is hereby made the duty of the city clerk to collect such penalty for failure to pay the sewer rental charge when due. In cases of premises whereon water used is not supplied by the city, the department of public works will render quarterly to the owners, lessees, or occupants of such property, bills for the amount of the

sewer rental charged as set forth in this division. If such charge is not paid when due, it shall be subject to the same penalty as is provided for delinquent water bills, and the city clerk is hereby required to collect such penalty. If the said bills for sewer rentals rendered for premises whereon water is not supplied by the city is not paid within 30 days after the rendering thereof, the department of public works shall certify the same, together with such penalty and such bills shall be collected, and the collection thereof enforced in the same manner in all respects as city taxes. They shall be added to the taxes subject to like penalty, costs, and interest charges. If the sewer rental bill remains unpaid for a period exceeding 30 days after the rendering thereof, city water service shall be terminated to the premises and service shall not be restored to the premises until all sewer taxes together with interest and penalty thereon together with additional removal and installation costs are fully paid.

Sec. LL7-85. Payable, collectible, and enforceable in same manner as water charges; collection when unpaid. [1971 Charter Laws, § 268; L.L. No. 1-1966, § 5]

All sewer rents for premises using city water shall be payable, collectible, and enforceable in the manner provided by law for the payment, collection, and enforcement of water charges and, if unpaid, shall be collected in the same manner provided for the collection of city taxes. When remaining unpaid, such rents shall be added to the annual city tax on the property to and for which sewer service was furnished and rendered.

Sec. LL7-86. Power of department relative to collection, etc. [1971 Charter Laws, § 269; L.L. No. 1-1966, § 6]

The department of public works shall have power to make and enforce such general rules and regulations, both as to public and private water supply, for the collection, rebating, refunding, or adjustment of such charges for any reason, including diversion of water from the sewer system, as may be reasonably necessary to avoid injustice, to the end that all property discharging sewage in the sewer system will bear its equitable proportionate share with other property of the cost of operation, maintenance, and repairs of the sewerage system or any extension, enlargement, replacement, or additions to such sewer system, or any part or parts thereof.

Sec. LL7-87. Real property exempt from water charges exempted. [1971 Charter Laws, § 270; L.L. No. 1-1966, § 7]

Any real property which is entitled to an exemption from payment of water rents or charges shall also be exempt from payment of the sewer rents or charges imposed under this division.

Sec. LL7-88. Schedule of annual charges; power of council to establish minimum and maximum charge, etc. [1971 Charter Laws, § 271; L.L. No. 1-1966, § 8]

The common council shall by ordinance establish a schedule of annual charges under this law which charges shall be based on the consumption of water on the premises connected with and served by the sewer system. The ordinance shall provide for the periodic payment of the annual charge and shall define the interest and penalty to be assessed for delinquent payments. The common council shall also have the power to establish a minimum and a maximum charge for sewer rent upon all real property within the city

limits and to classify all real property into classifications based upon the uses to which the property is being put at the time.

Sec. LL7-89. Sewer fund. [1971 Charter Laws, § 273; L.L. No. 1-1966, § 10]

All revenues derived from the sewer rents imposed under this division, together with all penalties and interest thereon, shall be kept by the city clerk in a separate account to be known as the sewer fund.

PART III

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

STATE LAW REFERENCES

General Construction Law § 12.
General Construction Law § 13-a.
General Construction Law § 14.
General Construction Law §§ 13, 41.
General Construction Law § 15.
General Construction Law § 19.
General Construction Law § 20.
General Construction Law § 22.
General Construction Law § 23.
General Construction Law § 24.
General Construction Law § 25-a.
General Construction Law § 30.
General Construction Law § 31.
General Construction Law § 32.
General Construction Law § 33.
General Construction Law § 34.
General Construction Law § 35.
General Construction Law § 36.
General Construction Law § 37.
General Construction Law § 39.
General Construction Law § 40.
General Construction Law § 46.
General Construction Law § 51.
General Construction Law § 56.
General Construction Law § 58.
General Construction Law § 60.
General Construction Law § 80.
General Construction Law §§ 90-96.
Power of city to provide penalties, forfeitures and imprisonment to punish violations of ordinances, General City Law § 20(22).

Sec. 1-1. Designation and citation of Code. [Code 1971, § 1-1]

The ordinances embraced in this part III shall constitute and be designated the "Code of

Ordinances of the City of Olean, New York," and may be so cited.

Sec. 1-2. Definitions and general rules of construction. [Code 1971, § 1-3]

As used in all ordinances unless the context requires otherwise:

GENERALLY — Provisions shall be liberally construed to effect the purposes expressed therein or implied from the expression thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted.

AFFIDAVIT — When an affidavit is authorized or required, it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state unless a particular officer is specified before whom it is to be taken.

ARMED FORCES OF THE UNITED STATES — The Army, Navy, Marine Corps, Air Force, and Coast Guard, including all components of such forces, and the National Guard when in the service of the United States pursuant to call as provided by law. Pursuant to this definition, no person shall be considered a member or veteran of the armed forces of the United States unless service in an armed force is or was on a full-time active duty basis other than active duty for training.

BOND AND UNDERTAKING — A provision authorizing or requiring a bond to be given shall be deemed to have been complied with by the execution of an undertaking to the same effect.

CALENDAR DAY — A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day.

CHARTER — The Charter of the City of Olean, New York.

CHATTELS — Includes goods and chattels. Where "chattels" appears and pertains to an action to recover the same, it includes all specific personal property such as, but not limited to, certificates of stock, bonds, notes or other securities or obligations.

CITY — The City of Olean, New York.

CODE — The Code of Ordinances of the City of Olean, New York, as established and designated in section 1-1.

COMMON COUNCIL — The common council of the city.

COMPUTATION OF DAYS — A number of days specified as a period from a certain day within which or after which or before which an act is authorized or required to be done means the number of calendar days exclusive of the calendar day from which the reckoning is made. If the period is a period of two days, Saturday, Sunday or a public holiday must be excluded from the reckoning if it is an intervening day between the day from which the reckoning is made and the last day of the period. In computing any specified period of time from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified period of time is reckoned shall be excluded in making the reckoning.

COMPUTATION OF MONTHS — A number of months after or before a certain day shall be computed by counting such number of calendar months from such day, exclusive of the calendar month in which the day occurs, and shall include the day of the month in the last month so counted having the same numerical order in days of the month as the day from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

CONFLICTING OR OVERLAPPING PROVISIONS — Ordinances are the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where an ordinance imposes greater restrictions upon the subject matter than the other provisions the provision imposing the greater restriction or regulation controls. Ordinances prevail over resolutions.

CORPORATE LIMITS, CORPORATION LIMITS — Or "city limits" means the legal boundaries of the city.

COUNTY — Cattaraugus County, New York.

DELEGATION OF AUTHORITY — A provision that requires a city officer or city employee to do an act authorizes the officer or employee to delegate and authorize subordinates to perform the required act.

EFFECT OF HOLIDAYS — When any period of time, computed from a certain day, within which or after which or before which an act is authorized or required to be done ends on a Saturday, Sunday or a public holiday, the act may be done on the next succeeding business day, and, if the period ends at a specified hour, the act may be done at or before the same hour of the next succeeding business day. Where time is extended by virtue of the provisions of this paragraph, the extended time shall not be included in the computation of interest, except that when the period is specified as a number of months, the extended time shall be included in the computation of interest.

GENDER — Whenever words of the masculine or feminine gender appear, unless the sense of the sentence requires otherwise, they shall be deemed to refer to both male or female persons. This construction shall apply to gender-indicative suffixes or prefixes as well as to gender-indicative words. Whenever the reference is to a corporation, board, body, group, organization or entity comprising more than one person or to an assemblage of persons or to an inanimate object, the reference shall be construed to be neuter in gender.

HERETOFORE OR HEREAFTER — When used in any provision, relates to the time the provision takes effect.

KEEPER OR PROPRIETOR — Includes persons, whether acting by themselves or through servants, agents or employees.

MAY — Is to be construed as permissive.

MAYOR — The mayor of the city.

MONTH — A calendar month.

MUNICIPAL OFFICERS — A reference to several officers of the city holding the same office or to a board of such officers shall refer to the single officer holding the office, when but one person is chosen to fill the office in pursuance of law.

MUST — Is to be construed as mandatory.

NEWSPAPERS — "Daily newspaper" or "newspaper published each business day" means a newspaper customarily published on each business day of the year, whether or not the newspaper is published on any other day. In this paragraph "business day" does not include a Saturday, Sunday or legal holiday.

NIGHTTIME — Includes the time from sunset to sunrise.

NONTECHNICAL AND TECHNICAL WORDS — Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

NOTICE — When a notice is required to be given to a board or body, service of the notice upon the clerk or chairperson of the board or body is sufficient.

NOW — In any provision referring to other ordinances or local laws in force or to a person in office or to any facts or circumstances as existing, relates to the local laws or ordinances in force or to the person in office or to the facts or circumstances existing, respectively, immediately before the taking effect of the provision.

NUMBER — Words in the singular number include the plural and in the plural number include the singular.

OATH, AFFIDAVIT, AND SWEAR — Includes every mode authorized by law of attesting the truth of that which is stated. "Swear" includes every mode authorized by law for administering an oath.

OR, AND — May be read "and," and "and" may be read "or" if the sense requires it.

OWNER — As applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of the building or land.

PERSON — Includes a corporation and a joint-stock association. When used to designate a party whose property may be the subject of any offense, "person" includes the state or any other state, government, or country which may lawfully own property in the state.

PERSONAL PROPERTY — Includes chattels, money, things in action, and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property or any debt or financial obligation is created, acknowledged, evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership. Oil wells and all fixtures connected with oil wells, situated on lands leased for oil purposes and oil interests, and rights held under and by virtue of any lease or contract or other right or license to operate for or produce petroleum oil, are deemed personal property for all purposes except taxation.

PRECEDING, FOLLOWING — Next before and next after, respectively.

PROPERTY — Includes real property and personal property.

PUBLIC HOLIDAYS DESIGNATED — Includes the following days in each year: January 1, known as New Year's Day; the third Monday in January known as Dr. Martin Luther King, Jr., Day; February 12, known as Lincoln's Birthday; the third Monday in February, known as Washington's Birthday; the last Monday in May, known as Memorial Day; the second Sunday in June, known as Flag Day; July 4, known as Independence Day; the first Monday in September known as Labor Day; the second Monday in October, known as Columbus Day; November 11, known as Veterans Day; the fourth Thursday in November, known as Thanksgiving Day; and December 25, known as Christmas Day and, if any of such day except Flag Day is Sunday, the next day thereafter, and each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer or other general religious observances. "Half-holiday" includes the period from noon to midnight of each Saturday which is not a public holiday.

PUBLIC PLACE — Any park, cemetery, schoolyard or open space adjacent thereto, and all beaches, canals and other waterways.

PUBLIC WORKS DEPARTMENT, PUBLIC WORKS DIRECTOR, ETC. — The terms "public works department" and "department of public works" are synonymous. The terms "public works director," "director of public works" and "director of the department of public works" are synonymous.

QUORUM AND MAJORITY — Whenever three or more public officers are given any power or authority or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of the whole number of such persons or officers, at a meeting duly held at a time fixed by law or by any bylaw duly adopted by the board or body or at any duly adjourned meeting of the board or body or at any meeting duly held upon reasonable notice to all of them shall constitute a quorum. Not less than a majority of the whole number may perform and exercise such power, authority, or duty. In this paragraph "whole number" means the total number which the board, commission, body, or other group of persons or officers would have were there no vacancies and none of the persons disqualified from acting. Any meeting referred to in this paragraph may be adjourned by a less number than a quorum.

REAL PROPERTY — Includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

REFERENCES TO OFFICIALS, DEPARTMENTS, ETC. — References to officers, employees, boards, departments and commissions are to be interpreted as if followed by the words "of the city."

REFERENCES TO REPEALED PROVISIONS — If any legislation is repealed and, in substance, reenacted, a reference to the repealed provision shall be deemed a reference to the reenacted provision.

RESIDENCE — The place adopted by a person as the person's place of habitation, and to

which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps is the person's residence.

SEAL — The city or corporate seal.

SHALL — Is to be construed as mandatory.

SIDEWALK — Any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians. "Sidewalk" does not include a parkway.

SIGNATURE — Includes any memorandum, mark or sign written, printed, stamped, photographed, engraved or otherwise placed upon any instrument or writing with intent to execute or authenticate the instrument or writing.

STATE — The State of New York.

STREET — Includes any street, avenue, boulevard, road, alley, lane, viaduct or other public highway in the city.

SUBWAY — That area of a city street lying between the vehicular traffic lane and the dedicated street limit.

TENANT, OCCUPANT — As applied to a building or land, includes any person holding a written or oral lease or who occupies the whole or a part of the building or land, either alone or with others.

TENSE — Words used in the past or present tense include the future as well as the past and present.

WEEK — Seven days.

WRITING AND WRITTEN — Includes every legible representation of letters upon a material substance, except when applied to the signature of an instrument.

YEAR — 365 days, but the added day of a leap year and the day immediately preceding shall, for the purpose of such computation, be counted as one day. "Year" means 12 months. "Half year" means six months. "Quarter of a year" means three months.

Sec. 1-3. Catchlines of sections, subsections, etc.; effect of history notes, and cross references and state law references. [Code 1971, § 1-2]

- (a) Catchlines for sections, subsections, paragraphs, or other portions of this Code that are printed in boldface type are intended as mere catchwords to indicate the contents and are not titles or part of the law, nor shall they be so deemed when amended or reenacted.
- (b) History or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the derivation of the matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for convenience and have no legal effect.

- (c) All references to chapters, articles, divisions, subdivisions, or sections are to the chapters, articles, divisions, subdivisions, or sections of this Code unless otherwise specified.

Sec. 1-4. Effect of repeal of legislation. [Code 1971, § 1-5]

- (a) The repeal of legislation includes any legislation amendatory of the legislation repealed. The repeal of any provision which repeals any provision of prior legislation does not revive such prior provision. Provisions repealing prior legislation which are substantial reenactments of provisions of the prior legislation shall be construed as a continuation of the provisions of the prior legislation, modified or amended according to the language employed, and not as new enactments.
- (b) The repeal of legislation or part thereof does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or any liability, penalty, forfeiture, or punishment incurred prior to the time the repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if the repeal had not been effected. Unless otherwise specifically provided by law, all actions and proceedings, civil or criminal, commenced under or by virtue of any legislation so repealed and pending immediately prior to the taking effect of the repeal may be prosecuted and defended to final effect in the same manner as they might if the provisions were not so repealed.
- (c) When two numbers in a schedule of repeals are connected by a dash, both such numbers are included as well as all intermediate numbers.

Sec. 1-5. Amendments or additions to Code.

- (a) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of the Code of Ordinances of the City of Olean, New York, is hereby amended to read as follows: . . ." The new provisions may then be set out in full as desired.
- (b) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Code of Ordinances of the City of Olean, New York, is hereby amended by adding a section, to be numbered _____, which section reads as follows: . . ." The new section may then be set out in full as desired.
- (c) All chapters, articles, sections, subsections, paragraphs, or provisions desired to be repealed should be specifically and expressly repealed by chapter, article, section, subsection, or paragraph number, as the case may be.

Sec. 1-6. Altering Code. [Code 1971, § 1-6]

It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

Sec. 1-7. Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to the Code shall include all substantive permanent and general parts of ordinances of a general and permanent nature adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest legislation included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:
 - (1) Organize the material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings, and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinances incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinances inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of material included in the supplement or already embodied in the Code.

Sec. 1-8. General penalty; continuing violations. [Code 1971, § 1-7]

- (a) In this section, violation of this Code means:
 - (1) Doing an act that is prohibited or made or declared unlawful or an offense by ordinance or by rule or regulation authorized by ordinance;
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or

- (3) Failure to perform an act if the failure is declared an offense, a misdemeanor, or unlawful by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section, violation of this Code does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.
- (c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000, imprisonment for a term not exceeding 15 days, or any combination thereof. With respect to violations that are continuous with respect to time, each day the violation continues is a separate offense. [Amended 10-27-2015 by Res. No. 95-15]
- (d) The imposition of a penalty does not prevent revocation or suspension of a license, permit, or franchise.
- (e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

Sec. 1-9. Prosecution where different penalties exist for same offense. [Code 1971, § 1-8]

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-10. Severability of parts of Code. [Code 1971, § 1-10]

The sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

Sec. 1-11. Provisions considered as continuation of existing legislation.

The provisions appearing in this Code, so far as they are the same as legislation existing at the time of the adoption of this Code, shall be considered as a continuation of this part of the Code and not as new enactments.

Sec. 1-12. Legislation not affected by Code.

Nothing in this Code or the legislation adopting this Code shall affect legislation:

- (1) Promising or guaranteeing the payment of money by or to the city, authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (2) Appropriating funds or establishing or relating to the annual budget;
- (3) Imposing taxes which are not inconsistent with this Code;

- (4) Establishing positions, classifying employees, or setting salaries not codified in this Code;
- (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, or vacating any street or public way;
- (6) Establishing or prescribing street grades;
- (7) Providing for local improvements and assessing taxes therefor;
- (8) Which rezones specific property;
- (9) Dedicating, accepting, or rejecting any plat or subdivision;
- (10) Annexing or deannexing property;
- (11) Whose purpose has been accomplished;
- (12) Which is special although permanent in effect;
- (13) Which is temporary although general in effect.

Sec. 1-13. Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the legislation adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code does not authorize or allow any use or the continuance of any use of a structure or premises in violation of any legislation in effect on the date of adoption of this Code.

Chapter 2

ADMINISTRATION

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.
Promotion and marketing committee, § 2-46
Boards, commissions, etc., § 2-81 et seq.
Board of ethics, § 2-118
Code review committee, § 6-27
Elections, Ch. 7.
Ambulance board, § 10-27
Historic preservation commission, § 11-21 et seq.
Housing board of appeal, § 12-121 et seq.
Licenses, permits and miscellaneous business regulations, Ch. 13
Planning board, § 18-21 et seq.
Police, Ch. 19.
Tree board, § 21-56
Taxation and assessments, Ch. 23.
Zoning board of appeal, § 28-46 et seq.

LOCAL LAW REFERENCES

Administration, ch. LL2.
Officers and employees, § LL2-37 et seq.
Elections, Ch. LL3.
Taxation and assessments, Ch. LL6
Sewer fund, § LL7-89

STATE LAW REFERENCES

Local Finance Law § 1.00 et seq.
Municipal finances, General Municipal Law § 3 et seq.
General Obligations Law, § 5-328.
Records management officer, Arts and Cultural Affairs Law § 57.19.
Expenses of attending conferences, etc., General Municipal Law § 77-b.
Authority to so provide, General Municipal Law § 85
Public contracts, General Municipal Law § 100 et seq.
Regulations for procurement without bids, General Municipal Law § 104-b.
General Municipal Law § 800.
General Municipal Law §§ 803, 805-a.
Local codes of ethics authorized, General Municipal Law § 806.
General Municipal Law § 806(2).
Board of Ethics, General Municipal Law § 808.

ARTICLE I IN GENERAL

Sec. 2-1. City offices open to public. [Code 1971, § 2-1]

All the City offices located in the municipal building, except the Youth Bureau, shall be open weekdays, except Saturday, from 9:00 a.m. until 5:00 p.m.

Sec. 2-2. Identification of City vehicles. [Code 1971, § 2-6]

- (a) All City automobiles and trucks shall have the name of the appropriate City department thereon in letters at least two inches in height.
- (b) All police cars shall be lettered OLEAN POLICE DEPARTMENT on their doors, in white, with letters not less than six inches in height or suitable for the size of the door.
- (c) This section does not apply to police cars designated by the Chief of Police.

Sec. 2-3. Accessibility of public meetings of the City. [Res. No. 6-92, § 2, 3-10-1992]

It is the policy of the City to ensure that all citizens of the community, including members of the public with disabilities, wishing to attend any public meeting or activity of the City shall have full accessibility to such meeting or activity, and shall be able to participate and communicate as effectively as possible. This shall include, without limitation, the furnishing of auxiliary aids and services where necessary. In determining the type of auxiliary aid or service that is necessary or appropriate, the City shall give primary consideration to the request of the individual with a disability. In implementing this policy, the Common Council adopts the following guidelines with respect to all public meetings and activities conducted by or on behalf of the City. However, in doing so, the Common Council specifically acknowledges such guidelines are intended to address those circumstances which reasonably are anticipated to occur, but such guidelines are not expected to be an exhaustive itemization of responses which may be

required as a result of the requests of individuals with disabilities. The guidelines are as follows:

- (1) In connection with any public meeting or activity in which a visually disabled individual desires to participate and upon 48 hours request and notice to the City Clerk, sufficient copies of all documents distributed to the public in connection with such meeting shall be enlarged for distribution to the visually disabled person.
- (2) Upon 48 hours notice given to the City Clerk prior to any public meeting by a hearing impaired person desiring that an interpreter provide sign interpretation of a meeting, the City, at its sole cost and expense, shall provide one or more sign interpreters.

Sec. 2-4. Enforcement response plan. [Res. No. 153-91, 12-10-1991]

The enforcement response plan for the City pretreatment program attached to Res. No. 153-91 is adopted by the City as the City of Olean Enforcement Response Plan.

Sec. 2-5. through Sec. 2-20. (Reserved)

**ARTICLE II
COMMON COUNCIL**

**DIVISION 1
GENERALLY**

Sec. 2-21. Record of ordinances kept by City Clerk in book. [Code 1971, § 1-9]

All ordinances passed by the Common Council shall be recorded by the City Clerk in a proper book, with indexes. The originals shall be filed in the City Clerk's office, and due proof of the publication of all ordinances requiring publication, by the certificate of the publisher or printer, shall be procured by the Clerk, attached thereto, or written and attested upon the face of the record of such ordinance.

Sec. 2-22. through Sec. 2-35. (Reserved)

**DIVISION 2
RULES OF PROCEDURE ⁴**

Sec. 2-36. Roberts Rules of Order. [Res. No. 11-94, 3-8-1994]

On all points of order not governed by these rules, the general rules of parliamentary practice as outlined in Robert's Rules of Order, Revised, shall be referred to for guidance. The City Attorney shall be the parliamentarian for the City.

Sec. 2-37. Organizational meeting. [Res. No. 11-94, 3-8-1994]

- (a) The organizational meeting of the Common Council shall be held at the first meeting of the Common Council in each year. The incumbent Mayor shall call the first meeting to order and the first order of business shall be the Mayor's state of the

⁴ Editor's note—Res. No. 11-94, adopted March 8, 1994, amended Div. 2, in its entirety, to read as herein set out in §§ 2-36—2-66. Prior to inclusion of said resolution, Div. 2 pertained to similar subject matter. See the Code Comparative Table.

City message.

- (b) At the organizational meeting of the Common Council the members shall elect a President of the Common Council.

Sec. 2-38. Regular meetings of the Common Council; meeting time and place. [Res. No. 11-94, 3-8-1994; Res. No. 8-00, 2-22-2000; Res. No. 73-00, 8-8-2000; amended 7-10-2012 by Res. No. 52-12]

Regular meetings of the Common Council shall be held in the Council Chambers, Municipal Building, on the second and fourth Tuesday of each month to proceed after the Committee of the Whole. The Common Council shall hold regular meetings at least twice in each month. At any regularly scheduled meeting attended by 2/3 of the Aldermen in office, the Council may, by majority vote, set the time and place of the next regularly scheduled meeting. When such Council vote is taken, the following regular meeting shall be held at that time and place stated and the succeeding meetings shall be as otherwise provided by this rule.

Sec. 2-39. Special meetings. [Res. No. 11-94, 3-8-1994]

Special meetings (called meetings) may be called pursuant to the Charter of the City of Olean by the Mayor, Common Council President or any three Aldermen. Special meetings may be called with notice given by the Clerk at least 24 hours before the time of meeting by:

- (1) Delivering written notice to each member of the Common Council; or
- (2) Delivering written notice to a person of mature age and discretion at a place of residence of each member; or
- (3) Enclosing written notice in a securely postpaid wrapper directed to each member at his post office address or place of residence at least five days prior to the special meeting.

Sec. 2-40. Regular meetings; order of business. [Res. No. 11-94, 3-8-1994; Res. No. 13-98, 2-24-1998]

The business of all regular meetings of the Common Council shall be transacted in the following order:

- (1) Roll call;
- (2) Invocation;
- (3) Pledge;
- (4) Reading, correcting and approving previous minutes;
- (5) Committee reports and unfinished Council business;
- (6) Communications from the Mayor;
- (7) Miscellaneous communications and petitions;

- (8) Reports from other City officials;
- (9) Proposed legislation and referrals;
- (10) Public comment/input;
- (11) Finance/bills;
- (12) Motions/resolutions;
- (13) Adjourn.

Sec. 2-41. Standing committees. [Res. No. 11-94, 3-8-1994; Res. No. 4-95, § 1, 2-14-1995; Res. No. 13-98, 2-24-1998; Res. No. 12-99, 2-23-1999; Res. No. 2-00, 1-25-2000; Res. No. 3-01, 1-23-2001; Res. No. 04-02, 2-12-2002; Res. No. 08-07, 2-13-2007; Res. No. 03-09, 1-27-2009; Res. No. 04-10, 1-26-2010]

- (a) Standing committees. The standing committees of the Common Council shall be as follows:

	Number of Members
(1) City Operations	5
(2) Public Safety	7
(3) Division of Youth and Recreation	5
(4) Strategic Planning	5
(5) Finance Committee	7
(6) Labor Relations Committee	4
(7) Committee of the Whole	7

The President of the Common Council shall appoint the chairman and members of all standing committees. All standing committees shall be appointed for one year. No person shall continue to serve as a committee member after ceasing to be a member of the Common Council.

- (b) Standing committee chairmen; voting. Chairmen of the standing committee shall have a vote on all matters considered by their committee.
- (c) Regular standing committee meetings. The Common Council shall establish a standing meeting night for each committee.
- (d) Called meetings. The following may call committee meetings: The Mayor; the President of the Council; the chairman of the committee; or two members of the committee. Meetings of the standing committees may be called upon 24 hours' notice by notifying each committee member of the meeting either by telephone or in writing, advising the time and place of the meeting.

Sec. 2-42. Subcommittees and boards. [Res. No. 11-94, 3-8-1994]

Subcommittees may be appointed by the President of the Common Council as deemed appropriate. Unless otherwise provided, subcommittee appointments shall be for a term of one year.

Sec. 2-43. Special committees. [Res. No. 11-94, 3-8-1994]

Special committees may be authorized at any legal meeting of the Common Council. They shall be appointed by the Mayor with the consent of the Common Council. Any resolution creating any special committee shall specify the powers and duties of the committee and the number of its members.

Sec. 2-44. Advisory committees. [Res. No. 11-94,3-8-1994]

Advisory committees may be authorized by resolution. Members of such committee shall be appointed by the Mayor with the consent of the Common Council. Members of the public may be appointed to serve on advisory and special purpose committees. Any resolution creating an advisory committee shall specify the powers and duties of the committee and the number of its members.

Sec. 2-45. Committee of the Common Council as a whole. [Res. No. 11-94, 3-8-1994]

In order to consider a matter by the Common Council as a whole the Common Council may resolve itself in to a committee of the whole on any subject before it. The rules of the Common Council shall be observed by this committee insofar as they are applicable, except that the number of times a member may speak shall not be limited.

Sec. 2-46. Referral to committees; proposed legislation (PL). [Res. No. 11-94, 3-8-1994; Res. No. 13-98, 2-24-1998; Res. No. 77-98, 9-22-1998]

- (a) Referral of matters. All petitions, communications, budget adjustments, reports, resolutions, motions, local laws, etc., requiring action of the Common Council shall be referred by the presiding officer, without motion:
 - (1) To the appropriate committee; or
 - (2) To the Mayor for administrative action unless otherwise ordered by the Common Council by a majority vote.
- (b) Initiation of new legislative matters. All legislation shall be initiated by the submission to the Common Council President the proposed legislation. The proposed legislation shall be prepared, signed and submitted by a Common Council member or the Mayor and shall contain a general summary of the proposed legislation. The PL shall be numbered and referred to committee at the next regular meeting or work session of the Common Council.
- (c) Referral of proposed legislation. All PL's must be turned in to the journal clerk prior to 12:00 noon Thursday prior to any regular session or work session of the Common Council in order to be referred at the Tuesday meeting.

Sec. 2-47. Committees in general. [Res. No. 11-94, 3-8-1994]

- (a) Committee adjournment. No committee meeting shall be adjourned until announced by the chair of the committee after majority vote of the members present.
- (b) Committee quorum. Action on any matter properly before any committee shall be taken only while a majority of the committee is present and in session. If the Common Council President is in attendance at a committee meeting he shall be counted for the purpose of establishing a quorum if necessary. In such event, the Common Council President shall have a vote as if a member of such committee.
- (c) Committee vacancy. Any vacancy on a committee shall be filled by the Common Council President without delay.
- (d) Committee minutes. Each committee chair shall be responsible for assuring minutes of his or her committee are kept. The minutes shall contain a brief summary of the business conducted by the committee, together with a record of the decisions made by the committee as well as the time, place and persons present and any other pertinent information. The minutes of committee meetings shall be filed with the journal clerk within one week after each meeting.
- (e) Committee member attendance. The committee chair must report to the President of the Common Council all situations where a members's attendance at regularly scheduled meetings in the preceding six-month period falls below 75%. The Common Council President shall thereupon remove such member from the committee unless the member shall demonstrate extenuating circumstance to the committee which shall by majority vote request the Common Council not remove such member.
- (f) Committee meetings open to public. All committee meetings shall be open and subject [to] the provisions of Article 7 of the Public Officers Law. Should a committee desire to go into executive session it shall comply with Article 7 of the Public Officers Law and the provisions governing executive sessions contained in this division (see section 2-107).
- (g) Committee minute book. It shall be the duty of the City Clerk to provide each committee chairman with an appropriate permanent minute book. This book shall remain the property of the City of Olean and shall be kept by the journal clerk. The minute book shall be surrendered to the City Clerk upon the expiration of the chairman's tenure in committee office. It shall be the duty of each committee chairman to assure that appropriate written records in the prescribed format of each committee meeting and of all committee acts and discussions. The Mayor or any member of the Common Council may inspect the minute books of the committees created under this rule.
- (h) Who may speak. Only the Mayor, the sponsor, the cosponsor, committee members or department head(s) concerned with a question may address any question during a committee session unless the committee chairman shall otherwise direct.
- (i) Formal report to Council. All legislation and other matters referred to committee shall be formally reported on by the committee with recommendation, including majority and minority report, if applicable, or status, with reason for delay within

45 days of referral.

Sec. 2-48. Presiding officer. [Res. No. 11-94, 3-8-1994; amended 12-9-2014 by Res. No. 110-14]

The Common Council President shall be the presiding officer for regular and special meetings of the Common Council.

- (1) In the event of the temporary absence of the Common Council President, the Common Council shall designate by majority vote a member to act as presiding officer. In the event of the failure of the Common Council to designate a presiding officer by majority vote, the parliamentarian shall act as chairman pro term to appoint the presiding officer.
- (2) In the event of a permanent vacancy for the position of Common Council President, the Common Council, after all Council vacancies having been filled, shall elect a President of the Common Council until the next organizational meeting of the Common Council.
- (3) In the absence of the Common Council President from other than a regular or special meeting (for example, a work session or a hearing), the President may designate a member of the Common Council to act as presiding officer for such meeting.
- (4) The presiding officer for regular or special meetings of the Common Council, work sessions of the Common Council, or committee meetings shall preserve order and decorum. He or she shall decide questions of order subject to appeal.

Sec. 2-49. Request for the floor. [Res. No. 11-94, 3-8-1994]

A member desiring the floor during a regular or called meeting of the Common Council shall request the chair for the privilege. When two or more persons seek the floor, the presiding officer shall designate the member who is to speak. The member designated by the chair shall address himself or herself to the Council, confining his or her remarks only to those questions under debate and avoiding personalities or extraneous matters. Those deviating from this rule will be called to order and the privilege of the floor may be withdrawn by the presiding officer.

Sec. 2-50. Motions and their precedence. [Res. No. 11-94, 3-8-1994]

Any proposed action given orally from the floor shall be deemed a motion. When any question is under debate, only the following motions shall be entertained, and they shall have precedence in the order stated: Undebatable:

- (1) Motion to adjourn.
- (2) Motion to take recess.
- (3) Motion to lay on the table.
- (4) Motion to call the question (for the previous question).
- (5) Motion to limit or to extend limits of debate.

- (6) Point of order. Debatable:
- (7) Motion to postpone to a certain time.
- (8) Motion to commit or refer.
- (9) Motion to amend.
- (10) To postpone indefinitely.

Sec. 2-51. Rules for debate. [Res. No. 11-94, 3-8-1994]

- (a) Debate. No debate shall be in order until the pending question has been stated by the chair.
- (b) Questions. If any question being debated contains several distinct propositions, the same shall be divided by the chair at the request of any member, to the end that a vote may be taken on each proposition.
- (c) Priority of business. All questions relating to the priority of business (the priority of one question or subject matter over another) shall be decided by the chair without debate.

Sec. 2-52. Resolutions. [Res. No. 11-94, 3-8-1994]

- (a) [Defined.] The term resolution shall mean a formal proposed action, in writing.
- (b) Numbering. The journal clerk upon receipt of a resolution to be referred to the Common Council for vote shall assign a number. All resolutions shall be numbered in chronological order as received by the journal clerk and shall retain the same number permanently. All resolutions shall be considered and referred to by number in any discussion or action taken by Council.
- (c) Prior approval by City Attorney. All resolutions shall be approved by the City Attorney as to form prior to vote on the resolution by any committee or the Common Council if the matter is not referred to committee. The City Attorney shall indicate approval as to form of the resolution by initialling the original copy of the resolution.
- (d) Sponsorship. All resolutions shall contain the name of its sponsor and cosponsor and a short title setting forth the purpose of the proposed action. Committee chairmen are responsible to assure that all resolutions recommended for action by the committee have sponsorship. Resolutions without sponsorship shall not be placed on the Common Council agenda.
- (e) Submission deadline. All resolutions must be turned in to the journal clerk prior to 12:00 noon Thursday prior to any regular session of the Common Council in order to be on the agenda at the Thursday meeting.
- (f) Termination of resolutions. All resolutions in committee or reported on by committee and not acted on by committee or the Common Council shall die and the same shall not hold over in the year of reorganization.

Sec. 2-53. Resolutions approving payment of audited bills, inquiries concerning bills. [Res. No. 11-94, 3-8-1994]

On auditing bills or accounts against the City, a roll call vote shall be taken and a record kept on the same. Questions regarding specific bills may be directed to responsible City officials on the floor of the Council meeting by Common Council members only in accordance with the following rule: Barring extraordinary circumstances, and so a City official may prepare a timely response, inquiries concerning bills shall be communicated by Council members to the approving City official prior to noon on the day the Common Council meeting which will approve the bill.

Sec. 2-54. Resolutions involving the expenditure of money. [Res. No. 11-94, 3-8-1994]

Upon the introduction of any resolution involving the expenditure of money, unless the Common Council shall direct otherwise by majority vote, shall be referred to the appropriate committee without debate; however, immediate vote without referral shall be permitted:

- (1) For resolutions covering claims and accounts against the City approved by the auditor; or
- (2) For authority to advertise for bid for purchase or public works approved and contained in the budget for the current fiscal year; or
- (3) For the expenditure of a sum of less than \$100 (i.e., a placement of block ad to communicate to the public).

Sec. 2-55. Roll call vote and voice vote procedure. [Res. No. 11-94, 3-8-1994]

- (a) Roll call votes. A roll call vote shall be taken:
 - (1) Upon the confirmation of officers or employees nominated by the Mayor;
 - (2) Upon all acts requiring a super majority for passage;
 - (3) Upon all amendments to the Code of Ordinances and local laws;
 - (4) Upon the borrowing or the expenditure of any money; or
 - (5) Upon any other question before the Common Council upon request of any member.
- (b) Voice votes. Unless otherwise requested by any member, a voice vote will be called by the presiding officer where the vote does not fall into one of the following categories:
 - (1) A vote for the expenditure of money;
 - (2) A vote requiring a super majority for passage (i.e., a bond act);
 - (3) A vote adopting, amending or repealing an ordinance or local law;
 - (4) A vote for an appointment of a City official or employee that will be paid; or

- (5) For any action in which the Mayor or any member of the Common Council requests that there be a roll call vote.

Sec. 2-56. Official minutes. [Res. No. 11-94, 3-8-1994]

Minutes of the previous meeting shall not be read, unless requested by any Common Council member, by motion duly made, seconded and adopted by majority vote. The official minutes shall be taken by the journal clerk in summary form, shall be signed by the City Clerk and Common Council President, and retained by the City Clerk as permanent record of the affairs of the City.

Sec. 2-57. Filing reports, resolutions, ordinances, etc.; prefilng deadline; suspension of the rule. [Res. No. 11-94, 3-8-1994]

All committee reports, proposed resolutions, ordinance or any matter requiring Council action by vote shall be in writing and shall be filed with the journal clerk on or before noon on the Thursday preceding each regularly scheduled meeting. No resolution, ordinance, report or other matter may be considered by the Common Council at any regularly scheduled meeting unless properly prefled, or unless by act of the Common Council by two-thirds-vote shall suspend this rule.

Sec. 2-58. Filing miscellaneous communications. [Res. No. 11-94, 3-8-1994]

All miscellaneous communications and petitions shall be filed with the journal clerk on or before noon on the Thursday preceding each regularly scheduled meeting. The Common Council shall not consider any miscellaneous communications or petitions unless duly filed with the City Clerk. The Mayor or Common Council President may, however, introduce any letter, communication or notice which shall not be required to be pre-filed with the journal clerk.

Sec. 2-59. Delivery of Council agenda. [Res. No. 11-94, 3-8-1994]

It shall be the duty of the City Clerk to prepare and cause to be delivered to the Olean Police Department for pick up by each Alderman, a list of all matters filed in his office for consideration at any regularly scheduled meeting, on the Friday preceding each regularly scheduled meeting.

Sec. 2-60. Non-Council members comment/input at regularly schedules meeting of the Common Council. [Res. No. 11-94, 3-8-1994]

Any person not a member of the Common Council who desires the privilege of the floor shall at a regular or special meeting of the Common Council shall request recognized by the presiding officer during the "public comment/input" portion of the meeting. The presiding officer, in his discretion, may grant the privilege of the floor to the person desiring the same. Any person securing the floor shall give his name and address and briefly state his purpose. He shall address his remarks to such issue(s) however shall not discuss personalities. The time limit for any such remarks shall be five minutes unless the Common Council after majority vote thereon, raised by point of order from the floor, extends the limit that such person may be allowed in addressing the Common Council. Any such vote shall specify the length of such extension.

Sec. 2-61. Sergeant at Arms. [Res. No. 11-94, 3-8-1994]

The Chief of Police, or acting Chief of Police of the City of Olean shall be ex officio Sergeant at Arms of the Common Council.

Sec. 2-62. Suspending or rescinding Council rules. [Res. No. 11-94, 3-8-1994]

No rule of the Common Council or procedure established by this division shall be suspended or rescinded except by act of the Common Council in which 2/3 of all members present shall vote favorably.

Sec. 2-63. Smoking policy. [Res. No. 11-94, 3-8-1994]

Smoking of cigarettes, cigars or pipes shall be prohibited during regular and special meetings of the Common Council or during any work session, committee or subcommittee meeting.

Sec. 2-64. Permits granted at work sessions. [Res. No. 11-94, 3-8-1994; Res. No. 10-99, 2-23-1999; Res. No. 101-00, 10-10-2000]

At any regular work session of the Common Council, upon motion made and seconded and after an opportunity for comment therein by any one desiring to make comment, the Common Council shall have the authority to grant by majority vote of the entire Council (i.e. four votes) or deny any permit for:

- (1) (Reserved)⁵
- (2) Utilization of City streets for an event(s);
- (3) Parades;
- (4) Private use or improvement on or over a right-of-way; and
- (5) Such other type of permit request in which 2/3 of all members of the Common Council (i.e. five votes) shall agree to consider at such work session.

In the event there are not sufficient votes to grant a permit during the work session the matter shall be referred for action at a regular session of the Council.

Any permit granted by the Common Council at a work session shall be subject to conditions established by the Mayor, Common Council, committee, and/or department head(s) involved. Granting of permits pursuant to this section shall be strictly limited to the matters provided for by this section. For each matter acted upon by the Common Council, the Common Council President shall make explicit record of the motion, its sponsor, its second and the votes of each member thereon.

The rule is not intended to bypass committee review, if appropriate, and should be utilized only in unusual circumstances. All such permits granted pursuant to this section shall be read as a report at the next regular session of the Common Council.

Sec. 2-65. Executive session. [Res. No. 11-94, 3-8-1994]

5. Editor's Note: Former Subsection (1), regarding curb cuts, was repealed 2-9-2016 by Res. No. 05-16.

- (a) [Generally.] All meetings of the Common Council, whether in regular session or work session are covered by the Open Meetings Law as contained in Article 7 of the Public Officers Law of the State of New York. In addition, all meetings of any of the committees of the Common Council are subject to the Open Meetings Law.
- (b) Notice.
 - (1) Notice for meetings planned at least one week in advance shall be given:
 - (a) To the news media; and
 - (b) By means of posting notice of the meeting at least 72 hours in advance.
 - (2) Notice for meetings scheduled less than one week in advance shall be given:
 - (a) Notice shall be given to the news media, to the extent practicable; and
 - (b) Must be posted a reasonable time prior to the meeting.
- (c) Executive session. The Common Council or a committee of the Common Council may close a meeting upon the declaration of executive session. Procedure for going into executive session is as follows:
 - (1) Executive sessions may only be entered into as part of an open meeting. A motion must be made, during an open meeting, to enter into an executive session. The person making the motion must specify the subject area which qualifies for executive session and the motion must be carried by a majority vote of the total membership of the body.
 - (2) The following constitutes a complete list of the area for which a public body may enter into executive session:
 - (a) Matters which will imperil the public safety if disclosed;
 - (b) Matters which may disclose the identity of a law enforcement agent or informer;
 - (c) Information regarding a current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement, if disclosed;
 - (d) Discussion of proposed, pending or current litigation;
 - (e) Collective negotiations pursuant to the Taylor Law;
 - (f) The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - (g) The preparation, grading, or administration of examinations;
 - (h) The proposed acquisition, sale or lease of real property or the proposed acquisition or securities, or sale or exchange of securities held by a

public body, but only when publicity would substantially affect the value thereof.

The Common Council or any committee of the Common Council may vote in executive session on any of the above-noted issues, however, no vote shall be permitted on any appropriation of public funds while in executive session.

- (d) Minutes. Minutes of executive session must be kept. Executive session minutes need not contain the contents of discussion, but must include a record or summary (including the date and vote) of any final determination. If no determination is made, there need not be minutes. Executive session minutes must be available to the public within one week of the meeting. The executive session minutes may be taken by a member of the Common Council or the body may choose to allow a clerk to be present to take minutes.

Sec. 2-66. Journal clerk; City Clerk. [Res. No. 11-94, 3-8-1994]

The journal clerk [shall be] responsible for day to day management of the legislative system as provided by these rules.

The City Clerk shall record all votes and shall permanently retain all correspondence, local laws, resolutions, memorandum, committee minutes, and Common Council minutes. The City Clerk shall certify all minutes of regular meetings of the Common Council.

Sec. 2-67. through Sec. 2-80. (Reserved)

**ARTICLE III
BOARDS, COMMISSIONS, ETC.**

Sec. 2-81. through Sec. 2-100. (Reserved)

**ARTICLE IV
OFFICERS AND EMPLOYEES**

**DIVISION 1
GENERALLY**

Sec. 2-101. Attendance of schools, conventions and conferences. [Res. No. 120-90, §§ 1, 2, 3a, 3b, 9-10-1990]

- (a) The following executive officers within the City are authorized and empowered to approve attendance of City employees under their supervision and control at conferences, conventions, and schools upon a determination that attendance will be of benefit to the community:
 - (1) City Clerk;
 - (2) Auditor;
 - (3) Assessor;

- (4) Youth Bureau Director;
- (5) Community Development Director;
- (6) Director of Public Works;
- (7) Head of Parks Department;
- (8) Police Chief;
- (9) Fire Chief.

Such authorization must be made in writing with a copy of such approval duly filed with the City Clerk's office prior to attendance.

- (b) The Mayor is authorized and empowered to approve attendance of City department heads at conferences, conventions, and schools upon determination such attendance will be a benefit to the community. Such authorization must be in writing with a copy of such approval filed with the City Clerk prior to attendance.
- (c) No claim or expense shall be audited, allowed, or paid unless there shall be attached thereto a travel order or similar document and voucher signed by the department head or the Mayor, as the case may be, authorizing the claimant to attend such conference, convention, or school.
- (d) No conference, convention, or school shall be authorized without the consent of the Common Council by resolution and the approval of the Mayor when the proposed expenditure shall exceed the amount approved for travel, training, and education by such City department in the budget of the City for the fiscal year in which the expenditure will occur.

Sec. 2-102. Records management officer; creation of position; duties. [Code 1971, § 2-57]

There is hereby created the position of records management officer to be designated by the Mayor with the approval of the Common Council, whose duties shall be to implement records management as required from time to time by the state in implementation and application of the Local Government Records Law [Arts and Cultural Affairs Law § 57.13 et. seq.] and all rules and regulations promulgated pursuant thereto.

Sec. 2-103. through Sec. 2-115. (Reserved)

DIVISION 2
CODE OF ETHICS

Sec. 2-116. Established. [Code 1971, § 2-40]

A code of ethics is hereby established to govern the conduct of the officers and employees of the City, as provided in this division.

Sec. 2-117. Definitions. [Code 1971, § 2-41]

The following words, terms and phrases, when used in this division, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

INTEREST — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this division, a municipal officer or employee shall be deemed to have an interest in the contract of:

- (1) His spouse, minor children, and dependents, except a contract of employment with the municipality which such officer or employee serves;
- (2) A firm, partnership, or association of which such officer or employee is a member or employee;
- (3) A corporation of which such officer or employee is an officer, director, or employee; and
- (4) A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the City, whether paid or unpaid, including members of any administrative board, commission, or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or assistant Fire Chief.

Sec. 2-118. Board of ethics established. [Code 1971, §§ 2-12, 2-13]

- (a) **Members.** There is hereby established a board of ethics consisting of three members to be appointed by the Mayor and confirmed by the Common Council and who shall serve without compensation at the pleasure of the Mayor and Common Council. A majority of such members shall be persons other than officers or employees of the City.
- (b) **Powers and duties.** The board of ethics shall have the powers and duties prescribed by General Municipal Law art. 18 [§ 800 et seq.] and shall render advisory opinions to the officers and employees of the City with respect to such article and any code of ethics adopted pursuant to such article, under such rules and regulations as the board may prescribe.
- (c) **Recommendations for ethics code.** In addition, the board may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon the request of the Common Council.

Sec. 2-119. Standards of conduct. [Code 1971, § 2-42]

Every officer or employee of the City shall be subject to and abide by the following standards of conduct:

- (1) **Gifts.** He shall not directly or indirectly solicit any gift or accept or receive any gift having a value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing, or promise, or any other form, under

circumstances in which it could reasonably be inferred that the gift was intended to influence him; could reasonably be expected to influence him, in the performance of his official duties; or was intended as a reward for any official action on his part.

- (2) Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- (3) Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member, or employee, or of any municipal agency over which he has jurisdiction, or to which he has the power to appoint any member, officer, or employee.
- (4) Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- (5) Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Common Council and any officer or employee of the City, whether paid or unpaid, who participates in the discussion or gives official opinion to the Common Council on any legislation before the Common Council shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- (6) Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction which creates a conflict with his official duties.
- (7) Private employment. He shall not engage in, solicit, negotiate for, or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- (8) Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the City in relation to any case, proceeding, or application in which he personally participated during the period of his service or employment or which was under his active consideration.

Sec. 2-120. Distribution of copies of code of ethics. [Code 1971, § 2-44]

The Mayor of the City shall cause a copy of this code of ethics to be distributed to every officer and employee of the City before such officer or employee entering upon the duties of his office or employment.

Sec. 2-121. Right to file claim, account, demand, or suit against City or agency thereof, preserved. [Code 1971, § 2-43]

Nothing in this division shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand, or suit against the City, or any agency thereof, on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

Sec. 2-122. Penalties for violation by officer or employee. [Code 1971, § 2-45]

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended, or removed from office or employment, as the case may be, in the manner provided by law.

Sec. 2-123. Sexual harassment. [Res. No. 4-94, 2-8-1994]

- (a) It is the policy of the City that there be no discrimination against any employee, or any applicant for employment, on the basis of sex. In keeping with the policy, the City does not tolerate sexual harassment by anyone, including non-employees.
- (b) Sexual harassment is a violation of the City's rules of conduct. It can also constitute a violation of state and federal law. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - (1) Submission to the conduct is made either an explicit or implicit condition of employment;
 - (2) Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed individual; or
 - (3) The comments or conduct is found to be offensive and/or intimidating by the person to whom it is directed, even if the person making the comment or engage in the conduct does not appear to intend it to be offensive or intimidating (e.g., inter alia, sexual joking and innuendo, the use of sexually explicit language, or the display of sexually oriented jokes, posters, or other material on bulletin boards in offices, lockers and work areas.
- (c) Any person who feels he or she has been subjected to any form of sexual harassment should report such incident(s) to his or her supervisor, or the Mayor, or the secretary to the Mayor without fear of reprisal.
- (d) All reports of alleged sexual harassment will be investigated by the Mayor or the secretary to the Mayor as dictated by the specific circumstances. Investigations will be conducted in as confidential a manner as possible. Any individual making a complaint will be advised of the results of the investigation and of any action taken.
- (e) Any person who engages in sexual harassment will be subject to such corrective action and/or penalty as is deemed warranted by the City. Such action may include discipline or discharge.

Editor's note: Res. No. 4-94, adopted Feb. 8, 1994, did not specifically amend the

Code; hence, inclusion herein as § 2-123 was at the discretion of the editor.

Sec. 2-124. through Sec. 2-140. (Reserved)

**ARTICLE V
EMPLOYEE BENEFITS**

Sec. 2-141. Workers' compensation. [Code 1971, § 2-31]

The City shall provide workers' compensation benefits for all City employees.

Sec. 2-142. Additional pension benefits. [Code 1971, §§ 2-33, 2-34]

The Common Council does hereby elect to provide:

- (1) The benefits of Retirement and Social Security Law § 60-b, as presently or hereafter amended, effective with the payroll period beginning on July 2, 1973.
- (2) The career retirement plan of Retirement and Social Security Law § 75-g, as presently or hereafter amended, for employees of participating employers, effective with the payroll period beginning on July 2, 1973.
- (3) The benefits of the Retirement and Social Security Law § 360-b, as presently or hereafter amended, effective with the payroll period beginning on June 11, 1973.
- (4) The career retirement plan of Retirement and Social Security Law § 375-g, as presently or hereafter amended, for employees of participating employers, effective with the payroll period beginning on June 11, 1973.
- (5) The additional pension benefits of the Retirement and Social Security Law § 75-e, as presently or hereafter amended, and entitled "guaranteed retirement benefits for employees of participating employers." This election shall become effective with the payroll period beginning on June 1, 1972.
- (6) The additional pension benefits of Retirement and Social Security Law § 375-e, as presently or hereafter amended, and entitled "guaranteed retirement benefits for employees of participating employers." This election shall become effective with the payroll period beginning on June 11, 1973.

Sec. 2-143. through Sec. 2-160. (Reserved)

**ARTICLE VI
FINANCE**

**DIVISION 1
GENERALLY**

Sec. 2-161. Service charge on returned checks. [Code 1971, § 2-14; Res. No. 50-92, 4-14-1992]

The City shall charge a service of \$20 on checks tendered to the City which are subsequently returned for insufficient funds by the City's depository bank.

Sec. 2-162. Department of Community Development City's clearing house for grant applications. [Code 1971, § 2-91]

The Department of Community Development shall act as a clearing house for all City grant applications. Each department shall continue to have autonomous, independent authority with the consent and approval of the Common Council and the Mayor to submit application for all grants as may from time to time be deemed appropriate and necessary. However, the department submitting such grant shall, upon submission of such grant application, provide to the Director of the Department of Community Development a copy of such grant application submitted. The Department of Community Development shall maintain City-wide record keeping in order to inform the Common Council of the City's realization upon all applied for grants.

Sec. 2-163. Sale or lease of City real estate. [Code 1971, § 2-5]

- (a) The Common Council is hereby empowered to sell or lease any real estate belonging to or under the control of the City when authorized by a three-fourths vote of all the members of the Common Council and approved by the Mayor.
- (b) Any sale of City real estate shall be made at public auction to the highest bidder after public notice of the sale is published at least once each week for three weeks in the official paper.
- (c) At the time of the sale of City real estate, at least 10% of the sale price shall be paid by the purchaser and the balance upon the delivery of the deed by the City.

Sec. 2-164. Adjustment of fees. [Res. No. 75-92, 5-12-1992]

License fees, permit fees and other user fees for the City-provided services, collectively hereinafter referred to as "City fees," shall be periodically adjusted to assure that they remain current with the cost of living. The auditor of the City shall, as a mandatory portion of the budget preparation process, annually provide to the Common Council proposed adjustments in all City fees as will cause them to be increased or decreased, as the case may be, in an amount equivalent to the annual percentage increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, or other similar published index.

Sec. 2-165. through Sec. 2-170. (Reserved)

DIVISION 2
INSURANCE ADMINISTRATION

Sec. 2-171. Auditor in charge of management and oversight generally. [Res. No. 153-93, § 1, 10-26-1993]

The auditor of the City is designated as the officer of the City responsible for oversight and management of all City insurance coverages for the City. Upon recommendation of the auditor, the Common Council shall adopt policies and procedures in connection with such oversight.

Sec. 2-172. Department heads responsible for getting information to the auditor. [Res. No. 153-93, § 2, 10-26-1993]

Each department head shall be obligated and responsible to assemble, maintain and provide from time to time in accordance with policies to be established by the auditor and adopted by resolution of the Common Council, such information as may be necessary or useful to assure that the auditor is keeping the agent/insurance company aware of all facts and changes thereto, which may have impact on the cost of insurance premiums.

Sec. 2-173. through Sec. 2-180. (Reserved)

**ARTICLE VII
PURCHASES**

**DIVISION 1
GENERALLY**

Sec. 2-181. Function of purchasing system. [Res. No. 25-91, 3-12-1991]

The function of the purchasing system is to provide internal control measures in the purchasing and payment for services and products for the City. The system will lessen the possibility of over-expenditures or any attempt to expend funds that are not available. Through the aid of periodic reports, the auditor and department heads will be able to budget funds in such a way to prevent the lack of funds when needed toward year's end. The system will also provide a check to verify authority for purchases.

Sec. 2-182. Generation of purchase orders. [Res. No. 25-91, § A, 3-26-1991; Res. No. 69-92, 4-28-1992]

- (a) All purchase requests for goods and services in excess of \$100 must begin with a purchase order (p.o.). Before a p.o. is released to a supplier or contractor, a notice of the proposed encumbrance must be filed with the City auditor by the administrative unit incurring the liability. This notice must be signed by the department head or his designee and must state the nature and amount, or estimate, of the encumbrance and the appropriate account to be charged.
- (b) If a sufficient unencumbered appropriation balance is available, the City auditor will enter the encumbrance against the appropriation account affected and indicate his approval by signing and numbering the p.o. In case a proposed commitment exceeds the balance available, the encumbrance cannot be entered, and the p.o. must be returned to the unit without approval. The department head must then request additional funding from the ways and means committee, which in turn will provide a recommendation for approval or rejection of the request to the full Council. Final approval or disapproval of a request for additional funding will come from a vote of the Common Council. A vote on approval or disapproval of a request for additional funding will occur within 30 calendar days of the date requested.
- (c) Emergency purchases must be followed up with a confirming p.o. as soon as possible, next business day.
- (d) Exceptions to the purchase order procedures are utility services, monthly service contracts, minor purchases of less than \$50, real estate tax bills, court ordered payments, any payments which could provide penalties or assessments for delinquencies, debt service payments, and other possible add-ons.

Sec. 2-183. Payment preparation. [Res. No. 25-91, § B, 3-26-1991]

- (a) This section deals with the receipt of goods and services and the approval of vouchers for payment.
- (b) The present policy is for processing vouchers for payment at the second Common Council meeting of the month. All present procedures remain in effect.
- (c) Invoices returned with vouchers indicating purchases by subordinates without purchase orders should be initialed by the immediate supervisor authorizing the purchase.

Sec. 2-184. Requests for non-budgeted equipment, capital projects, and capital items. [Res. No. 25-91, § C, 3-26-1991]

If there are requests for transfer of funds for non-budgeted equipment, capital projects, and capital items, the auditor shall notify the department head of the unavailability of funds. To request an increase in his appropriation account, the department head shall proceed as follows:

- (1) The request for transfer, or increase in appropriations, shall be in writing and directed to the auditor.
- (2) An explanation as to why the purchase is necessary must be included in the request.
- (3) The amount needed and the code involved must be indicated. After accumulating all the related information, the auditor shall submit the request to the ways and means committee for its action. On approval of the necessary Common Council resolution, the auditor shall notify the requisitioner who shall resubmit the purchase order. Notice shall also be given if the Common Council disapproved the request.

Sec. 2-185. Budget amendments. [Res. No. 25-91, § D, 3-26-1991]

In the event of an unanticipated revenue shortfall or other condition or situation arising which effects the City's ability to meet its previously budgeted financial obligations, the Common Council, by resolution, may direct the department heads to curtail, limit, or restrict spending to levels less than previously budgeted or appropriated by means of an amendment to the budget. The ways and means committee of the Common Council shall recommend to the Common Council the amendment to the budget identifying reductions by line item and account number, after consultation with the department heads involved.

Sec. 2-186. Auditor's review committee of the Common Council. [Res. No. 25-91, § E, 3-26-1991]

The auditor's review committee of the Common Council shall review and recommend to the Common Council approval or disapproval of all expenditures of the City prior to Council action on warrants recommended by the auditor at the second Common Council meeting of the month.

Sec. 2-187. Competitive bidding. [Res. No. 19-92, 2-25-1992]

Competitive bidding for purchase contracts or for public works may be initiated by

advertising for bids when required by state law without separate Common Council approval if the Common Council has specifically authorized the procurement in the adopted budget.

Sec. 2-188. Requests for proposals. [Added 7-10-2012 by Res. No. 50-12]

- (a) Requests for proposals (RFP) for professional services and insurance shall be solicited via public advertisement, where required, or a comprehensive list of potential vendors can be compiled with vendors contacted directly and provided with the RFP.
- (b) The RFP shall provide detailed information concerning the type of service to be provided, including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award. The evaluation criteria may include factors in addition to price; in such case, the criteria and any weighting or ranking of the importance of those criteria shall be set forth in the RFP.
- (c) The RFP process shall be based on a fair and equitable review and evaluation or ranking of the proposals.

Sec. 2-189. through Sec. 2-205. (Reserved)

DIVISION 2
PROCUREMENT CODE

Subdivision I. General Provisions

Sec. 2-206. Definitions. [Res. No. 57-97, § 1(A), 4-14-1992]

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Responsible official or purchaser means each official having authority to initiate a purchase utilizing City funds.

Sec. 2-207. Applicability. [Res. No. 57-92, § 9, 4-14-1992]

This division will be reviewed annually. This division does not supersede division 1 of this article; however, if there is inconsistency between that division and this division, this division shall prevail.

Sec. 2-208. Determining type of contract. [Res. No. 57-92, § 1(A), 4-14-1992]

Each responsible official of the City shall determine whether the proposed purchase constitutes a purchase contract or a public works contract. If there is doubt as to whether a contract is a purchase contract or a public works contract, the City Attorney should be consulted.

Sec. 2-209. Purchases subject to competitive bidding. [Res. No. 57-92, § 1(B), 4-14-1992; amended 3-11-2014 by Res. No. 16-14]

The responsible official shall next make a good faith determination whether it is known

or expected that the aggregate amount to be spent on the item in the current fiscal year is subject to competitive bidding taking into account past City-wide purchases. All purchases shall be presumed to be subject to competitive bidding except the following:

- (1) Purchase contracts under \$20,000;
- (2) Public works contracts under \$35,000;
- (3) Emergency purchases;
- (4) Certain municipal hospital purchases;
- (5) Goods purchased from agencies for the blind or severely handicapped;
- (6) Goods purchased from correctional institutions
- (7) Purchases under state and county contracts;
- (8) Surplus and secondhand purchases from another governmental entity.

Sec. 2-210. Duties of responsible official. [Res. No. 57-92, § 2, 4-14-1992]

If it is determined that a procurement is subject to competitive bidding, the responsible official shall proceed with the procurement in accordance with the General Municipal Law of the state. If it is determined that a procurement is not subject to competitive bidding, the responsible official shall proceed with the procurement in accordance with this division.

Sec. 2-211. through Sec. 2-225. (Reserved)

Subdivision II. Purchases Without Competitive Bids

Sec. 2-226. Documentation of purchases. [Res. No. 57-92, § 3, 4-14-1992]

A decision that a purchase is not subject to competitive bidding shall be documented in writing by the individual making the purchase. This documentation may include, without limitation:

- (1) Written quotes from vendors;
- (2) Notation of oral quotes from vendors;
- (3) A memo from the responsible official;
- (4) A copy of the contract indicating the source which makes the item or service exempt;
- (5) A memo from the purchaser detailing the circumstances which led to an emergency purchase; and
- (6) Any other written documentation that is appropriate.

Sec. 2-227. Procedure for procurement; exceptions. [Res. No. 57-92, § 4, 4-14-1992; amended 5-13-2014 by Res. No. 38-14]

- (a) Goods and services that are not subject to competitive bidding will be purchased in accordance with this division by use of written requests for proposals, written quotations, verbal quotations, or such other method that assures that goods will be purchased at the lowest price, taking quality, timeliness of delivery and service into account, or best value as defined by New York State Finance Law § 163, as authorized by L.L. No. 2-2014.⁶
- (b) Best value is defined in the New York State Finance Law § 163. When awarding contracts under the best value standard, the City must consider the overall combination of quality, price and other elements of the required commodity or service that in total are optimal relative to the needs of the City of Olean. Use of the best value standard must rely, wherever possible, on objective and quantifiable analysis. The best value standard may identify as a quantitative factor whether offers are small businesses or certified minority- or women-owned business enterprises as defined in New York Executive Law § 310. The best value standard may only be used for purchase contracts, which includes contracts for service work, but excludes any purchase necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law.
- (c) The following circumstances shall be the only exceptions to the requirements of this provision:
 - (1) Purchase contracts over \$20,000;
 - (2) Public works contracts over \$35,000;
 - (3) Goods purchased from agencies for the blind or severely handicapped pursuant to the State Finance Law § 175-b;
 - (4) Goods purchased from correctional institutions pursuant to the Correction Law § 186;
 - (5) Purchases under state contracts pursuant to the General Municipal Law § 104;
 - (6) Purchases under county contracts pursuant to the General Municipal Law § 103(3);
 - (7) Purchases pursuant to Section 2-229 of this division which detail procedures for procurement of professional services, emergency procurement and procurement of items having a price of less than \$500.

Sec. 2-228. Minimum documentation required. [Res. No. 57-92, § 5, 4-14-1992; amended 5-13-2014 by Res. No. 39-14]

- (a) The following minimum documentation type shall be required for procurement not requiring competitive bidding pursuant to this policy:
 - (1) Estimated Amount of Purchase Contract

⁶. Editor's Note: See Ch. LL4.5, Art. II.

Method/Minimum Documentation

\$50 to \$499	Purchase order
\$500 to \$4,999	Two verbal quotations with written record of each quote
\$5,000 to \$19,999	Three written/fax quotations or written request for proposals

(2) Estimated Amount of Public Works Contracts

Method/Minimum Documentation

\$50 to \$499	Purchase order
\$500 to \$2,999	Two verbal quotations with written record of each quote
\$3,000 to \$9,999	Two written/fax quotations
\$10,000 to \$34,999	Three written/fax quotations or written request for proposals

- (b) For purchases or public works less than \$500, purchases shall be subject to a good faith decision made in the best interest of the community, avoiding favoritism.
- (c) In all cases where verbal quotes are requested, a good faith effort shall be made to obtain a reasonable number of proposals or quotations.
- (d) If the purchaser is unable to obtain more than one proposal or quotation, the purchaser will document the attempt made by obtaining other proposals. The failure to obtain more than one proposal shall not be considered a bar to the procurement.

Sec. 2-229. Forms of documentation. [Res. No. 57-92, § 6, 4-14-1992]

Documentation is required of each action taken in connection with each procurement not requiring competitive bidding. Documentation includes Common Council resolutions, memoranda, published current state bid price material, written quotes, telephone logs (for verbal quotes), request for proposals and other appropriate forms of documentation including check lists and flow charts.

Sec. 2-230. Documentation when not awarding to lowest responsible bidder. [Res. No. 57-92, § 7, 4-14-1992]

Documentation and a justifying explanation is required with each procurement not requiring competitive bidding whenever a procurement is awarded to other than the lowest responsible bidder. This documentation will include a complete explanation of how the award will nevertheless achieve savings or how the offeror was not responsible. The City Attorney shall be contacted in each such circumstance.

Sec. 2-231. When solicitation of alternative proposals or quotations not required.

[Res. No. 57-92, § 8, 4-14-1992; amended 5-13-2014 by Res. No. 40-14]

The solicitation of alternative proposals or quotations shall not be required by this division in the following circumstances:

- (1) Procurement of professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, and integrity. These qualifications will not always be found in the individual or company that offers the lowest price as the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the determination shall take into consideration the following guidelines:
 - (a) Whether the services are subject to state licensing or testing requirements;
 - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
 - (c) Whether the services require a personal relationship between the individual and municipal officials.
 - (c) Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps, and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing, or artwork; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software.
- (2) Emergency purchased pursuant to General Municipal Law § 103(4). Due to the nature of this exception, these goods or services must be purchased immediately, and a delay in order to seek alternative proposals may threaten the life, health, safety or welfare of the residents or City employees. This section does not preclude alternate proposals if time permits.
- (3) Services and goods under \$500. The time and documentation required by this policy may be more costly than the item itself or wasteful and therefore would not be in the best interests of the taxpayer.
- (4) Procurement where the price obtained is equal to or less than the state bid price. Procurements which are equal to or less than state bid prices shall be presumed acceptable for purchase contracts which do not otherwise require competitive bidding. Current state bid price material shall be required as documentation supporting the purchase.

Chapter 3, ADVERTISING AND SIGNS

ARTICLE I. IN GENERAL

Sec. 3-1. Consent of property owner.

It shall be unlawful for any person to paint, post, place, or affix any business or commercial advertisement, or cause the same to be done, on or to any wall, window, door, fence, gate, advertising structure, building, or other object, which is the property of another, without first securing the written consent of such owner thereof. Nothing in this section shall apply to any notice required by ordinance or legal notices by public officers and attorneys in the manner and place prescribed by law, or in the circulation and distribution of any daily newspapers throughout the city.

(Code 1971, § 3-3)

Secs. 3-2--3-20. Reserved.

ARTICLE II. SIGNS

DIVISION 1. GENERALLY

Sec. 3-21. Intent of article.

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

(Code 1971, § 3-15)

Sec. 3-22. Scope of article.

This article by its terms applies to all signs within the city excepting those signs erected and maintained in the neighborhood development area of the urban renewal plan for the city.

(Code 1971, § 3-16)

Sec. 3-23. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sign means any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign, advertising means a sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the same lot. This shall include billboards.

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

Sign, identification or professional means a sign showing the name and profession, occupation, or pursuit conducted on the premises.

Zoning districts mean the terms R-9 residential, R-4 residential, R-C commercial, B-1 business, B-2 business, I industrial, and CR commercial recreational. All references to zoning districts are defined as those terms which are defined and used pursuant to the zoning ordinance of the city as it may from time to time be amended or modified.

(Code 1971, § 3-17)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 3-24. Restricted.

(a) The construction, erection, alteration, reconstruction, display, ownership, maintenance, or operation of any sign within the city, except as provided by this article, is hereby prohibited.

(b) Signposts are specifically prohibited from the public right-of-way with the exception of those that are necessary or recommended by the state manual of uniform traffic control devices.

(c) Signs overhanging the public right-of-way are specifically prohibited except as provided by this article.

(d) No electric sign or electrically illuminated sign, or any signboard, signpost, portion of any advertising nature, or otherwise shall be permitted or allowed to remain on the sidewalk or on any portion of the city streets.

(Code 1971, § 3-18)

Sec. 3-25. Billboards and off-premises advertising.

Billboards shall be permitted by special use permit only and shall be permitted only in industrial districts. Off-premises advertising signs shall be permitted by special use permit only and shall be permitted in B-1, B-2, and industrial districts only. Such special use permit shall be defined in and be issued as provided by the zoning ordinance.

(Code 1971, § 3-53)

State law references: Billboards, General Municipal Law § 74-c.

Secs. 3-26--3-45. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 3-46. Nonconforming uses.

Notwithstanding any other provisions of this article, any nonconforming sign of any type in existence on August 14, 1984, shall, at the expiration of 12 months from such date, become a prohibited and unlawful use and shall be discontinued. If a party can show that he has been unduly burdened by this provision, he may apply in the alternative to the zoning board of appeals for a special permit to continue his nonconforming sign during the remaining or undepreciated useful life of such sign, as determined by an appropriate depreciation formula. For such purpose, the use of a formula commonly used for income tax purposes or the depreciation formula used in the depreciation schedules of the income tax returns of the owner of such sign shall be acceptable.

(Code 1971, § 3-54)

State law references: Billboard removal, General Municipal Law § 74-c.

Sec. 3-47. Variances.

Notwithstanding any other provision of this article, upon application to the zoning board of appeals, that board may vary or adopt the strict application of any of the requirements of this article if the zoning board of appeals finds that strict application of the provisions of this article would result in practical difficulty or unnecessary hardship. The procedures, standards, and criteria for the application for, public hearing upon, and the granting or denial of a request for a variance pursuant to this section shall be as defined in the zoning ordinance, as it may be amended.

(Code 1971, § 3-55)

Sec. 3-48. Administration and enforcement.

Administration and enforcement of the provisions of this article shall be the responsibility of the code enforcement office which shall have the authority to establish regulations, policy and procedures as may be required or convenient to realize the intent of this section.

(Res. No. 61-97, § 2, 6-10-1997)

Secs. 3-49--3-60. Reserved.

DIVISION 3. SIGNS IN RESIDENTIAL DISTRICTS

Sec. 3-61. Identification.

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

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

(Code 1971, § 3-24)

Sec. 3-62. Bulletin boards.

(a) Permanent bulletin boards or similar announcement signs are allowed only for churches and other nonprofit institutions. They may not exceed 20 square feet in gross area and shall be located either on the face of the building or on a post or posts at least five feet from the property line. One such sign shall be permitted for each street frontage.

(b) Signs may be illuminated by night by back lighting or by direct lighting, provided the latter is so screened as not to be visible from an adjacent residence.

(c) A permit is required; however, no fee will be charged.

(Code 1971, § 3-25)

Sec. 3-63. Temporary.

Temporary "For Sale" or "To Let" signs relating to the premises and containing the name, address, and telephone number of the owner or authorized agent, or both, and not exceeding six square feet in area in the aggregate shall be permitted. One such sign shall

be permitted for each street frontage and may not be illuminated. Temporary signs must be removed within 48 hours after the intent of business of the sign is complete. See section 3-24(c). No fee will be charged for this sign.

(Code 1971, § 3-26)

Sec. 3-64. Flags, civic insignia.

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

(Code 1971, § 3-27)

Sec. 3-65. Attaching to trees, poles, or structures.

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

(Code 1971, § 3-28)

Secs. 3-66--3-80. Reserved.

DIVISION 4. SIGNS IN BUSINESS DISTRICTS

Sec. 3-81. Generally.

Business signs in B-1 and B-2 business districts shall conform to the following regulations:

- (1) Permits required. A sign permit shall be required before any sign or billboard may be erected, altered, reconstructed, or displayed within the city.
- (2) Application for permit. Written application shall be made to the building inspector on a form provided by the building inspector and shall be accompanied by complete plans and specifications showing the construction, method of support, and materials to be used. Application may be made by the owner or by the lessee of the property upon which such sign is to be placed. The building inspector may require the plans and specifications be signed by a professional engineer or architect registered in the state.
- (3) Permit fees. Each application shall be accompanied by a fee, as established by the common council, which may be amended or modified from time to time. The building inspector may require proof of the monetary value of the sign. Licensed signs at the enactment of this Division, August 14, 1984, must obtain permits of this Division upon expiration of the license procured under former section 3-39 of the Code of Ordinances

enacted in 1971. All other signs within the city must comply with the requirements of this article on August 14, 1984.

a. Upon the approval of the building inspector of such application and of the place and manner of erecting the sign therein mentioned, and upon his writing or stamping thereon the amount of the fee required for the sign applied for, the applicant shall pay to the code enforcement officer the fee prescribed by this Division, and thereupon the code enforcement officer shall issue to the applicant a license for the sign applied for.

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

c. A fee of \$25.00 will be charged for a variance of this Division when it appears in front of the zoning board of appeals.

d. License fees for the erection or maintenance of signs are as follows:

1. New installations. \$5.00 per 1,000 based upon the proven cost of the sign.

2. Three-year permits approved as follows:

i. Illuminated wall, pole, or pylon signs. \$30.00 for a three-year license.

ii. Nonilluminated signs. \$15.00 for a three-year license.

iii. Billboards. \$150.00 for a three-year permit.

e. A permit fee of \$200.00 per year for sign installers shall be required to be paid except temporary permits may be purchased for three months at a fee of \$75.00. Temporary permits shall be accompanied by the evidence that the applicant shall have liability insurance in a minimum amount of \$10,000.00 property damage and \$100,000.00 personal injury.

f. Liability insurance must be obtained by the owner of a sign prior to approval by the building inspector. Minimum liability coverage is \$10,000.00 property damage, and \$100,000.00 personal injury. All liability insurance policies shall be approved by the city attorney prior to issuance of a sign permit.

(4) Temporary permits. Temporary signs shall require a permit from the building inspector, but a fee will not be required.

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

b. Materials, except frames, used in the construction of temporary signs may be of lightweight material.

c. Temporary signs shall conform to all other applicable provisions of this article.

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

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

(6) Sign mounting. All exterior signs shall be permanently mounted and securely anchored.

(7) Restrictions. Signs and billboards shall not in any way obstruct the required door or window area of any building or structure.

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

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

c. Signs constructed or erected after August 14, 1984, shall not be rotating or contain any moving parts.

(8) Traffic control signs. Signs necessary for traffic control on private property and containing no advertising may be erected, not to exceed an area of 12 square feet per sign.

(9) Exemptions. The provisions of this Division shall not apply to the following signs:

a. Traffic signs erected by governmental bodies.

b. Railroad warning signs.

c. Municipal signs.

d. Memorial signs or tablets, names of buildings, and date of erection when cut in any masonry surface or when constructed of bronze or other combustible or noncombustible materials.

e. Occupational signs denoting only the name and profession of an occupant in commercial buildings and the name and nature of the occupancy in public and institutional buildings. Such signs shall not exceed two square feet in area.

(10) Illumination. Signs may be illuminated at night by back lighting or direct lighting only provided that the latter is so screened as not to cast any direct light upon any residence.

a. No sign or lighting device shall be of the flashing, intermittent, or reciprocating type.

b. Illuminated signs must bear the national underwriters seal of approval or must be inspected and approved by the city electrical inspector.

(Code 1971, § 3-34; Res. No. 84-93, 7-27-1993; Res. No. 110-94, 11-8-1994; Res. No. 61-97, § 1, 6-10-1997)

Sec. 3-82. Types allowed.

Each business establishment shall be allowed the following types of signs only and which shall be installed at the business location only. However, ground signs and pole or pylon signs may not be used in combination. Further, any area allowed in a ground sign or a pole or pylon type shall be deducted from the total area allowed under section 3-83.

(1) Wall sign. A sign attached to, erected against, or painted on the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall.

(2) Ground sign. A detached sign erected upon or supported by the ground.

(3) Pole or pylon sign. A sign supported by or suspended from a freestanding column of concrete, structural steel, aluminum pipe, or structural aluminum.

(Code 1971, § 3-35)

Sec. 3-83. Size limitations.

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

(1) On an interior lot, two square feet of display area for each lineal foot of building frontage facing the main street or highway.

(2) On a corner lot where a building fronts on a second street, additional signs must be approved by the zoning board.

(Code 1971, § 3-36)

Sec. 3-84. General requirements.

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

(Code 1971, § 3-37)

Sec. 3-85. Ground.

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

- (1) Shall not be more than ten feet in height, as measured from the ground.
- (2) Any open space between the ground and the bottom of the sign shall not exceed three feet.
- (3) Ground signs may not be located in any area which shall affect the visibility for motor vehicle traffic.

(Code 1971, § 3-38)

Sec. 3-86. Pole or pylon.

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

- (1) Shall not be more than 25 feet in height above the ground or curb, whichever is lower.
- (2) An open space of not less than ten feet shall be maintained between the ground level and the bottom of such sign.

(Code 1971, § 3-39)

Secs. 3-87--3-100 Reserved.

DIVISION 5. SIGNS IN OTHER DISTRICTS

Sec. 3-101. Shopping centers.

Businesses located within shopping centers shall be allowed wall signs only, subject to regulations in sections 3-84 and 3-85. Ground and pole or pylon signs shall not be permitted, except one pylon sign identifying the shopping center only shall be permitted. Signs will follow all rules and regulations of Division 4.

(Code 1971, § 3-45)

Sec. 3-102. Industrial areas.

All signs in industrial areas shall conform to B-1 and B-2 district regulations.

(Code 1971, § 3-46)

Sec. 3-103. Industrial parks.

Signs shall be allowed in industrial parks, subject to the following regulations:

- (1) One sign of the pole or pylon type identifying the industrial park only and not exceeding 100 square feet in area and conforming to section 3-86.
- (2) One sign directing traffic to business locations. Such sign shall contain equal-sized areas not to exceed 12 inches by 72 inches for each business located within the park.
- (3) Entrance, exit, safety, and other directional signs, as required; size in accordance with size used for state signs.
- (4) Corporation identification signs, if intended to be seen from any road outside the park or area, will conform to regulations for business signs. Other corporate identification signs will be at the discretion of the corporation but will not extend more than five feet above the roofline.

(Code 1971, § 3-47)

Chapter 3.5, ALARM SYSTEMS

Sec. 3.5-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm user means any person who has a security or fire alarm system at premises located within or outside of the city limits owned, operated, or maintained by such person or his agents, employees or servants.

Automatic dialing device means a device which is connected to a telephone line and is programmed to dial for access to an emergency communication center and transmit by voice message or coded signal to an emergency agency and emergency message indicating a need for emergency response.

Avoidable alarm means activation of security or fire alarm system as the result of mechanical failure, malfunction, improper installation, false alarm or negligence of the owner, user, custodian or agents or through any other cause which results in notification of an emergency agency by a private answering point, automatic dialing device or by a second party or means which communicates that an emergency situation exists requiring response by the city when, in fact, no emergency exists. An avoidable alarm does not include alarms activated by violent conditions of nature such as hurricanes, tornadoes, earthquake or similar cause beyond the control of the user of the security or fire alarm system. Defective installation, failure to repair, or use of defective equipment shall not constitute a circumstance beyond the control of the alarm user.

Emergency communication center means the city offices responsible for receiving and coordinating 911 emergency telephone calls.

Enhanced 911 System means the county-wide emergency communication system.

Foreign exchange means those security or fire alarm systems that are permitted by the city to connect into an emergency communication center from outside of the city limits.

High-risk premises means any premises having a security or fire alarm system which is determined by the 911 coordinator to present a substantial or extraordinary security or fire hazard. The following premises shall be presumed to be high risk:

- (1) Governmental facilities of all types;
- (2) Schools;
- (3) Industrial premises;
- (4) Retail premises having inventory for resale;
- (5) Banks; and
- (6) Residential premises having fire alarm systems only

Leased line system means those security or fire alarm systems which have a dedicated telephone line or line override paid for by the user and terminating at a city-operated emergency communication center.

Local security or fire alarm system means a signaling system which, when activated, causes an audible signalling device to be activated outside the premises within which it is installed.

911 coordinator means the individual so designated by the mayor to carry that title.

Private answering point means a business which offers the service of receiving emergency signals, monitoring the signals and relaying them to an emergency agency.

Proprietary security or fire alarm system means an alarm, sounding and/or recording device within a premises which is not intended to alert persons outside of the premises and not intended to alert an emergency agency. If a proprietary system includes a signal line connected to an emergency agency or to a private answering point or to a local security or fire alarm system, it thereby becomes a "security or fire alarm system" as defined in this section.

Security or fire alarm system means a device that will signal the presence of a hazard requiring urgent attention and to which police, fire or emergency medical service agencies are expected to respond. A security or fire alarm system shall include automatic dialing devices as well as leased line security or fire alarm systems. A device connected to a motor vehicle, water vessel or aircraft shall not be considered a security or fire alarm for the purposes of this chapter.

Special trunk line means a designated telephone line leading to the emergency communication center having the primary purpose of handling emergency signals from automatic dialing devices.

(Res. No. 108-92, § 2, 7-14-1992)

Cross reference--Definitions and rules of construction generally, § 1-2.

Sec. 3.5-2. Purpose.

The purpose of this chapter is to regulate:

- (1) The connection of security or fire alarm systems to the city emergency communications centers.
- (2) Automatic dialing device message content to ensure that essential information is received in order to provide appropriate emergency response.
- (3) Administrative matters relating to the operations of the city emergency communication centers and to support the development and successful implementation of an enhanced county-wide 911 system.

(Res. No. 108-92, § 1, 7-14-1992)

Sec. 3.5-3. Jurisdiction.

These regulations shall pertain to all security or fire alarm systems in the city or which otherwise terminate at the fire or police department. The 911 coordinator may from time to time implement this chapter by regulation. All regulations shall be issued with an

effective date. It is the duty of all alarm users to keep advised of amendments to this chapter and to procedures and make appropriate changes and/or modifications as required.

(Res. No. 108-92, § 12, 7-14-1992)

Sec. 3.5-4. Penalty for noncompliance.

(a) It shall be unlawful to fail to comply with the provisions of this chapter. Unless otherwise provided, any person, business or firm who shall fail to comply shall be liable for a civil penalty payable to the city of \$150.00. In addition to the civil penalty payable to the city, noncompliance shall be punishable by the court by a fine of not less than \$150.00 and not more than \$1,000.00, or by a term of imprisonment not to exceed 15 days, or by both such fine and imprisonment.

(b) The 911 coordinator may order the alarm user to immediately disconnect any device not conforming with provisions of this chapter. The failure by such user to obey such order shall be a separate offense punishable by a fine of not less than \$350.00 and not more than \$1,500.00 or by a term of imprisonment not to exceed 15 days, or by both such fine and imprisonment. In addition, the owner of such security or fire alarm system shall be liable for a civil penalty payable to the city in the amount of \$250.00 for the failure to obey such order.

(Res. No. 108-92, § 10, 7-14-1992)

State law references: Power of city to provide penalties, forfeitures and imprisonment to punish violations of ordinances, General City Law § 20(22).

Sec. 3.5-5. Permit required, application, effective date.

(a) Permit. No person shall, as an alarm user, own, use, lease, operate or maintain a security or fire alarm system connected to a city emergency communication center or engage in the business for hire of installing security or fire alarm systems, other than a proprietary system, unless such person shall have first registered and obtained from the city clerk's office a permit as herein provided. All permits shall expire December 31 of each year and are required to be renewed in January of each year.

(b) Registration/application; alarm user. Alarm user permits shall be issued only to such premises determined to be high risk by the 911 coordinator. In order to obtain an alarm user's permit, a person who owns or operates a security or fire alarm system shall submit an application in the form designated by the city, which shall contain the following:

(1) The name, home address and telephone number of the person applying for the permit.

(2) The address of the premises upon which the security or fire alarm system is or will be located.

- (3) The address to which notices required under this chapter shall be sent.
- (4) The type of security or fire alarm system for which the permit is sought.
- (5) The name of the licensed alarm business selling, installing and/or maintaining the security or fire alarm system.
- (6) The name, address and telephone number of the licensed private answering point business providing monitoring service.
- (7) The name, address, and telephone number of two or more persons who can be reached at any time and who are authorized by the owner of the premises in which the system is installed to open the premises and will be present at the premises any time an emergency agency responds to a security or fire alarm system.
- (8) A plan for safely silencing a local security or fire alarm system as soon as possible.
- (9) Any other information as the city may require.

The information required on the permit or renewal application shall be treated as confidential and shall not be made available to the general public. The common council finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons at the premises where a security or fire alarm system is located.

(c) Reserved.

(d) Registration/application; alarm system installers. In order to obtain a security or fire alarm system installer's permit, a person who operates a security or fire alarm system installation/maintenance business for hire providing services to any alarm user in the city shall submit an application in the form designated by the city, which shall contain the following:

- (1) The name, home address and telephone number of the person applying for the permit.
 - (2) The address of the premises where the installer's business is or will be located.
 - (3) The address to which notices required under this chapter shall be sent.
 - (4) The name, address, and telephone number of the owner/shareholder of the business.
 - (5) Evidence of compliance with state licensing requirements.
 - (6) Such other information as the city may require.
- (e) Effective date.

(1) On or prior to October 1, 1992, all automatic dialing devices and leased line security or fire alarm systems terminating at a city emergency communication center shall be required to obtain the permit required by this chapter.

(2) Effective October 1, 1992, all automatic dialing devices terminating at the City Dispatch Center shall be required to be programmed to call designated special trunk lines accessed by designated seven-digit numbers. The designated emergency telephone numbers will be such seven-digit numbers as set forth from time to time for such purposes.

(3) Reserved.

(4) On or prior to October 1, 1992, alarm system installers shall be required to obtain the permit required by this chapter.

(Res. No. 108-92, § 3, 7-14-1992; Res. No. 82-06, 6-27-06)

Sec. 3.5-6. Specific requirements--Automatic dialers interconnected with emergency communication system.

(a) Only digital dialers shall be permitted to be utilized as an automatic dialing device interconnected with the city communications center. No automatic dialing device shall be programmed to dial the number 911. All automatic dialing devices terminating at an emergency communication center must be programmed to dial the seven-digit number designated by the city from time to time as its automatic device emergency number. Only high risk premises shall be permitted to interconnect with the city emergency communications system.

(b) Any person connecting to the city emergency communication center shall make prior application to the city for authorization, obtain a permit, and pay such fees as may from time to time be required for connection and monitoring.

(c) Automatic dialing devices shall not hold the telephone line open after the emergency communication center has broken the telephone connection.

(d) Automatic dialing devices shall not dial the emergency communication center more than three times as a result of a single activation.

(e) Automatic dialing devices shall not state a message more than twice after the call has been answered.

(f) Automatic dialing device messages shall be in the following format:

"This is (name of household or business) in the _____ of _____ reporting a (robbery, burglary, police trouble, fire, water flow or medical emergency) alarm at (number, street name) (apartment or room number) (floor) (building name)."

Information other than as provided by this subsection may be authorized by the 911 coordinator.

(g) The city emergency communication center shall not provide medical alert monitoring.

(Res. No. 108-92, § 4, 7-14-1992; Res. No. 125-94, 12-27-1994)

Sec. 3.5-7. Same--Private answering points.

(a) Alarm notifications which terminate at a private answering point and are then communicated to the fire or police department by an individual for appropriate dispatch response shall be permitted to utilize the 911 emergency telephone number. The calling party shall provide the fire or police department with the following information:

(1) Type of alarm activated: robbery, burglary, police trouble, fire, water flow, or medical emergency.

(2) Name of business or household.

(3) Street number and name.

(4) Apartment, room number or floor, if applicable.

(5) Building name.

(6) Nearest intersecting street.

(7) Any additional information as requested by the fire or police department.

The calling party shall promptly terminate the call upon transmission of the above information.

(b) Reserved.

(Res. No. 108-92, § 5, 7-14-1992; Res. No. 115-96, § 1, 11-26-1996; Res. No. 82-06, 6-27-06)

Sec. 3.5-8. Same--Local alarms.

(a) All local security or fire alarm systems shall become deactivated and silenced after a period no greater than 15 minutes.

(b) Police and/or fire officials may disable an audible local alarm signal that has not been silenced prior to the expiration of the 15 minute period and shall not be liable for any damage that may result.

(Res. No. 108-92, § 6, 7-14-1992)

Sec. 3.5-9. Alarm testing.

The testing of leased line security or fire alarm systems and automatic dialing devices terminating at the city emergency communication center shall be authorized in accordance with the following:

(1) Unless otherwise authorized by the 911 coordinator, business alarms may be tested a maximum of once per day. Residential alarms may be tested a maximum of one time per week. Such testing shall be conducted during the hours of 8:00 a.m. to 4:00 p.m. daily. Exceptions for frequency of tests and hours will be granted when the alarm is being tested as a result of alarm maintenance or repair.

(2) Prior to the alarm test, the user must contact the fire or police department to notify of the test. The caller must provide name, address, telephone number and type of alarm. The telephone number to be used when requesting an alarm test is 375-5678 for robbery, burglary or police trouble alarms and 375-5686 for fire, water flow or medical emergency calls, or such other numbers as may be designated for such purpose. If for any reason the alarm test cannot be conducted, the operator will advise the user and the test shall be rescheduled at another time.

(3) A police or fire official may be dispatched to the alarm address to verify the test.

(4) Upon test completion, the user shall communicate with the emergency communication center utilizing the appropriate number listed in subsection (2) of this section to confirm the successful alarm test or establish its failure.

(5) During the test, the fire and police department dispatcher will monitor the test and evaluate clarity of message, tone and message completeness.

(Res. No. 108-92, § 8, 7-14-1992)

Sec. 3.5-10. User fees.

(a) There shall be charged for municipal service provided pursuant to this chapter the following user fees. These fees may from time to time be reviewed by the common council of the city by resolution.

Alarm system installer's permit	No charge
Alarm system installer renewal	No charge
Annual application/connection fee and renewal fee:	
Automatic dialing system	\$10.00/building
Leased line system	\$10.00/building
Local security or fire alarm system	No charge
Residential monitoring by city	\$100.00/building
Residential monitoring by city (for system located outside city)	\$150.00/building

Commercial/industrial monitoring by city	\$175.00/building
Commercial/industrial monitoring by city (for system located outside city)	\$225.00/building
Public school system monitoring	No charge
Federal, state or county building	No charge
Surcharge for tape dialer (City or foreign exchange)	No charge
Test (city)	No charge
Test (foreign)	No charge
Avoidable alarm charge	1--7 \$50.00/alarm 8--10 \$75.00/alarm 11--13 \$100.00/alarm 14 and above \$125.00/alarm
Late payment administrative charge	\$10.00 + \$2.00/month

(b) All permit renewal fees and monitoring fees shall be payable annually, in January. No renewal permit shall be issued to any person who has failed to pay any fee or charge provided by this chapter. False alarm charges shall be levied after three avoidable alarms in any one year period. Avoidable alarm charges shall be payable 30 days after billing. Alarm users shall be billed by the city and be obligated to pay all avoidable alarm charges. Monitoring fees will be prorated during the year of installation. No reimbursement of monitoring fees paid shall be made upon termination.

(c) In addition to any other remedy provided for failure to comply with this chapter, there is established a late payment administrative charge. The charge shall be a \$10.00 administrative fee plus an additional amount of \$2.00 assessed for each 30 day delinquency.

(d) Failure to pay annual monitoring charges prior to April 1 shall be deemed to authorize the coordinator to issue a notice of termination terminating the privilege granted by the permit.

(e) All monitoring fee revenue from emergency communication services shall be paid in to a capital project account maintained by the auditor with such revenue earned for system upgrades.

(Res. No. 108-92, § 9, 7-14-1992; Res. No. 84-96, 9-10-1996; Res. No. 115-96, §§ 2, 3, 11-26-1996; Res. No. 82-06, 6-27-06)

Sec. 3.5-11. Right to refuse to allow interconnection with city emergency communication center.

The 911 coordinator may refuse to permit any person, business or firm the right to program its automatic dialing devices to access the designated special trunk line when the coordinator has reason to that the use of the device would adversely impact the operations of the fire and/or police department.

(Res. No. 108-92, § 11, 7-14-1992)

Chapter 4, AMUSEMENTS

ARTICLE I. IN GENERAL

Sec. 4-1. Public exhibitions and carnivals.

(a) Prohibited. It shall be unlawful for any person to exhibit or conduct a public carnival or public exhibition within the city limits. A violation of this section is hereby declared to be an offense and punishable accordingly.

(b) Exceptions. Public carnivals and public exhibitions which are sponsored by local entities acceptable to the common council may be held under the sponsorship of these entities on such terms and conditions as the council may determine.

(Code 1971, § 5-1)

Secs. 4-2--4-20 Reserved.

ARTICLE II. BINGOEN

Sec. 4-21. Short title of article.

This article shall be known and may be cited as "The City of Olean Bingo Licensing Ordinance."

(Code 1971, § 5-17)

Sec. 4-22. Authority to conduct.

It is lawful for any authorized organization as defined in General Municipal Law § 476, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the city, subject to the provisions of this article, General Municipal Law art. 14-H [§ 475 et seq.] and Executive Law article 19-B [§ 430 et seq.].

State law references: Authority to authorize bingo, General Municipal Law §§ 477, 478.

Sec. 4-23. Authority of city clerk to regulate.

Except as otherwise stated in this article, the common council delegates to the city clerk all of the authority granted to the common council under General Municipal Law art. 14-

H [§ 475 et seq.] relative to the issuance, amendment, and cancellation of licenses, the conduct of investigations and hearings, and the collection and transmission of fees, all with respect to the conduct of bingo games within the territorial limits of the city.

State law references: Authority of governing body to delegate its functions under art. 14-H of General Municipal Law, General Municipal Law § 498.

Sec. 4-24. Bingo inspector.

(a) Position created. There is hereby created the position of bingo inspector. The office of bingo inspector shall be an appointive office by appointment of the mayor and not subject to civil service rules and regulations.

(b) Powers and duties. The bingo inspector shall have and exercise control and supervision over all bingo games held, operated, or conducted under any license issued to the end that such bingo games are fairly held, operated, and conducted in accordance with the provisions of such license, the rules and regulations promulgated by the state, and the provisions of this article governing the holding, operation, and conduct of bingo games.

(Code 1971, §§ 5-32--5-1934)

State law references: Authority of governing body to delegate its functions under art. 14-H of General Municipal Law, General Municipal Law § 498.

Sec. 4-25. Approval of premises.

Each applicant for a bingo license shall state on the application the premises on which the games are to be conducted. No application shall be approved nor shall a license be issued until the fire chief of the city and the bingo inspector of the city have certified to the city clerk that the premises are acceptable for public assemblage, and more particularly that the premises comply with all fire and police regulations of the city. The clerk of the city shall keep on file the name and addresses of all premises previously approved for the conducting of games pursuant to this article, and such list shall be presumptive evidence that such places are approved.

(Code 1971, § 5-47)

Sec. 4-26. Sunday games permitted after 1:00 p.m.

It shall be lawful to conduct a licensed bingo game under General Municipal Law art. 14-H [§ 475 et seq.] and under this article on the first day of the week, commonly known and designated as Sunday, such game not to begin before 1:00 p.m.

(Code 1971, § 5-23)

State law references: Authority to so provide, General Municipal Law § 485.

Secs. 4-27--4-45 Reserved.

ARTICLE III. GAMES OF CHANCEEN

Sec. 4-46. Definitions adopted by reference.

The definitions in General Municipal Law § 186, as amended, are adopted by reference and shall apply to this article.

(L.L. No. 2-1980, §§ 2, 3)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 4-47. Authority to conduct.

It shall be lawful, pursuant to this article, for any authorized organization, upon obtaining a license therefor, to conduct games of chance within the city, subject to the provisions of General Municipal Law art. 9-A [§ 185 et seq.] and subject to the provisions and rules governing such games of chance as set forth by the state racing and wagering board.

(L.L. No. 2-1980, § 1)

State law references: Authority to legalize games of chance, General Municipal Law §§ 187, 188; licensing of games of chance, General Municipal Law § 190 et seq.

Sec. 4-48. Administration and enforcement by chief of police.

The administration and enforcement of this article shall be the responsibility of the chief of police of the city police department.

(Code 1971, § 2-68)

State law references: Enforcing officer, General Municipal Law § 194.

Secs. 4-49--4-60 Reserved.

ARTICLE IV. CARNIVALS AND CIRCUSES

Sec. 4-61 License.

(a) Traveling professional carnivals and circuses, whether or not locally sponsored or hosted, shall be required to make application for a license prior to opening for business in the city. The application shall be issued by the city clerk. The application shall contain the following information:

- (1) The name of the amusement.
- (2) The business name, if different.
- (3) Permanent address of the business.

- (4) Permanent business telephone number.
- (5) If a corporation:
 - a. The state of incorporation.
 - b. The principal shareholder.
 - c. Address of principal shareholder.
- (6) If a partnership:
 - a. The name of partners.
 - b. The address of all partners.
- (7) If a limited partnership:
 - a. The name of general partner.
 - b. The address of general partner.
- (8) If a proprietorship:
 - a. The name of owner.
 - b. The address of owner.
- (9) State sales tax number.
- (10) Federal identification number.
- (11) Sponsoring or hosting organization(s):
 - a. Name.
 - b. Address.
 - c. Telephone number.
 - d. Contact person.
- (12) Date of play or show.
- (13) Times of play or show.
- (14) Number of employees:
 - a. Fulltime

b. Parttime

(15) Such other pertinent information as the clerk shall require.

(b) The application shall be accompanied by:

(1) The license fee as established by the common council from time to time.

(2) A certificate of insurance reflecting in force liability insurance in the minimum amount of \$500,000.00 per occurrence.

(c) Prior to the issuance of the license, the applicant shall obtain the certification of the city fire chief and the police chief or their designees, confirming that the requirements of this Code relevant to the operation of carnivals and circuses have been communicated to the applicant.

(d) The fee for a licensee issued pursuant to this section shall be \$125.00 per day of play or show.

(e) Circuses and carnivals licensed pursuant to this section shall not be obligated to comply with or assure compliance with articles VI and VII of chapter 13.

(Res. No. 63-92, §§ 1--3, 4-28-1992; Res. No. 122-92, 8-25-1992; Res. No. 45-97, 5-27-1997)

Chapter 5

ANIMALS

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.

Health and human services, ch. 10.

Keeping of dogs and cats; limit, § 12-162.

Nuisances, ch. 16.

Injuring animals or birds in parks, § 17-27 et seq.

STATE LAW REFERENCES

Dogs generally, Agriculture and Markets Law § 106 et seq.

Dangerous dogs, Agriculture and Markets Law § 121.

Local regulation of dogs, Agriculture and Markets Law § 124.

ARTICLE I IN GENERAL

Sec. 5-1. Prohibited in City; exceptions, conditions. [Code 1971, §§ 6-2, 15-119]

All animals with the exception of dogs, cats, rabbits, fowl, and horses, shall be barred from the confines of the City limits. Keeping of allowable animals shall be subject to the following conditions:

- (1) Horses may be maintained within the limits of the City only if the stable, corral, or grazing area is more than 100 feet from any neighboring property line, public street, or roadway. The walls of all horse stables shall be of masonry construction, the roof may be of frame, and the windows screened and large enough to provide adequate light and air. All liquid wastes from the horse stable shall be intercepted before entering the public sewer by a suitable catch basin, properly trapped and vented. There shall also be provided a cold water hose connection so as to flush the catch basin and to maintain the stable in a clean and sanitary manner. All food and grains shall be kept in metal containers with tight metal covers to prevent the presence of rodents.
- (2) Cats may be maintained within the limits of the City if confined to the owner's property. They shall not be allowed to run at large and become a nuisance to adjoining property owners.
- (3) Rabbits may be maintained within the limits of the City only if kept in a clean and sanitary enclosure and maintained within the owner's property. They shall not be allowed to become a nuisance to the adjoining property owners.
- (4) Fowl may be maintained within the limits of the City only if securely confined in an enclosure maintained in a clean, dry, sanitary manner. Such enclosure must be at least 50 feet from any dwelling or any adjoining property line. Food and water shall be provided in suitable containers and cleaned daily to prevent decay and attraction of flies or other insects.

Sec. 5-2. Maintaining breeding establishments. [Code 1971, § 6-1]

It shall be unlawful for any person to maintain any establishment within the City limits for the breeding of animals which in any manner may be detrimental to public health or decency.

Sec. 5-3. Animals running at large prohibited. [Code 1971, § 6-3; amended 9-12-2017 by Res. No. 72-17]

- (a) No person, owner or custodian shall permit any animal to be at large within the City. Any animal shall be deemed to be at large when it is off the premises owned or leased by its owner or custodian unless crated, penned, or under the control of a person able to control the animal by means of a leash of sufficient strength to control the action of the animal or such other personal attention as will reasonably control the conduct and actions of the animal.
- (b) No animal shall cause injury, minor or severe, or threat of injury, to any person, or domestic animal, or cause any property damage to a person other than the owner. It is a violation of this article for the owner of an animal to permit or allow the animal to violate this section.

Sec. 5-4. Noisy animals, fowl and birds. [Res. No. 100-02, 9-10-2002]

It shall be unlawful for any person to own, keep, have in their possession, or harbor any animal, fowl or bird in the City, which by frequent or habitual noise or otherwise cause serious annoyance or disturbance to persons or to the neighborhood.

Sec. 5-5. through Sec. 5-25. (Reserved)

ARTICLE II

DOGS

[Adopted 9-23-2015 by Res. No. 86-15⁷]

Sec. 5-26. Purpose.

The Common Council of the City of Olean (the "City") finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons, damage to property and created nuisances within the City of Olean. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs within the City of Olean.

Sec. 5-27. Legislative authority.

This article is enacted pursuant to the provisions of Section 124 of Article 7 of the Agriculture and Markets Law of the State of New York.

Sec. 5-28. Title.

The title of this article shall be "Dog Control Ordinance of the City of Olean."

Sec. 5-29. Definitions.

As used in this article, the following words shall have the following respective meanings:

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, as amended by this article, and as amended thereafter.

CITY OF OLEAN — Shall designate the area within the corporate limits of the City of Olean.

CONFINED — That such animal is securely confined or restrained and kept on the owner's premises, whether within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person or any adjacent premises or on any public street, way or place, or if the animal is being transported by the owner, that it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

DOG — Male and female, licensed and unlicensed, members of the species *Canis familiaris*.

7. Editor's Note: This resolution also superseded former Art. II, Dogs, as amended.

DOG CONTROL OFFICER — Any person authorized by the Common Council of the City of Olean from time to time to enforce the provisions of this article or the provisions of the Agriculture and Markets Law.

HARBOR — To provide food or shelter to any dog.

OWNER — The party purchasing the license, unless the dog is or has been lost, and such loss reported to the dog warden and reasonable search has been made. If an animal is not licensed, the term of "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any animal which is kept, brought or comes within the City of Olean. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the owner of such dog for the purpose of this article. In the event any dog found to be in violation of this article shall be owned by a minor, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog and violation of this article.

RECREATIONAL AREAS — Any real property owned by the City of Olean which is used for recreational purposes by the public, including, but not limited to, parks or playgrounds.

RUN AT LARGE — To be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

SCHOOL PREMISES — Any real property situate within the City of Olean which is used for educational purposes or purposes incidental thereto.

Sec. 5-29.1. Licensing.

- (a) Pursuant to the provisions of §§ 109 and 110 of Article 7 of the Agriculture and Markets Law of the State of New York, all dogs over the age of four months shall be licensed by the City Clerk of the City of Olean.
 - (1) The annual fee for such dog license issued in the City pursuant to § 109 of the Agriculture and Markets Law of the State of New York shall be:
 - a. For each spayed or neutered dog and a copy of rabies vaccine certificate for each and a copy of spay or neuter certificate: \$10.
 - b. For each unspayed or unneutered dog and a copy of rabies vaccination certificate for each: \$20.
 - (2) Each application for a dog license shall be accompanied by a fee as specified in Sec. 5-29.1(a)(1), as well as the appropriated certificates.
- (b) All licenses issued pursuant to this article, and any renewal thereof, shall expire on the last day of the last month of the period for which they are issued, except that no license shall be issued for a period expiring after the last day of the 11th month following the expiration date of the current rabies certificate for the dog being licensed. In the event an applicant for a license or renewal presents a statement certified by a licensed veterinarian, in lieu of a rabies certificate, then the license or

renewal shall be issued for one year from the date of the statement.

- (c) A license shall not be issued or renewed unless the applicant provides a current rabies certificate or a statement certified by a licensed veterinarian stating that because of old age or other reason, the life of the dog or dogs would be endangered by the administration of the vaccine. The City of Olean will not provide a purebred license.
- (d) Guide dogs, hearing dogs, service dogs, war dogs, working search dogs, detection dogs, police work dogs, and therapy dogs, as defined in § 108 of Article 7 of the Agriculture and Markets Law of the State of New York, shall be exempt from all license fees.
- (e) In the event of a change in the ownership of any dog which has been licensed pursuant to this article or in the address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, file with the City Clerk a written report of such change. Such owner of record shall be liable for any violation of this chapter until such filing is made or until the dog is licensed in the name of the new owner.
- (f) If any dog which has been licensed pursuant to this article is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, file with the City Clerk a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this chapter committed after such report is filed.
- (g) In the case of a dog's death, the owner of record shall so notify the City Clerk either prior to the renewal of licensure or upon the time of such renewal.

Sec. 5-30. Prohibited acts.

- (a) It shall be unlawful for any owner of any dog in the City of Olean to permit or allow such dog to:
 - (1) Run at large unless the dog is restrained by an adequate leash.
 - (2) Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
 - (3) Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property not belonging to the owner of such dog.
 - (4) Chase, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
 - (5) Habitually chase, run alongside of or bark at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog.
 - (6) Create a nuisance by defecating, urinating, or digging on public property or

private property of said owner.

- (7) If a female dog, be off the owner's premises when in heat.
 - (8) Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto, unless said dog is on a leash.
- (b) Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 5-30 of this article shall be presumptive evidence against the owner or harborer of such dog that he/she has failed to properly confine, leash or control his/her dog.

Sec. 5-31. Enforcement.

This article shall be enforced by any dog control officer or peace officer when acting pursuant to his/her special duties, or by any member of the Olean Police Department.

Sec. 5-32. Seizure, impoundment, redemption and adoption.

- (a) Any dog found in violation of the provisions of Section 5-30 of this article may be seized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.
- (b) Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in Section 118 of the Agriculture and Markets Law.
- (c) Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in Section 118 of said article.
- (d) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in Subdivision (c) of this section, whether or not such owner chooses to redeem his/her dog.
- (e) Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.
- (f) No action shall be maintained against the City of Olean, any dog control officer or peace officer when acting pursuant to his/her special duties, or any other agent or officer of the City of Olean or person under contract to said City of Olean to recover the possession or value of any dog, or for damages or injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this article or the Agriculture and Markets Law.

Sec. 5-33. (Reserved)

Sec. 5-34. Appearance tickets.

Any dog control officer, peace officer when acting pursuant to his/her special duties, or police officer in the employ of or under contract of the City of Olean observing a violation of this article in his/her presence shall issue and serve an appearance ticket for such violation.

Sec. 5-35. Complaints.

Any person who observes a dog in violation of this article may file a complaint under oath with the City of Olean Police Department specifying the nature of this violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog. Upon receipt by the City of Olean Police Department of any such complaint, he/she shall issue and serve an appearance ticket for such violation.

Sec. 5-36. Hearing.

- (a) At arraignment on the violation, the owner shall be given the opportunity to retain counsel, and to request a hearing on the matter. In cases where the matter was initiated pursuant to Section 5-35, the failure of the complainant to appear at the hearing shall result in the dismissal of the charge.
- (b) If, after such hearing, in addition to the penalties set forth in Section 5-37, the Court decides that further action is warranted, he/she may order:
 - (1) The dog to be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property.
 - (2) The dog to be confined to the premises of the owner.
 - (3) Such other remedy as may be warranted by the circumstances in such case.
- (c) A violation of any order issued by the Olean City Court under the provisions of this section shall be an offense punishable, upon conviction thereof, as provided in Section 5-37 of this article.

Sec. 5-37. Penalties for offenses.

A conviction of a violation of this article shall be deemed an offense and punishable by a fine not exceeding \$25 for the first offense, and \$100 for the second offense and \$250 for each offense thereafter.

Sec. 5-38. Separability.

Each separate provision of this article shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Sec. 5-39. Repealer.

This article shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the City of Olean and they shall be, upon the effectiveness of this article, null and void.

BUILDINGS, BUILDING REGULATIONS AND FIRE PREVENTION

ARTICLE I IN GENERAL

Sec. 6-1. Purpose and intent. [Res. No. 136-06, 12-26-2006]

This chapter shall provide for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) in the City of Olean. This chapter is adopted pursuant to Section 10 of Article 2 of the Municipal Home Rule Law. Except as otherwise provided within this chapter, state law, or within the Uniform Code, all premises, regardless of use, are subject to the provisions which follow.

Sec. 6-2. Partial invalidity. [Res. No. 136-06, 12-26-2006]

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

Sec. 6-3. through Sec. 6-25. (Reserved)

ARTICLE II ADMINISTRATION AND ENFORCEMENT

DIVISION 1 ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE UNIFORM CODE.

Sec. 6-26. Code Enforcement Officers, duties and powers. [Res. No. 136-06, 12-26-2006]

- (a) The office of Code Enforcement Officer is hereby created and shall be administered by the Fire Chief or his designee. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time constraints prescribed by law, obtain such training as the State of New York shall require for code enforcement officials.
- (b) In the absence of the Code Enforcement Officer, or in the case of his inability to act for any reason, the Mayor shall have the power, with the consent of the Common Council, to designate a person to act in behalf of the Code Enforcement Officer and to exercise all the powers conferred upon him by this chapter.
- (c) The Mayor, with the approval of the Common Council, may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Officer and to exercise any portion of the powers and duties of the Code Enforcement Officer as directed by him.
- (d) The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, ordinances and all regulations pertaining to building construction,

including receiving building permit applications, reviewing plans and specifications, conducting inspections, and issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures. He shall issue certificates of occupancy, collect fees as set forth by the Common Council and oversee the maintaining and filing of all records necessary for the administration of the office to the satisfaction of the Common Council.

- (e) The Code Enforcement Officer is authorized to pursue administrative actions and, in consultation with the City Attorney, legal action as necessary to abate conditions not in compliance with the New York State Uniform Fire Prevention and Building Code, ordinances, or other laws, rules or regulations of the City of Olean or of the State of New York.
- (f) The Code Enforcement Officer shall have the authority to issue appearance tickets in accordance with Section 150 of the Criminal Procedure Law of New York State.
- (g) The Code Enforcement Officer shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances, or regulations. He shall make all inspections which are necessary or proper for the carrying out of his duties. He may accept written reports of inspection from code enforcement officials or other employees of the Code Enforcement Office or from generally recognized and authoritative service and inspection bureaus, provided such reports are certified by a responsible official thereof.

Sec. 6-27. through Sec. 6-40. (Reserved)

Sec. 6-41. Officers or employees of Code Enforcement Office. [Res. No. 136-06, 12-26-2006]

No officer or employee of the Code Enforcement Office shall engage in any activity inconsistent with his duties or with the interests of the Office of Code Enforcement; nor shall be be engaged directly or indirectly in any building business, in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, or the preparation of plans or specifications thereof within the city; excepting only that this provision shall not prohibit any employee from such activity in connection with the construction of a building or structure owned by him, and not constructed for sale.

Sec. 6-42. Department records and reports. [Res. No. 136-06, 12-26-2006]

- (a) The Code Enforcement Officer shall receive applications and issue permits for the erection, alteration, removal, and demolition of buildings, or structures or parts thereof, and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of ensuring compliance with laws, ordinances, and regulations governing building construction.
- (b) Whenever such reports may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances, or regulations covering building

construction, he may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

- (c) The Code Enforcement Officer shall annually submit to the Secretary of State on behalf of the Common Council, on a form prescribed by the Secretary, a report of its activities relative to administration and enforcement of the Uniform Code.

Sec. 6-43. Additional duties—Record-keeping. [Res. No. 136-06, 12-26-2006]

The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records open to public inspection during business hours.

Sec. 6-44. Same—Annual report and summary of business to Council. [Res. No. 136-06, 12-26-2006]

The Code Enforcement Officer shall annually submit to the Common Council a written report and summary of all business conducted by the Code Enforcement Office, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending.

Sec. 6-45. Assistance and cooperation of other city officials. [Res. No. 136-06, 12-26-2006]

The Code Enforcement Officer may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Police, Fire, and Health Departments and of all other municipal officials exercising any jurisdiction over the construction, use, or occupancy of buildings, or the installation of equipment therein.

Sec. 6-46. Tests. [Res. No. 136-06, 12-26-2006]

Whenever there are reasonable grounds to believe that any material, construction, equipment, or assembly does not conform with the requirements of the applicable building laws, ordinances, or regulations, the Code Enforcement Officer may require such material, equipment, etc., to be subjected to tests in order to furnish proof of such compliance.

Sec. 6-47. Violations. [Res. No. 136-06, 12-26-2006]

- (a) Upon determination that a violation of this chapter or the Uniform Code exists in, on, or about any building or premises, the Code Enforcement Officer shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code or ordinance which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by registered mail.
- (b) Any person who shall fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance therewith; any owner, builder,

architect, tenant, contractor, subcontractor, construction superintendent or their agents; or any other person who shall knowingly violate any of the applicable provisions of this chapter, or any lawful order, notice, directive, permit, or certificate of the Code Enforcement Officer made thereunder, shall be punished as prescribed in section 1-8.

- (c) The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the City of Olean on its own initiative or at the request of the Code Enforcement Officer.
- (d) The application of the penalty in this section shall not be held to prevent the enforced removal of prohibited conditions.

Sec. 6-48. through Sec. 6-65. (Reserved)

DIVISION 2
BUILDING PERMIT

Sec. 6-66. Permits required. [Res. No. 136-06, 12-26-2006]

- (a) It shall be unlawful for any person, firm, corporation, association or partnership to commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion, relocation or change in the nature of the occupancy of any building or structure; or cause such construction, or install a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit, etc., to be done without first obtaining a separate building permit from the Fire Chief or his designee for each such building, structure, or parking lot.
- (b) An exemption from the requirement to obtain a permit shall not be deemed an authorization for work to be performed in violation of the Uniform Code. No permit shall be required for the following:
 - (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88m²);
 - (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
 - (5) Construction of retaining walls unless they support a surcharge or impound Class I, II or IIIA liquids;
 - (6) Construction of temporary motion picture, television and theater stage sets

and scenery;

- (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) Installation of partitions or movable cases less than five feet nine inches in height;
- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;
- (12) Repairs, provided that such repairs do not involve:
 - a. The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - b. The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - c. The enlargement, alteration, replacement or relocation of any building system;
 - d. The removal from service of all or part of a fire protection system for any period of time.

Sec. 6-67. Application. [Res. No. 136-06, 12-26-2006]

- (a) Application for a building permit shall be made to the Code Enforcement Office, requesting sufficient information on forms provided by it to permit a determination that the intended work substantially conforms to the requirements of the Uniform Code and the State Energy Conservation Construction Code, and shall require submission of the following information and documents:
 - (1) A description of the land on which the proposed work is to be done;
 - (2) The use or occupancy of all parts of the land and of any affected building or structure;
 - (3) The valuation of the proposed work;
 - (4) The full name, Tax Map number and address of the owner and of the applicant;
 - (5) A description of the nature of the proposed work;
 - (6) At least two sets of construction documents (drawings and/or specifications) that define the scope of the proposed work; and

- (7) Such other information as may reasonably be required by Code Enforcement to establish the compliance of the proposed work with the requirements of all applicable building laws, ordinances, and regulations.
- (b) The owner or lessee shall make applications, or the agent of either or the architect, engineer, or builder employed in connection with the proposed work. Where a person other than the owner makes such application, the owner must also sign such application.
- (c) Amendments to the application or to the plans and specifications accompanying the application may be filed at any time prior to the completion of the work, subject to the approval of the Code Enforcement Officer.
- (d) Construction documents shall not be accepted as part of an application for a building permit unless such documents:
 - (1) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (2) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (3) Substantiate that the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code;
 - (4) Include a site plan that shows any existing and proposed structures on the site, the location of the intended work, and the distances between the structures and the lot lines. Plans shall show widths and grades of adjoining streets; walks and alleys; and, where required by the Code Enforcement Officer, details of structural, mechanical, and electrical work and other technical data. The Code Enforcement Officer may waive the requirement for filing plans.
- (e) Applications for a building permit or for an amendment thereto shall be examined to ascertain whether the proposed construction is in substantial conformance with the requirements of the Uniform Code.
 - (1) The Code Enforcement Officer shall stamp, sign and date all accepted construction documents. One set of accepted construction documents shall be retained by the Code Enforcement Office. One set shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Officer.
- (f) The building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application and shall include the directive that the Code Enforcement Officer shall be notified immediately in the event of changes occurring during construction.
- (g) Building permits shall expire 12 months from the date of issuance. A building permit shall be invalid unless authorized work has commenced within six months from the date of issuance. A building permit may be renewed for good cause, with a

payment of 50% of the original fee, with such time not exceeding two years from the original issuance date.

- (h) Building permits which are issued in error because of incorrect, inaccurate or incomplete information, or when the work for which the permit was issued violates the Uniform Code, shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the code.
- (i) Building permits shall be visibly displayed at the work site, to remain visible until the project has been completed.
- (j) Violations of this article shall be unlawful and subject to paying double the permit application fee as listed in the fee schedule as adopted from time to time by resolution of the Common Council, as well as a fine of \$100 per violation. [Res. No. 89-13, 11-26-2013]

Sec. 6-68. Building permit fees. [Res. No. 136-06, 12-26-2006]

Fees for building permits shall be established from time to time by the Common Council by resolution. Such fees may be charged for the issuance of permits, permit renewals, certificates of occupancy, certificates of compliance, temporary certificates of occupancy, operating permits and for firesafety inspections.

Sec. 6-69. Construction inspections. [Res. No. 136-06, 12-26-2006]

- (a) Permitted work shall be required to remain accessible and exposed until inspected and accepted by the Code Enforcement Officer. Permit holders shall be required to notify the Code Enforcement Officer when construction work is ready for inspection.
- (b) Provisions shall be made for inspection of the following elements or other elements required by Code Enforcement of the construction process, where applicable:
 - (1) Work site prior to the issuance of a permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.

- (c) After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code. Construction work not compliant with code provisions shall be required to remain exposed until it has been brought into compliance with code, been reinspected, and been found satisfactory as completed.

Sec. 6-70. Stop-work orders. [Res. No. 136-06, 12-26-2006]

Whenever a Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable Uniform Code, building laws, ordinances, or regulations; not in conformity with the provisions of an application, plans, or specifications on the basis of which a building permit was issued; or in an unsafe and dangerous manner, he shall notify the owner of the property, the owner's agent, or the person performing the work, to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed, and may be served upon a person to whom it is directed, either by delivering it personally to him, or by posting such order and notice upon a conspicuous portion of the building under construction and sending a copy of such order and notice by registered mail.

Sec. 6-71. through Sec. 6-78. (Reserved)

DIVISION 3

**CERTIFICATE OF OCCUPANCY, CERTIFICATE OF COMPLIANCE AND
TEMPORARY CERTIFICATE**

Sec. 6-79. Required. [Res. No. 136-06, 12-26-2006]

- (a) No building hereafter erected subject to the New York State Uniform Fire Prevention and Building Code shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Code Enforcement Officer.
- (b) No building erected, enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit, shall continue to be occupied or used unless a certificate of occupancy or certificate of compliance has been issued by the Code Enforcement Officer.
- (c) No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy authorizing such change has been issued by the Code Enforcement Officer.
- (d) A certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, the Code Enforcement Officer may require a written statement of structural observations and/or a final report of special inspections, prepared in accordance with the provisions of the Uniform Code, to be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code, shall be received prior to the issuance of the certificate.

- (e) A certificate of occupancy or certificate of compliance shall contain the following information:
- (1) The building permit number, if any;
 - (2) The date of issuance of the permit, if any;
 - (3) The name, address and Tax Map number of the property;
 - (4) If the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;
 - (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
 - (9) Any special conditions imposed in connection with the issuance of the building permit; and
 - (10) The signature of the official issuing the certificate and the date of issuance.
- (f) A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended.
- (1) A temporary certificate shall not be issued unless:
 - a. The structure or portions thereof may be occupied safely;
 - b. Any fire- and smoke-detecting or fire protection equipment which has been installed is operational; and
 - c. All required means of egress from the structure have been provided.
 - (2) A temporary certificate shall list the items which remain incomplete. The Code Enforcement Officer may place special conditions on temporary certificates as necessary to ensure safety and to protect the interests of the City of Olean.
 - (3) The effectiveness of a temporary certificate shall be limited to a specified period of time as determined by the Code Enforcement Officer, but in no event longer than three months, during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.
 - (4) A temporary certificate of occupancy may, at the discretion of the Code Enforcement Officer and upon payment of an additional fee as specified for a temporary certificate of occupancy, be renewed.

- (g) A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within the period of time specified by the Code Enforcement Officer.

Sec. 6-80. Landlord registration. [Res. No. 38-09, 5-26-2009; Res. No. 92-10, 12-14-2010]

- (a) The owner of a property constituting a rental property shall register the same with the Code Enforcement Office within 90 days of the effective date of this section. The registration form shall be known as a "landlord registration" and shall be signed and affirmed by the property owner of record and, if applicable, the managing agent.
 - (1) Any acquisition of property constituting a rental property shall require the new owner to register the same with the Code Enforcement Office within 15 days of the date of grant or transfer by filing a landlord registration and shall be signed and affirmed by the property owner of record and, if applicable, the managing agent.
 - (2) The Code Enforcement Office shall supply a form for use as the landlord registration which shall be completed and filed by the property owner and shall include property description: a description of the premises, including:
 - a. Property description: address, number of units, number of floors, total number of bedrooms, the term for which the units are rented or leased, whether the units are currently occupied, the name listed on the property deed, and any other identifying information requested by Code Enforcement;
 - b. Owner information: the owner's name, physical address, mailing address, and primary and secondary voice telephone numbers;
 - c. Designation of managing agent: if a managing agent is required pursuant to this division, then the owner shall provide the name, business address, business telephone number, and fax number of the managing agent;
 - d. Insurance information: the name, address, and business telephone number of the insurance provider, along with proof of current insurance coverage for both liability and fire;
 - e. Certificate of occupancy: the certificate of occupancy number and issue date.
 - (3) It shall be unlawful for any owner to offer any unit for rent, or to rent any unit, or to allow any rental unit to be occupied without having first registered pursuant to this section as required herein within the time prescribed for such registration. Failure to receive actual notice of the registration deadline shall not be a defense for failure to register rental property.
 - a. Failure to maintain the landlord registration in compliance with this

section shall cause any certificate of occupancy issued relative to the subject property to be deemed void.

- (b) The landlord registration shall be signed and sworn to under penalty of perjury by the property owner; if such owner is a corporation, an officer thereof shall sign for the corporation; if such owner is a partnership, a partner thereof shall sign for the partnership. If a managing agent is designated, the owner's signature shall be acknowledgement of the authority of the managing agent to receive notices related to the property in the owners' place and stead, and receipt of such by the managing agent shall be deemed actual notice to the property owner.
- (c) Any landlord registration statement or designation of a managing agent shall be deemed prima facia proof of the statement contained therein, in any criminal or civil prosecution instituted by the city or by any proper prosecutorial agency against the owner or managing agent of the subject rental property.
- (d) Managing agent.
 - (1) Any property owner may designate a managing agent for any property subject to the landlord registration, in which case the managing agent must also sign and affirm the landlord registration form as filed with the Code Enforcement Office.
 - (2) A property owner must designate a managing agent for any property subject to the landlord registration, if:
 - a. The property owner is not a natural person; or
 - b. The property owner does not reside within 20 miles of the City of Olean; or
 - c. The property owner does not reside in New York State.
 - (3) A managing agent must be:
 - a. A natural person;
 - b. Over the age of 18; and
 - c. Actually reside within 20 miles of the City of Olean, or have a regular place of business within the City of Olean.
- (e) The owner shall, at all times, keep this information updated and shall amend the landlord registration to reflect any change in the required information within 15 days of such change. Failure to comply with the updating requirements shall be a violation by the owner and such failure shall cause the certificate of occupancy to be deemed void.
- (f) Failure to provide full and complete information, or provision of inaccurate or false information, in the landlord registration shall be deemed noncompliance and shall be a violation of the landlord registration requirements, unless the same shall be corrected and completed within the filing period, such failure shall cause the

certificate of occupancy to be deemed void.

- (g) Any designation of a managing agent shall cease to be effective upon the death or judicially declared incompetency of the managing agent and shall require an updated landlord registration to be filed as in § 6-80.
- (h) Designation of a managing agent in no way relieves the property owner of liability under the Code for any violations related to the property. The property owner, at all times, remains solely responsible for compliance with all Code requirements related to the property.
- (i) If a managing agent is designated, the landlord registration shall also be signed by the managing agent and such signature shall be acknowledgement of accepting responsibility to receive notices related to the property on behalf of the owner.

Sec. 6-81. Certificate of occupancy requirement. [Added 12-16-2017 by L.L. No. 1-2017]

No existing structure shall be occupied after a change of ownership, or change of occupancy classification until a certificate of occupancy has been issued by the City of Olean Department of Buildings and Code Enforcement. The City of Olean Department of Buildings and Code Enforcement shall issue a certificate of occupancy provided there are not violations of law or orders of the City of Olean Code of Ordinances pending, and it is established after inspection and investigation that the building or structure complies with all of the applicable requirements of the City of Olean Code of Ordinances and other applicable New York State codes, laws, regulations and ordinances.

Sec. 6-82. through Sec. 6-84. (Reserved)

Sec. 6-85. Penalties for offenses. [Res. No. 38-09, 5-26-2009; Res. No. 92-10, 12-14-2010]

- (a) Enforcement.
 - (1) Any violation of this division is an offense punishable by a fine not to exceed the sum of \$250. Each week that a violation continues shall constitute a separate offense.
 - (2) The Code Enforcement Office is authorized to make inspections of property, to respond to complaints, to issue notice(s) of violation(s) and to issue appearance tickets, where necessary to enforce the provisions of this division.
- (b) Complaints of violations.
 - (1) Any person may file a complaint with the Code Enforcement Office that a violation of this division may have taken place or is allegedly taking place. All complaints shall be in writing and shall specify the property on which the alleged violation has occurred.
 - (2) The Code Enforcement Office shall record and investigate any such written complaint.

- (3) The Code Enforcement Office shall also investigate any alleged violation that it has reason to believe has occurred or is occurring.
- (c) Inspection. Whenever a complaint has been filed, or whenever it shall appear that the provisions of this division are being violated, the Code Enforcement Office shall investigate the complaint. Except in cases where the alleged violation is in plain view and/or where no entry is necessary, or except in cases where an imminent peril exists, the Code Enforcement Office shall obtain approval from an owner, lessee, agent, tenant or other person with authority to make an inspection of the property.

DIVISION 4
OPERATING PERMITS

Sec. 6-86. Required. [Res. No. 136-06, 12-26-2006]

- (a) The Code Enforcement Officer shall issue operating permits for conducting the activities or using the categories of buildings listed below:
 - (1) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) of the Fire Code of New York State (see 19 NYCRR Part 1225);
 - (2) Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 - (3) Use of pyrotechnic devices in assembly occupancies;
 - (4) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;
 - (5) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the City of Olean Code Enforcement Officer;
 - (6) Any open burning or bonfire, provided:
 - a. Open burning or bonfires shall not be permitted within 50 feet of any structure or combustible material.
 - b. Conditions on the grounds that could cause the fire to spread shall be eliminated prior to ignition.
 - c. Open burning and bonfires shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating shall be located within close proximity of the fire and available for immediate utilization.
 - (7) Storage of flammable liquids per Article IV, Division 2, Subdivision II.
- (b) Parties who propose to undertake the types of activities or operate the types of buildings listed in subdivision (a) of this section shall be required to obtain an

operating permit prior to commencing such operation. An application for an operating permit shall be provided by the Code Enforcement Officer and shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required as determined by the Code Enforcement Officer.

- (c) An inspection of the premises shall be conducted prior to the issuance of an operating permit.
- (d) A single operating permit may apply to more than one hazardous activity as determined by the Code Enforcement Officer.
- (e) Operating permits for areas of public assembly shall be limited to one year. Operating permits for all other occupancies as noted in subdivision (a) shall be for not more than three years or shall coincide with the schedule of inspections as required by Section 6-146 of the Code of Ordinances.
- (f) Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

Sec. 6-87. through Sec. 6-110. (Reserved)

**ARTICLE III
ELECTRICITY**

**DIVISION 1
GENERALLY**

Sec. 6-111. Electrical inspections fee. [Res. No. 136-06, 12-26-2006]

The Common Council hereby establishes an electrical inspection fee, to be in addition to such other fees made and established in connection with the issuance of building permits within the City of Olean. The additional fee shall be utilized by the city for payment of electrical inspection(s) as may be required in connection with projects in which electrical inspection(s) shall be required. In the event an electrical inspection is not required, no such fee will be collected. An applicant for a building permit shall be entitled to a refund of such fee upon request and completion of a voucher approved by the Code Enforcement Office in the event the applicant shall provide a bona fide electrical inspection by a city-approved inspector within such time as may be established by the Code Enforcement Office. In the event the applicant shall fail to provide such inspection within the time frame established, the city shall be entitled to employ an inspector in order to complete the required inspection(s). The amount of the fee provided for herein shall be established by resolution of the Common Council.

Sec. 6-112. through Sec. 6-125. (Reserved)

**DIVISION 2
RESERVED**

Sec. 6-113. through Sec. 6-145. (Reserved)

**ARTICLE IV
FIRE PREVENTION AND COMPLAINTS**

**DIVISION 1
GENERALLY**

Sec. 6-146. Fire prevention, property maintenance inspections. [Res. No. 136-06, 12-26-2006]

- (a) Fire prevention and property maintenance inspections.
 - (1) Firesafety inspections of buildings or structures having areas of public assembly shall be performed at least once in every 12 months.
 - (2) Firesafety inspections of buildings or structures being occupied as dormitories shall be performed at least once in every 12 months.
 - (3) Firesafety inspections of all other buildings, uses and occupancies (except one- or two-family dwellings) shall be performed at least once in every 36 months.
 - (4) An inspection of a building or dwelling unit may also be performed at any other time upon:
 - a. The request of the owner, authorized agent, or tenant;
 - b. Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exist; or
 - c. Other reasonable and reliable information that such a violation exists.
- (b) All such inspections shall be performed by the Code Enforcement Officer or his duly authorized deputies.

Sec. 6-147. through Sec. 6-168. (Reserved)

**DIVISION 2
EXPLOSIVES AND INFLAMMABLES**

Subdivision I. General Provisions

Sec. 6-169. Permit required to erect or open gasoline service stations. [Res. No. 136-06, 12-26-2006]

- (a) Council approval required. Any person intending to operate a gasoline service station within the city must obtain the permission of the Mayor and the Common Council before any such station may be erected or opened.
- (b) Definition. The term "gasoline service station" means any premises or portion of premises, public or private, where gasoline or other flammable liquid fuel for self-propelled vehicles, boats, or portable internal combustion engines is dispensed into fuel tanks of such equipment, including outdoor facilities on such premises used for

lubrication and minor service of such vehicles, boats, machines, or engines.

- (c) Self-service station standards. The Mayor and the Common Council will not permit self-service gasoline stations to be erected or operated within the city until the Fire Chief of the city has certified to the Mayor and the Common Council that the premises to be constructed, or as constructed, is equipped with dispensing devices in conformance with the Uniform Code.
- (d) Identification of permits. All operating permits issued to the owner or operator of self-service gasoline stations shall be plainly marked "self-service station."
- (e) Fee. The Common Council, by resolution from time to time may establish a fee for issuance of a permit pursuant to this section. The fee upon adoption of this chapter is \$250.

Sec. 6-170. Transportation of nitroglycerine. [Res. No. 136-06, 12-26-2006]

All vehicles used in the transportation of nitroglycerine, while loaded with such explosive, are prohibited from being operated or parked on any of the thoroughfares within the limits of the city.

Sec. 6-171. Motor vehicle routes—For transport of explosives and blasting agents. [Res. No. 136-06, 12-26-2006]

Routes 16, 417, and 17 are the exclusive routes for vehicles transporting explosives and blasting agents within the city.

Sec. 6-172. Storage of explosives, blasting agents, and ammunition. [Res. No. 136-06, 12-26-2006]

Explosives, ammunition, and blasting agents as defined and regulated by the New York State Uniform Fire Prevention and Building Code shall only be stored in industrial districts when and as approved by the Fire Chief and Code Enforcement Officer.

Sec. 6-173. through Sec. 6-205. (Reserved)

Subdivision II. Storage of Flammable Liquids Other Than Fuel Oil

Sec. 6-206. Keeping or storing generally. [Res. No. 136-06, 12-26-2006]

It shall be unlawful for any person to keep or store within the city limits any flammable or combustible liquids or liquids of like character, fuel oil excepted, in quantities greater than 50 gallons, except as provided in Secs. 6-207 through 6-210.

Sec. 6-207. Storage of flammable liquids in outside aboveground tanks prohibited; exception. [Res. No. 136-06, 12-26-2006]

- (a) Bulk plants for the manufacture of flammable or combustible liquids are not permitted within the corporate limits of the city except as provided in Sec. 6-210.
- (b) Aboveground bulk storage of up to 3,000 gallons of combustible liquids in approved tanks for use in association with medical emergency aircraft is authorized

upon an operating permit issued by the Code Enforcement Office utilizing the New York State Uniform Fire Prevention and Building Code as it is from time to time amended.

- (c) Building heating systems. Any provision of this Code to the contrary notwithstanding, aboveground storage of combustible or flammable liquids, Class I, II or III, is authorized without permit pursuant to this section in all zoning districts of the city if connected to and used solely for a building heating system.

Sec. 6-208. Operating permit. [Res. No. 136-06, 12-26-2006]

Any person proposing in the future to store any flammable liquids in excess of the quantity of 50 gallons shall make written application for an operating permit to the Code Enforcement Office.

Sec. 6-209. Motor vehicle routes—For transport of hazardous chemicals; other dangerous articles. [Res. No. 136-06, 12-26-2006]

Routes 16, 417, and 17 are established as the exclusive routes for vehicles transporting hazardous chemicals and other dangerous articles within the city.

Sec. 6-210. Bulk storage facilities. [Res. No. 136-06, 12-26-2006]

- (a) Bulk storage facilities for the keeping or storage of flammable liquids, combustible liquids and liquid compressed gases may be erected and maintained within the city in those areas zoned industrial, as defined in the Zoning Law of the city,⁸ provided that the erection and maintenance of the installation are conducted in compliance with New York State Uniform Fire Prevention and Building Code and all applicable reference standards. An operating permit is required and shall be issued by the Fire Chief or his or her designee prior to any installation.
- (b) Bulk storage facilities for the keeping or storage of flammable liquids, combustible liquids and liquid compressed gases may be erected and maintained within the city in those areas zoned commercial and residential, as defined in the Zoning Law of the city, provided that the installation is approved by the Common Council and a SEQR has been conducted showing a negative impact would be created. If approved, the erection, installation and maintenance shall comply with the New York State Uniform Fire Prevention and Building Code and all applicable reference standards. An operating permit is required and shall be issued by the Fire Chief or his or her designee prior to any installation.

Sec. 6-211. through Sec. 6-235. (Reserved)

**ARTICLE V
DANGEROUS BUILDINGS**

Sec. 6-236. Designation. [Res. No. 136-06, 12-26-2006]

All buildings or structures or any part thereof which have any or all of the following

⁸. Editor's Note: See Ch. 28, Zoning.

defects shall be deemed to endanger the health, safety, and welfare of the public and shall be deemed dangerous buildings within the meaning of this article:

- (1) Those whose interior walls or other vertical structural members list, lean, or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundations, show 25% or more of damage or deterioration of the supporting members or 50% of damage or deterioration of the nonsupporting outside walls or covering.
- (3) Those which have improperly distributed loads upon the floors or roofs or in which such floors or roofs are overloaded, or which have insufficient design strength to be reasonably safe for the purpose used.
- (4) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants, neighboring property, or the people of the city.
- (5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness, disease or injury to the health, morals, safety, or general welfare of those living therein.
- (6) Those which are unoccupied; which have been vacant for a period in excess of one month; which have either doors, windows, or other openings broken, removed, or improperly sealed or boarded up; and which building or structure is not enclosed in a safe and approved manner.
- (7) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.
- (8) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (9) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (10) Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety, or general welfare of the people of this city.
- (11) Those buildings existing in violation of any provision of any ordinance or resolution of the city or in violation of any law of the state.

Sec. 6-237. Standards for repair, vacation, or demolition. [Res. No. 136-06, 12-26-2006]

The following standards shall be followed in substance by the Code Enforcement Officer and the Fire Chief in ordering repair, vacation, or demolition:

- (1) If the dangerous building is in such condition as to make it dangerous to the health,

morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

- (2) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (3) In any case where a dangerous building or any part thereof is 50% or more damaged or decayed, or deteriorated from its original value or structure, the building or part thereof shall be demolished. In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article, any ordinance of this city, or statute of the state, it shall be demolished.

Sec. 6-238. Declared to be public nuisances. [Res. No. 136-06, 12-26-2006]

All dangerous buildings within the terms of Sec. 6-236 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided in this article.

Sec. 6-239. Duties of the Code Enforcement Office. [Res. No. 136-06, 12-26-2006]

If, following inspection, conditions described in Sec 6-236 are found to exist, the Code Enforcement Officer shall:

- (1) Notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in such building as shown by the records of the County Clerk, or of any building found by him to be a dangerous building within the standards set forth in Sec. 6-236, that:
 - a. The owner must vacate, repair, or demolish such building in accordance with the terms of the notice and this article;
 - b. The occupant or lessee must vacate such building or may have it repaired in accordance with the notice and remain in possession;
 - c. The mortgagee, agent, or other persons having an interest in such building, as shown by the records of the County Clerk, may, at his own risk, repair, vacate, or demolish such building or have such work or act done; provided that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for in this section.
- (2) Set forth in the notice provided for in subdivision (1) of this section a description of the building, structure or part thereof deemed unsafe, a statement of the particulars which make the building, structure or part thereof a dangerous building and an order requiring such dangerous building to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable.
- (3) Report to the Fire Chief any noncompliance and the notice provided for in subdivisions (1) and (2) of this section.

- (4) Place a notice on all dangerous buildings reading as follows: "This building has been found to be a dangerous building by the Code Enforcement Officer. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in the building as shown by the records of the county clerk. It is unlawful to remove this notice until such notice is complied with."

Sec. 6-240. Powers of Common Council; assessment of costs. [Res. No. 136-06, 12-26-2006]

If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in Sec. 6-239(1) within 10 days, the Fire Chief shall report such fact to the Common Council in writing and transmit to the Common Council at such time a copy of any records created by the Code Enforcement Office and of the order provided for in Sec. 6-239(1). The Common Council by resolution or ordinance shall authorize and direct the Fire Chief to cause such building or structure to be repaired, vacated, or demolished, as the facts may warrant, under the standards provided for in Sec. 6-237. The costs of such repair, vacation, or demolition shall be charged as an expense against the land on which such building or structure is located, provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this city, the Common Council may direct the City Attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

(Res. No. 136-06, 12-26-2006)

Sec. 6-241. Emergency cases. [Res. No. 136-06, 12-26-2006]

If it reasonably appears that there is an immediate danger to life or safety of any person unless a dangerous building is immediately repaired, vacated, or demolished, the Code Enforcement Office shall report such facts to the Fire Chief. The fire chief shall report his recommendations to the Mayor and, upon concurrence of the Mayor, shall cause the immediate repair or demolition of such dangerous building. In the absence of the Mayor, the Fire Chief shall be empowered to make such decision in his or her own right. The cost of such emergency repair or demolition of such dangerous building shall be collected in the same manner as provided in Sec. 6-240, charged as an expense against the land on which such building or structure is located.

Sec. 6-242. Liability of city officers, agents, or employees. [Res. No. 136-06, 12-26-2006]

No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the City Attorney until the final determination of the proceeding therein. Any judgment against any such person shall be paid by the city.

Sec. 6-243. Manner of serving notices. [Res. No. 136-06, 12-26-2006]

In all cases where notice or orders provided for in this article are required to be served, such service shall be made upon the necessary persons either by registered mail directed to such persons at their last known address, as shown by the records of the County Clerk, or by personal service of such notice or order upon such persons. If service is made by registered mail, a copy of such notice or order shall be posted in a conspicuous place on the dangerous building to which it relates.

Sec. 6-244. through Sec. 6-265. (Reserved)

**ARTICLE VI
MOVING BUILDINGS**

**DIVISION 1
GENERALLY**

Sec. 6-266. Definition. [Res. No. 136-06, 12-26-2006]

"Building," as used in this article, means and includes any dwelling, barn, or other building which has been constructed or erected, or any part of such building. Part of a building shall not be deemed to apply to materials to be used in the construction of a building, but only to some portion of a building which has already been erected, and which is proposed to be moved without reducing such portion of a building to the materials of which it was originally constructed.

Sec. 6-267. through Sec. 6-285. (Reserved)

**DIVISION 2
PERMIT**

Sec. 6-286. Required. [Res. No. 136-06, 12-26-2006]

The moving of any building or part of a building into, along, or across any of the public streets or highways in the city without having first procured a permit in the manner provided therefor in this division is hereby prohibited.

Sec. 6-287. Application; contents, signing, and acknowledgment; fee. [Res. No. 136-06, 12-26-2006]

- (a) Any person desiring to move any building or part of a building along any street or highway in the city shall make written application for a permit to the Code Enforcement Office, describing the building proposed to be moved, whether the building is to be moved as a whole or in separate parts, the location of the premises from which and of the premises to which, and along and across what streets and highways it is proposed to move the building. Such application shall be signed and acknowledged and, if made by a partnership, shall specify the name of the members thereof, and if a corporation, the name of the state under the laws of which the corporation is organized.
- (b) The application shall be submitted together with a license application fee to the city in the amount of \$500, which shall be refundable if authority to move the building

shall be denied; otherwise, such fee shall be nonrefundable.

Sec. 6-288. Acknowledgments from utility companies to accompany application.
[Res. No. 136-06, 12-26-2006]

The application for a permit under this division shall be accompanied by acknowledgments from the electric light, telephone, or other public utility companies maintaining wires, cables, or other structures necessary for the maintenance of light, power, travel, and communication in any street or highway, along or across which it is proposed to move such building, that satisfactory and proper arrangements have been made for the care of their wires, cables, or structures, in order to expedite the passage of such building.

Sec. 6-289. Bond. [Res. No. 136-06, 12-26-2006]

The application for a permit under this division shall be accompanied by a bond with at least two sureties in the penal sum of at least \$250,000, or such other amount determined by the City Attorney dependent upon the specific application. Such bond shall be conditioned to indemnify and save harmless the city of and from any and all damages, loss, costs, and expenses to which it may be put by reason of the moving of such building and of, from, and against any injury or alleged injury to persons or property on account of the moving of such building. Such bond shall be approved as to form, manner of execution, and sufficiency of the sureties by the City Attorney, and he may reject the bond and require new or additional sureties or changes in the form or manner of execution if, in his judgment, the sureties are not sufficient, or such bond does not comply with the provisions of this division.

Sec. 6-290. Meeting required. [Res. No. 136-06, 12-26-2006]

Prior to the issuance of a permit there shall be a meeting held to include representatives from the city, utilities, applicant or other interested persons or agency to developing a plan for the moving of said building to ensure the requirements of this article and the Uniform Code are met.

Sec. 6-291. Issuance. [Res. No. 136-06, 12-26-2006]

Upon the approval of the bond and other required items by this division, the Code Enforcement Officer shall grant to the applicant a permit to move such building or part of a building along the route described in the application, or the Code Enforcement Officer may change such route.

Sec. 6-292. Deviation from route specified prohibited. [Res. No. 136-06, 12-26-2006]

It shall be unlawful for any person, after procuring a permit under this division, to move such building or part of a building along or across any street or highway except those specified in such permit.

(RESERVED)

Chapter 8, ENVIRONMENTAL CONTROL

Sec. 8-1. Preservation of wetlands.

Pursuant to Environmental Conservation Law § 24-050, the city shall fully undertake and exercise its regulatory authority with regard to activities subject to regulation under the act in freshwater wetlands, as shown on the freshwater wetlands map, as such map may from time to time be amended, filed by the department of environmental conservation pursuant to the Freshwater Wetlands Act [Environmental Conservation Law § 24-0101 et seq.], and in all area adjacent to any such freshwater wetland up to 100 feet from the boundary of such wetland. Such regulatory authority shall be undertaken and exercised in accordance with all of the procedures, concepts, and definitions set forth in the Freshwater Wetlands Act and Environmental Conservation Law art. 71, tit. 23 [§ 71-2301 et seq.] relating to the enforcement of the Freshwater Wetlands Act, as such act may from time to time be amended.

(Code 1971, § 24-5)

Sec. 8-2. Hazardous materials emergency response plan.

The city adopts the hazardous materials emergency response plan prepared by the city department of fire, building, and emergency services dated January 15, 1991, as amended from time to time, as the city hazardous materials emergency response plan.

(Res. No. 78-91, 8-13-1991)

Chapter 9, FLOOD DAMAGE PREVENTION

ARTICLE I. IN GENERAL

Sec. 9-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appeal means a request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding means a designated AO or VO zone on a community's flood insurance rate map (FIRM), with base flood depths from one to three feet where a clearly

defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as zone A, AE, AH, AO, A1-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

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

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

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building means any structure built for support, shelter, or enclosure for occupancy or storage.

Cellar means basement.

Coastal high-hazard area means the area subject to high-velocity waters including but not limited to hurricane wave wash. The area is designated on a FIRM as zone V1-30, VE, VO, or V.

Development means any manmade change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operations located within the area of a special flood hazard.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's flood insurance study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the flood insurance study.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

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

Flood insurance study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevations of the base flood.

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

Floodway has the same meaning as regulatory floodway.

Floor means the top surface of an enclosed area in a building, including the basement, i.e., the top of the slab in concrete slab construction or the top of wood flooring in wood frame construction.

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

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

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

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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

Mobile home means manufactured home.

National Geodetic Vertical Datum (NGVD) means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplains.

New construction means structures for which the start of construction commenced on or after March 24, 1987.

100-year flood means base flood.

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

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, as determined by the Federal Emergency Management Agency in a flood insurance study or by other agencies.

Start of construction means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the actual start means affixing of the manufactured home to its permanent site.

Structure means a walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally aboveground.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started; or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to commence when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

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

(Code 1971, § 11 1/2-10)

Cross reference--Definitions and rules of construction generally, § 1-2.

Sec. 9-2. Penalties for noncompliance with chapter.

No structure shall hereafter be constructed, located, extended, converted, or altered, and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be punished as provided in section 1-9. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under this chapter will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

(Code 1971, § 11 1/2-20)

Sec. 9-3. Findings of fact.

The common council of the city finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the city and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives set forth in this chapter, the common council does ordain the provisions of this chapter.

(Code 1971, § 11 1/2-1)

Sec. 9-4. Statement of purpose of chapter.

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

- (1) Regulate uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damages;
- (5) Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

(6) Qualify and maintain for participation in the National Flood Insurance Program.

(Code 1971, § 11 1/2-2)

Sec. 9-5. Objectives of chapter.

The objectives of this chapter are:

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

(Code 1971, § 11 1/2-3)

Sec. 9-6. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

(Code 1971, § 11 1/2-16)

Sec. 9-7. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the Flood Insurance Study for the City of Olean, of Cattaraugus County, New York, dated May 1987, with accompanying flood insurance rate maps and flood boundary-floodway maps, is hereby adopted and declared to be a part of this chapter. The flood insurance study and maps are on file at the Public Works Department, Olean Municipal Building, Olean, New York.

(Code 1971, § 11 1/2-17)

Sec. 9-8. Interpretation, conflict with other laws.

(a) This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

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

(Code 1971, § 11 1/2-18)

Sec. 9-9. Warning and disclaimer of liability.

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

(Code 1971, § 11 1/2-21)

Secs. 9-10--9-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 9-31. Designation of the local administrator.

The fire chief is hereby appointed local administrator to administer and implement this article by granting or denying development permit applications in accordance with its provisions.

(Code 1971, § 11 1/2-27)

Sec. 9-32. Duties and responsibilities of the local administrator.

Duties of the local administrator shall include, but not be limited to:

(1) Permit application review.

a. Review all development permit applications to determine that the requirements of this article have been satisfied.

b. Review all development permit applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

1. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this article.

2. If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

c. Review all development permits for compliance with the provisions of section 9-56(5).

d. Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this article, adversely affects means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

(2) Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with section 9-7, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, including data developed pursuant to section 9-56(4)d., in order to administer section 9-57 and section 9-58.

(3) Information to be obtained and maintained.

a. Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including the basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

b. For all new or substantially improved floodproofed structures:

1. Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

2. Maintain the floodproofing certifications required in sections 9-56 and 9-57.

c. Maintain for public inspection all records pertaining to the provisions of this article, including variances when granted and certificates of compliance.

(4) Alteration of watercourses.

a. Notify adjacent communities and the state department of environmental conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, N.Y. 10278.

b. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM boundaries.

a. The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

b. Base flood elevation data established pursuant to section 9-7 and/or subsection (2) of this section, when available, shall be used to accurately delineate the area of special flood hazards.

c. The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

(6) Stop work orders.

a. All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the local administrator. Disregard of a stop work order shall be subject to the penalties described in section 9-2.

b. All floodplain development found noncompliant with the provisions of this article and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the local administrator. Disregard of a stop work order shall be subject to the penalties described in section 9-2.

(7) Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable the inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

(8) Certificate of compliance.

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

b. All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator.

All certifications shall be based upon the inspections conducted subject to subsection (7) of this section and/or any certified elevations, hydraulic information,

floodproofing, anchoring requirements, or encroachment analysis which may have been required as a condition of the approved permit.

(Code 1971, § 11 1/2-29)

Sec. 9-33. Establishment of development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard, as established in section 9-7. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill, storage of materials, drainage facilities, and the location of the foregoing.

- (1) Application stage. The following information is required where applicable:
 - a. Elevation in relation to mean sea level of the proposed lowest floor, including the basement or cellar, of all structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - c. When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in section 9-56(3)a.;
 - d. Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in section 9-57; and
 - e. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- (2) Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by such surveyor or engineer. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by such engineer or architect. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

(Code 1971, § 11 1/2-28)

Sec. 9-34. Appeals and requests for variances.

(a) The zoning board of appeals as established by the city shall hear and decide appeals and requests for variances from the requirements of this article.

(b) The zoning board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this article.

(c) Those aggrieved by the decision of the zoning board of appeals may appeal such decision to the supreme court, pursuant to Civil Practice Law and Rules art. 78 [§ 7801 et seq.].

(d) In passing upon such applications, the zoning board of appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations; maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; and streets and bridges.

(e) Upon consideration of the factors of subsection (d) of this section and the purposes of this local law, the zoning board of appeals may attach to the granting of variances as it deems necessary to further the purposes of this article.

(f) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

(Code 1971, § 11 1/2-54)

Sec. 9-35. Conditions for variances.

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (1)--(12) in section 9-34(d) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures and contributing structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the contributing structures procedures set forth in the remainder of this section.

(c) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (1) The criteria of subsections (a), (d), (e), and (f) of this section are met; and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(f) Variances shall only be issued upon receiving written justification providing:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create

nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

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

(Code 1971, § 11 1/2-55)

Secs. 9-36--9-55. Reserved.

ARTICLE III. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 9-56. General standards.

In all areas of special flood hazards the following standards are required:

(1) Anchoring.

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include but are not to be limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Construction materials and methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities.

- a. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

b. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.

d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments, including proposals for manufactured home parks and subdivisions, greater than either 50 lots or five acres.

(5) Encroachments.

a. All proposed development in riverine situations where no flood elevation data is available (unnumbered A zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in section 9-32(1)c. This may require the submission of additional technical data to assist in the determination.

b. In all areas of special flood hazard in which base flood elevation data is available, pursuant to section 9-32(2) or subsection (4)d. of this section, and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

c. In all areas of the special flood hazard where floodway data is provided or available pursuant to section 9-32(2), the requirements of section 9-58 shall apply.

(Code 1971, § 11 1/2-41)

Sec. 9-57. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided, as set forth in section 9-7 and section 9-32(2), the following standards are required:

(1) Residential construction. New construction and substantial improvements of any residential structure shall:

a. Have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation;

b. Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

3. Openings may be equipped with louvers, valves, screens, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

(2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial, or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation, or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

a. If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically, without human intervention, allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

3. Openings may be equipped with louvers, valves, screens, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

b. If the structure is to be floodproofed:

1. A licensed professional engineer or architect shall develop and/or review structural designs, specifications, and plans for the construction and shall certify that the

design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

2. A licensed professional engineer or licensed land surveyor shall certify the specific elevation in relation to mean sea level to which the structure is floodproofed.

The local administrator shall maintain on record a copy of all such certificates noted in this section.

(3) Construction standards for areas of special flood hazards without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including the basement, elevated to or above the base flood elevation, as may be determined in section 9-32(2) or two feet above the highest adjacent grade where no elevation data is available.

a. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including the basement, elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.

b. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically, without human intervention, allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

3. Openings may be equipped with louvers, valves, screens, or other coverings or openings, provided they permit the automatic entry and exit of floodwaters.

(Code 1971, § 11 1/2-42)

Sec. 9-58. Floodways.

Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site, as provided by sections 9-7 and 9-32(2), all encroachments, including fill, new construction, substantial improvements, and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates

that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(Code 1971, § 11 1/2-43)

Chapter 10, HEALTH AND HUMAN SERVICES

ARTICLE I. IN GENERAL

Sec. 10-1. Smoking in city-owned or city-maintained buildings.

(a) In accordance with Public Health Law art. 13-E [§ 1399-n et seq.], smoking in public areas operated or maintained by the city is prohibited unless in designated areas identified by SMOKING PERMITTED signs.

(b) The following buildings are subject to this policy:

- (1) The City Municipal Building;
- (2) Fanny E. Bartlett Center;
- (3) City Garage;
- (4) City Sewage Plant;
- (5) Community Center;
- (6) City Recreation Center;
- (7) Filtration Plant;
- (8) Fire Department Central Station;
- (9) Fire Department Station No. 1;
- (10) Fire Training Center;
- (11) Water Maintenance Shop;
- (12) Electrician's Workshop (War Vets Park);
- (13) Parks Department Workshop (Bradner's Stadium).

(c) The mayor shall from time to time designate an agent responsible for each building to notify those in violation of these policies. The agents' names shall be posted as required by law.

(d) Smoking is specifically prohibited in all municipally maintained restrooms, elevators, hallways, auditoriums, and all areas which contain office equipment used in common. Smoking is also prohibited in conference or meeting rooms and municipal vehicles used by more than one person, unless all occupants agree to allow smoking.

(e) An enclosed smoking room may be designated upon request if space is available. Conflicts should be brought to the attention of employees' supervisory personnel.

(f) Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to penalties for violation of personnel policies. Other persons shall be punished as provided in section 1-9. Copies of these rules will be distributed and posted to all employees and to all perspective employees upon request.

(g) City employees will be notified of amendments to this section in accordance with state law.

(Code 1971, § 2-15)

Secs. 10-2--10-20. Reserved.

ARTICLE II. GENERAL MUNICIPAL AMBULANCE SERVICEEN

Sec. 10-21. Established.

Pursuant to the provisions of General Municipal Law § 122-b, there is hereby established in and for the city a general ambulance service for the purpose of emergency transport of sick or injured persons or nonemergency transport of patients found within the boundaries of the city or elsewhere if pursuant to intermunicipal agreement or otherwise in accordance with the laws, rules and regulations of the city to a hospital, clinic, sanitorium or other place for treatment of such illness or injury.

(Res. No. 90-92, § 4-16, 5-26-1992)

Sec. 10-22. City authorized to acquire, supply, and equip motor vehicles.

To carry out the provisions and purposes of this article, the city may acquire by purchase one or more motor vehicles; supply and equip such vehicles with such facilities and materials as it may consider necessary for emergency treatment; and may operate, maintain, repair, and replace such vehicles, supplies, and equipment.

(Code 1971, § 4-17)

Sec. 10-23. Operated under direction of chief.

The municipal ambulance service established by this article shall be operated under the direction of the fire chief, or in his absence such person as he shall designate.

(Code 1971, § 4-18)

Sec. 10-24. Fees.

The schedule of fees or charges which shall be paid to the city by persons using the municipal ambulance service established by this article shall be as established by ordinance or resolution.

(Code 1971, § 4-19)

Sec. 10-25. City auditor to keep record of revenues and expenses of ambulance services.

The auditor of the city shall establish necessary procedures in order to keep an accurate account of all revenues received and expenses incurred in connection with the provision of ambulance services and submit an account thereof to the common council once a month. Each department of the city providing services in connection with ambulance administration shall implement such procedures and accounting methodology as may from time to time be required by the auditor in order to assure accuracy and completeness of the data developed. The auditor shall as warranted recommend to the common council such policies, procedures and practices as will improve the fiscal administration of ambulance services.

(Res. No. 12-92, 8-25-1992)

Sec. 10-26. Nonemergency transportation.

The city ambulance service shall not provide routine out-of-city nonemergency transportation of patients. The prohibition provided for in this section shall not prohibit out-of-city emergency transport of patients or nonemergency transport of patients out of the city in an unusual circumstance of special need as determined by the fire chief.

(Res. No. 92-92, § 4-21, 5-26-1992)

Sec. 10-27. Ambulance board: established, duties.

(a) There is established an ambulance board to oversee the operation of the ambulance. This board will consist of the following to be appointed by the mayor with a term of two years, except common council members, whose term shall end upon leaving office, and city employees, whose term shall end upon leaving position:

- (1) Physician advisor.
- (2) Fire chief.
- (3) City EMS officer.
- (4) President of fire department union.
- (5) Olean General Hospital administrator.

- (6) Common council president.
- (7) Chairman, fire/buildings and emergency services committee.
- (8) Chairman, clerk/assessor and computer committee.
- (9) Three residents of the city.

(b) This board shall be empowered to consider and recommend to the common council policies and procedures, training levels, equipment purchases, level of care, and recommend fees and collection procedures in connection with the ambulance services provided by the city. The chief of the fire department shall provide required administrative support for the activities of the committee.

(Res. No. 123-92, 8-25-1992)

Cross references: Boards and commissions, § 2-81 et seq.

Secs. 10-28--10-45. Reserved.

ARTICLE III. PRIVATE AMBULANCES

DIVISION 1. GENERALLY

Sec. 10-46. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambulance, as used in this article, means a vehicle or conveyance used to move a sick or injured person.

(Code 1971, § 4-31)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 10-47. Drivers and attendants to be fingerprinted, etc.

Every driver of an ambulance licensed under this article and every attendant of such ambulance shall have the impressions of the fingers of his right and left hand taken by the police department. Such impressions shall be placed upon forms furnished by the chief of police and shall be taken by a member of the police department. No person shall be employed as a driver or attendant on any ambulance until a report in writing from the chief of police showing the results of such examination is received by the city clerk. No person who has been convicted of a felony shall operate any private ambulance or act in attendance on such ambulance.

(Code 1971, § 4-37)

Secs. 10-48--10-65. Reserved.

DIVISION 2. LICENSE

Sec. 10-66. Required.

It shall be unlawful for any person, by himself or through his agents, servants, or employees, to operate, manage, or maintain any private ambulances within the city, without first obtaining a license as provided in this division.

(Code 1971, § 4-32)

Sec. 10-67. Application; contents.

Any person now operating, managing, or maintaining a private ambulance, or desiring to secure a license to do so, shall make written application therefor to the city clerk stating the place from which it shall be operated, managed, or maintained; the name and residence of the applicant; the number and character of the vehicles to be used as private ambulances; and the state license numbers of such vehicles.

(Code 1971, § 4-33)

Sec. 10-68. Investigation of ambulances; issuance.

The application for a license required by section 10-66 shall be referred by the city clerk to the county health commissioner who shall cause an investigation to be made to determine the fitness and suitability of the ambulance from the standpoint of health, safety, and sanitation. The ambulance shall be equipped with such oxygen equipment and first aid supplies as shall be required by the county health commissioner. Upon completion of such investigation, the county health commissioner shall transmit a written report of his findings to the city clerk, together with his recommendations for or against the issuance of such license. The city clerk shall accordingly issue the license to permit the operation of such ambulance in the city.

(Code 1971, § 4-34)

Sec. 10-69. Fee.

The annual fee for any person for the license to operate a private ambulance under this article shall be as established by ordinance.

(Code 1971, § 4-35)

Sec. 10-70. Attendance required of person who has obtained a certificate of fitness relative to emergency first aid.

Each ambulance licensed under the provisions of this article shall have in attendance, at all times such vehicle is in use, a person who has obtained a certificate of fitness from the county health commissioner with respect to his ability to render emergency first aid.

(Code 1971, § 4-36)

Chapter 11, HISTORIC PRESERVATION

ARTICLE I. IN GENERAL

Sec. 11-1. Purpose of chapter.

It is hereby declared as a matter of public policy that the protection, enhancement, and perpetuation of landmarks and monuments, and the establishment of historic districts and/or historic interest districts is necessary to promote the cultural, educational, economic, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as Olean has many significant historic, architectural, and cultural resources which constitute its heritage, this chapter is intended to:

- (1) Protect and enhance landmarks and monuments and historic districts, when created, which have a special character or special historical or aesthetic interest or value which represent distinctive elements of Olean's historic, architectural, and cultural heritage;
- (2) Foster civic pride in the architecture and historic accomplishments of the past;
- (3) Protect, promote, and enhance Olean's aesthetic qualities for the benefit of residents and visitors; and
- (4) Ensure the harmonious, orderly, and efficient growth and development of the city.

(Res. No. 135-90, § 1, 11-27-1990)

Sec. 11-2. Criteria for consultation upon appropriate alteration, demolition, or new construction affecting landmarks or historic districts.

(a) When consulting with owners of property in landmark or historic districts, the historic preservation commission shall determine whether the proposed alteration, demolition, or construction is compatible with its historic character, as well as with the surrounding properties. If the commission determines that it is not, the commission's efforts shall be directed toward convincing the owner to eliminate from his plans any work which would alter the special character, historic or aesthetic interest, or value which constituted the basis for the landmark, monument, or historic district designation.

(b) When deciding whether or not any alteration, demolition, or new construction is compatible, the commission shall consider the following criteria:

- (1) General design, character, and appropriateness to the property of the proposed alteration, demolition, or new construction;
- (2) Scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
- (3) Texture, materials and color and the relation to the similar features of other properties in the neighborhood;
- (4) Visual compatibility with surrounding properties, including proportion of properties, front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and rhythm of spacing of properties on street;
- (5) Importance of historic, architectural, or other features to the significance of the property; and
- (6) Each and every other factor which the commission deems appropriate to its decision.

(Res. No. 135-90, § 4, 11-27-1990)

Secs. 11-3--11-20. Reserved.

ARTICLE II. HISTORIC PRESERVATION COMMISSIONEN

Sec. 11-21. Creation.

There is hereby created a commission to be known as the Olean Historic Preservation Commission.

(Res. No. 135-90, § 2, 11-27-1990)

Sec. 11-22. Membership.

The historic preservation commission shall consist of nine members to be appointed, to the extent available in the community, by the mayor as follows:

- (1) At least one shall be an architect;
- (2) One shall be the city historian;
- (3) One shall be the city attorney;
- (4) Three shall be members of the Olean Historical and Preservation Society;
- (5) Three shall be members of the common council; and
- (6) All members shall have a known interest in historic preservation and architectural development within the city.

(Res. No. 135-90, § 2(a), 11-27-1990)

Sec. 11-23. Terms of members.

Historic preservation commission members shall serve for a term of three years, except the common council members, the city attorney, and the city historian shall have a term of two years of appointment, which shall nevertheless end at the expiration of their term of elective or appointive office.

(Res. No. 135-90, § 2(b), 11-27-1990)

Sec. 11-24. Election of chairman and vice-chairman.

The chairman and vice-chairman of the historic preservation commission shall be elected by and from among the members of the commission.

(Res. No. 135-90, § 2(c), 11-27-1990)

Sec. 11-25. Meetings.

The historic preservation commission shall meet at least bi-monthly, but meetings may be held anytime on the written request of any four of the commission members or on the call of the chairman or the mayor.

(Res. No. 135-90, § 2(e), 11-27-1990)

Sec. 11-26. Quorum.

A quorum for the transaction of business shall consist of five of the historic preservation commission's members.

(Res. No. 135-90, § 2(f), 11-27-1990)

Sec. 11-27. Duties and powers.

The duties and powers of the historic preservation commission shall include:

- (1) Promulgating rules and regulations as necessary for the conduct of business of the commission;
- (2) Establishing criteria for the identification of significant historic, architectural, and cultural landmarks and monuments and areas of the city for historic district status;
- (3) Conducting surveys of significant historic, architectural, and cultural landmarks and historic districts within the city;
- (4) Recommending to the common council the designation of identified structures as historic landmarks or monuments and areas within the city for historic district status;

- (5) Increasing public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs;
- (6) Making recommendations to the common council concerning the utilization of state, federal, and private funds to promote the preservation of landmarks and historic districts within the city; and
- (7) Reviewing and reporting on building permit applications dealing with designated landmarks, monuments, and historic districts.

(Res. No. 135-90, § 2(d), 11-27-1990)

Sec. 11-28. Review of application; hearing.

The historic preservation commission shall review the application and issue its report within 14 days from the receipt of the completed application. The commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

(Res. No. 135-90, § 6(c), 11-27-1990)

Sec. 11-29. Recording of landmarks and historic districts.

The historic preservation commission shall forward notice of each property designated as a landmark and of the boundaries of each historic district to the office of the county clerk for recordation, to the city clerk's office, and the city building inspector where it will be available for public inspection.

(Res. No. 135-90, § 6(b), 11-27-1990)

Sec. 11-30. Decisions written and sent to applicant and building inspector.

All decisions of the historic preservation commission shall be in writing. A copy shall be sent to the applicant and the building inspector.

(Res. No. 135-90, § 6(d), 11-27-1990)

Sec. 11-31. Procedure for consultation with commission prior to filing a building permit.

(a) Prior to the filing of a building permit regarding the commencement of any work which might affect the historical nature of a structure in the city, whether or not it is located in a historic district or granted landmark or monument status, the owner may file a request for consultation within the historic preservation commission.

(b) The request shall contain the following:

- (1) Name, address, and telephone number of the applicant;
- (2) Location and photographs of property;

- (3) Elevation drawings or proposed changes, if available;
- (4) Perspective drawings, including relationship to adjacent properties, if available;
- (5) Samples of color or materials to be used;
- (6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
- (7) Any other information which the commission may deem necessary in order to visualize the proposed work.

(c) No building permit shall be issued for such proposed work for 60 days from the filing of the request, or until the property owner and the commission have reached written agreement on the appropriateness of the proposed project, whichever event shall occur first.

(d) All agreements resulting from consultation with the commission shall be in writing and signed by the chairman of the commission or his designated representative and the property owner. A copy shall be filed with the city clerk's office for public inspection. The agreement shall state the reasons for deeming a project appropriate to the particular property involved.

(Res. No. 135-90, § 7, 11-27-1990)

Sec. 11-32. Owner's right of appeal.

Any owner or interested party shall have the right to appeal the decision of the historic preservation commission to the common council within 30 days of the commission's decision. If not satisfied with the decision of the common council, the owner or interested party may seek review by the court pursuant to Civil Practice Law and Rules art. 78 [§ 7801 et seq.] within 40 days of the final decision of the common council.

(Res. No. 135-90, § 6(a), 11-27-1990)

Secs. 11-33--11-50. Reserved.

ARTICLE III. DESIGNATION OF LANDMARKS, MONUMENTS, AND HISTORIC DISTRICTS

Sec. 11-51. Commission's criteria for recommending designation--Individual property as landmark or monument.

The historic preservation commission may recommend that the common council designate an individual property as a landmark or monument if it:

- (1) Possesses special character, historic or aesthetic interest, or value as part of the cultural, political, economic, or social history of the city, region, state, or nation;
- (2) Is identified with historic personages;
- (3) Embodies the distinguishing characteristics of an architectural style;
- (4) Is the work of a designer whose work has significantly influenced an age; or
- (5) Because the grounds or the structures located thereon are of a unique location or singular physical characteristic or represent an established and familiar visual feature of a neighborhood.

(Res. No. 135-90, § 3(a), 11-27-1990)

Sec. 11-52. Same--Group of adjoining properties as historic district.

The historic preservation commission may recommend that the common council designate a group of adjoining properties as a historic district if each of the adjoining properties:

- (1) Contains one or more of the criteria for designation of a landmark or monument; and
- (2) By reason of possession of such qualities, the group of adjoining properties constitutes a distinct section of the city which reasonably requires historic treatment as a whole.

(Res. No. 135-90, § 3(b), 11-27-1990)

Sec. 11-53. Notice to owner of proposed designation; time, date, place of hearing.

(a) The historic preservation commission, upon recommending to the common council a landmark, monument, or district for a historical designation, shall send notice of the proposed designation by registered mail to the owner of the property proposed for designation, describing the property proposed and announcing a time, date, and place for a public hearing by the common council to consider the designation. Notice shall also be published at least twice in the Olean Times Herald at least 30 and 15 days prior to the date of the public hearing.

(b) Once the commission has issued notice of a proposed designation, no building permits shall be issued by the building inspector within a designated district or for work on a designated landmark or monument, until the common council has reviewed the building permit application and acted on the commission's recommendation.

(Res. No. 135-90, § 3(c), (d), 11-27-1990)

Sec. 11-54. Hearing.

The common council shall hold a public hearing prior to designation of any landmark, monument, or historic district. More than one proposed designation may be the subject of a single hearing. The historic preservation commission, property owners, lessors, and any interested persons may present testimony of documentary evidence at the hearing which will become part of a record regarding the proposed designation. The record may also contain staff reports, written public comments, or other evidence offered outside of the hearing. However, all evidence not submitted at the hearing shall be submitted at least five days prior to the hearing and made available to the public at the hearing.

(Res. No. 135-90, § 3(e), 11-27-1990)

Sec. 11-55. Recommendation to common council.

Within 30 days after the hearing, the historic preservation commission shall prepare a written recommendation to the common council, which shall consider the testimony and evidence compiled at the hearing, the opinions of the commission, and any other evidence offered outside the hearing which the commission feels is relevant to its recommendation. The commission's report shall specifically consider each of the factors set forth in section 11-51, indicating which of the factors it deems most important. The commission's report shall be forwarded by the commission to each property owner who shall be affected by the decision, and shall also be printed in the Olean Times Herald at least 15 days prior to the common council meeting where the recommended designation shall be considered. The common council shall, within 60 days after the public hearing, decide whether or not to grant the proposed landmark, monument, or historic district historic status.

(Res. No. 135-90, § 3(f), 11-27-1990)

Sec. 11-56. Resolution by common council granting or denying designation.

Upon the decision of the common council, the historic preservation commission shall forward a copy of the written resolution granting landmark, monument, or historic district status or denying such designation to the owner of the property involved.

(Res. No. 135-90, § 3(g), 11-27-1990)

Sec. 11-57. Issuance of building permits.

Once a landmark, monument, or district has been granted historic status, no building permits shall be issued by the building inspector relative to such landmark, monument, or district until the historic preservation commission has reviewed the building permit application, giving consideration as to whether the work proposed in the building permit application will adversely affect the special character, historic or aesthetic interest, or value of the landmark, monument, or district. If the commission believes that a possibility of adverse impact exists, the commission shall contact and consult with the applicant for the building permit, review designs, drawings, and architectural plans relative to the proposed work; and consider the criteria set forth in section 11-2. After consulting with the owner, the commission shall either:

- (1) Recommend to the building inspector that the permit be granted;
- (2) Propose a plan to the owner under which the commission feels the work anticipated can be completed in a manner which shall not adversely impact the monument, landmark, or district; or
- (3) Recommend to the common council that the building permit be denied, setting forth the reasons why the proposed work cannot be completed in a manner which would not adversely impact the landmark, monument, or district, and recommend to the common council what action the commission believes is necessary to preserve the landmark, monument, or district.

(Res. No. 135-90, § 3(h), 11-27-1990)

Secs. 11-58--11-75. Reserved.

ARTICLE IV. DESIGNATION OF HISTORIC INTEREST DISTRICTS

Sec. 11-76. Commission's recommendation for establishment.

If the historic preservation commission believes that a group of adjoining properties possesses historic interest to the community as a whole, but they do not meet the criteria set forth in this chapter relative to the establishment of historic districts, the commission may recommend to the common council the establishment of a historic interest district.

(Res. No. 135-90, § 5(a), 11-27-1990)

Sec. 11-77. Establishment by common council.

Upon the recommendation of the historic preservation commission, the common council, if it finds that a group of adjoining properties possesses a historical interest, may, by majority vote, establish a historic interest district. No public hearings shall be required for the establishment of such district.

(Res. No. 135-90, § 5(b), 11-27-1990)

Sec. 11-78. Commission review of building and demolition permits.

(a) Once a historic interest district is created, the historic preservation commission shall have the power to review all building permit or demolition applications received by the building inspector related to properties within the district. Within five days of receipt of a building permit or demolition application for a structure within a historic interest district, the building inspector shall deliver a copy of the application to the chairman of the commission. The commission shall, within seven days, review the application, and if the commission believes that the work described on the application may have an impact on the subject property or the historic interest district in part or in whole, it may, upon written notice to the building inspector with a copy mailed to the applicant for such a permit, make recommendations to the applicant as to how the applicant can complete the

planned work without affecting or lessening the effect of the planned work on the historic interest of the structure or district. In making its recommendations, the commission shall be permitted to review all documents, drawings, or other materials submitted with the building permit application. However, it shall not be able to require the owner to provide additional materials unless the owner voluntarily agrees to do so. If the commission requests the opportunity to make recommendations, the building inspector shall not issue the permit for 30 days from the date of the original application, unless the commission shall consent in writing.

(b) If the commission does not act within the seven-day period after the building inspector has delivered the permit application to the chairman, the building inspector shall act in his ordinary course.

(Res. No. 135-90, § 5(c), (d), 11-27-1990)

Sec. 11-79. Stringent portions of law applied to historic district, landmark, or monument in historic interest area.

If a historical district, landmark, or monument is located within a historic interest district, the more stringent portions of the law related to the landmark, monument, or historic district shall apply to those properties. A landowner in a historic interest district may use the informal procedure set for in section 11-31; however, section 11-31(c) shall not apply.

(Res. No. 135-90, § 5(e), 11-27-1990)

Chapter 12

HOUSING CODE

[HISTORY: Adopted by the Common Council of the City of Olean 12-12-2017 by Res. No. 93-17.⁹ Amendments noted where applicable.]

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.
Animals, ch. 5.
Buildings, building regulations and fire prevention, ch. 6.
Dangerous buildings, § 6-236 et seq.
Nuisances, ch. 16.
Solid waste, ch. 20.

⁹ Editor's Note: This resolution provided an effective date of 6-1-2018. Also, this resolution repealed former Ch. 12, which consisted of Art. I, In General, as amended; Art. II, Administration and Enforcement, as amended; and Art. III, Residential Premises, as amended.

ARTICLE I
Property Maintenance

Sec. 12-1. Findings and declaration.

It is hereby found and declared that there exists in the City of Olean structures used for residential and nonresidential use which are or may become in the future substandard with respect to structure, equipment or maintenance or further that such conditions, including but not limited to structural deterioration; lack of maintenance and appearance of exterior of premises; infestation; lack of essential heating, plumbing, storage or refrigeration equipment; lack of maintenance or upkeep of essential utilities and facilities; existence of fire hazards; inadequate provisions for light and air; and unsanitary conditions, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the City. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums and that, if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time and expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

Sec. 12-2. Purpose.

The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; and to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants.

Sec. 12-3. Definitions.

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

ACCESSORY BUILDING — A structure, the use of which is incidental to that of the main building, and which is attached thereto or is located on the same premises [9 NYCRR 606.3(a)(1)].

BILLBOARDS (See "SIGNS.")

- (1) A flat surface (as of a panel, wall or fence) on which bills are posted; a large panel designed to carry outdoor advertising.
- (2) 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 situated.

BLIGHT — Something that impairs or destroys; an impaired condition; to cause to deteriorate, ruin.

BUILDING — A structure, wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.

CITY — The City of Olean.

CODE ENFORCEMENT OFFICER — The officer charged with enforcement of building or fire codes [9 NYCRR 606.3(a)(31)]. The officer employed by the City of Olean to enforce the City Code of ordinances of the City of Olean and this chapter, as well as the New York State Public Health Law.

CONSTRUCTION DEBRIS — Discarded building material, concrete, stones, earth from excavations or grading and all other refuse resulting from the erection, repair, demolition or other improvement of property.

DEBRIS — To break to pieces: the remains of something broken down or destroyed; ruins.

DETERIORATION — The condition or appearance of a building, or any part thereof, characterized by holes, rot, breaks, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, excessive use or lack of maintenance.

DWELLING, MULTIPLE

- (1) A building containing three or more dwelling units; building containing living, sanitary and sleeping facilities occupied by one or two families and more than four lodgers residing with either one of such families; a building with one or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient paying guests or tenants; a building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority or for similar uses; a building used or occupied as an old-age home or community residence [9 NYCRR 606.3(a)(141)].
- (2) A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.
- (3) A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independent of each other.

EXPOSED TO PUBLIC VIEW — Any premises or open space, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by any member of the public from a sidewalk, street, alleyway, open-air parking lot or from any adjoining or neighboring premises.

EXTERIOR OF PREMISES — Those portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.

FENCE — A barrier intended to prevent escape or intrusion or to mark a boundary, such as a barrier made of posts and wire or boards; an artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of yard areas.

GARBAGE

- (1) Food wastes; refuse; the worthless or useless part of something; leavings; trash.
- (2) Wastes from the preparation, cooking or serving of food; market wastes; and wastes from the handling, storage and sale of produce.

GOOD WORKING CONDITION — Fully operable for the use intended.

GOOD WORKING REPAIR — A standard of maintenance that renders a building safe, habitable and possessed of a neat and orderly appearance.

HEDGE — See "fence."

JUNK — Any old, discarded or unused waste iron or other metal or substance, glass, paper, used lumber, rags, machine parts, accessories, machinery, machines, unregistered motor vehicles which are unfit for reconditioning, used parts of motor vehicles and any material commonly known and generally referred to as "junk" in the ordinary and accepted meaning of the word.

JUNKYARD — Any tract of land within the City of Olean on which junk is placed, collected, stored, kept, maintained or located.

OCCUPANT — The person in occupancy, in possession or in control of premises or using premises [9 NYCRR 606.3(a)(149)].

OPERATOR or MANAGER — Any person who has charge, care or control of a building or part thereof.

OWNER — The owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building [(9 NYCRR 606.3(a)(154)].

PERSON — Includes an individual, a partnership, a joint venture, a corporation, an association and any other organization recognized as an entity by the laws of the State of New York.

POINT OF VIEW — For the purpose of § 12-5, Exterior standards, not personal opinion but line of sight of adjoining property owners to include front, rear and side views.

PREMISES — A lot, plot or parcel of land, including the building or structure thereon [9 NYCRR 606.3(a)(162)].

PROPERTY — Land and whatever is erected on, growing on, placed on or affixed thereto.

REFUSE

- (1) Putrescible and nonputrescible solid waste consisting of organic or nonorganic

materials but shall not include human or animal body waste.

- (2) All cardboard, plastic material or glass containers, wastepaper, rags, sweeping, pieces of wood, excelsior, rubber and like waste material.

RUBBISH — Useless waste or rejected matter; noncombustible waste material. The term shall include the residue from the burning of wood, coal and coke; and also tin cans, metals, mineral matter, glass, crockery, dust and other noncombustible matters.

- (1) **COMBUSTIBLE** — Paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding dunnage and all other materials subject to burning.
- (2) **NONCOMBUSTIBLE** — Metal, tin cans, metal furniture, glass, crockery and minerals.

SIGNS — A lettered board or other display used to identify or advertise a place of business; a posted command, warning or direction; something that serves to indicate the presence or existence of something; any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement. A sign includes a billboard but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.

STRUCTURE — A combination of materials assembled, constructed or erected at a fixed location, including, for example, a building, stationary and portable carports and swimming pools, the use of which requires location on the ground or attachment to something having location on the ground.

TRASH — Something worth little or nothing, as junk, rubbish; something in a crumbled or broken condition or mass; debris from pruning or processing plant material.

Sec. 12-4. Provisions to be minimum standards; conflict with other provisions.

- (a) This chapter establishes certain minimum standards for the initial and continued occupancy and use of all structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the structure, the premises or the equipment or facilities contained therein, as are required by the New York State Uniform Fire Prevention and Building Code.
- (b) In any case where a provision is found to be in conflict with any applicable zoning, building, plumbing, electrical, heating, ventilation, fire or safety code of the City of Olean, County of Cattaraugus, State of New York or United States of America, the provision that establishes the higher standard, as determined by the Code Enforcement Officer, shall prevail.

Sec. 12-5. Exterior standards.

The exterior of the premises and the condition of structures shall be maintained so that

the premises and all buildings shall reflect a level of maintenance in keeping with the standards of the community and shall not constitute blight from the point of view of adjoining property owners or lead to the progressive deterioration of the neighborhood. Such maintenance shall include, without limitation, the following:

- (1) Foundations, porches, decks, steps and walls shall be in good condition.
- (2) Vent attachments shall be safe, durable, smoketight and capable of withstanding the action of flue gases.
- (3) Exterior balconies, porches, landings, stairs and fire escapes shall be provided with banisters or railings properly designed, installed and maintained to minimize the hazard of falling and unsightly appearance.
- (4) All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs that have become excessively weathered, those upon which the paint has excessively peeled or those whose supports have deteriorated so that they no longer meet the structural requirements of the New York State Uniform Fire Prevention and Building Code shall, with their supports, be removed or put into a good state of repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supports, be removed. Signs denoting a business which is no longer on the premises shall be removed within 30 days of the date on which the business ceases to occupy the premises.
- (5) All storefronts and walls exposed to public view shall be kept in a good state of repair. Storefronts or any portion of the structure shall not show evidence of excessive weathering or deterioration of any nature. Unoccupied storefronts shall be maintained in a clean and neat appearance.
- (6) Any awnings or marquees and accompanying structural members shall be maintained in a good state of repair. In the event that said awnings or marquees are made of cloth, plastic or of a similar material and are exposed to public view, such material shall not show evidence of excessive weathering, discoloration, ripping, tearing, holes or other deterioration. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.
- (7) All vacant buildings shall be continuously guarded or sealed and kept secure against unauthorized entry. Materials and methods with which such buildings are sealed must meet the approval of the Code/Health Enforcement Officer as to color, design and building material. Owners of such buildings shall take such steps and perform such acts as may be required to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public and that such property does not become infested with vermin or rodents.
- (8) Exterior walls, including doors and windows and the areas around doors, windows, chimneys and other parts of the building, shall be so maintained as to keep water from entering the building. Materials which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner.

- (9) All exposed exterior surfaces shall be maintained free of broken or cracked glass, loose shutters, railings, aerials, peeling paint or other conditions reflective of deterioration or inadequate maintenance. (Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.) Wood, masonry or other exterior materials that will naturally resist deterioration do not have to be treated but must be maintained in a neat, orderly, serviceable manner.
- (10) Roof drains, overflow pipes, air-conditioning drains and any other device used to channel water off or out of a building shall be maintained in a safe and operable condition and shall not drain onto a public sidewalk, walkway, street, alleyway or adjoining property, and shall be conveyed to an adequate and approved system of stormwater disposal where available. Where a drainage system may be subject to backwater, suitable provision shall be made to prevent its overflow into the building.
- (11) Lawns shall be cut and bushes, shrubs and hedges shall be trimmed regularly during the growing season so as to avoid an unsightly appearance in accordance with all relevant provisions of the City Code.

Sec. 12-6. Open areas and parking spaces.

- (a) Surface or subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, stormwater sewers or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge.
- (b) Fences and other minor construction shall be maintained in a safe and substantial condition.
- (c) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out.
- (d) Yards and vacant lots shall be kept clean and free of physical hazards and rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access by the public. All temporary excavations shall be kept covered or barricaded so as to protect the general public from injury.
- (e) All land must be kept free of dead or dying trees and accumulations of brush, shrubs, weeds, grass, stumps, roots, excessive and/or noxious growths, garbage, refuse or debris which would either tend to start a fire or increase the intensity of a fire already started or cause poisoning or irritation to people or animals or cause or tend to cause or enhance an unhealthy or dangerous or obnoxious condition on said property or on any adjacent or neighboring property.

- (f) Unpaved parking areas which accommodate three or more vehicles shall be treated and maintained so as to eliminate dust.

Sec. 12-7. Dwelling units: cooking and refrigeration; keeping of dogs and cats.

- (a) Each dwelling unit shall be provided with appropriate cooking and refrigeration equipment. Cooking and refrigeration equipment shall be maintained in good operating condition. All gas-burning cooking equipment shall be permanently fastened and connected in place with any gas supply connection to such equipment in compliance with the relevant Code provisions. Solid fuel-burning cooking equipment shall be appropriately vented.
- (b) No dwelling unit shall harbor more than four cats or dogs or the aggregate total of such animals, except the harboring of a litter of more than four dogs shall be permitted for a period not to exceed six months and harboring a litter of more than four cats shall be permitted for a period not to exceed three months.

Sec. 12-8. Business units.

- (a) Business units shall at all times be maintained in compliance with the provisions of this chapter regulating open spaces, buildings or structures and littering.
- (b) No outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, rubbish, refuse or debris shall be kept inside the building or buildings on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.
- (c) No shopping baskets, carts or wagons shall be left unattended or standing in open areas, and the same shall be collected at the close of business each day by the occupant of such unit and moved off to the interior of the building or buildings. No one shall take a shopping basket, cart or wagon off the premises without permission of the owner and/or a manager.
- (d) No mobile refrigeration unit shall be operated on the premises after the closing of the business conducted thereon unless such mobile refrigeration unit is electrically operated, except in an industrial zone.
- (e) All fences and planting areas installed on the premises shall be maintained by the owner of the property. Such maintenance shall include but not be limited to the replacement of trees and shrubs which may die and/or otherwise be destroyed, the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.
- (f) Persons owning or occupying property shall keep all walkways, public or private, abutting said premises free from litter and trash of whatever nature.

Sec. 12-9. Infestation, storage and screening.

- (a) Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform to generally accepted practice.

- (b) Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be closed or appropriately screened with wire mesh or other suitable materials.
- (c) No materials, goods or supplies may be stored in any front yard or in an exterior or interior side yard. Materials may be stored in a rear yard, provided that the area used for storage is screened from neighboring properties by a fence or hedge and that the method and manner of storage complies with the other provisions hereof.

Sec. 12-10. Litter; garbage and refuse.

- (a) Residential, commercial and industrial premises, whether improved or vacant, shall be maintained free of litter; provided, however, that this section shall not prohibit the storage of litter in appropriate private receptacles for collection.
- (b) Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes. Each owner of any building from which garbage, rubbish, mixed refuse, ashes or other wastes are collected shall provide refuse containers sufficient in number to hold all collectible wastes which may accumulate. Containers must be rodent-proof and insect-proof and watertight and must be kept covered at all times. Such containers must not be kept in a front yard or exterior side yard, except for the day of collection as determined by the collections schedule set forth by the Department of Public Works.
- (c) No refrigerator may be discarded, abandoned or stored in a place accessible to children without first completely removing any locking or latching devices and all doors.
- (d) Dumpsters and similar large receptacles shall be shielded from the public view by means of appropriate landscaping, hedges, fences or screening. This subsection shall not apply to receptacles for clothing and the like donated to charity and temporary construction, demolition dumpsters and similar receptacles.
- (e) Shopping centers, supermarkets and similar business units shall provide permanent, attractive, decorated litter receptacles within the premises for public use in sufficient quantity so that a person will not have to walk in excess of 50 feet to use any such receptacle.

Sec. 12-11. Incinerators; liquefied petroleum gas.

- (a) The use of incinerators shall be prohibited in the City of Olean.
- (b) Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in buildings. Liquefied petroleum gas shall not be vaporized by devices utilizing open flame or open electrical coil. Where two or more containers are installed, connection shall be arranged so that containers can be replaced without shutting off the flow of gas to equipment. Containers shall be designed, stored, and located outside the building, so as not to be a hazard to the premises served or to the surrounding property. Systems shall be provided with safety devices to relieve excessive pressures, and such systems shall be arranged so

that the discharge terminates at a safe location. Systems shall have at least one accessible means for shutting off the gas. Such means shall be located outside the building and shall be maintained in good operating condition.

Sec. 12-12. Responsibilities of occupants.

An occupant of premises shall be responsible for compliance with this chapter in regard to the following:

- (1) Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- (2) Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he occupies or controls in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- (3) Keeping exits from the building or occupant's portion thereof clear and unobstructed.
- (4) Disposal of garbage and refuse into appropriate facilities in a clean and sanitary manner, in accordance with any applicable provisions of the City code.
- (5) Maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation by rodents or vermin, insofar as said occupant occupies or controls said yards, lawns or any parts thereof.
- (6) The installation and removal of required screens.
- (7) Keeping domestic animals and pets in an appropriate manner and under control, in accordance with any other regulation of the City.
- (8) Elimination of all prohibited uses for that part of the premises which he occupies, controls or has accessibility thereto.

Sec. 12-13. Responsibilities of owners; persons considered to be owners.

- (a) Owners of premises shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefor regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
- (b) Owners and operators of building shall be responsible for the proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot-water supply where they have contracted to do so.
- (c) Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the City as executor, administrator, trustee, guardian, operator or agent, such persons shall be deemed and taken to be the owner or owners of said property within the intent and meaning of this chapter and shall comply with the provisions of this chapter to the same extent as the record owner;

and notice to any such person of any order or decision of the Code Enforcement Officer shall be deemed and taken to be good and sufficient notice, as if such person or persons were actually the record owner or owners of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one or more violations of this chapter, said occupant shall be deemed and taken to be an owner within the intent and meaning of this chapter.

Sec. 12-14. Property under construction.

- (a) For purpose of enforcement of this chapter, if work is being done on the property, either the prime or general contractor or the owner shall be held responsible.
- (b) Materials may be stored in any area of the property upon which construction is being carried on, provided that the method of storage and the materials stored are in compliance with the requirements of this chapter. In no event shall such storage be permitted for a period exceeding one year.
- (c) Drainage crossing the property being developed must be maintained during the period of development, and no materials may be stored, land disturbed or other work done to interfere with drainage or to divert or cause runoff of groundwater or stormwater in an unnatural fashion.
- (d) The person responsible as herein shall take all necessary and reasonable steps to ensure that there will not be an unusual or unwarranted amount of dust and debris blown onto or across neighboring or nearby properties.
- (e) Construction roads must be oiled or kept wet or properly treated to decrease the spread of dust and mud.
- (f) A temporary cover, such as rye grass or a mulch, must be applied on land that has been stripped of its protective vegetation during the course of its construction to prevent the spread of dust and mud.
- (g) All excavations in or near a public or private walkway or street must be properly guarded and protected at all times by lights, flags, barricades or other warnings sufficient in kind and amount to warn the public of the danger of falling into the excavation.
- (h) Temporary electrical service must be through electric lines that are weather and waterproof, such lines must not cross public walkways or highways on the ground, nor shall they be placed on the ground in areas subject to construction equipment traffic.
- (i) Grounds and buildings must be kept free of debris such as broken glass, boards with fastenings protruding and other articles making travel around the job site dangerous and unsafe.

Sec. 12-15. Administration.

- (a) The Fire Chief is authorized to make and adopt such written rules and regulations as may be necessary for the proper enforcement and interpretation of this chapter, and to secure the intent thereof. Such rules and regulations shall not be in conflict with

the provisions of this chapter, or any other ordinance of the city, nor shall they have the effect of waiving any provisions of this chapter or any other ordinance. Such rules and regulations shall have the same force and effect as the regulations of this chapter. The penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter, as provided in this article. Such rules and regulations shall be submitted to the Common Council by the Fire Chief. Failure of the Common Council to approve, reject, or modify such rules and regulations within 30 days after submission shall be deemed to constitute approval thereof. Such rules shall be on file and available as a matter of public record in the City Clerk's office.

- (b) No officer, agent, or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties pursuant to this chapter. Any suit brought against any officer, agent, or employee of the City, as a result of any act required or permitted in the discharge of his duties pursuant to this chapter, shall be defended by the City Attorney until the final determination of the proceedings therein.

Sec. 12-16. Inspection and enforcement.

- (a) The Code Enforcement Officer and/or his designee is hereby authorized and directed to make inspections to determine compliance with this chapter. Inspections shall be made between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, or at such other times as may be necessary in an emergency and every operator or owner shall cooperate with the Code Enforcement Officer in providing access to the premises. It shall be unlawful for any person to refuse entrance to or to impede an inspector or officer authorized pursuant to this article in the performance of his duties. Every such inspector or officer shall have the right to enter, examine, and survey all premises, grounds, structures, dwellings, multifamily dwellings or rooming houses and every part thereof at all reasonable times, or at such other times as may be necessary in an emergency, upon display of proper identification. If any owner, occupant, or other person in charge of a dwelling, dwelling unit, rooming unit, multifamily dwelling or rooming house subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the structure or premises where inspection authorized by this article is sought, the administrative authority may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference. Upon failure of the owner or operator to allow the Code Enforcement Officer access to the premises for inspections, the Code Enforcement Officer shall have the authority to apply to the Olean City Court for an administrative search warrant to compel compliance with this section.
- (b) Whenever the Code Enforcement Officer determines that there is a violation of the provisions of this chapter, he shall cause a written notice to be served upon the owner or operator, which shall include:
 - (1) An enumeration of conditions which violate the provisions of this chapter.
 - (2) An enumeration of the remedial action required to meet the standards of this

chapter.

- (3) A statement of a definite number of days from the date of the notice in which the owner or operator must commence and complete such remedial action.
 - (4) A statement of the penalties for noncompliance, as set forth herein.
- (c) A copy of such notice shall be filed in the City Clerk's office, and such notice shall be deemed sufficient if served upon the owner or operator as follows:
- (1) In person;
 - (2) By first class mail to the address to which the City Tax Bills are mailed and by posting a copy of said notice on the building.
- (d) Upon failure to comply with said notice, the Code Enforcement Officer shall issue an appearance ticket returnable in the City Court.
- (e) The City Attorney shall, upon complaint of the Fire Chief, Code Enforcement Officer, or upon his own motion, institute appropriate action to restrain, prevent, enjoin, abate, correct, or remove such violation, and to take such other legal action as is necessary to carry out the terms and provisions of this chapter. The remedies provided for in this article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. All remedies may be pursued concurrently or consecutively, and the pursuit of any remedy shall not be construed as an election or the waiver of the right to pursue any and all of the others.

Sec. 12-17. Penalties for offenses.

A violation of any provision of this chapter shall be an offense punishable by a fine not less than \$50 and no more than \$1,000 or no more than 15 days in jail. For the purposes of this chapter, each day continued existence of a violation shall constitute a separate violation.

Sec. 12-18. Demolition as compliance of chapter.

Any owner of a building receiving a notice of violation stating that such building does not comply with the provisions of this chapter may demolish such building, and such action shall be deemed compliance. On demolition, all utilities shall be properly disconnected by the owner, operator, agent, or occupant.

Sec. 12-19. through Sec. 12-49. (Reserved)

ARTICLE II
Certificate of Occupancy

Sec. 12-50. Purpose.

There is hereby adopted by the City of Olean, for the purpose of prescribing regulations governing the use and occupancy of commercial and residential structures in the City of Olean, a certain code as hereinafter set forth.

Sec. 12-51. Application and severability.

- (a) The Fire Chief is authorized to make and adopt such written rules and regulations as may be necessary for the proper enforcement and interpretation of this chapter, and to secure the intent thereof. Such rules and regulations shall not be in conflict with the provisions of this chapter, or any other ordinance of the City, nor shall they have the effect of waiving any provisions of this chapter or any other ordinance. Such rules and regulations shall have the same force and effect as the regulations of this chapter. The penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter, as provided in this article. Such rules and regulations shall be submitted to the Common Council by the Fire Chief. Failure of the Common Council to approve, reject, or modify such rules and regulations within 30 days after submission shall be deemed to constitute approval thereof. Such rules shall be on file and available as a matter of public record in the City Clerk's office.
- (b) If a provision of this chapter is found to be inconsistent with any provision of other chapters of the City Code or Charter, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail. A greater penalty shall not be considered as more restrictive or a higher standard.
- (c) If any part, provision, section, subdivision, paragraph, or term of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining chapter, parts, provisions, sections, subdivisions, paragraphs, or terms.

Sec. 12-52. Definitions.

Whenever used in this article, unless otherwise expressly stated or unless the context or subject material requires a different meaning, the definitions as contained in Chapter 12, Article I, Section 12-3 shall apply to the terms and provisions herein.

Sec. 12-53. Inspection and certification required.

- (a) All premises located in the City of Olean shall be inspected and certified by the Code Enforcement Department which shall determine compliance with, administer and enforce all applicable provisions of this chapter, the City Code, and the New York State Uniform Fire Prevention and Code Enforcement Code (hereinafter "Uniform Code") upon the occurrence of the following:
 - (1) The transfer of title if a certificate of occupancy has not previously been issued within the preceding 12 months.
 - (2) A change of occupancy or use other than that which is governed under Article III of this chapter.
 - (3) A change in the occupied status of a one- or two-family exempted property where the structure is no longer occupied by the owner or the spouse, child, parent or sibling of the owner.
- (b) Except as otherwise provided herein, it shall be unlawful and a violation of this chapter to transfer, rent, lease, or otherwise allow the occupancy of any premises without the inspection and certification required herein.

- (c) If, upon inspection, said premises do not comply with all applicable provisions of this Code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing and a time limit, not to exceed 30 days, shall be directed for the correction of, or the substantial effort to correct, the deficiencies noted. The notice of noncompliance shall be delivered personally or by mail within seven business days to the owner, agent or person in charge at the address set forth on the City Tax Bill and to any occupant who so requests.
- (d) The officials charged with conducting the inspection shall make such inspection, access and circumstances permitting, within five business days of receipt of a request from the owner or agent of the owner.
- (e) No occupancy certificate shall be issued under this article unless the applicable fee(s) required under this chapter is paid in full to the Department.

Sec. 12-54. Fees.

- (a) The fee for an occupancy certificate issued under this Article II shall be \$60.
- (b) Should a premises fail inspection, the initial reinspection shall be free of charge; however, each subsequent reinspection thereafter necessary to issue said certificate shall result in a reinspection fee of \$25 per reinspection.

Sec. 12-55. Penalties for offenses.

Any violation of any provision of this chapter, or any provision of any rule or regulation adopted by the enforcement officer pursuant to authority granted by this chapter, shall be deemed an offense and any person found guilty thereof shall be liable to a fine which shall not be less than \$250 and not to exceed \$1,000, or imprisonment not to exceed 15 days, or to both such fine and imprisonment, and each day's failure to comply with such provision, rule or regulation shall constitute a separate violation.

Sec. 12-56. through Sec. 12-69. (Reserved)

ARTICLE III

Rental Dwelling Registration and Rental Occupancy Permits

Sec. 12-70. Legislative findings.

The Common Council of the City of Olean hereby finds and declares that there exist in the City rental housing properties which are, or may become in the future, substandard with respect to structure and maintenance thereof or, further, that conditions, including but not limited to structural deterioration, lack of maintenance, the appearance of the exterior of the premises, the existence of fire hazards and unsanitary conditions, constitute a menace to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the City. It is further found and declared that, by reason of lack of maintenance and progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and, that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate same. By reason of timely regulations and restrictions as herein contained, the growth of slums and

blight may be prevented and the immediate neighborhood and property values thereby maintained the desirability and amenities of rental housing properties and immediate neighborhoods enhanced and the public health, safety and welfare protected and fostered. The City of Olean further wishes to achieve the following beneficial purposes:

- (1) The protection of the character and stability of residential areas;
- (2) The correction and prevention of housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings;
- (3) The enforcement of minimum standards for heating, plumbing and other sanitary equipment necessary for health and safety;
- (4) The enforcement of minimum standards for light and ventilation necessary for health and safety;
- (5) The enforcement of minimum standards for the maintenance of existing residential buildings and the prevention of slum and blight conditions;
- (6) The preservation of the value of land and buildings throughout the City.

Sec. 12-71. Definitions; word usage.

The following definitions shall apply in the interpretation and enforcement of this chapter.

- (1) As used in this article, the following terms shall have the meanings indicated unless a different meaning is indicated clearly by the context, as used in this Code:

ACCESSORY BUILDING — A structure, the use of which is incidental to that of the main building, and which is attached thereto or located on the same premises.

BASEMENT — That portion of a building partly or completely below grade. (See "story above grade.")

BUILDING — A structure, wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.

CELLAR — A portion of a building located partly or wholly underground and having 1/2 or more than 1/2 of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DETERIORATION — The condition or appearance of a building, or any part thereof, characterized by holes, rot, breaks, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, excessive use or lack of maintenance.

DWELLING — Any structure designed for use by human occupants for sleeping and living purposes.

DWELLING, MULTIPLE

- a. A building containing three or more dwelling units; building containing living, sanitary and sleeping facilities occupied by one or two families and

more than four lodgers residing with either one of such families; a building with one or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient paying guests or tenants; a building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority or for similar uses; a building used or occupied as an old-age home or community residence [9 NYCRR 606.3(a)(141)].

- b. A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.
- c. A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independent of each other.

DWELLING UNIT — A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

ENFORCEMENT OFFICER — A Code Enforcement or Building Inspector of the City of Olean, or his designated qualified representative, any officer of the Olean Police Department, any professional firefighter of the Olean Fire Department, the City Attorney and the County Health Department when their assistance is requested by the enforcement officer.

EXPOSED TO PUBLIC VIEW — Any premises or open space, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by any member of the public from a sidewalk, street, alleyway, open-air parking lot or any adjoining or neighboring premises.

EXTERIOR OF PREMISES — Those portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.

EXTERMINATION — The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the enforcement officer.

FIRE HAZARD — Any thing or act which increases, or may cause an increase in, the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fires, or which may obstruct, delay or hinder, or may become the cause of an obstruction, delay or hindrance to the prevention, suppression or extinguishment of fires, or any fire hazard identified in these codified ordinances. See also "nuisance."

GARBAGE

- a. Food wastes; refuse; the worthless or useless part of something; leavings; trash.

- b. Wastes from the preparation, cooking or serving of food; market wastes; and wastes from the handling, storage and sale of produce.

HABITABLE ROOM — A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundry, pantries, foyers, or communicating corridors, closets and storage spaces.

INFESTATION — The presence, within or around a dwelling, of any insects, rodents, or other pests.

MANAGING AGENT — As defined under Section 6-80(d) of the Olean City Code of Ordinances.

MULTIPLE DWELLING, OWNER-OCCUPIED — One- or two-family property where the structure is occupied by the owner or the spouse, child, parent or sibling of the owner.

NUISANCE — Any public nuisance known as provided by the statutes of the state or ordinance of the City; conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist and where the condition is made perilous by active and negligent operation thereof; unsanitary conditions or anything dangerous to health, in violation of this Code; and fire hazards.

OCCUPANT — The person in occupancy, in possession or in control of premises or using premises.

OWNER — The owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building [(9 NYCRR 606.3(a)(154)].

PERSON — Includes any individual, firm, corporation, association, or partnership.

PLUMBING — Includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

PREMISES — A lot, plot or parcel of land, including the buildings or structures thereon.

REFUSE

- a. Putrescible and nonputrescible solid waste consisting of organic or nonorganic materials but shall not include human or animal body waste.
- b. All cardboard, plastic material or glass containers, wastepaper, rags, sweeping, pieces of wood, excelsior, rubber and like waste material.

RESIDENTIAL HEATING FACILITIES — Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68° F. (20° C.) in all habitable rooms, bathrooms and toilet rooms based on the winter design dry-bulb temperature for the locality indicated in Table 302.1 of the Energy Conservation Construction Code of

New York State. Cooking appliances shall not be used to provide space heating to meet the requirements of this definition.

ROOMING HOUSE — A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT — Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

RUBBISH — Useless waste or rejected matter; noncombustible waste material. The term shall include the residue from the burning of wood, coal and coke; and also tin cans, metals, mineral matter, glass, crockery, dust and other noncombustible matters.

- a. **COMBUSTIBLE** — Paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding dunnage and all other materials subject to burning.
- b. **NONCOMBUSTIBLE** — Metal, tin cans, metal furniture, glass, crockery and minerals.

STORY ABOVE GRADE — Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is: more than six feet (1,829 mm) above grade plane; more than six feet (1,829 mm) above the finished ground level for more than 50% of the total building perimeter; more than 12 feet (3,658 mm) above the finished ground level at any point.

STRUCTURE — A combination of materials assembled, constructed or erected at a fixed location, including, for example, a building, stationary and portable carports and swimming pools, the use of which requires location on the ground or attachment to something having location on the ground.

SUPPLIED — Paid for, furnished, or provided by or under the control of the owner or operator.

TEMPORARY HOUSING — Any tent, trailer, or other structure used for human shelter which is designated to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

- (2) Meaning of certain words. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

Sec. 12-72. Rental dwelling unit registration.

- (a) Registration required. No person shall occupy or allow the occupancy of or rental to another for occupancy any dwelling unit unless the owner has first obtained a rental dwelling unit registration certificate as hereafter provided.
- (b) Exemptions. The provisions of this article shall not apply to owner-occupied with no more than one rental unit; hotels; motels; hospitals; nursing homes; or other

dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of users and patients.

- (c) Application for registration. Within 90 days after the effective date of this article, the owner of each dwelling unit existing on the effective date of this article shall submit a properly completed rental registration form to the City of Olean Codes Department. Furthermore, the owner of any property, whether previously used as a rental or not, whether being a single-family or multifamily dwelling, must submit a properly completed rental registration form within 30 days of renting any dwelling unit.
 - (1) Such form shall be furnished by the Code Enforcement Office and shall set forth the following information, in addition to the other information reasonably required by the Code Enforcement Office from time to time which may be necessary to administer, enforce, and insure compliance with the provisions of this chapter and the housing code:
 - a. Name, principal residence address and telephone number of the owner.
 - b. Each and every owner, principal member, or general partner, joint tenancy, tenancy in common or tenancy by entirety shall be indicated on the application and residence address in accordance with this section.
 - c. If the owner is a corporation, the principal place of business of the corporation must be provided and the name, title and residence address of all officers, directors, managing or general agents must be included.
 - d. If the owner has designated a managing agent or managing company, then the name, principal residence address and telephone number of such agent or managing company must be included in addition to that of the owner. The managing company must also supply its principal business address and telephone number.
 - e. It shall be the responsibility of the owner to properly register any change of address, managing agent or any other information which occurs after the filing of the application.
 - f. For purposes of this section, a post office box shall not be accepted as the owner's physical address. A post office box may be designated as an address to be provided as required in this section. The building intended to be registered shall not be accepted as the owner's address unless it is the principal place of business or primary residence of the owner.
 - g. The owner shall specify the address to which all notices of violation issued pursuant to this chapter and other violations of the housing codes are to be forwarded.
 - (2) If the owner does not actually reside within 20 miles of the City of Olean, or have a regular place of business within the City of Olean, they must have a managing agent who actually resides within 20 miles of the City of Olean, or

have a regular place of business within the City of Olean.

- (3) Failure to provide the aforementioned information shall be deemed an offense and shall be penalized upon notice to the owner pursuant to this chapter.
- (d) Term of rental dwelling unit registration.
 - (1) A rental dwelling unit registration pursuant to this chapter shall expire three years after the date it is issued. Renewal shall be due within 30 days prior to the expiration of the rental registration.
- (e) Revocation of rental dwelling unit registration certificate. A rental dwelling unit registration certificate issued pursuant to this chapter may be revoked by the Code Enforcement Official for any of the following reasons:
 - (1) Fraud, misrepresentation or a false statement as to material fact in the application;
 - (2) A finding that a rental dwelling unit registration was issued in error and not in accordance with applicable law;
 - (3) A violation of any provision of this chapter, including noncompliance with a notice of violation.

Sec. 12-73. Required inspections and status reports.

- (a) All rental housing properties are subject to inspection by the City of Olean at the change of occupant unless otherwise exempt under this section. At the time of such inspection, all interior and exterior parts of the rental housing property must be available and accessible for such inspection, and the owner/managing agent/occupant are required to provide the necessary arrangements to facilitate such inspections. Such inspection shall be made between 8:00 a.m. and 5:00 p.m., unless there exists a violation of a character which is an immediate threat to health and safety, requiring inspection and abatement without delay.
- (b) Application for inspection. Whenever an owner/managing agent or bona fide occupant shall apply to the City of Olean Codes Department for an inspection in order to ascertain if any section of this Code has been violated, the Codes Department shall, upon payment of the fee hereunder stated, cause an inspection to be made of the premises and issue either an occupancy certificate or a report of the inspection to the applicant, indicating therein any violations at the premises. The applicant for such inspection shall state, in writing, his or her full name, residence address and the reasons and basis for which the inspection is requested. The application may be denied for failure to comply with this requirement. Upon a passed inspection the property owner shall be issued a certificate for rental occupancy by the City of Olean Codes Department. This certificate is nontransferable; it is only valid for the tenant in which the application was made.
- (c) Application for status report. Where an owner/managing agent/occupant or bona fide prospective occupant requests a status report as to whether or not there are any known violations presently pending on the premises, upon payment of the fee

prescribed herein and a written request, a copy of any notice or order on any violation then pending shall be sent to the applicant.

- (d) The enforcement officer is hereby authorized and directed to make inspections to determine whether the condition of dwellings, dwelling units and rooming units and premises located within the City of Olean are in compliance with the requirements of this chapter. For that purpose and in order that he may perform his duty of safeguarding the health and safety of the occupants of such dwellings and the general public, the enforcement officer is hereby authorized to enter, examine and survey at reasonable times all dwellings, dwelling units and premises with permission of the occupant and subsequent notification being given to the owner. However, such inspections shall be made upon request to the occupant of the premises to be inspected and at the convenience of such occupant. In the event that access to such dwelling or premises cannot be obtained upon request to the occupant and after reasonable effort to obtain access by permission, the enforcement officer, if he has reason to believe said dwelling unit for the inspection of which permission has been refused or has not been given after reasonable request is in violation of one or more of the provisions of this chapter, may apply to a court of competent jurisdiction upon affidavit for an order directing that the said enforcement officer have access to said dwelling or premises for the purpose of making his inspection. The court, if satisfied from the papers presented to it that there is reasonable ground to believe that the aforesaid dwelling or premises may be in violation of one or more of the provisions of this chapter, shall grant and issue an order directed to the occupant and owner of said dwelling or premises requiring that the enforcement officer be admitted thereto for the purpose of making the inspection provided for in this chapter. The enforcement officer shall thereupon proceed to make such inspection.

Sec. 12-74. Refused access; search warrants or access warrants; enforcement; service of notices and orders.

- (a) Refused access. Where the City of Olean is refused access or is otherwise impeded or prevented by the owner/managing agent/occupant from conducting an inspection of a rental housing property, such person shall be in violation of this Code and subject to the penalties hereunder.
- (b) Search warrants or access warrants. In addition to the provision of this section, the City of Olean may, upon affidavit, apply to the Olean City Court or any court of competent jurisdiction for a search warrant, setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this Code exists on the premises. If the Court is satisfied as to the matter set forth in the affidavit, the Court may authorize the issuance of a search warrant permitting access to the inspection of that part of the premises on which the nuisance or violation exists. A warrant for access may be issued by the Court upon an affidavit of any employee of the City establishing grounds therefor.
- (c) Whenever the enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter or of any rule or regulation adopted pursuant thereto in any building, dwelling unit or

property, there shall be issued a notice of violation pursuant to Criminal Procedure Law § 150.40 and Civil Practice Law and Rules § 308 or other applicable laws.

- (d) Such notice shall be put in writing, specifically state the location of the subject property, and state the specific violation of the chapter.

Sec. 12-75. Minimum standards for basic equipment and facilities.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

- (1) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean.
- (2) Every dwelling unit (except as otherwise permitted under Subsection D of this section) shall contain, amongst its rooms which affords privacy, a flush water closet and a lavatory basin in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean.
- (3) Every dwelling unit (except as otherwise permitted under Subsection D of this section) shall contain, within a room which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean.
- (4) The occupants of two or more dwelling units may share a single flush water closet, a single lavatory basin and a single bathtub or shower if the total number of rooms of such dwelling units shall not exceed eight and the total number of occupants shall not exceed six. Such water closet, lavatory basin and bathtub or shower shall be in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean.
- (5) Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of Subsections A, B, C and D of this section shall be properly connected with both hot and cold water lines.
- (6) Every dwelling unit shall have adequate rubbish and garbage storage facilities as well as containers, type and location of which are a kind sufficient to meet the requirements of the Code of the City of Olean.
- (7) Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required by this section, and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature capable of maintaining a temperature of not less than 120° F. Such supplied water-heating facilities shall be capable of meeting the requirements of

this subsection when the dwelling or dwelling unit heating facilities, required under the provisions of § 310-7E of this chapter, are not in operation.

- (8) Every dwelling unit shall have safe, unobstructed means of egress leading to safe and open space at ground level as required by New York State Law.

Sec. 12-76. Minimum standards for light, ventilation and heating.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (1) Every habitable room shall have at least one window or skylight facing directly to the outdoors. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.
- (2) Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room.
- (3) Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in Subsections (1) and (2), except that no window or skylight shall be required in bathrooms and water closets adequately equipped with a ventilation system approved by the enforcement officer and kept in continuous operation.
- (4) Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, where practicable every habitable room of such dwelling shall contain at least one electric convenience for every 20 linear feet (or major fraction) of the total distance around the room as measured horizontally along the wall at the floor line. Such receptacles shall not be a part of a fixture for computation. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner.
 - a. Over current protection. Fuse holders for plug fuses of 30 amperes or less shall not be installed unless they are of the Type S with the adaptor inserted or of the Type S construction. Fuses or circuit breakers shall not exceed wire (conductor) capacity of the circuit.
 - b. There shall be at least one lighting circuit for each 500 square feet of floor space and at least one circuit for appliances which is separate from the lighting circuits; if only one lighting circuit is in existence, all new additional outlets shall be installed on a new circuit (or circuits).
 - c. In a multiple-occupancy building, each occupant shall have access to his disconnecting means and overcurrent protection at all times, without locks or

through other occupancies.

- (5) Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guestrooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15 to May 31 to maintain a temperature of not less than 68° F. (20° C.) in all habitable rooms, bathrooms, and toilet rooms.
- (6) Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.
- (7) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

Sec. 12-77. General maintenance requirements.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (1) Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight and rodent-proof, shall be capable of affording privacy and shall be kept in good repair.
- (2) Every window, exterior door and basement hatchway shall be reasonably weather tight, watertight and rodent-proof and shall be kept in sound working condition and good repair.
- (3) Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- (4) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.
- (5) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition. Nothing contained herein shall be deemed to prohibit the maintenance of wooden floors in such rooms, provided such floors are as impervious to water as may reasonably be required to well-maintained wood floors.
- (6) Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

- (7) No owner, operator or occupant shall cause any service, facility equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alteration are in process or during temporary emergencies.
- (8) No owner shall occupy or let to any other occupant any vacant dwelling unit unless it complies with the provisions of this chapter.

Sec. 12-78. Minimum space, use and location requirements.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (1) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
- (2) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof, except that where the occupants of such room are all less than 15 years of age, a room having at least 120 square feet of floor space may be occupied by additional persons, provided that the floor space per occupant does not become less than 35 square feet.
- (3) No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment, except that where such a dwelling unit is occupied only by a husband and wife, or a husband and wife and child or children under the age of 13, this section shall not apply.
- (4) At least 1/2 of the floor area of every habitable room shall have a ceiling height of at least seven feet, and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (5) No cellar space shall be used as a habitable room or dwelling unit.
- (6) No basement space shall be used as a habitable room or dwelling unit unless the floor and walls are impervious to leakage of underground and surface water and are insulated against dampness; the total of window area in each room is equal to at least the minimum window area sizes as required in this chapter; Such required minimum window area is located entirely above the grade of the ground and adjoining such window area.

- (7) The provisions of this section shall only apply to new construction and to existing homes which are to be remodeled.

Sec. 12-79. Responsibilities of owners and occupants.

- (a) Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (b) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (c) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers required by the Olean City Code.
- (d) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by this chapter. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units.
- (e) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the homeowner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (f) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

Sec. 12-80. Rooming houses.

No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of this chapter.

- (1) No person shall operate a rooming house unless he holds a valid rooming house permit issued by the Code Enforcement Officer in the name of the operator and for the specific dwelling or dwelling unit. The owner shall apply to the enforcement officer for such permit, which shall be issued by the enforcement officer upon compliance by the owner with the applicable provisions of the Olean City Code of Ordinances. This permit shall be displayed in a conspicuous place within the

rooming house at all times.

- (1) No such permit shall be transferable. Every person holding such a permit shall give notice, in writing, to the enforcement officer within 24 hours after having sold, transferred, given away or otherwise disposed of ownership or interest in or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every such permit shall be renewable annually upon written application to the enforcement officer at least three days before the expiration of one year from its issuance or last renewal, unless such permit is subject to revocation for violation of this chapter or other ordinances or law applicable to said premises.
- (2) Any person whose application for a permit to operate a rooming house has been denied may require and shall be granted a hearing on the matter before the Zoning Board of Appeals.
- (3) Whenever, upon inspection of any rooming house, the enforcement officer finds that conditions or practices exist which are in violation of any provision of this chapter or any other law or any other ordinance of this City, the enforcement officer shall give notice, in writing, to the owner of such rooming house that unless such conditions or practices are corrected within a reasonable period, to be determined by the enforcement officer, the owner's rooming house permit will be suspended. At the end of such period, the enforcement officer shall re-inspect such rooming house, and if he finds such conditions or practices have not been corrected, he shall issue a violation pursuant to this chapter.
- (4) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the enforcement officer and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities; provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than 1/2 the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement, except by written approval of the enforcement officer.
- (5) The owner of every rooming house shall change supplied bed linen and towels therein at least once each week and prior to the letting of any room to any occupant. The owner shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- (6) Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.
- (7) Every rooming unit shall have safe, unobstructed means of egress leading to safe

and open spaces at ground level as required by the laws of this state and the City of Olean.

- (8) The owner of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for maintenance of a sanitary condition in every other part of the rooming house, and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the owner.
- (9) Every provision of this chapter which applies to rooming houses shall also apply to hotels, except to the extent that any such provision may be found in conflict with the laws of this state or with the lawful regulations of any state board or agency.

Sec. 12-81. Designation of unfit dwellings; condemnation.

The designation of dwellings or dwelling units as unfit for human habitation and the procedure of the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the City of Olean and New York State codes.

Sec. 12-82. Inspections and rental occupancy permits.

- (a) No person shall occupy and no owner or managing agent shall permit a person to occupy a rental dwelling unit unless a City of Olean has issued to the owner or managing agent a certificate of rental occupancy permit for such rental unit.
- (b) Application for a rental occupancy permit shall be made separately for each rental unit by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the City of Olean Codes Department. Such information shall include but need not be limited to the following:
 - (1) The name, address and telephone number of the owner of the rental housing property;
 - (2) The name, address and telephone number of the managing agent of the rental unit if one is required;
 - (3) The address of the rental housing property and the number of the rental unit;
 - (4) The current name, address, business and/or home telephone number of the person(s) who, since the last application, shall be residing/occupying the rental housing unit;
 - (5) Number of people to be residing in the rental unit;
 - (6) Such other information as may be requested on the application as determined by the Fire Chief.
- (c) The City of Olean may revoke a rental occupancy permit if any false statement appears in the application or if the information contained in the application is inaccurate.

- (d) Upon a passed inspection of the rental housing unit, the City of Olean shall issue a rental occupancy permit. In the case of a failed inspection, the property owner shall have a time period not to exceed 10 days from the date of inspection to make the necessary corrections unless, for good cause shown, the City of Olean has extended the time for completion.
- (e) Frequency and schedule of inspections for rental occupancy. The City of Olean Code Enforcement Department is hereby directed to conduct an inspection of all rental housing units in single-family, two-family and multifamily dwelling structures, except the interior of an owner-occupied dwelling unit, at each change of occupant occurring after June 1, 2018, and every vacancy and re-rental thereafter. If the owner/managing agent/occupant refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the City of Olean shall not make such inspection without first obtaining a search warrant.

Sec. 12-83. Conflict with other provisions; severability.

- (a) Except as otherwise specifically provided, in the event any provision of this article shall be in conflict with any statute, ordinance, or regulation governing land and property, the provision which establishes the higher standard for promotion and protection of the health and safety of the people of the City shall be controlling.
- (b) If a term, part or provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair or invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

Sec. 12-84. Fees.

- (a) Fees for certificate of rental occupancy inspection or status report. The minimum fee for any inspection made under this section shall be \$60; there shall be no fee for any initial reinspection should the property fail. Any subsequent reinspections related to the initial failure shall be \$30 each visit. If a change in occupancy occurs within 12 months of the issuance of a rental occupancy permit, the subsequent reinspection fee shall be \$30. This certificate is nontransferable. The fee for any status report under this section shall be \$10.
- (b) Rental registration fee. There shall be no fee for properly completed rental registration forms submitted within 90 days of the enactment of this chapter. The fee for applications received after 90 days, if any, shall be as set by the Common Council.
- (c) No fee for new buildings. There shall be no fee charged for the initial inspection for a certificate of rental occupancy registration certificate for new rental dwellings at the completion of their construction which is covered by a building permit.

Sec. 12-85. Penalties for offenses.

Any violation of any provision of this article, or any provision of any rule or regulation adopted by the enforcement officer pursuant to authority granted by this chapter, shall be deemed an offense and any person found guilty thereof shall be liable to a fine which

shall not be less than \$250 and not to exceed \$1,000, or to imprisonment not to exceed 15 days, or to both such fine and imprisonment, and each day's failure to comply with such provision, rule or regulation shall constitute a separate violation.

Sec. 12-86. through Sec. 12-95. (Reserved)

ARTICLE IV
Designation of Unfit Dwellings

Sec. 12-96. General provisions.

Any dwelling unit, dwelling, rooming house, or rooming unit, having any of the following defects may be designated by the Fire Chief as unfit for human habitation and may be so placarded:

- (1) The structure lacks illumination, ventilation, sanitation, heat, or other facilities, adequate to protect the health and safety of the occupants or the public.
- (2) The structure is damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested, in such a manner as to create a serious hazard to the health and safety of the occupants or the public.
- (3) The structure, because of the location, general conditions, state of the premises, or number of occupants, is so unsanitary, unsafe, overcrowded, or otherwise detrimental to health and safety that it creates a serious hazard to the occupants or the public.
- (4) The structure, because of the failure of the owner or occupant to comply with such notice or orders issued pursuant to this Code, is unfit for human habitation.
- (5) The structure, whether or not a dwelling, dwelling unit, lodging house, or lodging unit, in whole or in part, has been made unfit for human habitation by catastrophe of fire, wind damage, lightning, impact from falling objects of any nature, impact of vehicles, or damage from any cause whatsoever.

Sec. 12-97. Abandoned property.

All property abandoned for a period of one year with no upkeep by the owner may be removed by the City with the serving of notice to the owner. Serving of notice shall give the owner 90 days to make the necessary repairs to the property. The expense of the removal of property shall be paid by the owner or the expenses shall be charged against the property as a lien.

Sec. 12-98. Notice of intent to vacate.

Whenever the Fire Chief determines that a dwelling, dwelling unit, rooming house, or rooming unit is unfit for human habitation, as provided in Section 12-96 or 12-97, he shall include such finding within the notice of violation provided for in Section 12-18. He shall also include a statement of his intent to vacate and placard the dwelling, dwelling unit, rooming house, or rooming unit if compliance with the provisions of the notice of violation has not been secured.

Sec. 12-99. Order to vacate.

Whenever a notice of violation, as provided in Section 12-98, has not been complied with, the Fire Chief may order the dwelling, dwelling unit, rooming house, or rooming unit to be vacated. A copy of such notice to vacate shall be served on the owner, agent, operator, and the occupant, as provided in Section 12-18.

Sec. 12-100. Vacation procedure.

Any dwelling, dwelling unit, rooming house, or rooming unit, designated as unfit for human habitation pursuant to Section 12-96 or 12-97, and ordered vacated as provided in Section 12-99, shall be vacated within such reasonable time as the Fire Chief may specify in the order. No such dwelling, dwelling unit, rooming house, or rooming unit shall again be used for human habitation, and the placard shall not be removed until written approval is secured from the Fire Chief.

Sec. 12-101. Removal of placard.

No person shall deface or remove the placard from any dwelling, dwelling unit, rooming house, or rooming unit which has been designated as unfit for human habitation, except as provided in Section 12-100.

Sec. 12-102. Vacated dwelling made secure.

The owner, agent, or operator of any dwelling, dwelling unit, rooming house, or rooming unit which has been designated as unfit for human habitation and vacated shall make such dwelling, dwelling unit, rooming house, or rooming unit, safe and secure in whatever manner the Fire Chief shall deem necessary. Any vacant building, open at the doors and windows, if unguarded, shall be deemed dangerous to human life and a nuisance within the meaning of this section.

Sec. 12-103. Notice of intent to demolish.

Whenever the Fire Chief designates a dwelling or rooming house unfit for human habitation, as provided in this division, and determines that the cost necessary to correct the violation is not reasonably related to the value of the building, he shall include within the notice of violation, provided for in Section 12-18, a statement of his intent to order the demolition of the structure. A copy of such notice shall be served on the owner, occupant, lessee, and mortgagee, as provided in Section 12-18. The owner may demolish such structure as provided in Section 12-20, or correct the violation regardless of cost provided that the requirements of the building code in effect at the time of attempted compliance are satisfied.

Sec. 12-104. Order to demolish.

Whenever a notice of violation, as provided in Section 12-103 has not been complied with, the Fire Chief may order the building demolished. Such order shall be served as provided in Section 12-18, and demolition shall be completed within the time specified by the Fire Chief.

Sec. 12-105. Fire Chief to make repairs or demolish.

Whenever a notice or order to remove a violation, or to secure, vacate, or demolish a building has not been complied with, and when such failure to comply is deemed by the Fire Chief to constitute a nuisance, he may proceed to cause the structure to be demolished, repaired, altered, secured, vacated, or take such other action as is necessary to abate the nuisance. Whenever the Fire Chief determines that such nuisance exists, he shall record sufficient proof to support such determination. The owner, occupant, lessee, and mortgagee shall be notified of such finding pursuant to Section 12-18. Abatement authorized by this section shall not commence until at least 10 days after service of such notice.

Sec. 12-106. Recovery of expenses.

The expenses incurred pursuant to Section 12-105 shall be paid by the owner or occupant of the premises, or by the person who caused or maintained such nuisance or other matter. The Fire Chief shall file among his records an affidavit stating with fairness and accuracy the items of expense that each item was necessary, that the cost thereof does not exceed the current hourly rate of wages for the action, and the date of execution of actions authorized by Section 12-105. The Fire Chief may institute a suit to recover such expenses against any person liable for such expenses or may cause such expenses to be charged against the property as a lien. A notice of such lien shall be mailed to or served upon the owner, operator, agent, and occupant claimed liable to pay such lien. A similar copy may be filed in the office of the City Treasurer and the commissioner of assessments of the City and may be noted on the records of liens and assessments against the property. Except with respect to a lien imposed for expenses incurred in demolition, nothing in this section shall be construed as placing a lien upon the property which supersedes the lien of any mortgage on such property executed and recorded prior to the existence of a lien authorized in this section.

Sec. 12-107. through Sec. 12-120. (Reserved)

ARTICLE V
Recreational Fires

Sec. 12-121. Definitions.

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

RECREATIONAL FIRE — An outdoor fire burning only dried seasoned hard woods for the purpose of pleasure, religious, ceremonial, cooking, warmth or similar purposes. The fuel being burned shall be contained to an outdoor fireplace, barbeque grill or barbeque pit and have a total fuel area of three feet (914 mm) or less in diameter and two feet (610 mm) or less in height. Fuel being burned shall not include rubbish, lumber, garbage or other offensive materials.

Sec. 12-122. Recreational fires.

- (a) General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.
- (b) Prohibited recreational burning. Open burning that will be offensive or

objectionable because of smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

- (c) Recreational fires. A recreational fire shall not be conducted within 15 feet of a structure or combustible material. The fire shall be contained in an approved container and where the pile size is three feet or less in diameter and two feet or less in height. Conditions which would cause a fire to spread within 15 feet of a structure shall be eliminated prior to ignition. These recreational fires do not include approved cooking grills that are fueled by charcoal, propane, or natural gas.
- (d) Attendance. Recreational fires shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a 4-rating or approved on-site fire extinguishing equipment, such as dirt, sand, water barrel or garden hose or water truck, shall be available for immediate utilization.

Sec. 12-123. Purpose; guidelines.

Request for outdoor recreational fires have become a popular activity and concern within the City of Olean, especially with the recent marketing and sales of portable outdoor fireplaces, made of metal, ceramic and like materials. The Department of Building, Fire and Emergency Services will allow burning for recreational purposes consistent with the state, county, and local codes and laws, provided the following guidelines are followed:

- (1) Fire safety must always be followed.
- (2) Recreational fires must be of the same size as in fireplaces (no larger than three feet in diameter; no taller than two feet in height), located 15 feet from combustible structures (houses, fences, sheds, garages, wooden decks, and similar structures) and conducted on noncombustible surfaces.
- (3) Materials for burning must be clean seasoned firewood (wet wood, fresh cut wood, painted or stained wood creates smoky conditions and is not allowed to be burned).
- (4) Competent adult supervision must be on site while fire is burning. A competent adult is someone over 18 years of age, not impaired by drugs, alcohol or having medical or mental conditions which could impair their ability to take proper action if required.
- (5) A source of water must be available to control or extinguish any fire (charged garden hose hooked up to a water supply, multiple pails of water or a 4-A fire extinguisher).
- (6) No new materials can be added to the fire after 10:00 p.m.; fire must be extinguished before abandoning.
- (7) Fire cannot create a nuisance. Smoke and/or odors may be considered a nuisance.
- (8) Outdoor portable fireplaces made of metal, ceramic and like materials and contained with that approved appliance. The approved appliances must follow these same rules and not be placed on any combustible surfaces (decks, porches, tables, etc.). They may not be located less than 15 feet from a combustible structure and must be extinguished before abandoning.

Sec. 12-124. Nuisance.

- (a) Recreational fires are a privilege and allowed for special occasions by the Department of Building, Fire and Emergency Services. A recreational fire which creates property damage, personal injury or is deemed a nuisance may be cause for further legal actions to be taken by the Department of Building, Fire and Emergency Services and/or the City of Olean Police Department.
- (b) Any fire causing the Olean Fire Department or Olean Police Department to be called may be considered by the responding official as a nuisance fire. Nuisance fires shall be extinguished immediately.

Sec. 12-125. Penalties for offenses.

Violations of this article shall be a minimum fine of \$50 for a first offense and a \$250 fine for each offense thereafter within a one-year period. If further expenses are incurred by the City, all expenses will be added to the fine to cover any and all costs the City incurred.

Chapter 13

LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.
Finance, § 2-161 et seq.
Advertising and signs, ch. 3.
Amusements, ch. 4.
Private ambulances, § 10-46 et seq.
Junked motor vehicles, § 16-26 et seq.
License for private collectors of solid waste, § 20-7.
Taxation and assessments, ch. 23.
Trailers, trailer camps and tourist camps, ch. 25.
Vehicles for hire, ch 26.
Sewer contractors, § 27-81 et seq.
Zoning, ch. 28.

STATE LAW REFERENCES

Authority to license and regulate businesses, General City Law § 20(13).
Hawkers and peddlers generally, General Business Law § 32 et seq.
Authority to license and regulate hawkers and peddlers, General Business Law § 35.
Children in bowling alleys, General Business Law § 399-d.

**ARTICLE I
IN GENERAL**

Sec. 13-1. Fee for lost City license. [Res. No. 80-94, 7-26-1994]

The City Clerk is hereby directed to charge a fee of \$5 for processing and replacing any City license which has been lost for which a replacement is required.

Sec. 13-2. through Sec. 13-20. (Reserved)

**ARTICLE II
BOWLING ALLEYS**

**DIVISION 1
GENERALLY**

Sec. 13-21. through Sec. 13-35. (Reserved)

**DIVISION 2
(RESERVED)¹⁰**

Sec. 13-36. through Sec. 13-100. (Reserved)

**ARTICLE III
GARAGE SALES**

**DIVISION 1
GENERALLY**

Sec. 13-101. Definitions. [Code 1971, § 17-21]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

GARAGE SALES — Includes all sales entitled "garage sale," "lawn sale," "rummage sale," "flea market sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale, excluding bona fide estate sales.

GOODS — Any goods, warehouse merchandise, or other property capable of being the object of a sale regulated by this article.

Sec. 13-102. Persons and sales excepted. [Code 1971, § 17-25]

The provisions of this article shall not apply to or affect the following persons or sales:

- (1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;
- (2) Persons acting in accordance with their powers and duties as public officials;
- (3) Any person selling or advertising for sale items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number;

10. Editor's Note: Former Division 2, License, was repealed 4-8-2014 by Res. No. 23-14

(4) Sales which are conducted on Fridays and/or Saturdays.

Sec. 13-103. through Sec. 13-115. (Reserved)

DIVISION 2
LICENSE

Sec. 13-116. Required. [Code 1971, § 17-22]

It shall be unlawful for any person to conduct a garage sale in the City without first filing with the Clerk the information specified in this division and obtaining from the Clerk a license to hold such sale, to be known as a garage sale license.

Sec. 13-117. Information to be filed. [Code 1971, § 17-24]

The information to be filed with the Clerk, pursuant to this division, shall be as follows:

- (1) Name of person, firm, group, corporation, association, or organization conducting the sale;
- (2) Name of owner of the property on which the sale is to be conducted, and consent of the owner if the applicant is other than the owner;
- (3) Location at which sale is to be conducted;
- (4) Number of days of sale;
- (5) Dates, nature of any past sale during the prior twelve-month period;
- (6) Relationship or connection applicant may have had with any other person, firm, group, organization, association, or corporation conducting the sale and the dates of such sale;
- (7) Whether or not applicant has been issued any other vendor's license by any local, state, or federal agency;
- (8) Sworn statement or affirmation by the person signing that the information therein given is full and true and known by him to be so.

Sec. 13-118. Fee. [Code 1971, § 17-22]

The fee to be paid to the City for a garage sale license shall be as now or hereafter established by ordinance.

Sec. 13-119. Duration and display. [Code 1971, § 17-23]

- (a) Such license shall be issued to any one person only three times within a twelve-month period, and no such license shall be issued for more than two consecutive calendar days.
- (b) Each license issued under this division must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

Sec. 13-120. through Sec. 13-140. (Reserved)

**ARTICLE IV
JUNK DEALERS**

**DIVISION 1
GENERALLY**

Sec. 13-141. Definitions. [Code 1971, § 16-16]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

JUNK MERCHANT — Every person, as principal, agent, or employee, who shall carry on the business of buying, selling, or storing any of the articles enumerated in section 13-161 at an established place of business.

JUNK PEDDLER — Every person, as principal, agent, or employee, who shall go, with or without vehicle, from house to house or place to place, buying, offering to buy, collecting, or gathering any of the articles enumerated in section 13-161.

Sec. 13-142. From whom and when purchases not to be made. [Code 1971, § 16-20]

It shall be unlawful for any junk merchant or peddler licensed under this article to purchase any item enumerated in section 13-161 from any person under the age of 18 years, apprentice, or servant, knowing or having reason to believe the seller to be such, or from any person between sunset and 7:00 a.m.

Sec. 13-143. Licensees not to act as pawnbrokers or secondhand dealers, etc. [Code 1971, § 16-21]

It shall be unlawful for any person licensed under the provisions of this article to, during the continuance of such license, use, exercise, or carry on the business or trade of a pawnbroker or dealer in secondhand articles, or for any pawnbroker or dealer in secondhand articles to receive a license under the provisions of this article.

Sec. 13-144. Records of purchases. [Code 1971, § 16-22]

Every junk merchant licensed under this article shall keep, in such form as the Chief of Police or City Clerk may prescribe, and written in ink or indelible pencil, a daily record of all articles purchased; the name, residence, age, and occupation of the person from whom each article was purchased; the name of the employer of such person; the day of such purchase; and the price paid. The record shall at all reasonable times be open to the inspection of any police officer, the Mayor, Chief of Police, any magistrate, or any person duly authorized in writing for such purpose by the Chief of Police or any magistrate, who shall exhibit such authorization to the junk merchant, his agent, or employee. No entry in such records shall be changed, erased, obliterated, or defaced.

Sec. 13-145. Reports to Chief of Police. [Code 1971, § 16-23]

Every junk merchant licensed under this article, upon being served with a written notice so to do by a member of the Police Department, shall report to the Chief of Police, on blank forms to be furnished by the Police Department, an accurate description of all

goods, articles, or things purchased or received by him in the course of business as a junk merchant, at such time and during such period of time specified in the notice, stating the amount paid for, and the name, residence, and general description of the person from whom such goods, articles, or things were received.

Sec. 13-146. Lost or stolen goods, etc. [Code 1971, § 16-24]

If any goods, articles, or things whatsoever shall be advertised in any newspaper printed in the City as having been lost or stolen, and the goods, articles, or things, or any articles answering the description advertised, or any part or portion thereof, shall be or come into the possession of any junk merchant or peddler licensed under this article, he shall give information thereof, in writing, to the Chief of Police and state from whom the items were received. Any junk merchant or peddler who shall have or receive any goods, articles, or things lost or stolen, or alleged or supposed to have been lost or stolen, shall exhibit them on demand to any police officer, the Mayor, Chief of Police, or any magistrate, or any person duly authorized in writing for such purpose by the Chief of Police or any magistrate, who shall exhibit such authorization to such merchant or peddler.

Sec. 13-147. through Sec. 13-160. (Reserved)

**DIVISION 2
LICENSE**

Sec. 13-161. Required. [Code 1971, § 16-30]

It shall be unlawful for any person, within the limits of the City, to engage in or carry on the business of collecting, buying, selling, or otherwise dealing in rags, old rope, bottles, bones, tin ware, rubber, bagging, or any other article or thing, except old metal, as defined in General Business Law Art. 6 [§ 60 et seq.], which from its worn condition renders it useless for the purpose for which it was made, whether at a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as provided in this division.

Sec. 13-162. Application; contents. [Code 1971, § 16-31]

Any person desiring to procure the license required by this division shall file with the City Clerk a written application upon a blank form prepared and furnished by the City. Such application shall contain the name and residence of the applicant, if an individual, partnership or firm, or the names of the principal officers and their residences if the applicant is an association or corporation. Such application shall also describe in detail the character of the business in which he desires to engage and the kind of materials he desires to collect, buy, sell, or otherwise deal in. It shall also state the following:

- (1) Whether the applicant is licensed to sell old metal in accordance with General Business Law art. 6 [§ 60 et seq.).
- (2) The length of time such applicant, if an individual, or the manager or person in charge if the applicant is a firm, partnership, corporation or association, has resided in the City; his place of previous employment; whether married or single; whether he has been convicted of a felony or misdemeanor and, if so, for what offense,

when, and in what court.

- (3) The premises where such business is to be located or carried on, giving street and number.
- (4) Such other information that may be required by the Mayor. Such application shall be signed and acknowledged before a notary public or other officer authorized to administer oaths in the City.

Sec. 13-163. Bond. [Code 1971, § 16-32]

The application for a license under this division shall be accompanied by a bond payable to the City, approved as to form by the City Attorney, in the penal sum of \$250 for a junk merchant and \$250 for a junk peddler, with sufficient collateral security, conditioned for the due observance during the term of the license of any and all ordinances which are now in force or may hereafter be adopted by the Common Council respecting the collection of, buying, selling, or otherwise dealing in the articles enumerated in section 13-161.

Sec. 13-164. Fees. [Code 1971, § 16-33]

- (a) Every junk merchant prior to the issuance of a license under this division shall pay an annual license fee in the amount now or hereafter established by ordinance for each established place of business.
- (b) Every junk peddler prior to issuance of a license under this division shall pay an annual fee in the amount now or hereafter established by ordinance.

Sec. 13-165. Issuance; refusal. [Code 1971, § 16-34]

- (a) Upon the filing of the application and the bond, as provided in this division, the Mayor may, upon his approval of such application after investigation, and of such bond as to sufficiency of the surety or collateral security, and after payment to the City of the license fee provided in this division, issue to the applicant a license to engage in business as provided in section 13-161.
- (b) No license shall be refused except for a specific reason and for the protection of the public safety, good order, or morals.
- (c) No license as a junk merchant or peddler under this division shall be granted to any person who shall have been convicted within two years of the date of application of a violation of this article, or, if an association or corporation, of which a member shall have been so convicted.
- (d) No such license shall be granted to any person who has, within five years of the date of application, been convicted of a felony for knowingly receiving stolen goods, or to any association or copartnership of which any member has been so convicted.

Sec. 13-166. New application after refusal. [Code 1971, § 16-35]

No applicant to whom a license has been refused shall make further application until a

period of at least six months shall have elapsed since the last previous rejection, unless he can show that the reason for such rejection no longer exists.

Sec. 13-167. To be numbered; contents. [Code 1971, § 16-36]

- (a) All licenses issued under this division shall be numbered in the order in which they are issued and shall state clearly the date of issuance and expiration of the license and the name and address of the licensee.
- (b) Every license which shall be granted in pursuance of this division shall designate the location of the place of business in or from which the junk merchant or peddler receiving such license shall be authorized to carry on such business.

Sec. 13-168. Term. [Code 1971, § 16-37]

All licenses shall be issued under this division as of January 2 and shall continue in force until December 31 next succeeding the date of issuance thereof, unless sooner revoked by the Mayor.

Sec. 13-169. Separate licenses for junk merchants and junk peddlers. [Code 1971, § 16-38]

It shall be unlawful for any junk merchant to engage in business as a junk peddler under this division without paying a separate license therefor.

Sec. 13-170. Junk peddler's license limited to one person. [Code 1971, § 16-39]

No junk peddler's license issued under this division shall give authority for more than one person to buy, offer to buy, or collect under it.

Sec. 13-171. To be carried and exhibited upon demand. [Code 1971, § 16-40]

Each junk merchant or peddler, while exercising his license under this division, shall carry his license and exhibit such license whenever requested so to do by a police officer of the City.

Sec. 13-172. Badges and vehicle plates. [Code 1971, § 16-17]

The City shall supply badges and vehicle plates to licensed junk peddlers under this division. Such badges and plates shall not be transferable. On the expiration of the license, the licensee shall surrender his badge to the City Clerk. It shall be unlawful for any person to wear or have in his possession such badge, unless he is the licensed junk peddler in whose name the license is issued. Each licensee shall, while exercising his license, wear on the front of his outermost garment the badge so provided. Such badge shall state the character and number of the license and the date when it expires. The vehicle plates shall be displayed by every licensee operating a vehicle, one on each side of the body of the vehicle used by him in the exercise of his license. Such vehicle plates shall state the character and number of the license and the date of expiration.

Sec. 13-173. Identification of vehicles. [Code 1971, § 16-18]

The vehicle kept or used by a junk peddler in the exercise of his license under this division shall be marked on both sides with the number corresponding to the number of

his license, in plain figures at least two inches in length.

Sec. 13-174. Signs at places of business. [Code 1971, § 16-19]

Every licensed junk merchant under this division shall have and keep a sign on the outside and in front of each of his places of business, on which shall be plainly set forth in conspicuous letters his name, licensed business, and the number corresponding to the number of his license.

Sec. 13-175. Use by another prohibited. [Code 1971, § 16-41]

No license issued under this division shall be used by any person other than the original licensee, and any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall each be guilty of a violation of this section.

Sec. 13-176. Loss or destruction. [Code 1971, § 16-42]

Whenever a license issued under this division shall be lost or destroyed without fault on the part of the holder or his agent or employees, a duplicate license in lieu thereof under the original application and bond may be issued by the Mayor in his discretion.

Sec. 13-177. Change of location of place of business. [Code 1971, § 16-43]

In case any licensee under this division shall remove his place of business from the place designated in the license, he shall immediately thereon give notice to the City Clerk and have the same endorsed upon such license.

Sec. 13-178. Business to be carried on at designated location. [Code 1971, § 16-44]

It shall be unlawful for any junk merchant or peddler licensed under this division to carry on the business at or from any other place than the one designated in the license therefor.

Sec. 13-179. Unlawful to carry on business after revocation or expiration. [Code 1971, § 16-45]

It shall be unlawful for any junk merchant or peddler licensed under this division to continue to carry on business after such license has been revoked or has expired.

Sec. 13-180. Revocation, forfeiture of bond. [Code 1971, § 16-46]

- (a) The Mayor may, at any time, for such cause as he, upon investigation, deems sufficient, revoke any license granted under the provisions of this division. Whenever any license shall be so revoked, no refund of any unearned portion thereof shall be made and no license shall be granted to any person whose license has been so revoked within a period of one year from the date of such revocation. Notice of such revocation and the reason therefor, in writing, shall be served by the Chief of Police upon the person named in the application by mailing such notice to the address given in the application. A copy thereof shall be filed with the City Clerk.
- (b) For any violation of this division, in addition to the penalty imposed by section 1-8, the license of the person violating such division shall be cancelled or revoked, and

the bond upon such license shall be forfeited. Upon such forfeiture, the amount of the bond shall thereupon become due and payable to the City, and the amount thereof may be recovered in a civil action based upon such forfeiture.

Sec. 13-181. through Sec. 13-200. (Reserved)

**ARTICLE V
JUNKYARDS**

**DIVISION 1
GENERALLY**

Sec. 13-201. Purpose of article. [Code 1971, § 16-57]

- (a) A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion, and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the City and the general welfare of its citizens. By the adoption of this article, the City declares its intent in so doing to regulate, control, and license the activities or businesses known as auto junkyards and those establishments having facilities for processing iron, steel, or nonferrous scrap. The Common Council hereby declares that such activities or businesses can contribute a hazard to property and persons and be a public nuisance. Gasoline tanks on old autos often contain in some quantity combustible gasoline, and the engine and other parts of such autos are frequently covered with grease and oil which is also inflammable. The tires, plastic seats, tops, and other elements of such autos are also inflammable. Batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These autos can constitute attractive nuisances to children and some adults.
- (b) The presence of such auto junkyards and establishments for the processing of iron, steel, or nonferrous scrap is unsightly and tends to detract from the value of surrounding land and property, unless such areas are properly maintained and operated. At the same time, it is recognized that the maintenance of the auto junkyards and establishments for the processing of iron, steel, or nonferrous scrap is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this section.
- (c) No license will be issued for any junkyard located or to be located outside district I-industrial district. No junkyard may be operated or maintained hereinafter within the City excepting those junkyards located within district I-industrial district of the zoning ordinance of the City [chapter 28 of this Code].

Sec. 13-202. Definitions. [Code 1971, § 16-58]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

JUNK, SECONDHAND MATERIALS, AND USED MATERIAL — Used or

secondhand material or used material of any kind, including rags, paper, rubbish, bottles, glassware, crockery, bags, cloth, rubber, tin, steel, iron, brass, copper, silver, clothing, furniture, used motor vehicles or the parts thereof; any repaired, reconstructed, renewed, renovated, partly ruined or damaged materials, merchandise, or personal property; and including secondhand materials and articles of every kind and character. The holding or storing or depositing of any of the materials described in this definition in order that they may be treated or prepared so as to be used again in some form shall be a violation of this article, unless the licensee requirements stated in this article are complied with.

JUNKYARD — Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom, or the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of such materials, or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles. The term "junkyard" shall also mean an establishment having facilities for processing iron, steel, or nonferrous scrap, and whose principal products are scrap, iron, steel, or nonferrous scrap for sale, resale, melting, remelting, or other purposes.

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

Sec. 13-203. Management. [Code 1971, § 16-59]

The licensee under this article must personally manage or be responsible for the management of the activity or business for which the license is granted.

Sec. 13-204. Office and employees. [Code 1971, § 16-60]

The licensee under this article must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom, and to prevent improper trespass thereon by children and others.

Sec. 13-205. Fencing. [Code 1971, § 16-61]

- (a) All licensees under this article must erect an eight-foot high solid board fence or its equivalent completely surrounding the property. This fence must be painted, well maintained, and adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the licensee. All materials dealt in by the licensee shall be kept within such fence at all times. The area outside the fence must be kept in orderly condition. Weeds and trash shall not be allowed to accumulate in the area.
- (b) All licensees located in zone I (heavy industrial districts) shall construct and maintain such fence within their own property lines.
- (c) When the area is not supervised by the licensee or his employees, the fence shall be locked at a gate in a secure manner.

Sec. 13-206. Not to be used as dump area, etc. [Code 1971, § 16-62]

The area of the licensee's activity or business shall not be used as a dump area or as a place for the burning and disposal of junk or trash.

Sec. 13-207. Open fires prohibited; exception. [Code 1971, § 16-63]

- (a) Open fires of any type are prohibited within the licensed premises except as permitted under Subsection (b) of this section.
- (b) Processing of auto parts and materials by burning shall be permitted only at such times and places within the licensed premises as the Fire Chief may permit after personal inspection of the area. Application to burn within the area under this paragraph must be made to the Fire Chief, and may be made orally. Burning shall be allowed by the Chief at a time and place set by him within his presence or the presence of a person duly authorized by him, to observe the conditions of the burning. The Fire Chief shall complete a record of all requests for burning within each licensed area.

Sec. 13-208. Fire extinguishers. [Code 1971, § 16-64]

Adequate fire extinguishers shall be maintained. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.

Sec. 13-209. Right of entry. [Code 1971, § 16-65]

The City Police, the City Clerk, the Common Council, or any of its representatives shall be granted access to the area of the activity or business of the licensee under this article at all reasonable hours to inspect the area for compliance with this article.

Sec. 13-210. through Sec. 13-225. (Reserved)

DIVISION 2
LICENSE

Sec. 13-226. Required. [Code 1971, § 16-72]

It shall be unlawful for any person to engage in or conduct on real property within the City limits, either for himself and/or on behalf of any other person, directly or indirectly, as agent, employee, or otherwise, any activity or business, either for profit or otherwise, at wholesale or retail, which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting, or otherwise handling for sale, resale, storage, or disposal of any materials without first having procured a license from the City Clerk.

Sec. 13-227. Application. [Code 1971, § 16-73]

- (a) Every person desiring to obtain a license required by this division shall file a written application, duly subscribed, describing the character of the business in which the applicant desires to engage, the kind of materials which he desires to deal in, and an accurate description of the business to be conducted in such place within the City, including a sketch of the premises.

- (b) The application for such license shall also state:
- (1) Whether or not the applicant is the owner and lessee of the premises to be used;
 - (2) Whether or not the applicant has ever been convicted of a misdemeanor or felony, and the place and date of such conviction; and
 - (3) A certificate from the zoning board that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning ordinance. If the junkyard has been maintained and operated prior to April 11, 1967, and is being maintained and operated in violation of the zoning ordinance of the City, a certificate that the proposed junkyard is operating under a nonconforming use should accompany the application.

Sec. 13-228. Bond required of applicant. [Code 1971, § 16-74]

Before the application shall be approved and a license issued under this division, the applicant shall file with the City Clerk a bond payable to the City, approved as to form by the City Attorney, in the penal sum of \$500, with sufficient collateral security, conditioned for the observance during the term of the license of any and all ordinances which are now in force or may hereafter be adopted by the Common Council respecting the collection of, buying, selling, or otherwise dealing in the articles enumerated in this article.

Sec. 13-229. Investigation of applicant; inspection of premises. [Code 1971, § 16-75]

All applications for licenses under this division for junkyards or junk shops or any annual renewals thereof shall be made to the City Clerk who shall, before any licenses are issued, cause an investigation to be made of the applicant and an inspection to be made of the premises involved.

Sec. 13-230. Refusal; public hearing. [Code 1971, § 16-76]

- (a) If the City Clerk shall refuse a license under this division, he shall promptly report such refusal together with the reasons therefor to the Common Council. Not less than two nor more than four weeks from the date of the transmission of the refusal to the Common Council by the City Clerk, a public hearing on the application shall be held at a time and place to be fixed by the Common Council within the above stated four-week period. Notice of the public hearing shall be given to the applicant by mail, postage prepaid to the address given in the application, and shall be published once in the Olean Times Herald. The date of publication shall be not less than seven days before the date of the hearing.
- (b) At the time and place set forth for the hearing, the Common Council shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish, or maintain the junkyard. The Common Council in considering the application may consider the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the junkyard, as well as the applicant's record of convictions for any

type of larceny or receiving stolen goods.

- (c) At the time and place of the hearing, the Common Council shall hear all persons wishing to be heard on the application for certificate of approval for the location of the junkyard. The Council may take into account the nature and development of the surrounding property, and whether or not the proposed location can be reasonably protected from affecting the health and safety by reason of offensive or unhealthy odors, smoke, or other causes. The Council may also take into account the clean, wholesome, and attractive environment which the legislature has declared to be of vital importance to the continued general welfare of the citizens of the state and may consider whether or not the proposed location can be reasonably protected from an unfavorable effect thereof. The Common Council may consider the type of road surfacing the junkyard has, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed yard or the existing yard to established residential and recreational areas, as well as the reasonable availability of other suitable sites for the junkyard.
- (d) The Common Council may refuse a license under this division, if after a public hearing as set forth in this section, it appears either that:
 - (1) The applicant has been convicted of larceny or knowingly receiving stolen goods; or
 - (2) That the general health, safety, and welfare of the community would be adversely affected. In considering this subsection, the Council may take into consideration the aesthetic considerations set forth in this division.

Sec. 13-231. Issuance. [Code 1971, § 16-77]

Within two weeks following the public hearing under this division, the Common Council must make a finding as to whether or not the application will be granted, give notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license including the certificate of approved location shall be forthwith issued to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. The determination of the Common Council may be reviewed under Civil Practice Law and Rules art. 78 [§ 7801 et seq.].

Sec. 13-232. Fee. [Code 1971, § 16-78]

The fee for the license under this division shall be paid to the City Clerk for the deposit in the general fund at the time of issuance. The fee shall be in an amount now or hereafter established by ordinance and covers not only the cost of issuing the license itself but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations prescribed in this division.

Sec. 13-233. Term; renewal. [Code 1971, § 16-79]

A license issued under this division shall be effective from the date of its issuance until March 31 of the year of such issuance, after which a new application for a license must be made yearly if the licensee desires to continue such activity or business.

Sec. 13-234. Personal with licensee; not to be sold, assigned, or transferred. [Code 1971, § 16-80]

A license issued under this division is personal with the licensee and does not go with the title of the land, nor may it be sold, assigned, or transferred.

Sec. 13-235. More than one junkyard at single location prohibited. [Code 1971, § 16-81]

It shall be unlawful for any person to keep or maintain more than one junkyard at a single location by virtue of one license issued under this division.

Sec. 13-236. Revocation. [Code 1971, § 16-82]

The Common Council may revoke any license issued under this division if it shall be determined under a public hearing held thereon that the licensee has for any reason violated any provisions of this article. Upon revocation of a license, the Common Council may require the removal of all salvage and waste materials from the site.

Sec. 13-237. through Sec. 13-244. (Reserved)

ARTICLE VI

Peddlers, Solicitors, Vendors, Transient Merchants, Farmers Markets and Special Events

[9-8-1992 by Res. No. 98-92; 3-24-2015 by Res. No. 14-15]

DIVISION 1 GENERALLY

Sec. 13-245. Purpose.

The purposes of this article are the protection of government, order, conduct, the general welfare, safety, morals, health and well-being of the persons and property of the City of Olean. It is adopted pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)(a)(11) and (12), § 10, Subdivision 2, and General City Law § 20(13).

Sec. 13-246. Definitions.

The following definitions shall be applicable to this article:

AUCTION — Includes any sale to the public where a person or his/her agent offers for sale to the highest bidder any goods, wares, merchandise or property.

CHURCH — A religious organization as defined under the Religious Corporation Law of the State of New York.

CITY-SPONSORED EVENT — A special event which is sponsored and hosted by the City of Olean or its designee by a resolution of the Common Council.

ESTABLISHED PLACE OF BUSINESS — Any location within the City where any person regularly sells, displays, or offers goods, services, produce, wares and merchandise to the general public.

GARAGE SALE — Includes all sales defined under Chapter 13, Article III of the Code of Ordinances of the City of Olean.

GOODS, WARES, MERCHANDISE, SERVICES — Shall include but not be limited to fruits, vegetables, farm products, fish, game, poultry, meats, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks, or personal services immediately offered or rendered.

NOT-FOR-PROFIT CORPORATION — An organization formed in accordance with the Not-For-Profit Corporation Law of the State of New York.

NOT-FOR-PROFIT SPECIAL EVENT — A special event which is sponsored by a not-for-profit corporation or association either as a fund-raiser or otherwise.

PEDDLER — A person who offers goods, wares, merchandise or services for sale door to door, including house to house, business to business, street to street, or any other type of place-to-place movement. Delivery and payment occur immediately.

PERSON — Any individual, partnership, corporation, limited-liability company, voluntary association, club or any other business organization, and any principal or agent thereof.

QUALIFIED CHARITABLE ORGANIZATION — Any unincorporated religious or other organization which has been organized and operated exclusively for exempt purposes and has been qualified as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of the United States of America.

REGULARLY — For the purpose of this section, "regularly" is defined as a period of more than six months.

SPECIAL EVENT — Any occasion, including but not limited to street fairs, shows, exhibitions, City-wide celebrations and festivals taking place within a specifically defined area of the City of Olean for a period of time not to exceed seven days.

SOLICITOR — Any person who goes from door to door, including house to house, business to business, street to street, or any other type of place-to-place movement or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise or services to be delivered or performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

TEMPORARY — For the purpose of this section, "temporary" is defined as a period of less than six months.

TRANSIENT MERCHANT — Any person engaging in temporary retail sale or display of goods, wares, merchandise, services, produce or prepared foods; where the value of any single item offered for display or sale exceeds \$1,000; and for the purpose of conducting said business, occupies any lot, building, room, or structure of any kind within the City.

VENDOR — Any person engaging in the temporary retail sale or display of goods,

wares, merchandise, services, produce, or prepared foods and for the purpose of conducting said business:

- (1) Travels by foot, wagon, vehicle or any other conveyance from street to street, carrying or conveying, or transporting goods, wares, or merchandise, and offering them for sale; or
- (2) Without traveling from place to place, exhibits, displays, sells, offers to sell or perform services to be delivered immediately and occupies any lot, building, room, or structure of any kind within the City for a period of six months or less.

Sec. 13-247. License required.

It shall be unlawful for any person to peddle, solicit, vend, or to operate as a transient merchant, on any public or private outdoor walk, street, alley, lot, building, room, or structure of any kind, without having first applied to and obtained a license from the City of Olean in accordance with this article. The license type provided in this article shall be in addition to and not in lieu of any other consent, permit or license as may be otherwise required by law.

Sec. 13-248. Application for license.

The application for any license under this article shall be on a form proscribed by the City Clerk and approved by a resolution of the Common Council and shall contain all the information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

- (1) The applicant's and any worker's full name, current address, telephone number, proof of identity;
- (2) A brief description of the nature, character, and quality of goods, wares or merchandise to be offered for sale;
- (3) The specific location, if any, where the applicant intends to conduct business;
- (4) If the applicant is employed by another, the name and address of the person on behalf of whom the applicant is representing;
- (5) If a motor vehicle is to be used, displayed or sold, a description of the vehicle, together with the VIN, registration number, license plate number and insurance information;
- (6) A complete listing of any other licenses, permits, or authorizations issued to the applicant by the City, state or any governmental entity within the five years immediately preceding the date of this application;
- (7) Evidence satisfactory to the City Clerk of compliance with any public health law related to the sale of food;
- (8) Evidence satisfactory to the City Clerk of compliance with any other federal, state, or local law relating to the merchandise proposed to be offered for sale; and
- (9) Any fee, bond or surety as may be required by this article.

Sec. 13-249. Certificates, permits, authorizations required.

Any application for a license this article shall be accompanied with the appropriate certificates of authority, permits or letters of authorization from any governmental agency under which the applicant has been issued a license to conduct business.

Sec. 13-250. Issuance of license.

- (a) The applicant shall be notified of the City's decision to issue or deny the license within 30 days after the acceptance of the application by the City Clerk.
- (b) Each license shall show the name and address of the licensee, the name and address of the licensed workers, if applicable, the type of license issued, the kind of goods to be sold, the amount of the license fee, the license number, and, where applicable, the identifying description of any vehicle used or to be sold in connection with the license.

Sec. 13-251. Application after denial.

No applicant to whom an application has been denied shall make further application until a period of at least six months has elapsed since the date of the last previous denial unless the applicant can establish that the reason for such denial no longer exists.

Sec. 13-252. License fees.

- (a) Any person granted a license under this article shall pay a license fee in accordance with the type of license issued under Divisions Two, Three, Four and Five of this article.
- (b) In addition to the license fee for the type of license issued, all applicants applying for a license under this article shall be required to pay a license application surcharge in the amount of \$25 to offset the cost of administering the license application process. This fee shall be required annually; however, the same shall be deemed as paid by the applicant on any subsequent application submitted by the licensee one year from the date of issuance of the first license.

Sec. 13-253. Display of identification and other permits.

- (a) Any license or permit issued by the City shall be issued to the licensee whenever he or she is engaged in activity authorized by the license. Photo identification must be carried by the licensee or any worker operating under the license and presented upon request to any City official verifying the identity of the license holder.
- (b) Any license, permit or authorization issued in connection with the license must be prominently and conspicuously displayed at all times during operation under the license.

Sec. 13-254. Enforcement; inspections; penalties for offenses.

- (a) The Chief of Police or his designee shall make sufficient inspections to insure the compliance with the licensing and other applicable provisions of this article. The Chief of Police shall have full authority to summarily suspend or revoke any license

granted for failure to comply with the laws, regulations, or ordinances of the City of Olean, State of New York, of the United States of America.

- (b) The penalty for violating any provision of this article or any other applicable section of the Code of the City of Olean shall be a fine not less than \$250 and not more than \$500, together with the suspension or revocation of the license or imprisonment not exceeding 30 days, or both fine and imprisonment.

Sec. 13-255. Suspension and revocation of license.

- (a) In addition to the penalties contained in Section 13-254, any license issued under this article may be suspended or revoked for any of the following reasons:
 - (1) Fraud, misrepresentation, or knowingly making a false statement contained in the application for the license; or
 - (2) Fraud, misrepresentation or knowingly making a false statement in the course of carrying on business under the license; or
 - (3) Conducting business in any manner contrary of the conditions of the license;
 - (4) Conducting business under the license in such a manner to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, interfere with the rights of property owners; or
 - (5) Failure to display any license, permit or authorization issued by any other governmental entity in connection with the license; or
 - (6) Cancellation of any license, permit, or display issued by any other government entity in connection with the license;
 - (7) Failure of any person working under the license to produce identification upon the request of any City official charged with the enforcement of this article.
- (b) The City official charging a violation under this article shall provide a written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee of his right to appeal.
- (c) If the City revokes a license issued under this article, the fee already paid for the license shall be forfeited.
- (d) Any person who has had a license revoked under this section shall be prohibited from applying for a license under this article for a period of one year from the date of revocation.

Sec. 13-255.1. Appeals.

If the City Clerk denies the issuance of a license under this article or if any license issued under this article is suspended or revoked, the aggrieved party may appeal to the Common Council at the next regularly scheduled work session, at which time the Council, by majority vote, shall have the authority to uphold the denial, issue the license, issue the license with conditions, or to table the application and require the submission of

further information from the applicant, or in the instance of a suspension or revocation, uphold the same.

Sec. 13-256. Exceptions.

Any provision of this division to the contrary notwithstanding, no license shall be required in the following circumstances:

- (1) Of a garage sale, estate sale, auction, circus or carnival which is itself licensed as may be required by the ordinances of the City; or
- (2) Of sales conducted pursuant to statute or by any court; or
- (3) Of any honorably discharged soldier, sailor or marine what has procured a license as provided by the General Business Law of the state; or
- (4) Sales or events conducted by any church, not-for-profit corporation or qualified charitable entity, which sale is conducted by bona fide members of such church or organization, and all net proceeds from the sale of goods, wares or merchandise are retained by such church or organization.
- (5) Sales of in-season vegetables by the grower thereof from a stand, table or booth.
- (6) Sales from a stand, table or booth open for business for a period of not exceeding four hours during a twenty-four-hour period nor more than three days in any seven-day period.

Sec. 13-257. through Sec. 13-260. (Reserved)

DIVISION 2
PEDDLERS

Sec. 13-261. License required.

- (a) It shall be unlawful for any person to offer goods, wares, merchandise or services for sale door to door, including house to house, business to business, street to street, or any other type of place-to-place movement and where delivery of goods and services and payment occur immediately, within the City, without having first obtained a license and paid the license fee, as hereinafter provided.
- (b) The license provided in this division shall be in addition to and not in lieu of any other consent or permit as may be otherwise required by law.

Sec. 13-262. Applications.

- (a) An application for a license pursuant to this division shall be submitted no later than 30 days prior to the start date requested for the license.
- (b) The application shall be in a form proscribed by the City Clerk and shall contain the information as set forth in Section 13-248 above.

Sec. 13-263. License Fee.

The license fee for engaging in carrying on or conducting business as a peddler shall, as

specified below, be payable in advance for each day such business shall continue. Such license fee shall be \$7.50 per day.

Sec. 13-264. through Sec. 13-275. (Reserved)

DIVISION 3
SOLICITORS

Sec. 13-276. License required.

- (a) It shall be unlawful for any person to go from door to door, including house to house, business to business, street to street, or any other type of place-to-place movement or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise or services to be delivered or performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery, without having first obtained a license and paid the license fee, as hereinafter provided.
- (b) The license provided in this division shall be in addition to and not in lieu of any other consent or permit as may be otherwise required by law.

Sec. 13-277. Applications.

- (a) An application for a license pursuant to this division shall be submitted no later than 30 days prior to the start date requested for the license.
- (b) The application shall be in a form as proscribed by the City Clerk and shall contain the information as set forth in Section 13-248 above.

Sec. 13-278. License fee.

The license fee for engaging in carrying on or conducting business as a solicitor shall be as specified below, payable in advance for each day such business shall continue. Such license fee shall be \$25.

Sec. 13-279. Surety requirement; regulations.

There shall be required of any licensed solicitor a surety bond in the penal sum of \$500 issued by a bonding company authorized to do business in the State of New York or a cash bond in like amount.

Sec. 13-280. (Reserved)

DIVISION 4
VENDORS

Sec. 13-281. License required.

- (a) It shall be unlawful for any person to engage in the retail sale or display of goods, wares, merchandise, services, produce, or prepared foods and for the purpose of conducting said business, travel by foot, wagon, vehicle or any other conveyance from street to street, carrying or conveying, or transporting goods, wares, or merchandise, and offering them for sale, or without traveling from place to place,

exhibit, display, sell, offer to sell or perform services to be delivered immediately and occupy any lot, building, room, or structure of any kind within the City for a period of six months or less, without having first obtained a license and paid the license fee, as hereinafter provided.

- (b) The license provided in this division shall be in addition to and not in lieu of any other consent or permit as may be otherwise required by law.
- (c) This section shall not apply to any established place of business in the City that vends on any sidewalk abutting the established place of business, with the consent by resolution of the Common Council, and shall not be considered a vendor for the purpose of this article.

Sec. 13-282. Applications.

- (a) An application for a license pursuant to this division shall be submitted no later than 30 days prior to the start date requested for the license.
- (b) The application shall be in a form prescribed by the City Clerk and shall contain the information as set forth in Section 13-248 above.
- (c) Notwithstanding Section 13-256 above, all vendors must file an application with the City Clerk; however, there shall be no fee charged for the issuance of a license for anyone engaging in carrying on or conducting business as a vendor for the benefit of a not-for-profit or other qualified charitable organization.

Sec. 13-283. License fee.

The license fee for engaging in carrying on or conducting business as a vendor shall be as specified below, payable in advance for each day such business shall continue. Such license fee shall be \$7.50.

Sec. 13-284. through Sec. 13-285. (Reserved)

DIVISION 5
TRANSIENT MERCHANTS

Sec. 13-286. License required.

- (a) It shall be unlawful for any person to engage in the temporary retail sale or display of goods, wares, merchandise, or services, where the value of any single item offered for display or sale exceeds \$1,000, and for the purpose of conducting said retail sale or display, occupy any lot, building, room, or structure of any kind within the City, without having first obtained a license and paid the license fee, as hereinafter provided.
- (b) The license provided in this division shall be in addition to and not in lieu of any other consent or permit as may be otherwise required by law.
- (c) This section shall not apply to any established place of business located within the City of Olean participating in a special event, not-for-profit special event, or City-sponsored event.

Sec. 13-287. Applications.

- (a) An application for a license pursuant to this division shall be submitted no later than 60 days prior to the start date requested for the license.
- (b) The application shall be in a form prescribed by the City Clerk and shall contain the information as set forth in Section 13-248 above.

Sec. 13-288. License fee.

The license fee for engaging in carrying on or conducting business as a transient merchant shall be as specified below, payable in advance for each day such business shall continue. Such license fee shall be \$100 per day for items \$1,000 to \$4,999; \$500 per day for items \$5,000 and above.

Sec. 13-289. through Sec. 13-290. (Reserved)

DIVISION 6
FARMERS MARKETS

Sec. 13-291. License required.

It shall be unlawful for any person to operate a farmers market in the City unless such person has first been approved by a resolution of the Common Council. Such resolution shall set forth the times and location for the market. Upon approval of such farmers market by the Common Council, the applicant shall be required to obtain a farmers market license in accordance with the provisions of this division. The license shall entitle persons who would otherwise be peddlers, solicitors, or vendors and who have been approved by the applicant and only operate during and at the licensed farmers market or similar markets to engage in business that would otherwise require a license under this article.

- (1) The sponsoring or hosting organization of such farmers market shall pay an annual fee of \$25 in advance for the year that such market shall be open for business.
- (2) The sponsoring or hosting organization shall complete and file with the Clerk a license application which shall include:
 - a. The name, address and telephone number of the applicant and the name, address and telephone number of each officer and his or her address, if a corporation, church, association, club or charitable institution.
 - b. The location of the place or places and the date(s) where and when such merchandise, goods, wares, produce or vegetables are to be so displayed and sold.
 - c. The New York sales tax number, social security number or federal identification number of the applicant, if any.
 - d. The estimated number of sponsored or hosted hawkers, peddlers and/or transient merchants that will be participating in the event.
 - e. Evidence satisfactory to the City Clerk of compliance with any public health

law related to the sale of food.

- f. Evidence satisfactory to the City Clerk of compliance with any other federal, state, or local law relating to the merchandise proposed to be offered for sale.
- (3) The sponsoring or hosting organization shall comply with such other restrictions, limitations, rules or regulations as may be established by the Common Council or any responsible department of the City.
- (4) Each such sponsored peddler, solicitor, or vendor shall be required to prominently display in plain view a distinctive badge or other evidence that such peddler, solicitor or vendor is sponsored by the not-for-profit organization. During the event, upon request of any City official, the sponsoring organization shall produce for inspection a list of all sponsored peddlers, solicitors and vendors.

Sec. 13-292. through Sec. 13-300. (Reserved)

DIVISION 7
SPECIAL EVENTS

Sec. 13-301. License required.

- (a) It shall be unlawful for any person to host an event, including but not limited to a street fair, shows, exhibitions, City-wide celebrations or festival, taking place within a specifically defined area of the City of Olean, without having first obtained a license and paid the license fee, as hereinafter provided.
- (b) The license provided in this division shall be in addition to and not in lieu of any other consent or permit as may be otherwise required by law.
- (c) The license provided in this division shall entitle the license holder to invite those who would otherwise be classified as peddlers, solicitors, and vendors requiring individual licensing under this article to operate during the event without having first obtained the appropriate individual license pursuant to this article.

Sec. 13-302. Application.

The applicant shall complete and file with the Clerk a license application no later than 30 days prior to the start of the event, which shall include:

- (1) The name, address and telephone number of the applicant and the name, address and telephone number of each officer, member or shareholder or other responsible person and his or her address, if a corporation, church, association, club or charitable institution.
- (2) The location of the place or places and the date(s) where and when such merchandise, goods, wares, produce or vegetables are to be so displayed and sold.
- (3) The New York sales tax number, social security number or federal identification number of the applicant, if any.
- (4) The number of peddlers, solicitors and vendors that will be participating in the event.

- (5) Immediately prior to the start of the event, a roster containing the names, addresses, and telephone numbers of the peddlers, solicitors and vendors that will be participating in the event.
- (6) Evidence satisfactory to the City Clerk of compliance with any public health law related to the sale of food.
- (7) Evidence satisfactory to the City Clerk of compliance with any other federal, state or local law relating to the merchandise proposed to be offered for sale.
- (8) Any fee, bond, or surety as may be required by this article.

Sec. 13-303. Fees.

- (a) Special event fee schedule.
 - (1) The host applicant shall pay in advance the required fee as provided by this section. The fee shall be calculated on a per-event basis as follows:

Number of Vendors	Fee
1 to 25	\$25
26 to 50	\$50
51 to 75	\$75
76 or more	\$100

- (2) If an event shall have a duration of greater than seven days, an additional full fee for each seven-day period of the event's duration shall be required to be paid at the time of application.
- (b) Not-for-profit special event fee schedule. Notwithstanding Section 13-256 above, all not-for-profit and qualified charitable organizations must file a special event application with the City Clerk; however, there shall be no fee charged for the issuance of a license under this section.

Sec. 13-304. through Sec. 13-350. (Reserved)

**ARTICLE VII
CONTRACTORS**

**DIVISION 1
GENERALLY**

Sec. 13-351. through Sec. 13-370. (Reserved)

**DIVISION 2
HOME BUILDERS AND HOME IMPROVEMENT CONTRACTORS**

Sec. 13-371. License required; licensing requirements. [Res. No. 146-92, 11-24-1992; Res. No. 29-97, 4-22-1997; Res. No. 27-02, 3-26-2002; Res. No. 118-06, 10-24-

2006]

All contractors and subcontractors providing home construction and improvement services for hire in the City, prior to providing such services, shall be required to obtain from the City a license to perform such services. It shall be unlawful to provide home construction and improvement services for hire in the City without obtaining such license. Application for the license shall be obtained from the Fire Chief or his designee. Applications shall contain the following information:

- (1) Name of applicant;
- (2) Company name, if different;
- (3) Address of applicant;
- (4) Address of company, if different;
- (5) Telephone number;
 - a. Applicant;
 - b. Company, if different;
- (6) If a corporation:
 - a. The state of incorporation;
 - b. The contact person of corporation;
 - c. The assumed name of corporation, if any;
- (7) If a partnership:
 - a. The name of each general partner and his or her residential address;
 - b. The contact person, if different;
- (8) If a proprietorship:
 - a. The name of the proprietor;
 - b. Residential address, if different;
- (9) Federal identification number/social security number;
- (10) New York State sales tax number, if any;
- (11) Number of employees:
 - a. Full-time;
 - b. Part-time.
- (12) The license fee shall be established by the Common Council from time to time by resolution. Renewal license applications shall be subject to renewal upon payment of the fee which is established from time to time by the Common Council by resolution. Licenses shall be valid for one year and shall expire on the last day of

the month of which it was obtained.

- (13) A certificate of insurance reflecting an in force and effect liability policy at the time of application and the duration of said license, for the provision of home construction and improvement services in the minimum amount of \$100,000, and the declaration page of said policy of insurance under the title "description of operations" shall state with reasonable particularity the underlined activities to be covered by said policy and shall name the City of Olean as a certificate holder.
- (14) Prior to the issuance of the initial license and renewal license by the Fire Chief or his designee, the applicant shall obtain from the Chief of the Fire Department a certification that the applicant has been informed of such laws, rules and regulations as may be applicable to the business of providing home improvement services in the City; said certification form shall be signed and dated by the applicant.
- (15) Prior to the issuance of the initial license the applicant shall complete that section of the application form indicating any prior convictions and obtain the countersignature of the Chief of the City of Olean Police Department or his designee certifying the status of the applicant's local criminal record. The applicant shall also provide the Chief of the City of Olean Fire Department or his designee with a copy of applicant's criminal record, which applicant shall obtain and pay any applicable fees through an approved criminal record search procedure. Any contractor licensed prior to the adoption of this ordinance shall obtain a copy of the criminal record through the aforementioned procedure at next renewal. All licensed contractors shall repeat same every five years thereafter. A conviction of a misdemeanor or felony may be grounds for denial of a license if, in the judgment of the Fire Chief, it involves a crime of fraud, larceny, moral turpitude and the like. An outstanding monetary judgement pertaining to the work of construction may be grounds for denial, suspension or the revocation of a license. Any applicant denied a license for a criminal conviction or for any other reason thereof may follow the procedures contained in § 13-376 for reconsideration on the grounds that such denial is improper, unwarranted or unjust. Renewal applications shall require a follow-up criminal record check by the Chief of Police or his designee as provided by procedures set from time to time by the office of Code Enforcement.

Sec. 13-372. Definitions. [Res. No. 146-92, 11-24-1992; Res. No. 118-06, 10-24-2006]

- (a) A "home construction and improvement contractor or subcontractor" shall be any person who shall provide or offer to provide residential home construction and/or improvement services for hire, or shall employ one or more employees to provide residential home construction and/or improvement services for hire to any homeowner as a general contractor or subcontractor, house painter, carpenter, mason, roofing contractor, electrician, excavator, landscape contractor, heating contractor, house mover, window contractor, chimney sweep, siding contractor, fence installer, driveway/sidewalk repair and/or installation contractor, and/or tree trimming and/or removal contractor.
- (b) A "person" shall be any person, partnership, corporation, limited liability company or other business entity.

Sec. 13-373. License fee. [Res. No. 146-92, 11-24-1992; Res. No. 28-02, 3-26-2002; Res. No. 118-06, 10-24-2006]

- (a) The license fees for home improvement contractors and subcontractors shall be:
 - (1) Annual license (12 months from date of issuance): \$50.
 - (2) Renewal (by expiration date of annual license): \$35.
- (b) All licenses are valid for a period of 12 months from the date of issuance. All licenses shall expire 12 months from the date of issuance, and any license not renewed prior to expiration shall be deemed expired. Any application for renewal received after the date of expiration will be treated as a new application and subject to the annual license fee of \$50.

Sec. 13-374. Exceptions. [Res. No. 146-92, 11-24-1992; Res. No. 118-06, 10-24-2006]

This division shall not be applicable to:

- (1) Plumbers;
- (2) Lawn maintainers;
- (3) Bona fide employees of a licensed proprietorship, partnership, corporation, limited-liability company or other business entity providing home improvement services for hire.

Sec. 13-375. Enforcement. [Res. No. 146-92, 11-24-1992; Res. No. 51-95, 8-22-1995; Res. No. 118-06, 10-24-2006]

This article shall be enforced by the Police Department and the Code Enforcement Office in accordance with policies as may be approved from time to time by the Mayor. Unless another penalty is expressly provided, every person convicted of a violation of any provision of this article shall be punished by a fine not less than \$250 and not more than \$500 or by a term of imprisonment not to exceed 15 days, or by both such fine and imprisonment.

Sec. 13-376. Conditions for maintenance of license. [Res. No. 146-92, 11-24-1992; Res. No. 29-97, 4-22-1997; Res. No. 118-06, 10-24-2006]

- (a) The Fire Chief shall refuse to issue any license for conviction of any felony or after issuance of a license refuse to issue a renewal license for conviction of any felony or suspend for a period not exceeding 60 days or revoke for a period not to exceed one year any license upon the conviction of licensee, or the agent(s) or employee(s) of licensee, of a misdemeanor failure to comply with the laws, rules or regulations of the State of New York, the County of Cattaraugus or the City of Olean in connection with the business of home improvement contracting, including, without limitation, consumer protection laws, environmental protection laws and/or building construction and permitting laws. In such event the Fire Chief shall provide the applicant/licensee with a statement mailed to the address shown on the license application by (1) U.S. mail certified return receipt requested and by (2) regular mail, each containing the grounds for the proposed action and its proposed effective

date. This action shall be final unless the applicant/licensee shall, within 15 days, make written request for reconsideration to the Fire Chief specifying why the action proposed is improper, unwarranted or unjust. The Fire Chief shall consider the matter, make such investigation deemed warranted, and render a written decision within 20 days. The Fire Chief's determination shall be deemed final, unless within 10 days thereafter the applicant shall make a written appeal addressed to the Common Council of the City requesting that the Common Council hear and finally decide the matter. Such hearing shall be within 30 days. The Common Council shall hear the Fire Chief, the licensee and any other interested party and shall render a written decision within 30 days.

- (b) The Fire Chief shall have the power to issue conditional reinstatement of such or any license revoked or suspended.
- (c) Any revoked license or suspended license may be reinstated upon application of licensee together with the payment of the reinstatement fee established by the Common Council.¹¹

Sec. 13-377. through Sec. 13-389. (Reserved)

DIVISION 3
(RESERVED)

(Reserved)

DIVISION 4
LANDSCAPE AND SNOW REMOVAL CONTRACTORS
[Added 11-24-2015 by Res. No. 107-15]

Sec. 13-390. Definitions.

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

ACTIVE LICENSE — A license obtained by a person pursuant to this chapter which has neither expired nor been revoked.

APPLICANT — Any person who owns or leases at least one motor vehicle used in conducting a snow removal and/or landscape business.

LANDSCAPE MATERIAL — All grass, weeds, brush, leaves, flowers, shrubs, limbs up to six inches in diameter and small stumps not to exceed 12 inches in diameter.

LANDSCAPER — Any person providing services of planting, trimming, cutting or removing bushes, shrubs, flowers, vegetables, trees or grass for which a contract or agreement for services has been established orally or in writing by means of an invoice, sales receipt or other competent evidence. A landscape contractor constructs, maintains, repairs, installs or subcontracts the development of landscaping systems and facilities for public and/or private gardens and other areas which are designed to aesthetically, architecturally, horticulturally or functionally improve the grounds within or surrounding

¹¹ Editor's Note: Former § 13-377, Phase-in period, added 11-24-1992 by Res. No. 146-92, which immediately followed this section, was repealed 10-24-2006 by Res. No. 118-06.

a structure or a tract or plot of land. In connection therewith, a landscape contractor prepares and grades plots and areas of land for the installation of any architectural, horticultural and decorative treatment or arrangement.

MOTOR VEHICLE — Any vehicle used for landscaping or snow removal purposes by a landscaper or snow remover as defined by this article.

PERSON — Any individual, firm, partnership, contractor, subcontractor, association or corporation for which a New York State tax identification number has been issued.

PRIVATE PROPERTY — All real property, improved or unimproved, owned by any municipal corporation, person or otherwise and which is not included in the definitions of "public highway" and "public place."

PUBLIC HIGHWAY — Any street open to the public for its full use by all residents of the City of Olean.

PUBLIC PLACE — All real property available to or open to use by all residents of the City of Olean.

SNOW REMOVER — Any person providing services of removing, dumping, heaping or plowing snow by means of a motor vehicle for which a contract or agreement for services has been established orally or in writing by means of an invoice, sales receipt or other competent evidence.

Sec. 13-391. License required.

- (a) No person who is a landscaper or snow remover shall conduct landscape or snow removal activities or remove any landscape materials or snow or transport the same through or upon any street, avenue, parkway, road, boulevard or highway within the City of Olean, unless he or she shall have first obtained a license from the Code Enforcement Office and shall have agreed to conform to the provisions of this chapter.
- (b) Failure to comply with this section shall constitute a violation of this section and shall be punishable by a fine in the amount of \$250. This shall be in addition to any other penalty provided in the Code of the City of Olean or in any other law.

Sec. 13-392. Application procedure.

- (a) All landscapers and/or snow removers shall apply to the Code Enforcement Office for a license upon forms to be furnished by said Office. In addition to the license, a vehicle tag for each motor vehicle, including trailers, is to be used in the furtherance of the landscape and/or snow removal business.
- (b) The license application shall specify the following:
 - (1) Name, address, telephone number and New York State tax identification number of the landscaper and/or snow remover.
 - (2) Name, address and telephone number of each principal partner or corporate officer of the landscaper and/or snow remover.

- (3) Make, serial number, license number and load capacity of each motor vehicle, including trailers, to be utilized by the landscaper and/or snow remover and a current copy of each vehicle registration for which a vehicle tag shall be issued.
- (c) All new applications and the renewals therefor shall be referred to the Chief of Police for his or her investigation regarding the moral character of the applicant and an incident history of the applicant, with a recommendation for approval or disapproval of the application. All recommendations for disapproval must state the reason for such disapproval in writing.
- (d) The City of Olean reserves the right to make unannounced, periodic on-site inspections during business hours to ensure compliance with all applicable laws and ordinances.
- (e) Tags for motor vehicles shall be placed on the center top of the windshield in line with the rearview mirror.
- (f) A substitute replacement tag shall be issued upon the payment of a fee for each replacement, upon the filing of an affidavit or such other proof as may be required by the Commissioner of Permit and Inspection Services.

Sec. 13-393. Insurance.

The applicant shall furnish a certificate from an insurance company licensed to do business in the State of New York, evidencing that the applicant and any motor vehicles are covered by general liability, personal injury and property damage insurance and shall provide evidence that employees of the applicant are covered by workers' compensation or by an exemption certificate meeting the requirements of the State of New York and containing a ten-day notice of cancellation clause directed to the Commissioner of Permit and Inspection Services, before any license hereunder shall be issued.

Sec. 13-394. Reporting of active licenses.

- (a) It shall be the duty of the Code Enforcement Office to ensure that, at all times, an up-to-date Active License Summary Report is maintained which shall contain the name, address, telephone number and New York State tax identification number of each person in possession of an active license approved pursuant to this chapter.
- (b) It shall be the duty of the Commissioner of Permit and Inspection Services to ensure that a copy of the Active License Summary Report referenced in Subsection (a) of Section 13-394 shall be filed with the City Clerk for review by the Common Council at the following times:
 - (1) Each year, no later than the filing deadline established by the Common Council for its first regularly scheduled meeting held in the month of December.
 - (2) Whenever any change shall occur in the status of an active license approved pursuant to this chapter, including but not limited to revocation or expiration of a license.

(3) At any other times as the Common Council may direct.

Sec. 13-395. Availability of Active License Summary Report on City's website.

- (a) It shall be the duty of the City Clerk, whenever an Active License Summary Report shall be filed with his or her office pursuant to Section 13-394, to ensure that a copy of such report is forwarded to the Director of Management Information Systems.
- (b) It shall be the duty of the City's Data Processing Department, whenever he or she shall be forwarded a copy of an Active License Summary Report by the City Clerk pursuant to Subsection (a) of this section, to ensure that a copy of the most recently received Active License Summary Report shall be made available for public viewing and downloading on the City website.

Sec. 13-396. Regulation of landscaper services.

- (a) Landscape material for disposal in the City of Olean shall not contain any foreign objects, such as stone, brick, concrete, plastic or metal.
- (b) Burning of landscape material within the City of Olean is prohibited.
- (c) All landscape materials shall be removed from the serviced property by the landscaper and be transported to the City of Olean composting facility for disposal or composted at the landscaper's facility.
- (d) The placing or dumping of landscape material on public highways, public places or private property is prohibited.

Sec. 13-397. Enforcement.

This article shall be enforced by the Code Enforcement Office and the City of Olean Police Department and such other departments or persons as may be designated by the Mayor.

Sec. 13-398. Suspension and revocation of license; hearings; penalties for offenses.

- (a) All persons holding a license as a landscape contractor and/or snow removal contractor shall be subject to the rules and proceedings as contained in Section 13-376 relating to hearings and decisions on charges arising from complaints or improper conduct.
- (b) In addition to a license revocation by the City of Olean, a violation of any provision of this chapter by a person shall be deemed an offense punishable by a fine not to exceed \$1,500 or imprisonment for a period not to exceed 15 days, or both.

Sec. 13-399. Expiration and transferability of license.

- (a) Each license and vehicle tag shall expire on the first day of November in each year.
- (b) No license or vehicle tag issued under this chapter shall be transferable or assigned or used by any person other than the one to whom it is issued.

Sec. 13-400. License and renewal fees.

Fees for license as a landscape contractor and/or snow removal contractor shall be in addition to any other license under this chapter and shall be:

- (1) Annual license (November 1 through October 31): no fee.

ARTICLE VIII CHARITABLE SOLICITATIONS

DIVISION 1 GENERALLY

Sec. 13-401. Findings. [Ord. No. 57-95, § 1, 9-12-1995]

The Common Council finds that support of charitable organizations by the contribution of money and time by interested residents of the City is to be encouraged and that the public good will be served by requiring certain organizations intending to solicit the community door-to-door to register with the City Clerk in order that those who may choose to support those organizations will have ready access to certain information concerning the organization.

Sec. 13-402. Definitions. [Ord. No. 57-95, § 2, 9-12-1995]

For the purpose of this article, the following words shall have the same definition as provided by New York Executive Law Article 7-A, Section 171-a: Charitable organization, contribution, person, professional fund raiser, professional solicitor, commercial coventure, membership, solicit, law enforcement agency.

Sec. 13-403. through Sec. 13-410. (Reserved)

DIVISION 2 DOOR-TO-DOOR SOLICITATION

Sec. 13-411. Registration required. [Ord. No. 57-95, § 3, 9-12-1995]

It shall be unlawful for charitable organizations to engage in residential door-to-door solicitation of money unless the charitable organization has been registered with the City.

Sec. 13-412. Registration requirements. [Ord. No. 57-95, § 4, 9-12-1995]

Charitable organizations desiring to engage in residential door-to-door solicitation within the City shall register with the City Clerk at least three days before the first solicitation. The registering organization shall provide the following information: name of soliciting organization; address of organization; federal identification number; date(s) of solicitation; names and social security number of persons soliciting, (only if such persons are paid); evidence of registration with the State of New York in accordance with Article 7-A of the New York Executive Law; and a copy of the charity's most recent NY State DOS 497; annual financial report; together with all accompanying IRS 990 Form and audited financial reports.

In the event a professional fund raiser or professional solicitor is doing the solicitation on behalf of the charity the following further information is required: Name of the professional fund raising organization, its address, its federal ID number, copy of its

contract with the charity, and if not otherwise disclosed percentage of charitable donation retained by professional fund raiser.

In the event the applicant charitable organization is not required to file annual financial reports in accordance with Article 7-A of the New York Executive Law, the City Clerk shall obtain such additional information as may establish the applicant is a bona fide charitable organization.

All applicants shall register with the City Clerk who shall require the counter signature of the Police Chief on the registration.

Upon receipt of the registration requirements the City shall issue a license without fee for the date(s) requested.

Sec. 13-413. Exemptions. [Ord. No. 57-95, § 5, 9-12-1995]

This division shall not apply to the following organizations and persons:

- (1) Religious organizations including charities, agencies and organizations operated, supervised or controlled by or in connection with a religious organization.
- (2) An educational organization registered with the regents of the State of New York.
- (3) Organizations registered with the State of New York having as a business address a location in Cattaraugus County, New York.

Sec. 13-414. Violations and penalty. [Ord. No. 57-95, § 6, 9-12-1995]

Violation of a provision of this division shall be unlawful subject to the general penalties as provided by this Code.

Sec. 13-415. through Sec. 13-500. (Reserved)

**ARTICLE IX
BODY ART
DIVISION 1
BODY PIERCING**

Sec. 13-501. Findings and purpose. [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

- (a) The City of Olean finds and determines that there is presently no law relating to the practice of body piercing within the City of Olean. The City of Olean wishes to protect the health, well-being and safety of its citizens relating to the body piercing industry within the City of Olean.
- (b) The City further finds that the practice of body piercing involves the penetration of skin, which if done improperly can lead to potential health risks.
- (c) The City of Olean further finds and determines that a growing number of minors are engaging in the practice of body piercing. Therefore, the purpose of this article is to prohibit the body piercing of minors, pursuant to the City's exercise of its inherent power to protect the public health, safety and general welfare of its citizens.

Sec. 13-502. Definitions. [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

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

PERSON — Any individual, partnership, firm, association, trust, company, joint venture or corporation.

Sec. 13-503. (Reserved) [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

Sec. 13-504. Determination of "for compensation." [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

If the body piercing is offered in conjunction with the sale of an item of jewelry actually being used in connection with the body piercing, then that service shall be deemed to have been provided for compensation.

Sec. 13-505. Penalties for offenses. [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

Any person who knowingly and willfully violates this article shall be guilty of a misdemeanor punishable by a fine of up to \$500 and up to six months in jail.

Sec. 13-506. Exception. [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

The prohibition contained in this article shall not apply in those instances in which at least one parent or legal guardian of such individual under the age of 18 years consents, in writing, to such body piercing. This writing shall be notarized and filed in person at the place of business where the body piercing takes place.

Sec. 13-507. Applicability. [Res. No. 16-05, 3-8-2005; Res. No. 19-06, 3-14-2006]

This article shall apply to actions occurring on or after the effective day of this article.

Sec. 13-508. through Sec. 13-599. (Reserved)

ARTICLE X SECONDHAND DEALERS

[Added 3-24-2015 by Res. No. 15-15]

DIVISION 1 GENERALLY

Sec. 13-600. Purpose; legislative authority.

The purpose of this article is the protection of government, order, conduct, the general welfare, safety, morals, health and well-being of the persons and property of the City of Olean. It is adopted pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)(a)(11) and (12), § 10, Subdivision 2, and General City Law § 20(13).

Sec. 13-601. Definitions.

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

DEALER IN SECONDHAND ARTICLES — Any person, corporation, partnership,

association, limited-liability corporation, and the agents, associates or employees thereof who, in any way or as a principal broker or agent specifically, but not limited to:

- (1) Deals in the purchase or sale of any secondhand manufactured article composed wholly or in part of gold, silver, platinum or other metals; or
- (2) Engages in melting previous metals for the purpose of selling; or
- (3) Deals in the purchase or sale of any secondhand article, including but not limited to any used electrical appliance, electronic equipment, component parts or tools.

SECONDHAND ARTICLE — Any goods sold at resale, except as specifically provided for herein.

DIVISION 2 LICENSE AND RECORDS

Sec. 13-602. License required; exceptions.

- (a) It shall be unlawful for any person, within the limits of the City or City-owned facilities, to engage in or carry on the business of collecting, buying, selling, or otherwise dealing in secondhand articles, as defined under this division, without currently possessing a valid license to deal in secondhand articles as provided in this division.
- (b) Nothing contained in this division shall be construed to apply to:
 - (1) Pianos, books, magazines, rugs, tapestries, artists' burlaps, paintings, sculpture, drawings, etchings, engravings, motor vehicles and motorcycles;
 - (2) The acceptance or receipt of merchandise which is not secondhand as a return, exchange, or for credit or refund if such merchandise was originally purchased as new merchandise from the person accepting or receiving the same, nor to the resale of such merchandise;
 - (3) The acceptance or receipt of secondhand merchandise as a return, trade-in, exchange, or for credit or refund if such merchandise was originally purchased as new merchandise from the person accepting or receiving the same, nor to the first subsequent sale or exchange of such merchandise to any person other than an ultimate consumer;
 - (4) The first sale, at retail, of merchandise which has been rebuilt by the manufacturer or vendor originally manufacturing it, or the licensed agents thereof, and sold as factory rebuilt merchandise;
 - (5) The sale of any item sold at a garage sale, yard sale, estate sale, or moving sale (collectively referred to herein as "garage sale"), provided that all of the following conditions are met:
 - a. The garage sale is held on residential property owned, rented, leased, or occupied by the seller or by at least one seller if there are multiple sellers; and

- b. The items offered for sale are owned by the seller, and/or the seller is authorized by the owner to sell said items;
 - c. The garage sale does not exceed a period of 96 consecutive hours;
 - d. The seller does not conduct more than three garage sales in any consecutive twelve-month period;
 - e. None of the items offered for sale were purchased by the seller for resale or received on consignment for purposes of resale.
- (6) The sale of used furniture, used clothing, used baby/children's items, or household goods;
 - (7) Any transaction involving the sale or disposal of secondhand articles regulated by state or federal law;
- (c) No license granted under this division shall be assignable.

Sec. 13-603. Application for license contents.

- (a) Any person desiring to obtain the license required by this division shall file with the City Clerk a written application upon a blank form prepared and furnished by the City. Such application shall contain the following:
 - (1) The exact name, residence and telephone number of the applicant, if an individual, partnership or firm; or
 - (2) The names of the principal officers and their residences, if the applicant is an association or corporation; or
 - (3) The name, business address, residential address, and telephone number of the operator of such business if other than the applicant.
- (b) Such applicant shall also describe in detail the character of the business in which he desires to engage and the kind of materials he desires to collect, buy, sell, or otherwise deal in.
 - (1) He shall also state the following:
 - a. Whether the applicant is licensed to sell old metal in accordance with General Business Law Art. 6 (§ 60 et seq.).
 - b. The length of time such applicant, if an individual, or operator, if the applicant is a firm, partnership, corporation or association, has resided in the City; his place of previous employment; whether he has been convicted of a felony or misdemeanor and, if so, for what offense, when, and in what court.
 - c. The premises where such business is to be located or carried on, giving street and number.
 - d. The days and hours during which such business will be customarily open to the public.

- e. Such other information that may be required by the Mayor.
- (2) Such application shall be signed and acknowledged before a notary public or other officer authorized to administer oaths in the City.
- (c) The Police Chief or his designee shall review and, at his discretion, grant approval of this license.
- (d) The fee for the processing of an application for a license under this division shall be \$25. [Amended 9-22-2015 by Res. No. 85-15]

Sec. 13-604. Applicability and enforcement.

This division shall have applicability within the City and at facilities owned and operated by the City wherever located. The City of Olean Police Department shall enforce the provisions of this division.

Sec. 13-605. Record of purchases.

- (a) Every dealer in secondhand articles shall keep a book in which shall be legibly written, in English, the following:
 - (1) The time of every purchase; and
 - (2) A description of every article so purchased, including the number or numbers and any monograms, inscriptions or other marks of identification that may appear on such article; and
 - (3) A description of the articles or pieces comprising old gold, silver, platinum, or other metals, and any monogram, inscription or marks of identification thereon; and
 - (4) In the case of precious metals, jewelry, and gems, a photograph of the article; and
 - (5) The secondhand dealer shall require identification from the seller which contains the name, residence and a general description, and record in his book the name and residence from whom such purchase was made.
- (b) Such book, at all reasonable times, shall be open to the inspection of any police officer, to the Police Chief or his designee, or any judge of the criminal court, or any person duly authorized, in writing, for such purposes by the Commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer.
- (c) The burden of proof that an article was originally purchased from the person accepting or receiving it, that it was the first subsequent sale or exchange thereof to a person other than an ultimate consumer or that it was a first sale at retail of such factory rebuilt merchandise shall be upon the person asserting the same.
- (d) Records retention/inspection.
 - (1) Every secondhand dealer shall maintain for a period of five years all of the

information required in Subsection (a). Computerized records may be used to satisfy the requirements of this division, provided that such records include the required information and are available upon reasonable request for inspection in printed format.

- (2) On or before 10:00 a.m. every Tuesday, every secondhand dealer shall forward to the Police Chief, on electronic forms provided by the Police Chief, a copy of the seller information required by Subsection (a) of this section for each secondhand article acquired in the immediately preceding seven days, and shall cause such forms to be delivered via electronic mail to the Police Chief at the address designated on said form. Photographs of precious metals, jewelry and gems shall not be required to be transmitted with these forms.
- (3) Failure to maintain the records required by this section shall constitute a presumptive evidence of a crime.

Sec. 13-606. Holding period.

A holding period applies if there is an alteration or disposal of property within less than 10 days, but a secondhand dealer can seek release from the holding provision by application to the Chief of the Police Department or his designee along with providing of any inspection or description required for such determination.

Sec. 13-607. Penalties for offenses. [Amended 9-22-2015 by Res. No. 85-15]

Any licensee under this division who commits or permits any acts in violation of the provisions of this division shall be deemed to have committed an offense against such division and shall be guilty of a misdemeanor, and also liable for any such violation or the penalty therefor, including a fine not less than \$250. Each day any violation of any provision shall continue shall constitute a separate offense.

Sec. 13-608. Revocation of license.

Upon failure of the licensee who shall have received a license under this division to comply with any or all of the terms applicable, the Police Chief may, at any time, revoke the permit granted to such licensee, and it shall be grounds for denial of license application under this division.

Sec. 13-609. Severability.

If any provision, sentence or clause of this division is held unconstitutional, illegal or invalid by a court of competent jurisdiction, such findings shall not affect or impair any of the remaining provisions, sentences or clauses or their application to persons and circumstances.

Sec. 13-610. through § 13-699. (Reserved)

Sec. 14-1. Unauthorized entry upon public storage reservoir lands prohibited.

(a) Any person who enters upon the public storage reservoir lands in the city without first having obtained permission shall be guilty of a misdemeanor.

(b) Permission to enter upon public storage reservoir lands must be obtained from the public works department of the city and must be in writing.

(c) Public storage reservoir lands must be posted by appropriate signs not more than 250 feet apart.

(Code 1971, § 18-5)

State law references: Trespass, Penal Law § 140.00 et seq.

Sec. 14-2. Spitting.

Spitting is hereby prohibited either on the sidewalk, crosswalk, or footway of any public street, way, park, or square; upon the floor of any hall or office in any hotel, apartment house, tenement, or lodging house which is used in common by guests or tenants thereof; or upon the floor, platform, steps, or stairs of any public building, hall, church, theater, railway station, store, or factory, streetcar, or other public conveyance in the city.

(Code 1971, § 18-6)

Sec. 14-3. Open alcoholic beverage containers.

(a) Purpose of section. This section is enacted to regulate the possession of open containers of alcoholic beverages by persons on public lands except under controlled conditions. The unrestricted and unregulated possession of such containers is detrimental to the health, safety, and welfare of the inhabitants of the city, and such uncontrolled possession contributes to the development of unsanitary conditions and the creation of nuisances within the city.

(b) Definitions. For the purpose of this section, the following terms shall have the meanings ascribed to them. All other words shall have the meanings normally ascribed to them in regular usage.

Alcoholic beverage means and includes alcohol, liquor, wine, beer, cider, and every other liquid, patented or not, containing alcohol, wine, or beer and capable of being consumed by a human being.

Container means any bottle, can, glass, or other receptacle suitable for or used to hold any liquid.

Public lands means any highway, street, sidewalk, park, playground, public parking lot, or other public land.

(c) Possession on public lands prohibited. No person shall have in his possession any open container of an alcoholic beverage on any public land within the city.

(d) Exceptions to prohibition. Application for a waiver of the foregoing prohibition may be made to the city clerk in the event of any city-approved community gathering, entertainment, or controlled meeting, which application must be approved by the common council and which application will allow a waiver to any city-approved gathering, event, or meeting, and which waiver will allow consumption of alcoholic beverages to be permitted on those portions of public lands wherein the gathering will be conducted and during those hours when the function is open to the public.

(e) Applicability of provisions. This section shall apply to all persons on public lands in the city, except as provided in this section.

(f) State law excepted. This section, by its terms, does not apply to conduct addressed by Vehicle and Traffic Law § 1227.

(Code 1971, § 18-8)

Chapter 15, NOISE EN

Sec. 15-1. Short title of chapter.

This chapter shall be known as the Anti-Noise Ordinance.

(Code 1971, § 19-1)

Sec. 15-2. Exemptions from chapter.

Nothing contained in this chapter shall be construed to prevent the production of music in connection with any military, civic, or authorized parade, funeral procession, or religious ceremony, nor to prevent any musical performance conducted under the consent of municipal authorities, or noncommercial events conducted by the national, state, county, or municipal government.

(Code 1971, § 19-5)

Sec. 15-3. Aircraft.

The making of any noise in any street, park, or public place in the city by means of any aircraft by operation of sound producing or sound amplifying equipment thereon for any purpose whatsoever is prohibited.

(Code 1971, § 19-2)

Sec. 15-4. Noise-making equipment--Commercial business or advertising purposes.

(a) The advertisement or calling of attention to any advertisement, article, business, calling, or profession upon any public street, sidewalk, park, or public place or entrance to a place of business, building, or premises within the city by means of any horn, musical instrument, whistle, megaphone, siren, bell, radio, mechanical piano, phonograph, or other sound producing or sound amplifying mechanism, instrument, or device, is prohibited.

(b) The operation and use in or upon any automobile, truck, or other vehicle or conveyance upon any public street, park, or public place within the city of any horn, mechanical instrument, megaphone, siren, bell, radio, mechanical piano, phonograph, or other sound producing or sound amplifying mechanism, instrument, or device for such commercial, business, or advertising purposes, is hereby prohibited.

(c) Subsection (b) of this section shall not apply to duly authorized public parades, that is, parades of public interest, as contrasted with private parades conducted for commercial purposes.

(Code 1971, § 19-3)

Sec. 15-5. Same--Noncommercial purposes; permit.

(a) The operation and use in and upon any building, structure, premises; on any street, park, or public place; or on any automobile, truck, or other vehicle or conveyance, of any sound producing or sound amplifying mechanism, instrument, or device, producing or reproducing the human voice and speech only, whereby the sound of such voice and speech is cast upon the public streets, parks, and places shall not be deemed a violation of this chapter under the following conditions and circumstances, with complete compliance with all requirements of this section, the proper application for issuance of a permit, and the proper use of the permit mentioned in this section:

(1) Such use and operation shall be on matters of public interest and concern or religious purposes only.

(2) Such volume of sound of the human voice shall be so controlled that it will not be audible for a distance in excess of 100 feet from its source, and so that such volume is not unreasonable, loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility. No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

(3) The only sounds permitted are human speech, voice, and music.

(4) No such sound amplifying equipment shall be permitted to be used so as to interfere with and be disturbing to any public gathering lawfully assembled within audible range of such sound equipment and assembled for purposes other than to hear the program emanating from such sound equipment.

(5) No such sound amplifying equipment placed upon a sound truck, vehicle, or other conveyance shall be continued in operation while such sound truck, vehicle, or conveyance is in motion or in transit.

(6) Sound shall not be issued within 500 feet of hospitals, schools, or churches.

(b) No person shall use or cause to be used a sound truck with its sound amplifying equipment for noncommercial purposes in the city before filing a registration statement with the city clerk in writing. This registration statement shall be filed in duplicate and shall state the following:

(1) Name and home address of applicant.

(2) Address of place of business of applicant.

(3) License number and motor number of the sound truck to be used by applicant.

(4) Name and address of person having direct charge of sound truck.

(5) Name and address of all persons who will use or operate the sound truck.

(6) The purpose for which the sound truck will be used.

(7) The place in the city in which the sound truck will be used.

(8) The proposed hours of operation of the sound truck.

(9) A general description of the sound amplifying equipment which is to be used.

(c) The city clerk shall return to each applicant under this section one copy of the registration statement, duly certified by the city clerk as a correct copy of the application. Such certified copy of the application shall be in the possession of any person operating the sound truck at all times while the sound truck and sound amplifying equipment is in operation. The copy shall be prominently displayed and shown to any policeman of the city upon request.

(Code 1971, § 19-4)

Chapter 16

NUISANCES

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.

Animals, ch. 5.
Dangerous buildings, § 6-236 et seq.
Environmental control, ch. 8.
Health and human services, ch. 10.
Housing code, ch. 12.
Junk dealers license, § 13-141 et seq.
License to operate junkyards, § 13-201 et seq.
Noise, ch. 15.
Solid waste, ch. 20.
Trees and shrubs, § 21-56 et seq.
Water, sewer and sewage disposal, ch. 27.

STATE LAW REFERENCES

Authority to legislate for the public peace, health, safety and welfare, General City Law § 20(13).

ARTICLE I IN GENERAL

Sec. 16-1. Lots or excavations containing stagnant water, etc., to be filled or drained. [Code 1971, § 14-1]

When any lot or any part of any lot or excavation on any land in the City shall, from any cause whatever, become, in whole or in part, the repository of stagnant water, or of any decaying or offensive substance, liquid or solid, it shall be the duty of the owner, lessee, or agent of such owner, if so ordered by the building inspector to cause such lot, part of lot, or premises to be filled with clean dirt, earth, or ashes, or other sanitary or inoffensive substances, or cause the proper drainage of the area, or both, within 10 days as given in a written notice from the building inspector.

Sec. 16-2. Abatement of noxious weeds and grass. [Code 1971, § 14-2; Res. No. 98-90, §§ A—F, 7-24-1990; Res. No. 107-04, 10-26-2004; Res. No. 54-07, 7-24-2007]

- (a) Owner's responsibility. It is hereby declared to be a nuisance for any owner of lands within the City to fail to cut or cause to be cut down all Canadian thistle, milkweed, sweet clover, or other noxious weeds growing on the land of such owner. It shall be the duty of such owner of the land to cut such weeds or cause to be cut, in each year, between June 1 and July 1, and so often as shall be sufficient to prevent the noxious weeds from going to seed.
- (b) Height requirements. It is hereby declared to be a nuisance, and it shall be the duty of the owner of lands within the City to cut or cause to be cut, as required, the grass and weeds in such a manner that the weeds and grass shall not exceed eight inches in height at any time between May 1 and October 15 of each year.
- (c) Enforcement; notice; lien. The Code Enforcement Office shall have the authority and power to enforce such ordinance and shall notify the owner of the lands affected in the event of a violation. The notice shall be in writing and shall be personally delivered or mailed to the owner of the lands by regular mail, and a hang tag with such notice placed on the door of the property. The notice shall specify the violation and inform the person to whom it is mailed that such person has five days from the receipt of the notice to remedy the defect, or the city will cut or cause to be cut all Canadian thistle, milkweed, sweet clover, other noxious weeds, and/or all weeds and grass exceeding eight inches in height with the cost thereof to be charged

as a lien to the premises. The owner may be charged with an offense for violating this section. [Amended 3-25-2014 by Res. No. 18-14]

- (d) Owner's failure to remove; city abatement procedure; hearing. If, after five days after the notice is personally delivered or mailed, and placed on the door of the property as provided for in Subparagraph (c), the owner of the land fails to cut, or cause to be cut, all Canadian thistle, milkweed, sweet clover, other noxious weeds, and/or all weeds and grass exceeding eight inches in height, from the lot within five days after the receipt of notice from the Code Enforcement Officer, the Code Enforcement Officer may thereafter arrange for the mowing of the premises and the property owner shall be charged with the cost thereof, as provided in this section. Within 30 days of the completion of the work by the City, a notice advising the owner of the property of the cost of such work shall be sent to the property owner who shall have seven days to make a written request for a hearing before the Code Enforcement Officer or his designee. If a hearing is requested, the Code Enforcement Officer shall mail a notice of the time and place of such hearing to the owner of lands within the city by regular mail. Notice of hearing shall set a time and place for the hearing which will be not less than six or more than 10 days from the date of mailing of the notice of hearing required under this section. The code enforcement officer or his designee shall hold a hearing at the time and place set forth in the notice of hearing. [Amended 3-25-2014 by Res. No. 18-14]
- (e) Following the hearing, the code enforcement officer or his designee shall make written findings of fact. If it is concluded that this section has been violated, or if there shall have been no request for a hearing made by the owner, the amount provided by subsection (f) of this section shall be charged the owner, become a lien on the affected property, and shall be added to and included with all subsequent tax bills until paid, commencing with the tax bills on May 1, following completion of the work. A notice of this amount shall be sent to the owner of the land and the City Clerk. The City Clerk shall not accept the City tax on the parcel affected under this section, unless the special lien created pursuant to this section is paid at that time and place.
- (f) The code enforcement officer shall keep separate account of all such work done on lots within the City and shall forward such account to the City Clerk, who shall file the lien in accordance with City policies and procedures. The charges levied by the City for any such work shall be a minimum of \$50 or such greater amount actually expended by the City. There shall be an administrative fee of a minimum of \$50 and not to exceed \$250 above all other fines, fees, expenses and charges to cover any costs the City incurred. [Res. No. 32-13, 5-28-2013]

Sec. 16-3. Abandoned vehicles. [Code 1971, § 18-7; Res. No. 123-93, 9-15-1993]

- (a) No person shall cause any vehicle to be abandoned within the public streets of the City.
- (b) A motor vehicle shall be deemed to be an abandoned vehicle under the circumstances described in Vehicle and Traffic Law § 1224. Such vehicles shall be impounded and disposed of in the manner described in such statute.

- (c) For violation of the provisions of this section there shall be a fine of at least \$250, not to exceed \$1,000.

Sec. 16-4. through Sec. 16-25. (Reserved)

**ARTICLE II
INOPERABLE MOTOR VEHICLES ¹²**

Sec. 16-26. Defined. [Code 1971, § 16-83; Res. No. 10-00, 3-14-100]

As used in this article, "inoperable motor vehicle" means any motor vehicle that:

- (a) Is without license plates for a period of more than 24 hours; or
- (b) Fails to display a current registration for a period of more than 24 hours; or
- (c) Fails to display a current inspection certification for a period of more than 24 hours; or
- (d) Is in the state of major disassembly, disrepair, or in the process of being stripped or disassembled for a period of more than 24 hours.

Sec. 16-27. Outdoor storage on private property; exceptions. [Code 1971, § 16-84; Res. No. 10-00, 3-14-100]

It shall be unlawful for any person, firm, or corporation, either as owner, occupant, lessee, agent, tenant, or otherwise, of property within the City to store or deposit, or cause or permit to be stored or deposited, an inoperable motor vehicle, or part of piece thereof, on any private property within the City unless:

- (1) Such motor vehicle is stored or deposited on premises legally used and operated as a junkyard, automobile repair shop, or automobile sales; or
- (2) Such motor vehicle is:
 - a. Stored or deposited in a completely enclosed building;
 - b. Is completely covered by a custom or ready-fitted cover designed and manufactured to cover motor vehicles, such cover to be of a material commonly used for the purposed of covering motor vehicle, and maintained in good condition and repair;
- (3) Such motor vehicle is under repair, construction, or refurbishing by the owners thereof, who must actually be residing on the premises; not more than one such motor vehicle must be so maintained and protected as not to create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises more than 15 days in any twelve-month period of time; or
- (4) An owner actually residing on the premises where such a motor vehicle is stored has applied for and obtained a permit to repair, reconstruct, or refurbish such motor

12. Editor's note: Res. No. 10-00, adopted March 14, 2000, amended article II §§ 16-26, 16-27, in their entirety. Formerly, said sections pertained to similar subject matter. See the Code Comparative Table.

vehicle. Written applications to permit such work shall be made to the fire chief or his designee on forms provided by him. The enforcement officer, upon approving the application, shall issue a permit. The permit shall be valid for a period of 30 days from its date of issuance and shall not be renewed. Only one permit shall be issued to an owner of any motor vehicle in any twelve-month period of time. Upon the filing of an application for a permit under the provisions of this subsection, a filing fee of \$5 shall be payable. The enforcement officer shall maintain a permanent record of all matters considered and all action taken by him under this article.

Chapter 17, PARKS AND RECREATION EN

ARTICLE I. IN GENERAL

Sec. 17-1. Definition.

In this chapter "parks and public grounds" mean all the adjacent land to the curblin of adjoining streets, as fixed by the common council of the city.

(Code 1971, § 20-1)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 17-2. Liability of city.

Any person using any public place, park, playground, street, creek, or river, for the purpose of recreation, amusement, or bathing, or using any of the apparatus therein contained furnished therefor by any person within the city, shall do so at his own risk. The city will not be responsible in any way for the safety of any child or adult patronizing such places for their private purposes or otherwise.

(Code 1971, § 20-8)

Sec. 17-3. Adult baseball and softball leagues.

All adult softball and baseball leagues must pay a seasonal fee of \$75.00 per team to reserve fields for adult softball and baseball league play. (Res. No. 93-92, 6-9-1992)

Secs. 17-4--17-20. Reserved.

ARTICLE II. PARK RULES

Sec. 17-21. Charges for events in city park facilities.

The city shall charge fees to individuals and organizations for the use of city recreational facilities as shall be established by time to time by the common council by resolution.

(Res. No. 47-92, 6-9-1992; Res. No. 92-93, 7-27-1993; Res. No. 3-95, 2-28-1995; Res. No. 61-96, 7-23-1996; Res. No. 92-96, 10-8-1996; Res. No. 60-97, 6-10-1997)

Sec. 17-22. Injuring or defacing park property generally.

It shall be unlawful for any person to climb any tree or pluck any flowers or fruit, whether wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface any statue, flower bed, turf, or any of the buildings, fences, bridges, or other structures within the several parks or public grounds.

(Code 1971, § 20-5)

Sec. 17-23. Digging or removing dirt, trees, shrubs, or bushes.

It shall be unlawful for any person to enter upon any parks or public grounds and dig or remove any dirt, tree, shrub, or bush which may be in, upon, or a part of any of such parks or public grounds, except under the direction of the parks director.

(Code 1971, § 20-2)

Cross references: Trees and shrubs, § 21-56 et seq.

Sec. 17-24. Injuring trees, shrubs, bushes, flowers.

It shall be unlawful for any person to cut down, bruise, cut into, or in any way injure any tree, shrub, growing bush, or flowers that are at present, or may hereafter be growing in or upon any of the parks or public grounds.

(Code 1971, § 20-3)

Cross references: Trees and shrubs, § 21-56 et seq.

Sec. 17-25. Cutting, marking, or writing on trees, etc.

It shall be unlawful for any person to cut or mark any name or device or write upon any tree, paling, fence, rock, stone, bench, statue, building, or structure situated or located in the parks.

(Code 1971, § 20-4)

Cross references: Trees and shrubs, § 21-56 et seq.

Sec. 17-26. Discharging firearms or fireworks, or throwing stones or missiles.

It shall be unlawful for any person to fire or discharge any gun, pistol, or other firearm; any rocket, torpedo, or other fireworks of any description; or throw stones or missiles within the several parks or public grounds.

(Code 1971, § 20-6)

Sec. 17-27. Wilfully killing, injuring or annoying animals or birds.

It shall be unlawful for any person to wilfully kill, injure, destroy, annoy, capture, or in any manner interfere with any squirrel or other animals or birds placed in the public parks of the city by the common council or by persons authorized by them to do so.

(Code 1971, § 20-7)

Cross references: Animals, ch. 5.

Sec. 17-28. City parks opening and closing hours.

(a) Except when extended by the parks director, all city parks shall be open to the public from 6:00 a.m. to 10:00 p.m. daily.

(b) No person may enter upon any city park during those hours when the park is not open except for the purpose of crossing over the park on sidewalks or public ways used for that purpose and kept and maintained by the city for the purpose of egress and ingress across the park.

(c) This section shall not be applied to Gargoyle Park.

(Code 1971, § 20-12; Res. No. 150-93, 10-26-1993; Res. No. 88-94, 9-13-1994)

Sec. 17-29. Gargoyle Park opening and closing hours.

(a) Gargoyle Park shall be open to the public from 6:00 a.m. to midnight daily, except as otherwise provided by the parks director.

(b) No person may enter upon Gargoyle Park during those hours when the park is not open to the public.

(Code 1971, § 20-13)

Sec. 17-30. Reserved.

Editor's note: Res. No. 27-93, adopted March 9, 1993, repealed § 17-30, which pertained to dispensing, consumption of alcohol at Bradner Stadium prohibited. See the Code Comparative Table.

Sec. 17-31. Glass beverage containers prohibited in city parks.

It shall be unlawful for any person to utilize glass beverage bottles within city parks except this prohibition shall not apply to wine or liquor bottles.

(Res. No. 13-95, 3-28-1995)

Chapter 18, PLANNING AND DEVELOPMENT EN

ARTICLE I. IN GENERAL

Sec. 18-1. Official map.

(a) The map prepared by the department of public works, dated July 31, 1951, and approved by the city planning commission on June 25, 1952, is adopted as the official map of the city.

(b) The official map of the city adopted by subsection (a) of this section is hereby declared to be established to conserve and promote the public health, safety, and general welfare of the citizens of the city.

(c) The clerk of the city is hereby directed and empowered to file with the clerk of the county a certificate attesting that the city has established an official map or plan.

(Code 1971, § 24-1)

State law references: Official map, General City Law § 26.

Secs. 18-2--18-20. Reserved.

ARTICLE II. PLANNING BOARDEN

Sec. 18-21. Created; composition; terms of members.

There is hereby created under the General City Law of the state and under the powers vested in the common council, a planning board of and for the city. Such board shall consist of seven members; two members to hold office for a term of three years, three members to hold office for a term of two years, and two members to hold office for a term of one year. Such members of the board hereby created shall hold office according to the provisions of General City Law art. 3 [§ 26 et seq.].

(Code 1971, § 24-2)

Sec. 18-22. Approval of plats.

For the purpose of providing for the future growth and development of the city and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health, and welfare of the city, the planning board of the city is hereby authorized and empowered to approve all future plats showing lots, blocks or sites, with or without streets or highways.

(Code 1971, § 24-3)

State law references: Approval of plats, General City Law §§ 32, 33.

Sec. 18-23. Filing of certificate in office of county clerk.

The city clerk is hereby empowered and directed to file a certificate in the office of the county clerk attesting to the creation of the planning board and specifying that the city clerk is the officer of the city who shall issue on behalf of the city the certificate of failure of the planning board to take action on any application for approval of a plat pursuant to General City Law art. 3 [§ 26 et seq.].

(Code 1971, § 24-4)

State law references: Mandatory provisions, General City Law § 32.

Sec. 18-24. Powers.

In addition to the powers granted under General City Law art. 3 [§ 26 et seq.], the planning board has all powers granted to planning commissions under General Municipal Law art. 12-a [§ 234 et seq.].

Chapter 19, POLICE EN

Sec. 19-1. User fees established for certain activities.

The city hereby establishes user fees to be charged in connection with the following activities/services performed or rendered by the Police Department:

(1) Escort for bank deposits, per trip . . . \$25.00

Upon the request of any person residing or operating a place of business in the city, the Police Department will provide escort services from the place of residence or business in the city to any bank located in the city. Any such escort shall be with the consent of the Chief of Police, who may establish such conditions for the escort as are deemed advisable. The Chief of Police may decline to provide such service for reasons of public safety. The applicant for such service shall be required to make advance payment to the City Clerk of the user fee established by the Common Council. If there will be required to be disbursed any cost other than for city services in connection with the escort, such cost shall be collected from the applicant, in advance, in addition to the user fee charged pursuant to this section.

(1) Fingerprinting services, per card . . . \$20.00

Upon the request of any person, subject to the availability of officers to perform fingerprinting services, and upon the payment in advance of the user fee established by the Common Council, the Police Department will provide fingerprinting services to the public. There will be no charge to parents for having their children fingerprinted.

(3) Research fees . . . \$10

Upon request of any person or entity duly authorized by law to receive a local arrest record check, subject to the availability of authorized personnel to perform such duties, the Police Department may provide research services to any person or entity so authorized to receive the information requested upon receipt of a signed permission release from the individual. A research fee shall be charged in an amount established by the Olean Common Council from time to time.

(Res. No. 62-92, § 25-11, 4-28-1992; Res. No. 35-06, 4-11-06; Res. No. 49-06, 5-9-06)

Chapter 20, SOLID WASTE MANAGEMENT AND RECYCLING EN

ARTICLE I. IN GENERAL

Sec. 20-1. Definitions.

Whenever used in this chapter or in the rules and regulations duly adopted by the common council pursuant to this chapter, the following words or phrases shall have the respective meanings set forth in this section. Any word or phrase not defined in this section but which appears in this chapter in the rules and regulations duly adopted by the common council shall have the meaning as defined in title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York Part 360 (Solid Waste Management Facilities), or any successor to such part. Any words or phrases not otherwise defined shall have the meaning in accordance with their common usage.

Ashes mean all substances or material which remain after combustion.

Authorized agent means a person who has been designated to issue distinctively labeled stickers on behalf of the city and to pay the necessary fees therefor.

Commercial means any motel, hotel, congregate living facilities, boarding houses, multiple dwelling (four or more units), church, school, mercantile or service nonprofit or profit making establishments, and multiple dwelling projects operated by the city housing authority.

Distinctively labeled sticker means an adhesive sticker of such size, price, material, and design as may be determined by the common council to be affixed or attached to refuse containers in the manner prescribed by the common council for use in the collection and disposal of nonrecyclable refuse in the city.

Dumpster means a refuse receptacle designed to be emptied by mechanical means into a transport vehicle.

Industrial means any plant, factory, or facility operated for the fabrication, assembly, or manufacture of products.

Person in charge means an individual, trust, corporation, partnership, firm, proprietorship, or association that occupies, manages, uses, or controls real property.

Recyclables mean those items or materials appearing on the official list of mandatory recyclable materials as adopted by the common council of the city.

Refuse means any waste, putrescible and non-putrescible, permitted to be disposed of with distinctively labeled stickers attached or affixed pursuant to the rules and regulations of the city solid waste management program.

Residential means any building consisting of three or fewer units for the housing of individuals.

Solid waste management program shall mean the ordinance, rules, regulations, policies, and procedures for disposal of waste generated in the city.

Vehicle means a motor vehicle designed or adapted for use in the removal of garbage, recyclables, and trash.

Waste means any ashes, garbage, refuse, white goods, hazardous waste, infectious waste, yard waste, recyclables, and all other waste material not otherwise specifically defined.

White goods shall mean washing machines, clothes dryers, refrigerators, freezers, and all other similar types of materials that are of recyclable value.

Yard waste means grass clippings, weeds, leaves, or brush.

(Res. No. 36-91, § 13-1, 3-26-1991; Res. No. 86-95, 10-24-1995)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 20-2. Penalties for violations of chapter.

Unless otherwise provided, a person convicted of violating any provision of this chapter may be punished as follows:

- (1) For a first conviction, by a fine of \$100.00, or imprisonment for 15 days, or both.
- (2) For a second conviction, by a fine of \$250.00, or imprisonment for 15 days, or both.
- (3) For a third and subsequent conviction, by a fine of \$500.00, or imprisonment for 15 days, or both.

(Res. No. 36-91, § 13-18(2), 3-26-1991; Res. No. 9-95, 3-14-1995)

Sec. 20-3. Alternate disposal methods allowed.

Nothing in this chapter shall be deemed to prohibit any commercial and/or industrial establishment from contracting with a public or private disposal service for removal of waste. Nothing in this chapter shall be deemed to prohibit any person from disposing or causing disposal of waste at a transfer station operated by the county.

(Res. No. 36-91, § 13-8, 3-26-1991)

Sec. 20-4. Administration, enforcement of chapter.

The provisions of this chapter shall be enforced by the city police department. The administration of this chapter shall be by the city clerk and the director of public works.

(Res. No. 36-91, § 13-18(1), 3-26-1991)

Sec. 20-5. Rules and regulations pertaining to waste management and disposal.

The common council is hereby empowered to adopt by resolution rules and regulations pertaining to the city solid waste management program, including without limitation refuse and recyclables preparation requirements and such other rules and regulations as may be necessary to effectively and efficiently ensure sound solid waste management and disposal pursuant to this chapter. Such rules are hereby incorporated by reference, and compliance with the provisions of this chapter shall require compliance with such rules and regulations. Such rules and regulations may be changed from time to time by resolution. Failure to comply with the rules and regulations shall be unlawful.

(Res. No. 36-91, § 13-7, 3-26-1991)

Sec. 20-6. Presumption concerning depositing of waste in the city.

If waste is placed or deposited within the city, it shall be presumed that such waste was placed or deposited by and is the responsibility of the person that may be identified as a result of an inspection of the contents of the container or bag. If identification cannot be determined by such inspection, it will be presumed that the waste is the responsibility of the person that owns or is in charge of the real property where such placement has been made. If placement of waste is made on a public or private right-of-way, the abutting private real property will be deemed to be the location of the violation.

(Res. No. 36-91, § 13-14, 3-26-1991)

Sec. 20-7. License for private collecting, handling, or transporting of waste.

(a) It shall be unlawful for any person, other than the city, to engage in the business for hire of collecting, handling, or transporting through the streets or public ways of the city any waste originating or generated in the city. Licensing by the city shall not waive any obligations to obtain required state or federal permits.

(b) Every person desiring to engage in such business shall make application to the city clerk by setting forth the name and residence of the applicant, or the name and place of

business, if a firm or corporation, and pay a fee for such license in the sum of \$250.00 for each vehicle to be used in the conducting of such business.

(c) Each such license so issued shall expire on May 15 following such date of issue.

(d) The city clerk shall, before issuing such a license, require the owner to get written approval from the director of public works to the effect that the vehicle to be used for such purpose is satisfactorily constructed to prevent littering the city streets and that tarps, where necessary, are provided so they shall cover any refuse or bulk that is not otherwise transported in a totally enclosed container.

(e) Any person violating this section shall be, upon conviction, punished by a fine of not more than \$250.00, or by imprisonment for not more than 30 days, or by both fine or imprisonment.

(Res. No. 36-91, § 13-19, 3-26-1991; Res. No. 29-92, 3-24-1992; Res. No. 119-92, 7-28-1992)

Cross references: Licenses, permits and miscellaneous business regulations, ch. 13.

Sec. 20-8. Prohibited disposal of waste.

(a) Public property. It shall be unlawful for any person to place, throw, or deposit or cause to be placed, thrown, or deposited any waste upon any sidewalk, subway, street, alley, lane, gutter, or any public ground in the city or into any stream or upon the banks of any stream running through or adjacent to the city, except when placement is permitted pursuant to the city solid waste management program.

(b) Private property. It shall be unlawful for any person to place, throw, or deposit or cause to be placed, thrown, or deposited any waste upon the private property of another person without the permission of such person.

(c) Burning or burying. It shall be unlawful for any person to bury or openly burn or cause to be buried or openly burned any waste within the city limits, except the composting of organic material shall be permitted.

(Res. No. 36-91, § 13-2, 3-26-1991)

Sec. 20-9. Disposal of waste from outside the city prohibited.

(a) It shall be unlawful for any person to bring in, place, or deposit in the city any waste originating from outside the city.

(b) It shall be unlawful for any person or person in charge to permit another to bring in, place, or deposit in the city any waste originating from outside the city.

(Res. No. 36-91, § 13-3, 3-26-1991)

Sec. 20-10. Deposit of materials into waste receptacles located on city property restricted.

It shall be unlawful to place any waste into a waste receptacle located on city property or right-of-way, unless such waste was generated at that location.

(Res. No. 36-91, § 13-4, 3-26-1991)

Sec. 20-11. Materials subject to mandatory recycling.

The common council is hereby empowered to adopt by resolution an official list of mandatory recyclable materials. This list may be changed from time to time by resolution of the common council. Failure to recycle waste on this official list, unless otherwise permitted by the city solid waste management program, shall be unlawful.

(Res. No. 36-91, § 13-5, 3-26-1991)

Sec. 20-12. Recycling exceptions.

The requirement to recycle waste shall not be applicable to any commercial or industrial business establishment which has a contract with a public or private disposal service, if such disposal service permits refuse and recyclables to be co-mingled, and such waste is otherwise disposed of properly.

(Res. No. 36-91, § 13-6, 3-26-1991)

Sec. 20-13. Yard waste, white goods.

Yard waste and white goods shall be disposed of in accordance with the rules and regulations adopted by the common council from time to time.

(Res. No. 36-91, § 13-16, 3-26-1991)

Sec. 20-14. Clean-up week.

(a) The city may from time to time establish a residential clean-up week(s) during which the city will cause to be picked up and disposed of clean-up items and materials from curbside on a per lot basis. For this regulation a "lot" shall be deemed to be each separately identified lot reflected on the official zoning map of the city. Prohibited items include:

Animal waste; asbestos (including roof and siding shingles containing asbestos); batteries; concrete; hazardous waste (household or otherwise); infectious waste; large metal items; paint, solvents, or any liquids; pipe other than household plumbing pipe one inch diameter or less, cut into four-inch lengths; railroad ties; refuse and garbage; soil; tires; white [goods] (stoves, refrigerators, washers, etc.); yard waste (leaves, twigs, grass clippings, trees).

(b) No clean-up week debris shall be deposited on the public right-of-way unless a distinctively labeled sticker for that debris has been purchased from the city and is displayed.

(c) The commingling of debris from two or more lots into one lot shall be prohibited unless a sticker is purchased for each lot commingling such debris.

(d) No clean-up debris is to be placed at the curbside more than two days prior to the appropriate clean-up week as determined and set by the city.

(Res. No. 65-94, 7-26-1994)

Sec. 20-15.Dumpsters.

(a) It shall be unlawful, within the limits of the city to place on any lot within twenty-five (25) feet of a required exit of any building, within ten (10) feet of any fire department connection to sprinklers or standpipe or controlling valve or within fifteen (15) feet of any hydrant or within a fire lane.

(b) No dumpster may be placed within twenty-five (25) feet of any natural gas or LPG tank or regulating device or any storage (except underground) or dispensing area of any flammable liquids or electrical service.

(c) It shall be unlawful to place or cause to be placed any dumpster within the city not having fully operational covers and/or doors. Lids and doors must be closed except when placing refuse in a dumpster or emptying of it. It shall be unlawful to fill a dumpster to over capacity or prevent the closing of doors and lids or to prevent the intended operation of the lids and doors.

(Res. No. 86-95, 10-24-1995)

Secs. 20-16--20-34. Reserved.

ARTICLE II. MUNICIPAL COLLECTION AND DISPOSAL SERVICE

Sec. 20-35. Unlawful removal of solid wastes including recyclables.

The city may from time to time operate or contract the operation of a municipal collection and disposal service for solid waste including recyclables. Unless otherwise authorized by the rules and regulations of the city solid waste management plan, waste properly left for municipal collection by the person in charge thereof shall not be taken, removed or disposed of or cause to be taken, removed or disposed of by any person except by or with the consent of the city.

(Res. No. 50-95, 8-22-1995)

Sec. 20-36. Distinctively labeled stickers--Use.

Unless otherwise provided by the city solid waste management program, it shall be the duty of all persons utilizing city-operated or city-contracted disposal services for disposal of refuse to separate refuse from waste, and to prepare, place, and seal such refuse in containers authorized by the rules and regulations of the city solid waste management program. The city shall have no obligation to remove any refuse placed for collection, unless there has been attached or affixed thereto a distinctively labeled sticker having a value at least equivalent to the volume of refuse to be collected. No person shall duplicate or imitate any distinctively labeled sticker issued by the city. No person shall give, sell, or issue a duplicated or imitated distinctively labeled sticker. Any prohibited action of this section shall be unlawful.

(Res. No. 36-91, § 13-9, 3-26-1991; Res. No. 50-95, 8-22-1995)

Sec. 20-37. Same--Use by nonresidents.

It shall be unlawful for nonresidents of the city to purchase or otherwise use the distinctively labeled stickers for the purpose of depositing garbage and trash in the city for collection and disposal.

(Res. No. 36-91, § 13-10, 3-26-1991)

Sec. 20-38. Same--Reuse prohibited.

It shall be unlawful to reuse, or permit to be reused, a distinctively labeled sticker that has previously been collected by the city-operated waste disposal program.

(Res. No. 36-91, § 13-12, 3-26-1991)

Sec. 20-39. Reserved.

Editor's note: Res. No. 48-00, adopted June 12, 2000, repealed § 20-39 in its entirety. Formerly, said section pertained to the sale of distinctively labeled stickers by agents. See the Code Comparative Table.

Sec. 20-40. City refuse disposal fee schedule.

The common council shall establish by resolution the fees for the distinctively labeled stickers which shall be applicable to all users of the city-operated refuse collection and disposal services. Fees may be changed from time to time by resolution of the common council.

(Res. No. 36-91, § 13-15, 3-26-1991)

Sec. 20-41. Hours of collection; commercial and residential premises.

Except in areas of the city zoned industrial, it shall be unlawful to collect refuse, garbage and recyclables at anytime prior to 7:00 a.m. or after 9:00 p.m.

(Res. No. 9-94, 3-8-1994)

Chapter 21

STREETS AND SIDEWALKS

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.
Boards, commissions, etc., § 2-81 et seq.
Signs, § 3-21 et seq.
Buildings, building regulations and fire prevention, ch. 6.
Fires in street, § 6-3.
Moving buildings, § 6-266 et seq.
Nuisances, ch. 16.
Removing trees from parks, § 17-23.
Injuring trees and parks, § 17-24.
Cutting or writing on trees, § 17-25.

LOCAL LAW REFERENCES

Streets and sidewalks, ch. LL5.
Improvements, § LL5-16 et seq.

STATE LAW REFERENCES

Power of city relative to streets, General City Law § 20(7), (10), (11).
Municipal tree conservation, General Municipal Law § 96-b.

ARTICLE I IN GENERAL

Sec. 21-1. Obstructing passage of persons on sidewalks. [Code 1971, § 26-1]

It shall be unlawful for any person in any manner to block or impede the free and unobstructed passage of persons upon the sidewalks of the City, either by hawking and crying goods and merchandise, attracting a crowd, or otherwise.

Sec. 21-2. Raising or lowering railroad tracks in streets. [Code 1971, § 26-2]

Any railroad company raising or lowering its rails above or below the established grade of the City streets must first receive the consent of the common council.

Sec. 21-3. Gates for stairways to basements. [Code 1971, § 26-3]

Every stairway in any of the streets of the City leading to a basement shall be protected by an iron gate at the top of the stairway at least 30 inches in height. Such gate shall be kept closed and fastened at all times when the rooms to which the stairway leads are not in actual use.

Sec. 21-4. Responsibility of owners of property abutting subways.

The owners of property abutting subways shall maintain the portion of the subway abutting their property. "Subway," as used in this chapter shall have the same meaning as provided in section 1-2.

Sec. 21-5. Removal of snow and ice from sidewalks. [Code 1971, § 26-4; Res. No. 52-92, 4-14-1992; Res. No. 20-92, 2-23-1993; Res. No. 140-03; 3-9-2004; Res. No. 14-04, 3-9-2004; Res. No. 22-04, 4-13-2004; Res. No. 53-07, 7-24-2007]

- (a) The purpose of section shall be to preserve the public peace and good order in the City, and to contribute to the public welfare, safety and good order of its people and to contribute to the safe conveyance of its people over the streets and sidewalks of the City by establishing certain regulations for the removal of snow and ice from the streets and sidewalks of the City that are consistent with the rights and privileges of other residents of the City.
- (b) It shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk. [Amended 2-14-2017 by Res. No. 02-17]
 - (1) For those parcels of real estate located in General Commercial and City Center zoning districts where the paved sidewalk extends across the full width of the subway to the street, it shall be the duty of the owner and occupant, jointly, to maintain a passage free from snow and ice of a width of no less than eight feet.
 - (2) For those parcels of real estate located in all other zoning districts where the paved sidewalk extends across the full width of the subway to the street, it shall be the duty of the owner and occupant, jointly, to maintain a passage free from snow and ice of a width of no less than four feet.
- (c) Every owner and occupant, jointly, of lands, premises or buildings fronting on any street or public place within the City shall clear and remove from the sidewalk along any such lands, premises or buildings all snow and ice which may at any time be thereon. At no time shall any portion of any such walk be permitted to be or remain in an icy or slippery condition.
- (d) Snow and ice shall be removed within 24 hours after the end of a snowfall. In addition, sidewalks in front of commercial establishments and commercial parking lots shall be kept free of snow and ice at all times between the hours of 9:00 a.m. and 5:00 p.m.
- (e) It shall be unlawful for any person to use or cause to be used the public street or any sidewalk for the deposit, piling or placement of plowed or shoveled snow. Every owner and occupant, jointly, of any lands, premises or buildings fronting upon any street or public place in the City shall, upon notification of the Code Enforcement Department, be required to immediately remove any snow placed or piled contrary

to this provision.

- (f) It shall be unlawful for any person to deposit, pile or place, or cause to be deposited, piled or placed on any corner lot, plowed or shoveled snow piles greater than 2 1/2 feet in height vertically measured from the sidewalk grade with the triangular area formed by the intersecting street lines and a straight line joining such street lines at points which are 35 feet distant from the point of intersection, measured along said street.
- (g) It shall be unlawful for any person to deposit, pile or place, or cause to be deposited, piled or placed, plowed or shoveled snow or to blow, or cause to be blown, snow so as to cover or obstruct accessibility to fire hydrants.
- (h) Nothing contained herein shall prohibit any person from utilizing the streets, subways, sidewalks or rights-of-way of the City for temporary deposit, piling or placement of snow in connection with a snow removal project actually underway.
- (i) Removal by City. Whenever the owner or occupant of a parcel of real estate adjoining a public sidewalk fails to remove the snow and ice from such sidewalk adjoining such property within the time specified in this section or within four hours after notice by the City Code Enforcement Office or Director of Public Works to remove same, the snow and ice shall be removed by the City of Olean from such sidewalk and the City Clerk shall be notified of the expense incurred by the amount of labor, equipment and materials used. The charge shall be not less than a minimum of \$50 or such greater amount equivalent to actual costs and expenses incurred by the City. There shall be an administrative fee of a minimum of \$50 and not to exceed \$250 above all other fines, fees, expenses and charges to cover any costs the City incurred. [Res. No. 33-13, 5-28-2013]
- (j) Collection of the costs for removal by the City. The City Clerk shall promptly present to the owner and occupant of each parcel a bill for the removal of snow and ice as certified by the Code Enforcement Office or Director of Public Works. If not paid within 30 days, the cost thereof shall be assessed against the property, added to their tax bill and become a lien thereon, collectible in the same manner as delinquent City taxes.
- (k) Notwithstanding anything contained herein, any property owner who shall permit snow or ice so as to accumulate and remain upon any sidewalk adjacent to or abutting on any lot or premises owned by him or her, in the City of Olean, shall be liable to any party for injuries sustained as a result thereof.

Sec. 21-6. Deposit of building, paving, sewer, or other materials. [Code 1971, § 26-5]

It shall be unlawful for any person to use any part of a public street, sidewalk, subway, or public grounds in the City for the deposit of any building, paving, sewer, or other materials, except for immediate transfer of such materials to the premises adjoining the portion of such street, sidewalk, subway, or public grounds so occupied. No such substance shall be allowed to remain upon such street, sidewalk, subway, or grounds longer than until 6:00 p.m. of the same day. The director of public works may, however, permit any owner of the premises or the contractor for work thereupon to use the

sidewalk and subway and not more than one-third of the street adjoining any premises for the deposit of any such materials for a period to be designated by him. In all such cases, the person to whom such permit is granted shall keep such materials so piled that they shall not encumber any other portion of such street, subway, sidewalk, or public grounds and shall, if required by the director of public works, guard such areas against accidents by suitable barriers and lights at night. In case any person shall refuse or neglect to comply with the directions of the director of public works with reference to such material, such refusal or neglect shall forfeit all rights and privileges under such permit, and such person shall be liable to the same penalty as if such permit had not been granted.

Sec. 21-7. Depositing or leaving merchandise, boxes, etc. [Code 1971, § 26-6]

- (a) Except as otherwise permitted in this section, it shall be unlawful for any person to deposit or leave any goods, wares, merchandise, boxes, barrels, tanks, cans, or other receptacles or packages upon any street, sidewalk, or subway in the City. When any of the aforementioned articles shall be so deposited upon the street, sidewalk, or subway in the course of delivery to the person permitting such articles to be deposited or for the purpose of removing from the premises adjoining on which such articles are deposited, such articles may be allowed to so remain upon the sidewalk or subway and next to the curb or curblines of the street for a period not to exceed two hours from the time of deposit.
- (b) The common council of the City, upon application of any vendor, may permit any vendor to display merchandise on the subway, providing such display does not extend beyond that vendor's building lines in excess of 36 inches. Permits for the purposes of such display shall be effective for a period of one year unless sooner revoked by the common council in its sole discretion.

Sec. 21-8. Awnings. [Code 1971, § 26-7]

It shall be unlawful for any person to erect or maintain any awning over the sidewalk on any of the streets of the City at a height of less than seven feet above the sidewalk. Any person who shall violate this section shall be guilty of a misdemeanor.

Sec. 21-9. Erection of utility poles and wires. [Code 1971, § 26-8]

- (a) No telegraph, telephone, or other similar poles shall be erected in any of the streets of the City, and no telegraph, telephone, or similar wires shall be strung over or across any of the streets of the City by any person who shall not have previously obtained a franchise or consent granted by the common council.
- (b) No telegraph, telephone, or similar poles shall be hereafter erected in any of the streets of the City by any person, until the person proposing to erect such poles shall obtain a written permit for the erection thereof signed by the director of public works. Such permit shall specify the location where such poles are to be set.
- (c) All telegraph, telephone, railway, or electric light or other poles used or to be used for the stringing of wires by telephone, telegraph, railway, or electric light and power companies, hereafter set along paved streets or set along streets which are hereafter paved, shall be placed, under the supervision of the director of public

works, inside the curb. Such pole shall not be less than six inches, nor more than 12 inches from the curb, as the director of public works may designate. All such poles, however, shall be placed under the supervision of the director of public works.

Sec. 21-10. Acceptance of streets by City. [Code 1971, § 26-13]

- (a) The City shall not accept as part of the street system of the City any street not improved with paving and sanitary sewers according to the requirements of the department of public works in effect at the time of such acceptance.
- (b) The provisions of subsection (a) of this section shall not affect any unpaved street of the City for which petitions for sanitary sewers have been submitted and accepted by the City prior to May 22, 1956.

Sec. 21-11. Curb cuts procedure and fee. [Res. No. 30-92, 3-24-1992; Res. No. 37-13, 6-11-2013; amended 2-9-2016 by Res. No. 06-16]

The Director of Public Works shall have the power to approve or deny any curb cut application subject to the procedure herein specified. In making his determination the Director shall take into consideration the benefit to the applicant if the application is granted, as weighed against the detriment to the character of and the impact to on-street parking in the immediate neighborhood impacted by such application if granted.

- (1) All applications made to the Director shall be in writing, on forms prescribed by said Director.
- (2) Prior to approval or denial of the application, the Director shall set a public comment period whereby immediate neighborhood property owners and occupants may comment on the application to the Director in writing.
- (3) All applicants shall mail notices of the application to the owners or occupants of all lands on the fronting City street on which the curb cut sought. Such notices shall be postmarked at least 10 days prior to the expiration of the public comment period, as established by the Director.
- (4) Any applicant or property owner noticed under Section 21-11(3) shall have the right to appeal to the Common Council at the first Council work session immediately following the determination of the application by the Director.
- (5) The Common Council, on any appeal pursuant Section 21-11(4), by majority shall have the power to uphold or reverse the decision of the Director or modify the parameters of any curb cut granted by the Director under this section.
- (6) The fee for any such curb cut made in addition to an existing curb cut performed by the Department of Public Works shall be charged at \$100 per lineal foot.

Sec. 21-12. through Sec. 21-30. (Reserved)

**ARTICLE II
SIDEWALK CONSTRUCTION, MAINTENANCE, ETC.**

Sec. 21-31. Definitions. [Code 1971, § 26-12.1]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

PEDESTRIANS — All persons making use of public streets for foot passage.

SIDEWALK — That portion of a street outside of the roadway used, or set aside, for the use of pedestrians.

STREET — The entire area conveyed, acquired, or dedicated to public use and passage. The word "street" shall include in its meaning the words "avenue," "alley," "drive," "place," or any other words used to designate the public thoroughfare as defined in this subsection.

Sec. 21-32. Construction of sidewalks—Permit required. [Code 1971, § 26-10]

It shall be unlawful for any person hereafter to construct any sidewalk in any of the streets of the City, or to replace or reconstruct any sidewalk or any portion thereof within the streets of the City, until such person shall have first obtained a written permit from the director of public works approving of the materials, the grade, width, and other filed specifications, as required by this article.

Sec. 21-33. Same—Grade and line. [Code 1971, § 26-11]

All sidewalks hereafter constructed in the City shall be laid upon the grade and line to be established by the director of public works. The permit provided for in section 21-32 shall specify that such grade and line have been established and shall require such walk to be built upon the grade and line so fixed by the director of public works.

Sec. 21-34. Same—Materials. [Code 1971, § 26-12)

It shall be unlawful for any person to lay or construct in or along any of the streets in the City any sidewalk other than that composed of such materials as may be specified as suitable for sidewalks by the director of public works on a set of specifications to be filed in his office.

Sec. 21-35. Maintenance of sidewalks. [Code 1971, § 26-12.1]

- (a) It is the privilege, and, on notice from the department of public works, it shall be the duty of any owner of any premises or parcel of land within the City to grade and level the sidewalk in front of the premises or parcel between the street line and the curbline.
- (b) The department of public works may, at the expense of the City, undertake any necessary grading in any area of the City where federal funds are available in full, or in part, for such grading and leveling.
- (c) It shall be the duty of the owner of any premises in the City, whenever such work shall be ordered by resolution of the common council, to relay and repair existing sidewalks in front of such premises, whenever such work shall be so ordered. It shall be the duty of the owner of any premises in the City to lay new sidewalks when ordered to do so by resolution of the common council, such resolution having

been passed pursuant to a showing by appropriate City officials to the council that a new sidewalk is needed pursuant to a plan for the development of the City, or for reasons of safety or health of its citizens.

- (d) The department of public works shall notify the owner of any premises in front of which such work shall be required to be done that if such work is not done by the owner within 20 days, such work shall be done by the City, and the expense thereof shall be assessed upon such premises. This notice shall also notify the owner that he has 20 days to show cause before the director of public works why such work should not be done, is not needed, or can reasonably be delayed. Upon the request of the owner for a hearing, pursuant to this section, such hearing shall be scheduled no earlier than five days from the receipt of such request by an owner. Such notice may be served personally or by mailing it in the manner prescribed for the mailing of notices and the mailing of taxes due by the City Assessor. If any such work shall not be done within the time specified in such notice, the department of public works may cause such work to be done. The expense thereof shall be a charge and lien assessed thereon, upon such premises. Where federal funds are available in whole, or in part, in a code enforcement area, or an urban renewal project area, the cost of grading, installing, or replacing sidewalks in that area, may be borne by the City.
- (e) Whenever the relocation of any installed sidewalks meeting City standards is necessitated on account of the construction of a widened pavement, or any street, the cost or expense therefor shall be paid solely by the City from the general fund. No part of such cost or expense shall be assessed against the premises abutting the sidewalk.
- (f) The taxes and assessments which are levied for the purpose of paying the expense of sidewalk installation or improvement shall be payable in equal annual installments over a five-year period, with interest charges at the current going rate of investment. Owners of property may have the option to pay the whole of such improvements so assessed to them within 15 days from the time of the completion of such assessment-roll. Such option or privilege may be exercised at the time when any installment becomes due with the current rate of interest paid.
- (g) It shall be the duty of the owner of any premises to keep in repair the sidewalk in front of his premises and the driveways serving the premises.
- (h) If any owner shall neglect to grade or level the sidewalk in front of lands owned or occupied by him for 20 days after notice to do so by the director of public works, the director of public works may cause such work to be done.
- (i) If the owner of any lands, the grade or level of which is above the established grade of the sidewalk in front of his lands, shall neglect or refuse to protect such land and to grade such land so as to prevent dirt, earth, stones, or other material from falling or being washed upon the sidewalk of such lands, for 20 days after service upon him of notice, the director of public works shall cause such work to be done.
- (j) No person shall construct or reconstruct a sidewalk on any street, until he shall have obtained written permission to do so from the department of public works.

Permission to construct or reconstruct a sidewalk may be obtained by the issuance of the department of public works of a permit. Sidewalks constructed under a permit shall be constructed of such materials and of such width as may from time to time be specified by the department of public works.

- (k) It shall be the duty of every owner of any premises fronting on any public street to keep the sidewalk in front of his premises in good order and repair and to allow no accumulation of dirt, refuse, or other material to remain thereon.

Sec. 21-36. Director of public works to close streets for maintenance. [Res. No. 168-92, 10-27-1992]

The director of public works or his designee shall have the power to close or restrict through traffic on all streets of the City or to establish detours when necessary for water, sewer, or street maintenance, construction, snow removal, leaf removal, or other similar work.

Sec. 21-37. Installation of sloped sidewalk ramps at pedestrian crossways required. [Res. No. 114-93, § 1-3, 8-24-1993]

- (a) It is the policy of the City to install ramps or sloping walks at pedestrian crosswalks at walkways serving state and local government offices and facilities, transportation, places of public accommodation, and employers.
- (b) It is the policy of the City to install, throughout the City, ramps or sloping walks at pedestrian crosswalks whenever curb slabs are replaced.
- (c) In order to achieve the policy of the common council, the director of public works shall permit no sidewalk intersection work or undertake any such intersection sidewalk work within the City without providing curb ramps or other sloped areas where pedestrian's walks cross curbs. For the purpose of this provision, sidewalk intersection work shall be any work undertaken on any concrete block which adjoins the curb or if not concrete block any work undertaken within the right-of-way.

Sec. 21-38. through Sec. 21-55. (Reserved)

**ARTICLE III
TREES AND SHRUBS**

Sec. 21-56. Tree board established. [Code 1971, § 26-30]

- (a) The mayor, with the approval of the common council, shall appoint a tree board consisting of seven persons, two of whom shall be sitting members of the common council, and the remaining five members shall be residents of the City. The president of the common council shall be an ex officio member of the tree board. The term of the common council members appointed shall be for two years. The term of the other members shall be three years, except the term of one appointee to the first board shall be one year, and two appointees of the first board shall be for two years. All terms shall expire on December 31. If a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion

of that person's term.

- (b) The members of the tree board shall serve without compensation.
- (c) It shall be the responsibility of the tree board to administer the tree ordinances and to recommend to the common council and/or the director of public works, as the case may be, such proceedings, acts, or actions as will support the City tree program. It shall be the responsibility of the board to study, investigate, counsel, update, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented by annual report to the common council. The board, when requested by the common council, shall consider, investigate, make findings, report, and recommend upon any special matter or question coming within the scope of its work.

Sec. 21-57. Permit to plant trees or shrubs required. [Code 1971, § 26-24]

- (a) No trees or shrubbery shall be planted by abutting landowners nor any trees removed, between the street line and curblines within the City, without receiving a permit in writing from the common council.
- (b) The permit, if granted, may specify such reasonable terms and conditions to be required for the proposed action, as may be determined by the common council.
- (c) Any person aggrieved by the action of the common council on application for a permit may apply to the common council, within 15 days of the issuance of such permit or its denial, for a hearing which shall be held not less than two nor more than four weeks from the date of request for hearing. Notice of public hearing shall be given to the applicant by mail and shall be published once in the Olean Times Herald.
- (d) At the time of the hearing, the common council shall hear all persons wishing to be heard on the application. In its decision on the application for a permit, the common council may take into account and consider the effects of the proposed action on the environment; the neighboring properties; and the safety, health, and welfare of the residents of the community generally.

Sec. 21-58. Tree trimming—Required of property owners. [Code 1971, § 26-25]

All persons owning property in the City abutting upon any street and upon which there are shade trees along such street shall clean out the dead limbs and otherwise trim such trees so that the same will not become dangerous to, obstruct, or interfere with public travel or pedestrians.

Sec. 21-59. Same—Notice. [Code 1971, § 26-26]

All persons required by notice from the director of public works to trim trees, as required under this article, must proceed to do so within 10 days after receiving such notice.

Sec. 21-60. Same—Failure to do so. [Code 1971, § 26-27]

In case of failure to trim trees, as required under this article, the director of public works

is hereby authorized to do so, and the expense thereof shall be collected from the owner or occupant in the usual or ordinary way by suit and shall become a lien upon the premises.

Sec. 21-61. Same—Permit required by utilities. [Code 1971, § 26-29]

Unless acting under a contract with the City, or unless there be a bona fide emergency, no tree shall be trimmed by any utility company without such utility company's having obtained a permit from the common council of the City. Utility companies desiring to obtain such permit may make application to the common council which shall contain its plan for the trimming and/or topping of trees. The permit shall be for a term of one year and may contain such reasonable conditions pertaining to the health and welfare of the citizens of the City as may be deemed appropriate to the circumstances. The common council shall act upon each permit application within 60 days of its receipt.

Sec. 21-62. Poplar trees prohibited. [Code 1971, § 26-28]

No poplar trees shall be placed in the subways of the City, and all poplar trees are hereby declared to be a nuisance and shall be removed by the owners thereof upon 15 days' notice from the director of public works.

Sec. 21-63. through Sec. 21-80. (Reserved)

**ARTICLE IV
EXCAVATIONS**

**DIVISION 1
GENERALLY**

Sec. 21-81. Ratification and confirmation.

All rules promulgated by the common council for this article are ratified and confirmed.

Sec. 21-82. Barriers and lights. [Res. No. 67-92, § 1, 4-28-1992]

Unless otherwise provided by the rules and regulations of the department of public works in connection with excavations or obstruction of right-of-way, any person making or causing to be made an obstruction, excavation or opening in any street, sidewalk or other public place in the City shall keep the obstruction, excavation or opening properly guarded at all times in accordance with the rules or regulations of the department of public works. No unauthorized person shall remove or interfere in any way with any light, fence, or barricade at the site of an excavation.

Sec. 21-83. Under supervision of director of public works and in conformity with article. [Code 1971, § 26-40]

All work under a permit issued pursuant to this article shall be under the supervision of the director of public works and in conformity with the requirements of this article.

Sec. 21-84. Starting; diligently and continuously pursued. [Res. No. 67-92, § 2(26-41), 4-28-1992]

All work shall be started within two weeks after the receipt of the permit under this

article and shall be pursued diligently and continuously until such work is completed.

Sec. 21-85. Size and location. [Code 1971, § 26-42]

In no case shall a person open or remove a greater area of surface or make any excavation or opening at another location than that specified in the original or supplementary application for a permit pursuant to this article, provided that if, at the time of actually doing the work, it shall be necessary to open or remove a greater area of surface than originally applied for, the applicant shall first notify and procure the consent of the director of public works to do so, upon the express condition that he shall and will, before noon of the following business day, file a supplementary application for the making of the additional excavation.

Sec. 21-86. Maximum width of street to be opened. [Code 1971, § 26-43]

- (a) Not more than two-thirds of the width of the street shall be opened at one time. The other third shall remain untouched for the accommodation of traffic until one-half of the first two-thirds is restored for safe use. All work shall be prosecuted so as not to interfere with easy access to fire houses and fire hydrants.
- (b) The common council may waive the provisions of this section.

Sec. 21-87. Maintenance of backfilling in paved streets. [Code 1971, § 26-44]

When a permit is granted under this article to open a paved street, the person securing the permit must maintain the backfilling placed in the trench at the surface of the contiguous pavement until such time as the director of public works repairs the pavement. If such person does not maintain such backfilling, the director of public works shall restore the backfilling to a proper condition, and any and all expense in connection therewith shall be borne by the person to whom the permit is granted.

Sec. 21-88. Restoration and maintenance of surface of unpaved streets. [Code 1971, § 26-45]

When a permit is granted pursuant to this article to open an unpaved street, the person to whom the permit is granted must leave and maintain, for a period of one year, the surface of the street in as good condition as it was previous to any work being done under the permit. If such person does not maintain the surface of the street in as good condition as it was previous to any work being done, the director of public works shall restore the street to its proper condition, and any and all expense in connection therewith shall be borne by the person to whom the permit was granted, who shall promptly pay to the City the cost of any such expense before any further permits are granted.

Sec. 21-89. Repairs and restorations of pavements by director of public works and payment of cost. [Res. No. 67-92, § 3, 4-28-1992]

If the City shall undertake any work on behalf of any applicant, whether at the request of the applicant or otherwise, in order to provide for the public safety, the cost thereof shall be billed to the applicant in accordance with the fee schedule adopted from time to time by resolution by the common council.

Sec. 21-90. Enforcement. [Added 6-10-2014 by Res. No. 55-14]

Enforcement of the violations and penalties of this article shall be the responsibility of the Code Enforcement office.

Sec. 21-91. through Sec. 21-105. (Reserved)

DIVISION 2
PERMIT

Sec. 21-106. Required. [Code 1971, § 26-52]

Unless acting under a contract with the City, it shall be unlawful for any person, other than a duly authorized City official or employee in the course of his employment, to make, or cause or permit to be made, any excavation or opening in or under the surface or pavement of any street, sidewalk, or other public place within the limits of the City without first having obtained and having in force a permit so to do, as provided in this division. In case of an emergency arising out of office hours, at night, on Sundays, or legal holidays, when an immediate excavation may be necessary for the protection of public or private property, such emergency shall be reported to the police department, which shall grant permission to make the necessary excavation upon the express condition that an application be made in the manner provided in this division on or before noon of the next following business day.

Sec. 21-107. Application. [Code 1971, § 26-53]

Any person desiring to procure a permit, as required by this division, shall file with the director of public works a written application, stating the name and business or residence address of the applicant, the name of the street, or public place in or under which it is desired to make the excavation or opening, the name and business or residence address of the person for whose benefit the work is to be done, the lot or street number where the opening or excavation is to be made, and the time during which it is desired such opening is to be permitted.

Sec. 21-108. Deposit. [Code 1971, § 26-55; Res. No. 67-92, §§ 5, 6, 4-28-1992]

- (a) The person applying for a permit under this division shall deposit cash or a check with the director of public works in such a sum as in the judgment of the director of public works will be sufficient to cover the cost and expense of the repaving, repairing, or restoring of any street, alley, sidewalk, or other public place in which the excavation or opening shall be made by such person.
- (b) If the opening shall be increased in area, as provided in section 21-85, such an additional sum shall be deposited with the director of public works, as in his judgment is necessary.
- (c) All moneys and checks so deposited with the director of public works shall be delivered to the City Clerk and become part of the revenue of the City. During the month of March of each year, the City Auditor shall transfer from the revenue fund to the maintenance of streets fund the total amount of all such moneys from this source, deposited with the City Clerk since the preceding March.
- (d) Violations of this article shall be unlawful and subject to paying double the permit

application fee as listed in the fee schedule adopted from time to time by resolution of the Common Council, as well as the following: [Res. No. 86-13, 11-12-2013; amended 5-23-2017 by Res. No. 37-17]

- (1) First offense: \$100 fine;
- (2) Second offense: up to \$250 fine;
- (3) Third or subsequent offense: up to \$1,000 fine.

Sec. 21-109. Insurance certificate. [Res. No. 67-92, § 7, 4-28-1992]

Any application for a permit required by this division shall be accompanied by an in force current certificate of insurance showing liability insurance in such amount as may be established by the common council by resolution from time to time.

Sec. 21-110. Fee. [Code 1971, § 26-57; Res. No. 67-92, § 8, 4-28-1992]

In addition to all the other requirements pursuant to this article, with respect to excavations, a fee in the amount now or hereafter established by ordinance shall be paid to the City before a permit shall be issued permitting excavations or openings in or under the surface or pavement of any street, sidewalk, or public place. Such fee shall cover the cost of the administration and supervision of such excavation or opening.

Sec. 21-111. Issuance; contents. [Res. No. 67-92, § 9, 4-28-1992]

The director of public works, upon the filing of the application, fee and insurance certificate as required by this division, may in his discretion issue a permit which shall state the name and address of the applicant and the location, nature, purposes and extent of excavation or openings, the dates of granting and of expiration of the permit and, if applicable, the amount deposited by the person to cover the cost of restoring the pavement to its original condition.

Sec. 21-112. through Sec. 21-130. (Reserved)

**ARTICLE V
BUILDING NUMBERS AND STREET NAMES**

Sec. 21-131. Buildings to be numbered consecutively in each block; use of even and odd numbers. [Code 1971, § 26-75]

All places of business and buildings and locations therefor in the City shall be numbered consecutively and in the regular order, commencing in each block with the lowest numeral, using even numbers for the right side and odd numbers for the left side, and numbering the blocks by hundreds.

Sec. 21-132. Streets constituting dividing lines for numbering buildings. [Code 1971, § 26-76]

As regards streets running east and west, the center of Union Street shall divide the City into east and west districts. The center of State Street shall divide the City into north and south districts for streets running north and south.

Sec. 21-133. Method of numbering buildings. [Code 1971, § 26-77]

On streets running westerly from Union Street, the numbering shall commence at Union Street, or at the end of the street nearest Union Street, and proceed westerly. On streets running easterly from Union Street, the numbering shall commence at Union Street, or at the end of the street nearest Union Street, and proceed easterly. On streets running southerly from State Street, the numbering shall commence at State Street, or at the end of the street nearest State Street, and proceed southerly. On streets running northerly from State Street, the numbering shall commence at State Street, or at the end of the street nearest State Street, and proceed northerly. Thus, the first house in the third block on the south side of State Street would be in the block between Second and Third Streets and would be numbered 301, the next house 303, and so on. All streets running east and west shall be numbered as though commencing at State Street. Thus, the first house on the north side of Washington Street would be in the block between Fourth and Fifth Streets and would be numbered 500. Buffalo Street shall be numbered as though running east and west.

Sec. 21-134. Specifications for numbers. [Code 1971, § 26-78]

The numbers for buildings shall be constructed of such metal and design as the common council shall prescribe, at least 2 1/2 inches in height and of corresponding proportions.

Sec. 21-135. Place numbers to be affixed. [Code 1971, § 26-79]

Numbers of buildings shall be affixed to the fronts of the buildings in some conspicuous place.

Sec. 21-136. Prefixing east, west, north, or south to street names. [Code 1971, § 26-80]

All streets crossing and extending on both sides of either Union Street or State Street shall be known and designated by prefixing to the present name of such street East, West, North, or South, as the case may be.

Sec. 21-137. Street names to be placed at each intersection. [Code 1971, § 26-81]

The names of each of the streets of the City shall be placed at each street intersection by affixing the name to a corner building or some other suitable or conspicuous place at such street intersection.

Sec. 21-138. Payment of expense of placing street names and numbers. [Code 1971, § 26-82]

The expense of placing the names of the streets shall be borne by the City, and the expense of procuring and affixing the numbers on the buildings or locations shall be borne by the owners of such buildings or locations.

Sec. 21-139. through Sec. 21-150. (Reserved)

**ARTICLE VI
BANNERS ACROSS STREETS**

DIVISION 1
GENERALLY

Sec. 21-151. through Sec. 21-165. (Reserved)

DIVISION 2
PERMIT

Sec. 21-166. Required. [Res. No. 84-92, § 26-91, 5-12-1992]

It shall be unlawful for any person without having obtained a permit and paid the fee therefor as provided in this division to install or cause to be installed a banner across a street in the City.

Sec. 21-167. Issuance; contents. [Res. No. 84-92, § 26-92, 5-12-1992]

- (a) Permits required by this division shall be issued by the director of public works, who shall establish regulations and policies consistent with this article to assure public safety.
- (b) Permits shall have minimum duration of 14 days and shall be authorized only at such location as have strain poles installed for such purpose.
- (c) Permits shall be issued on a first-come, first-served basis. Permits may be issued six months in advance of any requested dates. Only one permit may be issued for any event/activity.
- (d) Permits may be issued only for advertising of public and private events or activities open to the general public. Permits may not be issued for:
 - (1) The advertising of products or services for sale.
 - (2) Retail sales promotions.
 - (3) Political campaign promotions.
- (e) The permit applicant shall be responsible for and shall bear all costs of the installation, maintenance and removal of the banner. Banners shall be installed only by contractors approved by the director of public works. Any approved contractor shall have appropriate equipment for such installation, maintenance and removal, and shall file with the director an in force certificate of general liability insurance in an amount to be established by the department regulations, but at least \$300,000 per occurrence.
- (f) The permit application shall contain the exact wording as shall appear on the banner. The director of public works may reject wording deemed offensive or inappropriate for display over the public streets. Any applicant rejected for wording deemed offensive or inappropriate for display over the public streets may appeal to the common council in writing within 10 days of such rejection.

Sec. 21-168. Fees. [Res. No. 84-92, § 26-93, 5-12-1992; Res. No. 38-13, 6-11-2013]

The fee for permits issued under this division shall be \$30.

Sec. 21-169. through Sec. 21-170. (Reserved)

**ARTICLE VII
SIDEWALK CAFES**

[6-27-1997 by Res. No. 41-95; 5-27-1997 by Res. No. 44-97; 11-10-2015 by Res. No. 96-15]

Sec. 21-171. Permit required.

Any person, firm or corporation may operate a sidewalk cafe (hereinafter sometimes called "cafe") within the City on the City sidewalk immediately adjacent to the applicant's place of business upon obtaining a permit from the City.

Sec. 21-172. Permit criterion.

An applicant, upon presentation to the City Clerk of an application for a permit to install a cafe and upon payment of any fee established by the Common Council and upon compliance with the rules and regulations which may be established shall be authorized to operate a sidewalk cafe. The sidewalk cafe permit will be issued upon compliance with the following application standards:

- (1) Applicant shall obtain the approval of the Code Enforcement Office. Applicant shall submit one copy of plans and to the Code Enforcement Office, approval of which shall be conditioned upon the following:
 - a. The cafe will allow the maintenance of at least 18 inches of hard-surfaced sidewalk between the cafe and any planting strip or tree grate, bench, pole, post sign, flower bed, news rack, parking meter, curb or other obstacle in the public right-of-way;
 - b. The cafe will not interfere with ingress and egress points, including pedestrian entrances and fire escapes, and will maintain a minimum of five feet of sidewalk clearance at all times;
 - c. No permanent structure will be erected;
 - d. A form of temporary enclosure to separate the seating area from the open portion of the sidewalk will be installed during the time the cafe is open for business;
 - e. Any temporary enclosure or structure within the public right-of-way will be removed if the cafe is not regularly in use between November 1 and March 31;
 - f. No signs will be hung or attached to any portion of the cafe; and
 - g. The facility can be located anywhere in the City where operation of a restaurant is otherwise permitted.
- (2) The applicant must execute an agreement to repair, at the expense of the applicant, any damage caused to the sidewalk in the operation of the cafe.

- (3) The applicant shall execute a hold-harmless agreement indemnifying the City against loss, including costs and expenses, resulting from injury to persons or property as a direct or indirect result of the operation of the cafe.
- (4) Applicant shall provide proof of a liability insurance policy naming the City as an additional insured and agreeing to be primary in coverage.
- (5) If applicable, applicant shall provide proof of dram shop, liquor legal liability insurance.
- (6) If different than applicant, applicant shall provide a consent of the owner(s) of the building to be used as the sidewalk cafe.

Sec. 21-173. Cafe regulations. [Amended 9-12-2017 by Res. No. 77-17]

A cafe authorized and operated pursuant to this article shall:

- (1) Comply with the plans submitted and approved by Code Enforcement;
- (2) Sale and consumption of alcoholic beverages in the outdoor cafe must be authorized by the licensees;
- (3) Must not serve or permit consumption of alcoholic beverages on or at any sidewalk cafe after 11:00 p.m. or before 8:00 a.m.;
- (4) Remove from the temporary enclosure furniture and other equipment used in operation of the cafe no later than one-half hour after closing of the applicant's adjacent place of business; and
- (5) Not permit any music to be played outdoors after 11:00 p.m.

Sec. 21-174. Promulgation of rules pertaining to sidewalk cafes.

The Common Council is hereby empowered to adopt by resolution rules, regulations, permit fees and specification pertaining to sidewalk cafes. Such rules are hereby incorporated by reference, and compliance with this article shall require compliance with such rules, regulations, permit fees and specifications. Failure to comply with the rules and regulations shall be unlawful.

Sec. 21-175. Permit fees.

Unless hereafter changed by resolution of the Common Council, the annual permit fee for operation of a sidewalk cafe shall be \$25.

Sec. 21-176. Notice of violation; revocation of permit.

Upon finding by the Fire Chief or Police Chief that an applicant has violated any provision of this article, he/she may give notice to an applicant to correct operations violations within 24 hours of receipt of the notice. Upon failure to correct, the Commissioner may revoke the applicant's permit.

Sec. 21-177. Violations unlawful.

Violations of this article shall be unlawful and subject to the general penalty provided by

this Code.

Chapter 22, SUBDIVISION REGULATIONS EN

ARTICLE I. GENERAL PROVISIONS AND POLICY REQUIREMENTS

Sec. 22-1. Legislative authority.

Pursuant to Sections 32 and 33 of the General City Law of the State of New York and by resolution dated _____, 19_____, the Common Council of the City of Olean is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, within the incorporated limits of the City of Olean.

(Res. No. 91-96, 9-24-1996)

Sec. 22-2. Title.

This chapter shall be known and may be cited as the "Subdivision Regulations of the City of Olean."

(Res. No. 91-96, 9-24-1996)

Sec. 22-3. General requirements.

Whenever any subdivision of land is proposed for residential uses, before any permit for the erection of a structure in such proposed subdivision shall be granted and before any subdivision plan may be filed in the Office of the Cattaraugus County Clerk, the subdivider or a duly authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following procedures.

The Cattaraugus County Clerk's Office shall not record a plat of any subdivision within the city unless the plat has been approved in accordance with the provisions of this chapter and contains all of the appropriate signatures.

(Res. No. 91-96, 9-24-1996; Res. No. 2-01, 1-23-1901)

Sec. 22-4. Design and review policies.

The subdivision of land shall conform with these regulations as well as with appropriate laws, rules and regulations established by all governing bodies having or claiming jurisdiction over various phases of the proposed development. It is declared to be the policy of the common council to consider land subdivision to be part of a process that provides for the orderly, efficient and economical development of the city in a manner that is reasonable and in the best interest of the community. In its consideration of an

application for the subdivision of land, the common council shall be guided by the following general requirements.

- (1) Land must be buildable and free of hazards. The physical characteristics of the land to be subdivided shall be such that it can be used for building purposes without danger to health and safety or peril from fire, flood, erosion or other menace. Proper provision shall be made for vehicular and pedestrian access, stormwater drainage, water supply and sewage disposal as well as for other needed improvements.
- (2) Important community resources and natural features shall be incorporated in the design of the subdivision as much as possible. To the maximum practicable extent, existing features of the landscape such as large trees, rock outcrops, water and flood courses, historic components and other significant community assets shall be preserved.
- (3) Subdivisions shall be in conformance with all local legislative requirements and consistent with the Comprehensive Development Plan 1990-2010, or as such comprehensive plan document may be amended in the future.

(Res. No. 91-96, 9-24-1996)

Secs. 22-5--22-25. Reserved.

ARTICLE II. DEFINITIONS AND WORD USAGEEN

Sec. 22-26. Word usage and definitions.

(a) The following rules of construction of language shall apply to the text of this chapter.

- (1) All words used in the present tense include the future tense.
- (2) All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- (3) The word "person" includes an individual, firm, association, partnership, corporation or other similar entity.
- (4) Unless otherwise specified, all distances shall be measured horizontally along the ground.
- (5) The word "building" includes the word "structure."
- (6) "Lot" includes the words "plot", "parcel", "tract", or "site".
- (7) The word "premises" includes a lot and all buildings or structures thereon.

(8) "To erect", "to construct" and "to build" a building or structure each have the same meaning and also include "to excavate" for a building and "to relocate" a building by moving it from one location to another.

(9) "Used" shall be deemed also to include "designated, intended or arranged to be used or occupied".

(10) "Shall" is mandatory; "may" is permissive and discretionary.

(11) "He" shall include the feminine gender "she".

(b) The following words or phrases as used in this chapter are defined as follows:

Applicant means to see the definition for subdivider.

Cluster development means a subdivision design that incorporates modifications to minimum lot size and setback requirements in order to provide open space within the development and/or more efficient or appropriate use of land, provided that the number of lots or dwelling units does not exceed that which would be permitted in a subdivision design which meets all of the applicable zoning requirements, including lot size and setbacks.

Common council means the legislative body of the City of Olean, New York.

Comprehensive Development Plan 1990-2010 means the plan, prepared and adopted by the planning board, which indicates the general locations recommended for various functional classes of public works, places and structures and for the general physical development of the city and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

Conditional approval means approval of a final plat subject to conditions set forth in a resolution conditionally approving such plat by the common council. Such conditional approval does not qualify a final plat for recording, nor does it authorize the issuance of any building permits, prior to the signing of the plat by the mayor or a designee and the recording of the plat in the Office of the Cattaraugus County Clerk.

Curb means a vertical edge along a street.

Developer means see the definition for subdivider.

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

Director of public works means the person designated to act on behalf of the City of Olean by the Common Council.

Easement means authorization by a property owner involving a designated part of his property for use by another for a specified purpose.

Engineer means a person licensed as a professional civil engineer by the State of New York.

Environmental assessment form means a form used to determine the environmental significance of an action, in accordance with the State Environmental Quality Review Act (SEQR) regulations.

Environmental impact statement means a written document, prepared in accordance with State Environmental Quality Review Act (SEQR) regulations, which documents the potential environmental impacts of a proposed action and alternatives.

Final plat means a drawing, in final form, showing a proposed subdivision containing all information or detail required by law and as specified in article IV of these regulations, submitted to the common council for approval and which, if approved, may be filed or recorded by the applicant in the Office of the Cattaraugus County Clerk.

Final plat approval means the signing of a plat in final form by the mayor or a designee pursuant to a common council resolution granting final approval of the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Office of the Cattaraugus County Clerk.

Lot means a parcel of land whose boundaries have been established by a legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for the purpose of use or transfer of title.

Official map means the map established by the common council pursuant to Section 26 of the General City Law, showing existing and proposed streets, highways, parks and drainage areas.

Owner means to see the definition for subdivider.

Planning board means the Planning Board of the City of Olean.

Preliminary plat means a drawing or drawings clearly marked "Preliminary Plat" showing the salient features of a proposed subdivision, as specified in article IV of these regulations, submitted to the common council for consideration prior to the submission of the plat in final form and of sufficient detail to apprise the common council of the layout of the proposed subdivision.

Resubdivision means a change to a filed deed description or a change in a map of an approved or filed subdivision plat if such change affects any lot lines, any street layout or area reserved for public use.

Sidewalk means a paved path provided for pedestrian use, usually located along the side of a street.

Sketch plan means a drawing which illustrates the proposed layout of streets, lots and other features of a proposed subdivision in relation to existing conditions for the purpose of obtaining the advice of the common council before the preparation of a preliminary plat.

State Environmental Quality Review Act (SEQR) refers to the New York State law (Article 8 of the Environmental Conservation Law) and regulations (6 NYCRR Part 617) which require public agencies to consider the potential environmental impacts of an action before such action is approved or undertaken.

Street means an existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on the Official Map and recorded in the Office of the Cattaraugus County Clerk.

Street, arterial means a street, normally a state highway, which serves or is designed to serve heavy volumes of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Street, collector means a street which serves or is designed to carry traffic from minor streets to the arterial street system.

Street, minor or local means a street used primarily to provide access to abutting properties.

Street, dead-end or cul-de-sac means a street or a portion of a street with only one vehicular outlet.

Street, marginal access means a minor street which is parallel and adjacent to an arterial street and which provides access to abutting properties and protection from through traffic.

Street, private means a minor or local street which is not a publicly dedicated street.

Street pavement means the surface of the roadway used by vehicular traffic.

Street width means the width of the right-of-way, measured at right angles to the centerline of the street.

Subdivider means any person who shall lay out any subdivision or part thereof (as defined herein), either for oneself or for others.

Subdivision means the division of any parcel of land into two or more lots, plots or sites for the purpose, whether immediate or future, of transfer of ownership or development. A lot line adjustment that does not involve creation of a new lot shall be considered a resubdivision as defined herein.

Subdivision, major means any subdivision not classified as a minor subdivision.

Subdivision, minor means a subdivision of land into not more than four lots (including the remaining portion of the original parcel) following the date of enactment of these regulations. In addition, a minor subdivision shall not involve the creation of any new public streets; the extension of any public street, water or sewer line; or, the installation of drainage improvements through one or more lots to serve one or more other lots.

Subway means the area between the curb and sidewalk or, if no sidewalk exists, the area between the curb and the public right-of-way.

Surveyor means a person licensed as a land surveyor by the State of New York.

Undeveloped plat means a plat existing at the time of the enactment of these regulations that has been filed in the Office of the Cattaraugus County Clerk, where 20 percent or more of the lots within said plat remain to be developed, excluding therefrom those lots where existing natural conditions (such as poor drainage) have prevented development.

(Res. No. 91-96, 9-24-1996)

Secs. 22-27--22-40. Reserved.

ARTICLE III. SUBDIVISION APPROVAL PROCESS

Sec. 22-41. Sketch plan approval requirements.

(a) The purpose of the sketch plan phase is to provide the subdivider with an opportunity to consult early and informally in the subdivision process with the common council in order to save time and money and to improve the opportunity for more desirable development.

(b) A sketch plan may be submitted to the common council for informal review for all subdivisions. The sketch plan should show the location of the subdivision, all existing structures, wooded areas, significant physical features, existing utilities and community resources and the proposed pattern of lots, streets, drainage, open space, and water and sewer facilities.

(c) The subdivider may appear before the common council to present the proposed sketch plan and to receive information that may be necessary to process the request. The subdivider may meet with the common council prior to preparing the sketch plan to discuss procedural matters as well as pertinent development requirements and potential concerns including, but not limited to, local development policies, the design of streets, reservations of land, water retention facilities, drainage, erosion control and slope stabilization measures, sewerage, water supply and fire protection.

(d) Subdividers of land adjoining state or city highways are advised to consult with the resident engineer of the New York State Department of Transportation or the city

department of public works at the sketch plan stage in order to resolve problems of street openings and/or stormwater drainage at the earliest possible stage in the design process.

(e) Where public utilities are involved, the subdivider's engineer should contact the appropriate agencies for connection specifications and capacity requirements as well as other pertinent construction standards.

(f) The common council shall determine whether the sketch plan meets the purposes of these regulations and if the proposal is consistent with existing or potential development of adjacent areas and the Comprehensive Development Plan 1990-2010. The common council shall inform the applicant of the actions to be taken to meet the requirements of these regulations. The requirements for compliance with SEQR may also be discussed at this stage. If it is deemed appropriate, the common council may refer a copy of the sketch plan to the planning board or to the director of public works or any other city official for review and comment.

(g) Within 45 days following the receipt of a complete sketch plan, the common council shall consider and transmit a written report to the applicant containing its comments concerning the design of the proposed project. Copies of minutes of relevant meetings of the common council shall be considered a sufficient written report. The timeframe within which the common council is required to act may be extended by mutual consent of the common council and the applicant. In the event the common council fails to transmit a written report within the aforementioned 45 days or such additional time as may be mutually agreed upon by the subdivider and the common council, the subdivider shall consider the common council to be in concurrence with the design of the proposed subdivision for the purpose of preparing a preliminary plat.

(Res. No. 91-96, 9-24-1996)

Sec. 22-42. Preliminary plat approval requirements.

(a) A preliminary plat shall be prepared and submitted to the common council for all proposed major subdivisions and may be submitted for minor subdivisions. The preliminary plat shall be clearly marked "Preliminary Plat" and shall satisfy the requirements for preliminary layouts as described in article IV of these regulations. Preliminary plats should comply with the recommendations made by the common council in its report on the sketch plan. A completed environmental assessment form shall also be submitted at this time.

(b) Ten copies of the preliminary plat and supplementary materials specified herein shall be submitted to the common council at least 14 days prior to the meeting at which it is to be considered.

(c) The preliminary plat shall be accompanied by a fee to cover administrative and inspection costs in accordance with the fee schedule adopted by the common council.

(d) One copy of the preliminary plat shall be returned to the applicant with the notification of decision and one copy shall be retained by the common council. The other

copies shall be used for necessary coordination with other agencies or consultants including the Cattaraugus County Department of Economic Development, Planning and Tourism pursuant to Section 239-n of the General Municipal Law.

(e) The common council shall study the preliminary plat taking into consideration the topography of the area, the requirements of the community and the best design of the land proposed to be subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water and sewer services, drainage, lot sizes and arrangements, the future development of adjoining lands as yet unsubdivided and the requirements of the city's zoning regulations and Comprehensive Development Plan 1990-2010. In the review of the preliminary plat, the common council may consult with the city director of public works if such consultation is needed, as well as with such other officials or agencies as may be appropriate. The planning board, city director of public works or other appropriate officials consulted with shall report to the common council concerning the adequacy of the features shown on the preliminary plat.

(f) Within 62 days following the receipt of a complete and satisfactory preliminary plat and supporting documentation,* the common council shall, pursuant to general city law, conduct a public hearing on the proposed subdivision. The notice of hearing shall be published at least once in a newspaper of general circulation in the city not less than five days before such hearing.

*Supporting documentation shall include a completed environmental assessment form or a draft environmental impact statement and appropriate actions taken in accordance with the provisions of the State Environmental Quality Review Act. (For guidance, see section 22-46 of these regulations.)

(g) Within 62 days following the closing of the public hearing, the common council shall approve, with or without modification, or disapprove such preliminary plat. The grounds for a modification or disapproval, if any, shall be stated in the records of the common council. Notwithstanding the foregoing provisions, the time within which the common council must take action on such plat may be extended by mutual consent of the subdivider and the common council. When approving a preliminary plat, the common council shall state in writing any modification it deems necessary prior to submission of the plat in final form.

(h) Within five days of the decision on the preliminary plat, the common council shall file its decision in the office of the city clerk. In addition, the subdivider shall be provided with written notification of the action by the common council within five days of the decision. In the event the common council fails to take action on a preliminary plat within the timeframe prescribed herein, such plat shall be deemed to have been granted preliminary approval. The certificate of the city clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval.

(Res. No. 91-96, 9-24-1996)

Sec. 22-43. Final plat approval requirements.

(a) Within six months of receiving approval from the common council on a preliminary plat, with or without modification, the applicant may submit a final plat for approval by the common council. The final plat shall be accompanied by the appropriate subdivision fees as specified in the fee schedule adopted by the common council. Final plats may require further review under the State Environmental Quality Review Act (SEQR).

(b) If more than six months have elapsed between the time of the common council's decision on the preliminary plat and the submission of the final plat, the common council may require resubmission of the preliminary plat prior to accepting the proposed final plat, if it determines that conditions affecting the plat have changed significantly in the interim. If the common council determines that the preliminary plat must be resubmitted, the common council shall conduct another public hearing on the proposed subdivision.

(c) The subdivider may choose to develop the subdivision in sections. If sections are proposed, the developer shall submit the final plat for a portion of the area encompassed by the preliminary plat, provided that the proposed development sections were indicated on the preliminary plat approved by the common council. A section shall include at least ten percent of the total number of lots contained in the approved preliminary plat.

(d) Two reproducible mylar tracings of the final plat map plus ten copies of said tracing and other exhibits required for approval, as specified herein and as otherwise required by the city, shall be submitted with the application for final plat approval. When submitting a final plat for common council approval, the subdivider shall also file formal offers of dedication to the city or other appropriate public agencies of all streets, parks and playgrounds and other permanent open spaces for community use as well as all utilities and storm drainage facilities as shown in the final plat. The approval of the plat does not constitute acceptance by the city of the dedication of such facilities. Evidence of all necessary easements or easement documents, if appropriate, as well as any other legal documents requested by the common council shall be submitted with the final plat.

(e) The final plat shall conform substantially to the preliminary plat approved by the common council. It shall incorporate any modifications or other features that may have been specified by the common council at the preliminary plat stage.

(f) Within 62 days of the receipt of a complete and satisfactory final plat which the common council deems to be in substantial agreement with the approved preliminary plat, the common council shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

(g) When a final plat is submitted which the common council deems not to be in substantial agreement with the approved preliminary plat, the following shall apply:

(1) The common council shall hold a public hearing on such final plat not later than 62 days after the receipt of the final plat. The hearing shall be advertised at least once in a newspaper of a general circulation in the city at least five days before such hearing.

(2) The common council shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the common council.

(h) Written notice of the action by the common council shall be mailed to the applicant and filed in the office of the city clerk within five days of the date of the action by the common council. The action of the common council shall be recorded in the council's minutes. In the case of the disapproval of a proposed final plat, the common council minutes shall specify the reasons for disapproval. Notwithstanding the foregoing provisions of this chapter, the time within which the common council must take action on such plat may be extended by mutual consent of the subdivider and the common council. In the event the common council fails to take action on a final plat within the time prescribed herein, the plat shall be considered to be approved. A certificate of the city clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval.

(i) No development of any sort, site improvements or a building permit for any structure within the proposed subdivision shall be issued by the code enforcement office until the record sheet of the final plat has been approved by the common council and the subdivision is filed by the subdivider in the Office of the Cattaraugus County Clerk and the libre and page numbers have been assigned by the county clerk. If a permit is desired for the occupancy of a building in the subdivision prior to the completion of all of the improvements shown on the approved construction sheet of the subdivision plat, the city director of public works shall determine that the streets and utilities serving the building have been sufficiently completed to adequately serve the proposed occupancy.

(j) Every final plat submitted to the common council for its approval shall carry the following endorsement:

Approved by Resolution of the Common Council of the City of Olean, New York, on the _____ day of _____, subject to all requirements and conditions of said Resolution.

Signed this day of _____, _____, by, _____ Mayor, or _____, Designee.

(k) If the common council conditionally approves the final plat, the mayor or a designee may sign the plat upon the completion of the requirements specified in the approval resolution. Within five days of granting conditional approval, the final plat shall be certified by the mayor, or designee, as conditionally approved. A copy of such action shall be filed in the office of the city clerk and a copy shall be mailed to the subdivider, including a statement listing those requirements which, upon completion, would constitute approval of the final plat. Upon completion of the requirements, the plat shall be signed by the mayor or a designee. Conditional approval of a final plat shall expire within 180 days following the date of the resolution granting conditional approval unless

all such requirements have been certified as completed. Notwithstanding the foregoing provisions of this chapter, the common council may extend the time within which a conditionally approved plat must be submitted for final approval. If the common council determines that such an extension is warranted, it may extend the date for no more than two periods of 90 days each.

(l) No changes, erasures, modifications, or revisions shall be made to any final plat following approval and endorsement of said plat by the common council. In the event that a final plat, when recorded, contains any such changes, the plat shall be considered null and void, and the common council shall institute proceedings to have said plat stricken from the records of the county clerk.

(m) An approved final plat shall be filed by the subdivider in the office of the county clerk within 62 days following the date said final plat is signed by the mayor or a designee, or the issuance of the certificate by the city clerk as to the date of the submission of the final plat and failure of the common council to take action thereon within the time prescribed. If the final plat is not filed within this time period, the final plat approval shall become null and void. In the event the owner shall file only a section of an approved plat in the office of the county clerk, the entire approved preliminary plat shall be filed with the city clerk within 30 days of the filing of such section. Any section of an approved final plat which is filed in the office of the county clerk shall encompass at least ten percent of the total number of lots contained in the approved preliminary plat. The approval of the remaining sections of the approved preliminary plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of General City Law.

(Res. No. 91-96, 9-24-1996)

Sec. 22-44. Minor subdivision approval requirements.

(a) The common council shall act on minor subdivision final plats in accordance with the provisions of this section.

(b) Prior to submitting any request, applicants seeking approval of minor subdivision plats are encouraged to meet with the common council to determine whether the approval process authorized by this section can and should be utilized. The common council may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of a tax map showing the land proposed to be subdivided and all lots previously subdivided from that tract of land.

(c) Applicants for approval of minor subdivisions are required to submit a map that shows all of the detail required to be shown on a final plat map. In order to expedite the process, applicants are not required to submit a preliminary plat. However, submission of a sketch plan is strongly encouraged. Except for adherence to the requirement that a public hearing be held when two or more new lots are proposed to be created, the common council may waive some or all of the other provisions of these regulations as they pertain to a minor subdivision. In order to waive the regulations that ordinarily

apply, the common council shall make the determinations that, if approved, the proposed minor subdivision would not pose any danger to health and safety or peril from fire, flood, erosion or other menace and that no substantial public interest would be served by strict adherence to these regulations.

(d) Unless otherwise waived by the common council (as provided in subsection (c) above), final plats for minor subdivisions shall comply with the recommendations made by the common council as a result of its review and report on the sketch plan, if any.

(e) Applicants for minor subdivision approval shall submit two reproducible mylar tracings plus ten copies of a map conforming to the requirements for a final plat.

(f) The final plat shall be accompanied by a fee to cover expenses associated with administration and inspection, in accordance with the fee schedule adopted by the common council.

(g) The common council shall conduct a public hearing on the proposed minor subdivision as soon as it is deemed practical by the common council but not later than 62 days after the receipt of a complete and satisfactory application for approval (including a completed Environmental Assessment Form). Said hearing shall be advertised in a newspaper of general circulation within the city at least once not less than five days prior to the hearing.

(h) The common council shall act on the minor subdivision proposal as soon as it is deemed to be practical but not later than 62 days following the public hearing. The time period within which the common council is required to act may be extended by mutual agreement of the applicant and the common council. In taking action, the common council shall approve, deny or conditionally approve the proposed minor subdivision final plat. All decisions of the common council shall be filed in the office of the city clerk within five days of the decision. In addition, the applicant shall be provided with notification of the action by the common council within five days of the decision. If the common council fails to act within the 62-day period provided for herein (or such additional period as the city and the applicant may mutually agree upon), the subdivision shall be deemed to be approved and the city clerk shall issue a certificate of approval on demand.

(i) If the subdivision is conditionally approved, the common council shall authorize the mayor or a designee by resolution to sign the plat upon the completion of the requirements specified in the resolution approving the subdivision.

(j) If the subdivision is disapproved, the common council shall furnish the applicant with a written statement specifying the reasons for disapproval.

(k) Approval of any final plat is contingent upon the plat being recorded by the subdivider in the Office of the Cattaraugus County Clerk within 62 days following the date said final plat is signed by the mayor or a designee pursuant to the resolution of the common council. If the final plat is not filed within this time period, the final plat approval by the common council shall be null and void.

(l) Unless modified or waived, the construction of any improvements or the provision of guarantees for such improvements for a minor subdivision shall be in accordance with the procedures and requirements specified herein for major subdivisions.

(Res. No. 91-96, 9-24-1996)

Sec. 22-45. Resubdivision and lot line adjustments.

(a) Except for those instances which take precedence (as provided in (b) below), the resubdivision of property affecting a change in street layout or any area reserved for public use shall follow the same procedure as specified elsewhere in this chapter for a subdivision. In such instance, the number of lots affected by such resubdivision shall determine whether it is processed as a major or minor subdivision.

(b) A resubdivision consisting solely of the simple alteration of lots lines and where no additional lots are proposed to be created shall be subject to the preparation of a map by an engineer or surveyor. Said map shall be labeled "Resubdivision Map". Once a resubdivision map has been received, the common council shall by resolution authorize the mayor or a designee to review the proposed resubdivision map for the purpose of determining compliance with local zoning requirements. Pursuant to the resolution of the common council, the mayor or a designee shall sign the resubdivision map which may thereafter be filed by the subdivider in the county clerk's office. Tax map numbers shall be reassigned as necessary.

(Res. No. 91-96, 9-24-1996)

Sec. 22-46. Coordination with the State Environmental Quality Review Act (SEQR)

(a) Preliminary plats and final plats, where no preliminary plat was required, shall not be considered complete until the subdivider has submitted all of the information required under SEQR and either a negative declaration has been filed or a notice of completion of the draft environmental impact statement has been filed. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

(b) If the common council is lead agency under the State Environmental Quality Review Act (SEQR), any public hearing held by the common council on a preliminary plat, on a final plat where no preliminary plat was required, or on a final plat which does not substantially conform to an approved preliminary plat, shall be coordinated with the environmental review process as follows:

(1) If the common council determines that the preparation of an environmental impact statement is not required, the common council shall issue a negative declaration and conduct the public hearing on the proposed plat within 62 days after the receipt of a complete preliminary plat; or,

(2) If the common council determines that the preparation of an environmental impact statement is required and a public hearing on the draft environmental impact

statement is held, the public hearing on the proposed plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement. If no public hearing is held on the draft environmental impact statement, the public hearing on the proposed plat shall be held within 62 days of filing the notice of completion.

(3) The hearing on the proposed plat shall be advertised at least once in a newspaper of general circulation in the city at least five days before such hearing if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The hearing on the proposed plat shall be completed within 120 days after it has begun.

(4) If the common council determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 62 days following the close of the public hearing on the proposed plat. The common council shall issue findings on the final environmental impact statement and make its decision on the proposed plat within 30 days of the filing of such final environmental impact statement.

(c) If the common council is not lead agency under the State Environmental Quality Review Act, any public hearing held by the common council on a preliminary plat, on a final plat where no preliminary plat was required, or on a final plat which does not substantially conform to an approved preliminary plat, shall be coordinated with the environmental review process as follows:

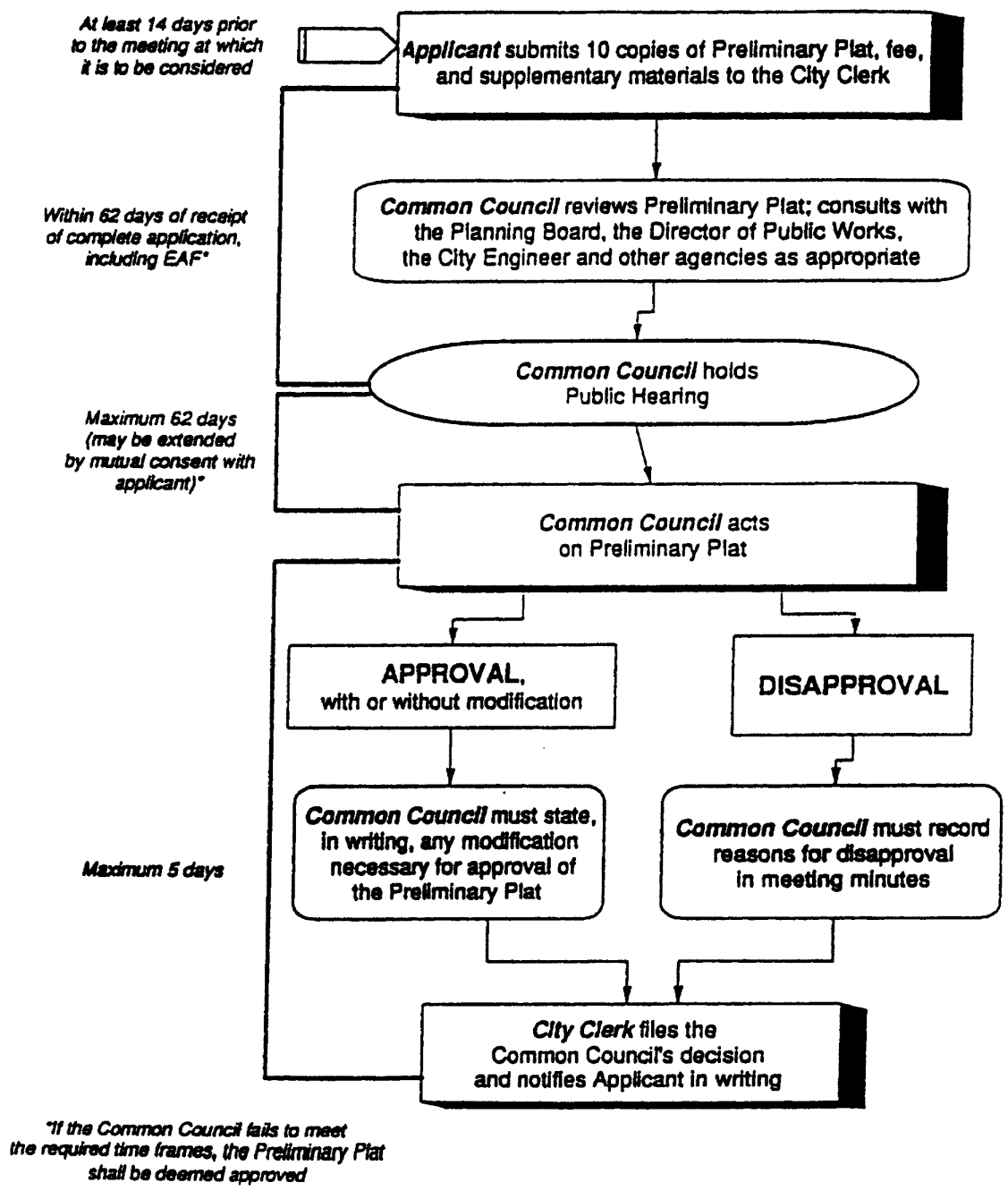
(1) The common council shall, with the agreement of the lead agency, hold the public hearing on the proposed plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the common council shall hold the public hearing on the proposed plat within 62 days after the receipt of a complete plat by the common council.

(2) The hearing on the proposed plat shall be advertised at least once in a newspaper of general circulation in the city at least five days before such hearing if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The common council may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such plat. The hearing on the final plat shall be completed within 120 days after it has begun.

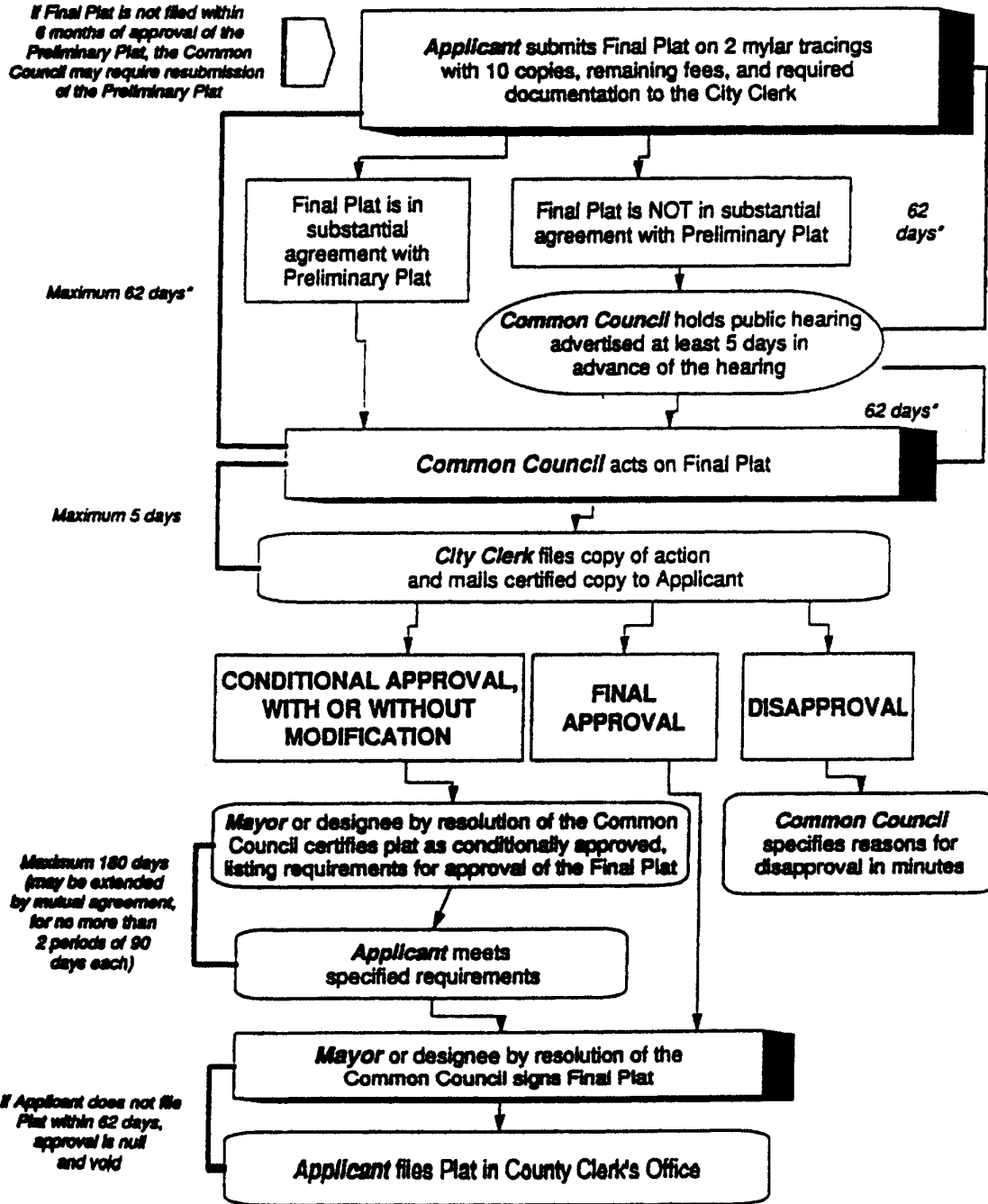
(3) The common council shall act on the proposed plat within 62 days after the close of the public hearing on such plat.

(Res. No. 91-96, 9-24-1996)

Preliminary Plat Review Procedures

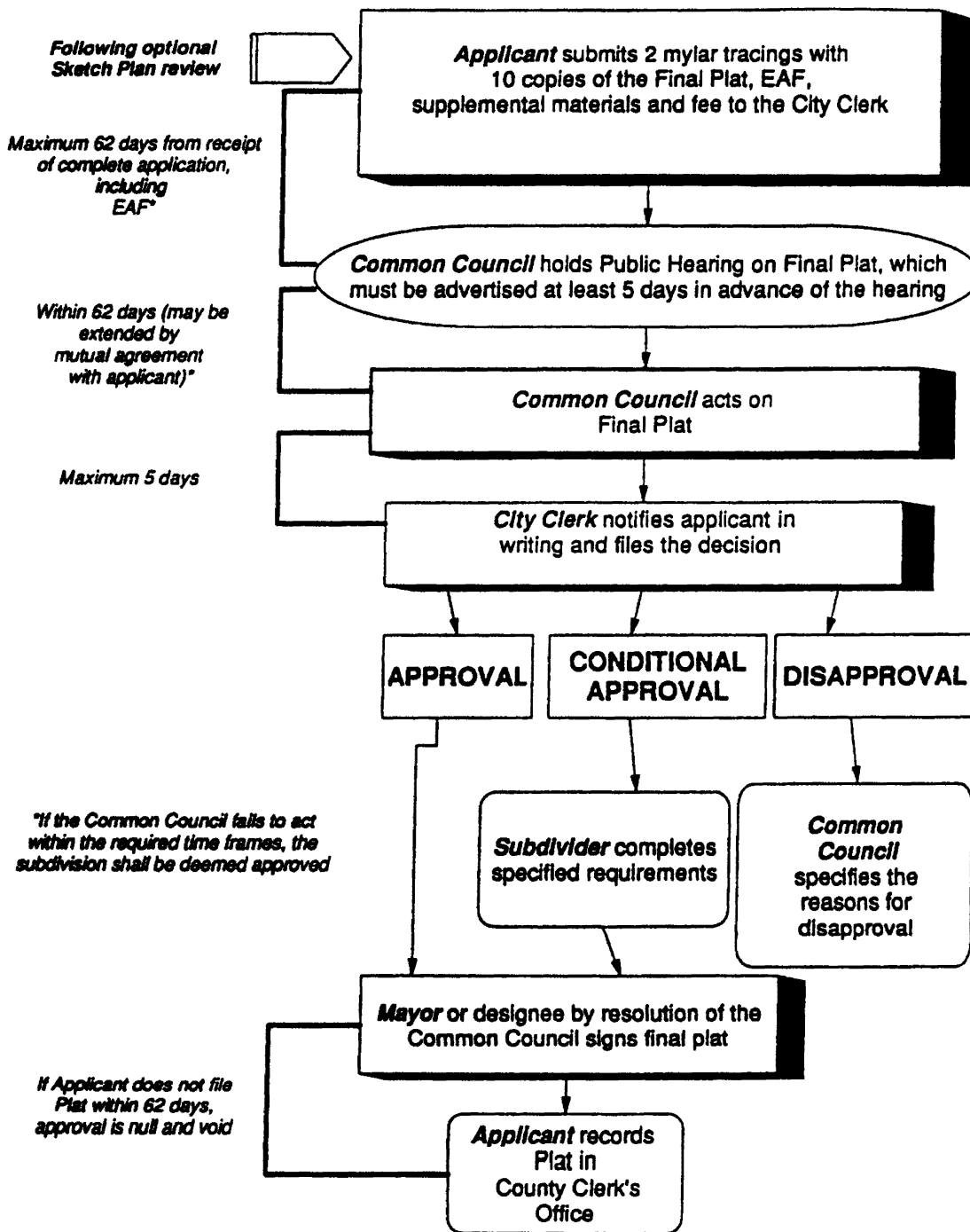


Final Plat Review Procedures



**If Common Council fails to act within the required time frames, the Final Plat shall be deemed approved*

Minor Subdivision Review Procedures



Secs. 22-47--22-75. Reserved.

ARTICLE IV. SPECIFICATIONS FOR LAYOUTS AND PLATS

Sec. 22-76. Specifications for sketch plans.

A sketch plan shall be drawn on mylar or other suitable tracing material at a scale of not more than 100 feet to one inch. Sketch plans shall include the following information:

- (1) The name of the proposal, including the name and address of the subdivider(s).
- (2) A north arrow, graphic scale, date, and general location map.
- (3) Other land contiguous to the proposal which is controlled by the owner(s) or subdivider(s) with the approximate acreage of such land.
- (4) The names of the owners of adjacent lands and the names of adjacent subdivisions.
- (5) The boundaries of the tract in relation to adjoining streets (including bearings and distances) and the locations of the nearest utility services.
- (6) General topography and drainage patterns of the parcel to be subdivided and parcels within 200 feet of the tract to be subdivided. All pertinent topographic features within the site and adjoining tracts, including existing buildings, watercourses, water bodies, wetlands and wooded areas, shall be shown. Features proposed to be retained as well as those proposed to be removed shall be indicated.
- (7) A statement as to the proposed source of water supply and the method of sewage disposal.
- (8) The lines of proposed streets and lots (including bearings and distances) as well as lands identified for recreation areas or other permanent open spaces.
- (9) If the subdivider intends to develop the tract in sections, the entire tract shall be depicted on the sketch plan with the anticipated sections and the timing of development indicated.
- (10) A general statement as to how stormwater drainage is to be accommodated.
- (11) An indication of the existing zoning of the tract (both on and adjacent to the site) and any other legal restrictions of use.
- (12) The general soil conditions of the entire site proposed for subdivision and its location with respect to a floodway or the boundaries of any areas of special flood hazard (100-year floodplain).
- (13) Locations of any natural gas or oil wells on the site.
- (14) A statement as to the consistency of the proposal with the Comprehensive Development Plan 1990-2010.

(Res. No. 91-96, 9-24-1996)

Sec. 22-77. Specifications for preliminary plats.

The preliminary plat shall be drawn on one or more sheets of mylar or other suitable tracing material and shall be clearly marked "Preliminary Plat." The preliminary plat shall be drawn at a scale of not more than 100 feet to one inch. If more than one sheet is required to show an entire tract, an index map drawn to scale showing all sheets shall be provided. Proof of ownership shall be submitted at this time. When the subdivider is someone other than the owner, an affidavit from the owner of the land consenting to the application shall be filed. The plat shall include the following information:

- (1) Items (1) through (5) of section 22-76.
- (2) Existing streets immediately adjoining and within the tract to be subdivided and the distance(s) to the nearest major street intersection(s).
- (3) A topographic map showing the entire site and all lands within 100 feet of the property at not more than a five-foot interval. When additional information is needed to review the subdivision, the common council may require topographic data for land areas within 200 feet of the property boundary.
- (4) Existing drains, water lines, and sanitary sewers within the tract to be subdivided and adjacent thereto. Such facilities shall be identified by location, size, type and approximate elevations and gradients, using datum based on mean sea level. Existing as well as proposed defs for such facilities shall also be shown.
- (5) The proposed source of water supply and method of sewage disposal. A conceptual layout of each system shall be delineated, including the location of hydrants and the sizing of lines to be installed. Where water mains are not looped, hydrants shall be provided.
- (6) An overlay showing all soils and their classification. Areas with moderate to high susceptibility to erosion, if any, shall be highlighted. The subdivider shall also include information about existing on-site vegetation.
- (7) A separate drainage report including calculations for runoff and pipe and channel sizing, which clearly describes how runoff is to be handled during grading and development. The use of erosion and sedimentation prevention measures shall be described. The report shall provide sufficient details to indicate how the subdivider will comply with the requirements for stormwater management plans administered by the New York State Department of Environmental Conservation and shall include the preliminary design of bridges and culverts. The design of stormwater retention facilities shall be in accordance with specifications of the city director of public works. The design of bridges and culverts shall conform to the requirements of the appropriate jurisdiction (city department of public works or the state department of transportation).
- (8) The approximate lines and gradients of proposed streets and sidewalks and the names of proposed streets.
- (9) A preliminary grading plan of the site at a contour interval of two feet. The grading plan shall identify the locations and approximate sizes of cuts and fills and cross

sections for any final grading steeper than three foot horizontal to one foot vertical (3 to 1), or where the cut or fill will be more than five feet.

- (10) The approximate location of proposed lot lines, the acreage or square footage contained in each lot and, for identification purposes, individual lot numbers. If necessary, the setbacks of any proposed lot lines from existing buildings shall be noted.
- (11) The locations and dimensions of areas proposed as permanent open space.
- (12) The extent and sequence of the phases in a subdivision proposed to be developed in sections.
- (13) The location of any municipal boundary lines and zoning district lines within the tract.
- (14) The required and actual areas, yards and setbacks of any non-conforming lots.
- (15) Copies of any deed restrictions or covenants as they may apply to any or all parts of the subdivision.
- (16) The location, type and ownership of any natural gas or oil wells within the proposed subdivision.
- (17) The location and type of any known potentially hazardous materials, either on or adjacent to the site.
- (18) The location and quality of water bodies directly adjacent to the proposed subdivision.
- (19) An indication of any federal, state or county permits that may be required.
- (20) The locations of any buffers to be provided either during or after the completion of construction.
- (21) Facilities for fire protection.
- (22) Facilities for vehicular and pedestrian traffic, circulation and parking.
- (23) The locations of major trees and whether such trees are proposed to be saved or removed.

(Res. No. 91-96, 9-24-1996)

Sec. 22-78. Specifications for final plats.

The final plat shall be drawn in ink on mylar, linen or other suitable material for filing in the Cattaraugus County Clerk's Office. Said plat shall contain sufficient survey data to readily determine the location, bearing and length of all lines shown thereon and to

permit the reproduction of such lines upon the ground. The final plat submission shall consist of three components: the construction sheet, the record map and the drainage and erosion control plan, as described in the subsections that follow. Two mylar copies shall be submitted to the common council. One approved copy shall be retained by the city; the other shall be filed with the county clerk.

(1) Final plat construction sheet. The construction sheet shall not be larger than 34 by 44 inches in size, nor smaller than 18 by 24 inches. It shall be drawn at a scale of not more than 50 feet to one inch and shall contain the information listed below. Where more than one sheet is required to depict the entire subdivision, an index map drawn to scale showing all sheets shall be provided. All data shown on the construction sheet shall be in accordance with the requirements of the city director of public works and the city's construction specifications and shall include:

- a. Items (1) through (3) of section 22-76.
- b. The lines of existing and proposed streets and sidewalks both within and immediately adjoining the subdivision.
- c. The names of existing and proposed streets.
- d. Plans and typical cross sections of proposed streets and sidewalks.
- e. Profiles of proposed streets at a suitable vertical scale showing finished grades in relation to the existing ground elevation.
- f. The precise layout of proposed lots, including lot numbers.
- g. Provisions for water supply and sewage disposal, and, if applicable, evidence that such provisions have received the approval of the Cattaraugus County Department of Health.
- h. The location and size of existing and proposed stormwater pipes, sanitary sewer lines and watermains on the property including, also, those into which any connection is proposed.
- i. The locations of survey monuments. Prior to the acceptance of the dedication of new streets, a certificate by a surveyor or engineer shall be filed certifying that the above monuments have been placed as indicated on the final plat map, at the appropriate stage of construction as determined by the city director of public works.
- j. Plans for any proposed neighborhood park or playground within the subdivision including landscaping.
- k. A planting plan for street trees indicating the location, varieties, and sizes of any trees to be planted and of existing trees to be preserved.

- l. Brief specifications, or reference to city standards, for all facilities to be constructed or installed within the subdivision.
 - m. Specifications for all bridges and culverts, and approvals from the appropriate jurisdiction (e.g., the state department of transportation or the city department of public works), if needed.
 - n. The locations of any natural gas or oil wells within the subdivision.
 - o. Certification by an engineer or surveyor as evidence of professional responsibility for the preparation of the construction sheet.
- (2) Final plat record map. Unless the Cattaraugus County Clerk specifies otherwise, the record sheet shall be no larger than 24 by 36 inches in size, shall be drawn on mylar or linen at a scale not greater than 50 feet to one inch and shall show the information listed below. Where more than one sheet is required to show the entire subdivision, an index map drawn to scale showing all sheets shall be provided. The final plat record map shall include:
- a. Items (1) and (2) of section 22-76.
 - b. The boundaries of the subdivision and information showing the location of the subdivision in relation to surrounding properties and streets, including the names of the owners of adjacent lands and the names of adjacent subdivisions. Whenever practicable, the subdivision boundary shall be referenced from two directions to established U.S. Coast and Geodetic Survey monuments or New York State Plane Coordinate monuments. In the event that such monuments have been obliterated or are otherwise unavailable, the subdivision boundary shall be referenced to the nearest highway intersections or to previously established monuments nearby in other subdivisions or on public lands. Any combination of types of reference points that fulfill the requirements for exact measurements from the subdivision boundary to reference points previously established for or by a public agency may be accepted. (Note: If a city coordinate system should be established, then this system shall become the only reference for establishing monuments.)
 - c. The lines of existing and proposed streets and sidewalks within the subdivision and their interconnection with existing or proposed streets and sidewalks on adjoining properties.
 - d. The lines and dimensions of proposed lots, which shall be numbered. If a proposed lot contains one or more existing buildings, the setbacks for such buildings shall be indicated.
 - e. The lines and purposes of existing and proposed easements both within and immediately adjoining the subdivision.

f. The lines, dimensions, bearings and area in square feet of all property proposed to be reserved by deed restriction or covenant for the common use of property owners in the subdivision or for any other reason.

g. The location of monuments to be placed within the subdivision.

h. The locations of existing and proposed water supply lines, storm sewers, and sanitary sewers within the subdivision.

i. The locations of any municipal service boundaries and zoning lines within the subdivision.

j. Written statements as to:

1. The zoning of the property within the subdivision.

2. Compliance of the proposed lots with zoning requirements. If any lots do not comply but are covered by zoning variances, the statement should include reference to such variances. If variances are needed, the document shall specify the nature and location of the variance(s) which are necessary.

3. If the subdivision is approved for cluster development, pursuant to Section 37 of the General City Law, the statement shall include supporting documents that illustrate that the number of lots proposed is equal to or less than the number that would be permitted with a conventional design.

j. The seal and certification by a surveyor or engineer as evidence of professional responsibility for the preparation of the record map and a place for the libre and page numbers when filed.

k. Offers of dedication to the city involving any open space, recreation, street or other improvements and those facilities to be retained by the subdivider, including the method of maintenance and improvement thereof. Such offers shall be received and approved by the city attorney as to their legal sufficiency.

(3) Subdivision drainage plan and erosion control plan. This plan shall be on a separate sheet of the same size and scale as the record map and shall contain the following information:

a. Plans, profiles and typical as well as special cross sections of proposed stormwater drainage facilities including any stormwater detention facilities.

b. Supporting final design data and copies of computations used as the basis for determining design capacities and performance of the proposed drainage facilities.

c. The subdivision grading plan developed to a suitable contour interval, with details to indicate proposed street grades and building site grades and elevations throughout the subdivision. The contours shown on the grading plan shall be on a one-, two- or five-foot

interval (when measured vertically). The interval selected shall result in a horizontal distance between contour lines of not more than 100 feet. All grades shall be referenced to United States Coast and Geodetic Survey datum.

d. A stormwater management plan shall be prepared in conformance with the publication "Reducing Impacts of Stormwater Runoff from New Development," including all amendments to that document and other provisions which may, from time to time, be established by the NYS Department of Environmental Conservation. Such plan shall be available on-site at all times during construction.

e. If the subdivision is within or adjacent to the boundary of a 100-year floodplain, the subdivision drainage plan shall contain a detailed analysis of the area with respect to floodplain management and land use.

f. The location of all proposed buildings, if known.

g. The number of each lot.

h. The location and means of controlling erosion within the project limits.

i. Slope stabilization details.

(Res. No. 91-96, 9-24-1996)

Secs. 22-79--22-100. Reserved.

ARTICLE V. IMPROVEMENTS AND/OR GUARANTEES

Sec. 22-101. Required improvements.

(a) Prior to the approval of a final plat by the common council, the applicant shall complete all of the improvements deemed necessary by the common council to the satisfaction of the appropriate city departments and the common council.

(b) All of the required improvements shall be made by the applicant without reimbursement by the city. Unless alternatively provided for in accordance with the provisions of General City Law, said improvements shall include the following, as well as those other development improvements set forth in criteria and specifications adopted by the common council:

(1) Streets.

(2) Street signs.

(3) Curbing and gutters.

(4) Subways.

(5) Sidewalks.

- (6) Street shade trees.
- (7) Monuments.
- (8) Storm drainage.
- (9) Sanitary sewers.
- (10) Water distribution lines and hydrants.
- (11) Park and recreation facilities.
- (12) Electrical, gas, telephone, television cable and utility lines.
- (13) Plantings and ground cover.
- (14) Driveways within rights-of-way (once the location and layout of the development on the premises is known).

(c) The subdivider shall complete all of the required improvements to the satisfaction of the city director of public works who, upon receipt of written certification by the appropriate agency and/or authorized city department head, shall file a letter with the common council signifying the satisfactory completion of all improvements required by the common council.

(d) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the city director of public works upon receipt of written certification by the appropriate agency and/or authorized city department head and an as-built map satisfactory to the common council has been submitted indicating the exact location of all utilities as installed. Said map shall be submitted prior to the signing of the plat by the mayor or a designee.

(e) After consultation with the city director of public works, the common council may waive any required subdivision improvement. Such waiver may be granted by the common council if an improvement is considered to be inappropriate because of the inadequacy of or lack of connecting facilities adjacent to or in close proximity to the subdivision or when such an improvement is not judged to be requisite to the public health, safety and general welfare.

(Res. No. 91-96, 9-24-1996)

Sec. 22-102. Letter of credit alternative.

(a) As an alternative to the completion of the required improvements, the subdivider may, prior to the approval of the final plat by the common council, file a certified check, irrevocable letter of credit or other security with the city clerk. The amount of the certified check, irrevocable letter of credit or other security shall be estimated by the developer's engineer and approved by the city's director of public works. Such security

shall be sufficient to cover the full cost of the required improvements deemed necessary by the common council. Any such letter of credit shall comply with the requirements of Section 33 of General City Law and shall be satisfactory to the common council and the city attorney as to form, sufficiency, manner of execution and surety. The common council shall determine an appropriate period of time to be set forth within the security agreement (not to exceed three years) within which the required improvements shall be completed. The term of the security agreement may, however, be extended by mutual agreement of the common council and the subdivider.

(b) If the subdivider elects to provide a certified check or letter of credit for any or all of the required improvements, such guarantee shall not be released until an as-built map satisfactory to the common council has been submitted indicating the location of all underground utilities as installed. The city director of public works shall provide written certification that the improvements have been completed as required by the common council.

(c) In the event the subdivider is authorized to file the approved plat in sections, as provided herein, final plat approval may be granted and the plat shall be filed by the subdivider in the Office of the Cattaraugus County Clerk following the installation of the required improvements or the furnishing of security to cover the costs of such improvements. The subdivider shall not be permitted to begin construction in any one section until all previously approved sections have been filed in the office of the county clerk and the required improvements have been installed in such prior sections or security covering the costs of such improvements has been provided therefor.

(d) The letter of credit shall continue in full force and effect until a request is made to the mayor for a release from the letter of credit. Once received, the mayor shall submit the request to the city director of public works for a recommendation. The mayor shall also forward a copy of the request to the common council for its review and recommendation. Upon receipt of the city director of public works' recommendation and the response from the common council, the mayor may authorize the release of up to 90 percent of the total security. Prior to the mayor approving the release of up to 90 percent of the security, the city director of public works shall prepare and sign a statement to the effect that: (a) the work has been completed according to plans and specifications; (b) the work has been inspected by an engineer; and (c) all improvements have been successfully tested. Prior to requesting the release of the final ten percent by the subdivider, a maintenance bond covering two years and equal to ten percent of the total cost of the improvements shall be posted and all public streets within the subdivision shall be dedicated to the city. The mayor may authorize the final release of said security upon the city clerk's receipt of the required maintenance bond.

(e) In the event the subdivider is not in compliance with the conditions of this chapter or any other applicable city laws, such certified check, letter of credit or other security shall be forfeited to the city and used for the completion of the required improvements. The city shall return any amount to the applicant that is not needed to cover any costs incurred by the city as a result of the applicant's default.

(Res. No. 91-96, 9-24-1996)

Sec. 22-103. Construction of improvements.

(a) The city director of public works shall act as agent of the common council for the purpose of assuring the satisfactory completion of all improvements required by the common council. The costs of such inspection shall be determined based on a fee schedule adopted by resolution of the common council. The applicant shall pay the city for the costs of inspection before the final plat is signed for filing. If the city director of public works finds, upon inspection, that any of the required improvements have not been constructed in accordance with common council's recommendations or the final plat construction sheet, the applicant shall be liable for the costs of completing said improvements according to the approved specifications. No plat shall be approved by the common council as long as the subdivider is in default on a previously approved plat. No certificate of occupancy shall be issued by the city code enforcement office for any lots for which the subdivider is deemed to be in default.

(b) If at any time before or during the construction of the required improvements it is demonstrated, to the satisfaction of the city director of public works, that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the city director of public works may, by resolution of the common council, authorize such modifications provided that such modifications are within the spirit and intent of the common council's approval and do not waive or substantially alter the function of any improvements required by the common council. The city director of public works shall issue any such authorization in writing and shall transmit a copy of such authorization to the common council at their next regularly scheduled meeting. The final plat construction sheets shall be modified to reflect the changes which are authorized and said final plat construction sheets, once modified, shall be made part of the subdivision file.

(c) At least 30 days prior to commencing construction of the required improvements, the subdivider shall notify the city director of public works in writing of the time when the construction of such improvements is scheduled to begin. This notice will enable the city director of public works to have inspection services on-site to assure that all city specifications and requirements are met during the construction of required improvements and to assure that the improvements required by the common council are satisfactorily completed.

(Res. No. 91-96, 9-24-1996)

Sec. 22-104. Reservation of parkland.

(a) Before the common council may approve a subdivision containing residential units, the final plat shall also show, when required by the common council, a park or parks suitably located for playground or other recreational purposes.

(b) Land for park, playground or other recreational purposes may not be required until the common council has made a finding that a proper case exists for requiring that a park

or parks be suitably located for playgrounds or other recreational purposes within the city. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the city based on projected population growth to which the particular final plat will contribute.

(c) In the event the common council makes a finding that the proposed subdivision presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located within such subdivision, the common council may require a sum of money in lieu thereof, in an amount to be established by the common council. In making such determination of suitability, the common council shall assess the size and suitability of land shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any money required by the common council in lieu of land for park, playground or other recreational purposes shall be deposited into a trust fund to be used by the city exclusively for park, playground or other recreational purposes, including the acquisition of property.

(Res. No. 91-96, 9-24-1996)

Secs. 22-105--22-125. Reserved.

ARTICLE VI. DESIGN STANDARDS

Sec. 22-126. General.

The common council, in reviewing an application for approval shall be guided by the considerations and standards set forth in this article. The common council shall take into account the prospective character of the development and require that improvements be designed to insure the reasonable protection of the public health, safety, morals and general welfare. In addition, all improvements shall be in accordance with the city's construction specifications.

(1) Land to be subdivided and developed shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace.

(2) Proper provisions shall be made for drainage, water supply, sewage and other needed improvements.

(3) All proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of neighboring properties.

(4) A safe and convenient street system, consistent with the city's Comprehensive Development Plan 1990-2010 and conforming to the Official Map, shall be created. Streets shall be of such width, grade and location so as to accommodate the type and

volume of traffic that is anticipated, to facilitate fire protection and to provide fire fighting equipment with access to buildings.

(5) Provisions shall be made to reserve open spaces for parks and playgrounds, or to require recreation fees in lieu thereof, in order to achieve the goals and objectives of the city's Comprehensive Development Plan 1990-2010 and the Official Map.

(6) Insofar as possible, existing features of the landscape such as large trees, rock outcrops, water and flood courses, historic components and other significant assets that would add to the value of the site should be preserved in the design of the subdivision.

(7) The location and installation of sewer, water, gas, electricity, street lighting and other public facilities shall be coordinated so that they may be operated and maintained at minimum cost. Installation shall be consistent with recognized standards including, but not limited to, the Ten States Standards.

(8) Pursuant to Section 37 of the General City Law, the common council may modify lot size and setback requirements of the zoning law in order to approve cluster development. Such action may be taken if the common council finds that cluster development would provide the most appropriate use of land, would facilitate the adequate and economical provisions of streets and utilities, would preserve the natural scenic qualities of open lands, and/or would protect adjoining neighborhoods from the potential impact of new development. A cluster development shall not contain a greater number of dwelling units or building lots than would, in the common council's judgement, be permitted if the site were subdivided into lots containing the minimum lot size and density requirements of the zoning law pertaining to the district or districts in which such site is located, and conforming to all other applicable requirements.

(Res. No. 91-96, 9-24-1996)

Sec. 22-127. Lots and blocks.

(a) Lot size and arrangement.

(1) The dimensions and arrangements of lots shall be designed in such a manner that, for reasons related to topography, reservations, dedications or other conditions, there will be no foreseeable difficulties in providing access to buildings on such lots or in securing building permits in compliance with existing zoning regulations as well as other city requirements.

(2) The lot size, width, depth, shape, orientation and the minimum building setback lines shall be appropriate for the subdivision and for the type of development and use contemplated.

(3) Subdivision lots should be laid out as much as possible so that side or rear lot lines follow the centerlines of streams or drainage ways that may lie within the subdivision.

- (4) Except as may be authorized by the common council under the cluster development provisions of section 22-126, all lots shown on the subdivision plat shall conform to the minimum lot size and setback requirements specified for such lots in the city's zoning laws.
- (5) Notwithstanding any provision of law to the contrary, and except as may be authorized by the common council under the cluster development provision, where a plat contains one or more lots which do not comply with the city's zoning laws, application may be made to the zoning board of appeals for an area variance pursuant to Section 81 of the General City Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. In reviewing such application, the zoning board of appeals may request the common council to provide a written recommendation concerning the proposed variance.
- (6) Corner lots shall have extra width sufficient to comply with required building setback lines on both streets as required by the city's zoning laws.
- (7) Where existing streets have been proposed for future widening, all building setbacks shall be measured from the proposed right-of-way line.
- (8) Side lines of lots shall generally be at right angles to straight streets and radial to curved streets.
- (9) Block lengths and widths shall be appropriate to accommodate the size of lots required by the city's zoning laws and to provide for convenient access, circulation control and traffic safety.
- (10) Blocks intended for commercial or industrial use shall be designed specifically for such purposes, with adequate space set aside for off-street parking and delivery facilities.
 - (b) Access.
 - (1) Each lot shall have access to a street built to the city's specifications.
 - (2) Where lots abut an existing state highway, the number of driveways and/or streets entering onto these state highways shall be minimized. Where a marginal access road is established, a non-access easement shall be required along that portion of the lot next to and parallel with the highway right-of-way line.
 - (3) Where a watercourse separates the buildable area of a lot from the street which provides access to the lot, provision shall be made for the installation of a culvert or other drainage structure. Said culvert or drainage structure shall be subject to the same design criteria and review as all other stormwater drainage facilities in the subdivision.

(Res. No. 91-96, 9-24-1996)

Sec. 22-128. Streets.

(a) Design and layout of streets.

- (1) The design of the street pattern shall be based upon minor streets connecting to collector streets.
- (2) The arrangement of streets in a new subdivision shall provide for the continuation of existing streets into adjoining areas, and shall reserve space for future street extensions where the adjoining land has not been developed.
- (3) Local residential streets shall be designed so as to discourage through traffic.
- (4) Local (minor) streets shall have a right-of-way of at least 50 feet in width and, unless otherwise provided hereinafter, a pavement width of not less than 24 feet plus curbing.
- (5) Streets classified as collector streets by the common council shall have a right-of-way of at least 66 feet in width and a pavement width of not less than 36 feet plus curbing.
- (6) The minimum radius of horizontal curves, minimum length of vertical curves and minimum length of tangents between reverse curves shall be in accordance with specifications reviewed and approved by the city director of public works. Such design features shall be reviewed by the city director of public works, who shall report his recommendation to the common council prior to final approval.
- (7) Street grades, wherever feasible, shall not exceed eight percent, with due allowance for reasonable vertical curves and with not less than 200 feet between changes of grade.
- (8) In order to facilitate drainage, no street grade shall be less than one percent.

(b) Construction of streets.

- (1) All streets shall be of asphalt pavement and meet all requirements specified in the construction specifications approved by the common council.
- (2) Concrete curbing shall be installed along all new streets.
- (3) Due to the general soil conditions within the city and normal construction sequences for development, it is deemed to be in the best interests of the city that following procedures be followed:
 - a. Binder material shall not be placed prior to the completion and approval of all underground utilities (including the private utility lines) and a review of the road base by appropriate city inspectors.

b. The weather and seasonal limitations as specified under the Standard Specifications of the New York State Department of Transportation shall apply for the placement of bituminous mixtures.

Restrictions a. and b. imply completion of all underground systems well in advance of the developer's schedule for paving.

c. Certificates of occupancy shall not be issued unless a proper road surface as herein specified has been constructed.

d. Prior to installing the top course of asphalt, the developer shall substantially complete related construction in the vicinity of the right-of-way. Appropriate steps shall be taken to limit the accumulation of stormwater on the street. This will help to insure that the top course of new pavement will be less susceptible to marring or patching as a result of construction activity.

Unless a specific waiver is obtained in writing from the city director of public works, the final top course shall be installed by the developer before the end of the construction season during which the binder course was placed.

Before the expiration of the maintenance bond and before the final top is applied, the city and the developer shall hold a final site review to assess any damages or repairs that are to be completed by the developer under the maintenance agreement. Once the top course has been installed, the developer shall obtain final acceptance of all roadway improvements from the common council.

(4) Driveway culverts. The installation of driveway culverts requires approval and a permit (as to location, size and material) from the authority having jurisdiction over the road. New driveway culvert installation shall be the responsibility of the subdivider or other person following receipt of a permit therefor.

The city reserves the right to remove and/or install driveway or roadway culverts along any existing road to properly transmit surface drainage as determined by the city director of public works.

(c) Street intersections.

(1) The minimum distance between centerline offsets at street jogs shall be 125 feet.

(2) Minor streets and/or collector streets shall not intersect with arterial streets less than 800 feet apart, measured from centerline to centerline.

(3) Except for street jogs and the intersection of minor streets and/or collector streets with arterial streets, streets shall not intersect within 200 feet of another intersection.

(4) Streets shall not curve or turn significantly within 100 feet of an intersection.

(5) Whenever possible, streets shall intersect at right angles. Streets may not intersect at angles of less than 75 degrees.

(6) Intersections involving the junction of more than two streets shall not be permitted.

(7) Curb radii at intersections shall be not less than 25 feet.

(d) Access to adjacent parcels and subdivisions. All proposed subdivisions shall be designed to provide access to adjacent properties. When a proposed subdivision abuts an existing subdivision, the subdivider shall make every attempt to design the street system of the proposed subdivision to connect with dead-end or stub streets of existing subdivisions.

(e) Cul-de-sac and dead-end streets.

(1) If possible all cul-de-sac streets should drain toward their entrance.

(2) When a street extension is not possible, a cul-de-sac should be designed so that the rear of the lots served by the cul-de-sac back to the adjoining property.

(3) No cul-de-sac shall exceed 400 feet in length.

(4) All cul-de-sac streets shall have a turnaround at the end of the street with a right-of-way diameter of not less than 120 feet; the outer curb at the turn shall have a minimum diameter of 100 feet.

(5) If a dead-end street is of a temporary nature, a turnaround shall be provided and provisions made for the reversion of the excess right-of-way to the adjoining property when the dead-end street is extended into adjacent property.

(f) Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional right-of-way width may be required.

(g) No street shall have a name that will duplicate, or so nearly duplicate as to be confused with, the names of existing streets. The continuation of an existing street shall have the same name. Street names shall be shown on the preliminary and final plat maps approved by the common council.

(h) Where a subdivision abuts or contains an existing or proposed arterial street, the common council may require special treatment of the land areas bordering such street in order to protect residential properties and to effectively separate through and local traffic.

(i) Where a subdivision borders on or contains a railroad right-of-way, the common council may require a street or streets parallel to such right-of-way in order to make appropriate use of the land adjacent to such right-of-way.

(Res. No. 91-96, 9-24-1996)

Sec. 22-129. Service drives.

(a) Although service drives may be permitted in commercial and industrial districts, it is recommended that other provisions be made on private property to insure that adequate off-street loading and unloading and parking facilities are available to serve the proposed use.

(b) The width of any proposed service drive shall not be less than 20 feet.

(c) Dead-end service drives will not generally be approved. If dead-end service drives are unavoidable, adequate turn-around facilities shall be provided at the closed end, as required by the common council.

(Res. No. 91-96, 9-24-1996)

Sec. 22-130. Sidewalks.

Concrete sidewalks shall be installed along both sides of all new streets. Sidewalks shall be at least four feet in width.

(Res. No. 91-96, 9-24-1996)

Sec. 22-131. Prevention of landlocked parcels.

All subdivisions of land shall result in parcels having at least one access point to at least one street that can be improved to meet city standards.

(Res. No. 91-96, 9-24-1996)

Sec. 22-132. Buffers and berms.

(a) If a residential subdivision abuts an arterial street and adjacent lots front on a marginal access street, a landscaped buffer area shall be provided between the arterial street and the marginal access street. This buffer strip shall not be less than 25 feet in width and shall include both trees and shrubs. The common council may require buffers in other areas, along with berms, to reduce noise levels and undesirable vistas.

(b) The arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material. Possible arrangements include planting in parallel, serpentine, or broken rows. If berms are used, the minimum top width shall be four feet, and the maximum side slope shall be three feet of horizontal distance for every one foot of vertical height.

(c) Plant materials shall be of sufficient size and planted in such a fashion that a year-round screen of at least eight feet in height shall be produced within three growing seasons. All plantings shall be installed according to accepted horticultural practices.

(d) Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season. Dead and dying plants shall be replaced by the subdivider during the first two growing seasons. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, weeds, and tall grass.

(Res. No. 91-96, 9-24-1996)

Sec. 22-133. Provisions for future resubdivision.

If a tract is subdivided into lots which are more than twice the size of the minimum lot size required in the zoning district in which the subdivision is located, the common council may require that streets and lots are laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations and the city's zoning laws.

(Res. No. 91-96, 9-24-1996)

Sec. 22-134. Non-residential subdivisions.

Standards for the design and construction of non-residential subdivisions shall be governed by sound engineering and planning practice. Utilities shall be sized commensurate with the anticipated demand based upon the full development of the subdivision.

(Res. No. 91-96, 9-24-1996)

Sec. 22-135. Self-imposed restrictions.

The subdivider of any property may impose greater restrictions on any development than those required by the city's subdivision and zoning regulations. Such restrictions, if any, shall be indicated on the preliminary and final subdivision plats.

(Res. No. 91-96, 9-24-1996)

Sec. 22-136. Easements.

(a) Easements shall be provided in those instances where natural drainageways and utility lines do not fall within dedicated rights-of-way. All easements shall be plotted on the preliminary and final subdivision plats. A clause shall be inserted in the deed of each lot affected by an easement indicating the existence and purpose of the easement.

(b) A drainageway easement shall be provided where a subdivision is traversed by a swale, channel or stream. The easement shall be of such width as will be adequate to preserve natural drainage and provide sufficient width for maintenance.

(c) To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.

(Res. No. 91-96, 9-24-1996)

Sec. 22-137. Erosion and sediment control.

(a) General. It is the city's intent to control the movement of soil by employing effective erosion and sediment control measures before, during and after site disturbance.

Erosion and sediment control measures, both temporary and permanent, shall be designed and presented for approval to the common council prior to any site development or soil disturbance.

The common council and its designated representatives will evaluate submitted erosion and sediment control design plans against the most current edition of the "New York Guidelines for Urban Erosion and Sediment Control" manual, prepared by the USDA Soil Conservation Service.

(b) Vegetative controls. Site design techniques should include vegetative measures in order to control surface water runoff, stabilize soil, and entrap soil sediments generated from erosion.

(1) Site slopes shall be graded to be stable and provide control of any surface or subsurface water prior to vegetative plantings.

(2) Site disturbance, especially in sensitive areas, shall be kept at a minimum. Subdivision design shall minimize the removal of existing trees, hedge rows and indigenous plant cover.

(3) The developer shall take whatever action is necessary to establish a stabilized vigorous stand of vegetative cover on all disturbed soils as soon as possible following initial soil movement.

If phasing is necessary to meet these conditions, the developer shall present this information to the common council for its review.

(c) Structural controls. Some projects may require permanent erosion and sediment controls. If these measures are determined to be necessary, the city may require them to be fully functional before upland site disturbance begins. Such structures may include, but are not limited to, such features as siltation traps, ponds, diversion swales or dikes.

(d) Maintenance measures. It is imperative that both the vegetative and structural components are inspected periodically and maintained for optimum erosion and sediment control.

Temporary facilities shall be cleaned, repaired and/or replaced by the subdivider as necessary in order to protect and maintain the subdivision's original design criteria.

Permanent facilities shall be cleaned, repaired and/or replaced by the subdivider until such time as said facilities have been accepted by resolution of the common council, after which all cleaning, repair and replacement activities shall be the responsibility of the city department of public works.

(1) Dedicated projects. If the subdivision involves the construction and dedication of facilities to the city, the developer shall include sufficient funds in the maintenance bond to cover the projected cost of maintaining such facilities for a two year period following dedication.

(2) Private projects. If a project includes facilities which are not to be dedicated to the city, the developer shall be responsible for the construction and proper maintenance of all erosion control facilities. The continued acceptability of erosion control facilities by the developer shall be determined by the code enforcement office prior to the issuance of certificates of occupancy for buildings which are constructed on lots in an approved final plat.

(e) Penalty. The city is empowered to assess reasonable penalties to a developer/site owner for failure to properly construct, operate and maintain an approved soil erosion and sedimentation control plan. The penalties may include, but shall not be limited to, the city's costs for cleaning ditches, swales, drains or streams required due to the failure of the developer to properly construct, operate and maintain site erosion and sedimentation control devices.

No further reviews of such projects shall be conducted by the city until payments stemming from the city's charges have been satisfied and/or satisfactory completion of the required erosion and sediment control measures has occurred by the developer/site owner.

(Res. No. 91-96, 9-24-1996)

Sec. 22-138. Storm and surface drainage.

All storm sewers and drainage facilities such as gutters, catch basins, bridges, culverts and swales shall be designed for the development and subject to the approval of the city. Such facilities shall be designed to accommodate upland flows that may be generated from future land development.

The following shall be observed as storm drainage facilities are designed:

(1) Lots shall be laid out and graded to provide positive drainage away from buildings.

(2) The stormwater management system shall be designed to prevent increased runoff over adjacent properties.

(3) Storm sewers, culverts and related installations shall be provided to:

- a. Permit unimpeded flow of natural watercourses;
- b. Insure adequate drainage of all low points; and
- c. Intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained.

(4) Sump pumps or roof leaders shall not be permitted to discharge directly to roadside gutters or channels.

(5) The city shall require the completion of construction and the design engineer's certification of all surface drainage improvements and erosion control measures before any building permits are issued within proposed subdivisions.

(Res. No. 91-96, 9-24-1996)

Sec. 22-139. Sewage disposal.

Lots in approved subdivisions shall connect to the city's sanitary sewage system. The design and installation of sewers, and all appurtenances thereto, shall be subject to the approval of the common council and other appropriate agencies.

Prior to the issuance of a certificate of occupancy for new construction, said new construction shall be inspected by a licensed professional who shall certify to the city code enforcement office that proper connections have been made to the public sanitary sewer system.

(Res. No. 91-96, 9-24-1996)

Sec. 22-140. Water supply.

Connection to the city's public water supply shall be required for all new development. The developer shall provide and dedicate to the city a complete water distribution system. The design and installation of said system shall be subject to the approval of the common council and jurisdictional agencies.

If a private on-site system is to be used as a supplemental water supply, the following provisions shall apply:

(1) The supplemental water supply shall serve a limited purpose which shall be specified for and approved by the common council and the city director of public works.

(2) The individual source must have a minimum sustained flow of five gallons per minute of potable water.

(3) There must be a minimum flow pressure of 20 pounds at all fixtures which are to be linked to the supplemental water supply.

(4) A certificate of water quality and quantity from a New York State approved testing laboratory shall be submitted to the code enforcement office prior to the issuance of a building permit.

(5) A backflow preventer shall be installed in accordance with NYS Public Health Laws and there shall be no interconnections between the municipal supply and an individual water supply system.

(Res. No. 91-96, 9-24-1996)

Sec. 22-141. Landscaping.

(a) Adequate site landscaping may be required of the subdivider on any lands developed in the city. The common council shall notify the subdivider after the sketch plan has been reviewed if a specific landscaping plan is required. When required, the landscaping plan shall designate plant species and locations.

(b) Street shade trees shall be provided along all new streets. Trees shall be planted so as not to interfere with utilities, roadways, sidewalks, sight distances, or street lights. Location, spacing and species shall be approved by the common council and the city forester. The minimum caliper of all trees which are planted shall be two inches when measured 12 inches above grade.

(c) At least one tree shall be planted within each lot in a subdivision. Trees planted within private lots shall be outside the road or utility rights-of-way and easements, in accordance with the following provisions:

(1) Impacts shall be considered on sight distances.

(2) The trees shall be a minimum of ten feet from a property line.

(3) There shall be no underground utilities within five feet of any proposed tree.

(Res. No. 91-96, 9-24-1996)

Sec. 22-142. Monuments.

Permanent reference monuments shall be set at final grade at all corners and angle points along the boundaries of any major subdivision plat and at all street intersections and at such other intermediate points as may be required by appropriate agencies having jurisdiction in the review and approval process of subdivision plats. These markers shall be set by a land surveyor or engineer and certified to the city as true and accurate before a certificate of occupancy may be issued.

(Res. No. 91-96, 9-24-1996)

Sec. 22-143. Street signs.

Permanent street signs shall be installed in accordance with city specifications. The subdivider shall erect and pay for all signs erected at each intersection.

(Res. No. 91-96, 9-24-1996)

Sec. 22-144. Street lighting.

Lighting fixtures which are installed within a subdivision shall be the responsibility of the subdivider. The light system which is established shall result primarily in the illumination of the streets and sidewalks within the subdivision. The design of the system shall be coordinated with and approved by the Niagara Mohawk Power Corporation.

(Res. No. 91-96, 9-24-1996)

Sec. 22-145. Electric, telephone, cable tv or other buried cable utility.

In every development, provisions shall be made for service from the private utility supply systems. The wires of all utilities which serve a major subdivision, including those which are part of the street lighting system, shall be underground rather than aboveground on poles, standards or towers. Underground conduit and cables shall be installed per the regulations of the public service commission. Underground conduit and cable shall not be less than two feet below any drainage way. Private underground utilities may be installed within a ten foot wide easement outside of the road right-of-way.

Utility services for any proposed minor subdivision shall be consistent with the service methods that exist within 500 feet of the proposed development area. Applicants shall discuss the service method to be used with the city's director of public works.

(Res. No. 91-96, 9-24-1996)

Chapter 23, TAXATION AND ASSESSMENTS EN

ARTICLE I. IN GENERAL

Sec. 23-1. Presentation to assessor of instruments transferring property.

Every deed, will, and every judicial decree establishing a right of inheritance to real property in the city shall be presented to the assessor's office together with a carbon copy of the substance thereof setting forth the date, consideration, the names of the grantors or grantees, the mail address of the grantors or grantees, and a description of the property conveyed, as set forth in the instrument of conveyance.

(Code 1971, ~ 2-4)

Sec. 23-2. Stamping and signing of deeds, wills, decrees, and maps by assessor required.

The county clerk or any subordinate in the office of such clerk who shall record any such deed, will, or decree, or file any such map, unless such documents have been duly stamped and signed by the assessor, shall be guilty of a misdemeanor. The county clerk shall send to the city assessor each month a list of the numbers of the deeds, wills, decrees, and maps relating to real property which have in that month been filed from the city.

(1971 Charter Laws, ~ 118; Laws of N.Y. (1915), ch. 535, ~ 31)

Sec. 23-3. Collection of assessments.

All assessments levied by the city to cover the cost of local improvements shall, upon becoming delinquent, be collected in the same manner as provided for the collection of other taxes in the city.

(Code 1971, ~ 27-8)

Sec. 23-4. Lien docket.

The city clerk shall keep in his office a book to be called a lien docket, in which he shall enter from time to time the names of all persons, if known, upon whose real estate there shall be any lien of unpaid taxes or assessments; a brief description of the property affected thereby, together with the nature and amount of such lien; and the date when the unpaid taxes or assessments became a lien. Taxes and assessments need not be entered until such unpaid taxes and assessments become delinquent, except such as are for local improvements.

(1971 Charter Laws ~ 394; N.Y. Laws (1915) ch. 535, ~ 125)

Secs. 23-5--23-25. Reserved.

ARTICLE II. PROPERTY TAXES

Sec. 23-26. Compensation for services of board of assessment review members.

(a) The members of the board of assessment review shall be paid for their respective services at the annual meeting to hear complaints and at subsequent adjourned hearings at the rate of \$50 per diem.

(b) The members of such board of assessment review shall present to the city auditor vouchers for payment based upon their services on a per diem basis for each year that the board of assessment review meets.

(Code 1971, ~ 27-7.1)

Sec. 23-27. Exemptions for elderly persons.

(a) Real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation to the extent determined by the council.

(b) No exemptions shall be granted if the income of the owner(s) or the combined income of all the owner(s) and spouse of the property exceeds \$18,500 for the income tax year immediately preceding the date of the making application for exemption, except as otherwise provided for in subdivision (c).

(c) Pursuant to the Real Property Tax Law Section 467, the sliding scale option is as follows:

\$ -0- to \$18,500.00	50%
\$18,500.01 to \$19,500.00	45%
\$19,500.01 to \$20,500.00	40%
\$20,500.01 to \$21,500.00	35%
\$21,500.01 to \$22,400.00	30%
\$22,400.01 to \$23,300.00	25%
\$23,300.01 to \$24,200.00	20%
\$24,200.01 to \$25,100.00	15%
\$25,100.01 to \$26,000.00	10%

(L.L. No. 1-1968, ~ 1, 3; L.L. No. 4-1972, ~ 1; L.L. No. 2-1974, ~ 1; L.L. No. 1-1976, ~ 1; L.L. No. 1-1978, ~ 1; L.L. No. 1-1980, ~ 1; L.L. No. 1-1982, ~ 1; Res. No. 109-01, 10-9-01; Res. No. 61-03; 8-12-03; Res. No. 72-07, 10-23-2007)

State law references--Authority for above exemption, Real Property Tax Law ~ 467.

Chapter 24

TRAFFIC

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.

Moving buildings, § 6-266 et seq.

Miscellaneous offenses and provisions, ch. 14.

Park rules, § 17-21 et seq.

STATE LAW REFERENCES

Definitions generally, Vehicle and Traffic Law § 100 et seq.
Traffic infraction, Vehicle and Traffic Law § 155.
Traffic regulations generally, Vehicle and Traffic Law § 1100 et seq.
Vehicle and Traffic Law § 1104.
Traffic signs, signals and markings, Vehicle and Traffic Law § 1110 et seq.
Authority to prohibit turns on red, Vehicle and Traffic Law § 1111(d)(2).
Driving on one-way roadways, Vehicle and Traffic Law § 1127(a).
Entering stop or yield intersections, Vehicle and Traffic Law § 1142
Vehicle entering stop intersection, Vehicle and Traffic Law § 1142(a).
Vehicle entering yield intersection, Vehicle and Traffic Law § 1142(b).
Stop and yield signs, Vehicle and Traffic Law § 1172
Stop signs, Vehicle and Traffic Law § 1172(a)
Yield signs, Vehicle and Traffic Law § 1172(b).
Speed restrictions, Vehicle and Traffic Law § 1180 et seq.
Stopping, standing and parking generally, Vehicle and Traffic Law § 1200 et seq.
Handicapped parking, Vehicle and Traffic Law § 1203-a et seq.
Powers of cities relative to traffic, Vehicle and Traffic Law §§ 1600, 1640 et seq.
Direction of traffic by police, Vehicle and Traffic Law § 1602.
Power of city to designate intersections as yield intersections, Vehicle and Traffic Law § 1640(a)(1).
Authority to designate one-way streets, Vehicle and Traffic Law § 1640(a)(4)
Authority to regulate stopping, standing and parking, Vehicle and Traffic Law § 1640(a)(6)
Power of city to establish a system of truck routes, Vehicle and Traffic Law § 1640(a)(10).
Power of city to regulate traffic by means of traffic control signals, Vehicle and Traffic Law § 1640(a)(11).
Power of city to license, regulate or prohibit processions, assemblages or parades, Vehicle and Traffic Law § 1640(a)(12).
Power of city to prohibit or regulate the operations, etc., of vehicles in public parks, Vehicle and Traffic Law § 1640(a)(13).
Power of city to authorize angle parking on any roadway, Vehicle and Traffic Law § 1641(2).
Speed limits on highways in cities, Vehicle and Traffic Law § 1643
Special speed limits on bridges and other elevated structures in cities, Vehicle and Traffic Law § 1644.
Traffic control devices, Vehicle and Traffic Law § 1680 et seq.
When signs, etc., required, Vehicle and Traffic Law § 1683.
Signs required, Vehicle and Traffic Law § 1683(a)(6).
Signs required, Vehicle and Traffic Law § 1683(a)(8).

ARTICLE I IN GENERAL

Sec. 24-1. Short title of chapter. [Code 1971, § 28-1]

This chapter may be known and cited as "The Traffic Ordinance."

Sec. 24-2. Definitions. [Code 1971, § 28-2]

The definitions in the Vehicle and Traffic Law apply to this chapter. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section except where another definition is specifically provided in this chapter:

ALLEY — A narrow thoroughfare not more than 20 feet in width.

BUSINESS DISTRICT — The territory contiguous to and including a highway when, within any 600 feet along such highway, there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings, which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

CROSSWALK

(a) That part of a roadway at an intersection included within the connections of the

lateral lines of the sidewalks on opposite sides of the highway between the curbs or, in the absence of curbs, between the edges of the traversable roadway; or

- (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

FREIGHT CURB LOADING ZONE — A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

PASSENGER CURB LOADING ZONE — A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

TRAFFIC DIVISION — The traffic division of the police department of this city, or if a traffic division is not established, then such term whenever used in this chapter shall be deemed to refer to the police department of this city.

Sec. 24-3. Violation of chapter. [Code 1971, § 28-15]

Any violation of the provisions of this chapter for which no other penalty is provided in this chapter is hereby declared to be a traffic infraction.

Sec. 24-4. Authorized emergency vehicles. [Code 1971, § 28-14]

- (a) The driver of an authorized emergency vehicle, when involved in an emergency operation, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.
- (b) The driver of an authorized emergency vehicle may:
 - (1) Stop, stand, or park irrespective of the provisions of this chapter;
 - (2) Proceed past a steady red signal, a flashing red signal, or a stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the maximum speed limits so long as he does not endanger life or property;
 - (4) Disregard regulations governing directions of movement or turning in specified directions.
- (c) Except for an authorized emergency vehicle operated as a police vehicle, the exemptions granted in this section to an authorized emergency vehicle shall apply only when audible signals are sounded from any such vehicle while in motion by bell, horn, siren, electronic device, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp so that from any direction, under normal atmospheric conditions, from a distance of 500 feet from such vehicle, at least one red light will be displayed and visible.
- (d) An authorized emergency vehicle operated as a police, sheriff, or deputy sheriff vehicle may exceed the maximum speed limits for the purpose of calibrating such vehicles' speedometer.
- (e) The foregoing provisions shall not relieve the driver of an authorized emergency

vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

- (f) Notwithstanding any other law, ordinance, rule, or regulation to the contrary, an ambulance operated in the course of an emergency shall not be prohibited from using any highway, street, or roadway, unless specifically provided otherwise.

Sec. 24-5. Regulation of traffic at parking areas and driveways of designated hospitals, malls, plazas. [Code 1971, § 28-16]

- (a) Purpose. Pursuant to written requests of the owners and the persons in general charge and control of the area and pursuant to Vehicle and Traffic Law § 1640-a, the common council does hereby enact under this section regulations at parking areas and driveways. Such parking regulations are hereby enacted to regulate traffic and parking areas at the Olean Center Mall, 400 North Union Street; Delaware Park Centre Shopping Plaza, 502 North Union Street; Olean General Hospital, 515-519 Main Street, and Street Francis Hospital, 2221 West State Street.
- (b) Stop, yield signs. Stop signs, flashing signals, and yield signs erected at entrance and exit locations and in place and meeting the requirements of the Vehicle and Traffic Law and which are erected in any area to designate intersections within parking areas and entrances and exits to driveways, shall be enforced pursuant to this chapter and the Vehicle and Traffic Law.
- (c) Traffic control signals. Traffic in parking areas and public driveways may be regulated by means of traffic control signals approved by the city, and violations may be prosecuted pursuant to this chapter and the Vehicle and Traffic Law.
- (d) Speed limits. Maximum speed limits at parking areas and public driveways are hereby set at 15 miles per hour. This provision may be prosecuted and enforced pursuant to this chapter and the Vehicle and Traffic Law.
- (e) Turning of vehicles. Turning of vehicles may be prohibited or regulated at intersections or other designated locations and any areas within the real properties covered by this section. Violations may be prosecuted under this chapter and the Vehicle and Traffic Law.
- (f) Pedestrian crossings. Pedestrian crossings marked as approved by the city may be established to regulate the crossing of any parking area or driveway when in the area defined in this section. Violations of this subsection may be prosecuted under this chapter and the Vehicle and Traffic Law.
- (g) One-way traffic. One-way traffic may be designated along roads and roadways. Appropriate signs shall be erected and maintained as approved by the city designating such traffic. Violations of this subsection may be prosecuted under this chapter and the Vehicle and Traffic Law.
- (h) Stopping, standing, parking. The stopping, standing, or parking of vehicles in specified areas when in the parking areas and on the driveways may be prohibited, regulated, restricted, or limited. Approved signs shall be erected and maintained in

these areas. All signs shall be approved by the city.

- (i) Parking spaces for handicapped. Parking spaces for the handicapped shall be extended to motor vehicles which are registered in accordance with Vehicle and Traffic Law § 404-a. Parking spaces for the handicapped may be provided in the areas covered under this section, and appropriate signs shall be erected and maintained designating these spaces. A handicapped permit issued in accordance with the provisions under Vehicle and Traffic Law § 1203-a shall enable the driver to park in such parking spaces. It shall be a violation of this chapter for any person to stop or park a vehicle in any area designated as a place for handicapped parking unless they have a parking permit issued under Vehicle and Traffic Law § 1203-a or a registration issued under Vehicle and Traffic Law § 404-a, and such vehicle is being used for the transportation of a severely disabled or handicapped person.
- (j) Erection, maintenance of signs. All signs required to comply with this section shall be erected and maintained by the owners of the parking areas and driveways described in this section. All signs shall be approved by the city before being set in place and shall comply with the requirements of the Vehicle and Traffic Law.

Sec. 24-6. School crossing streets. [Code 1971, § 28-53]

Appropriate signs shall be erected on the following streets, alerting vehicular traffic of school children crossing the indicated streets: Wayne Street, in the area of the Olean Junior High School.

Sec. 24-7. Oversized and overweight vehicles. [Added 11-29-2011 by Res. No. 82-11]

Any vehicles that exceed the allowable New York State Vehicle and Traffic Law size or weight shall be required to obtain and possess a permit from the City of Olean Department of Public Works prior to operating said vehicle on any street, road or right-of-way owned and/or maintained by the City of Olean.

Sec. 24-8. through Sec. 24-25. (Reserved)

**ARTICLE II
ADMINISTRATION AND ENFORCEMENT**

**DIVISION 1
GENERALLY**

Sec. 24-26. Duty of police officers to enforce street traffic laws. [Code 1971, § 28-3]

It shall be the duty of the officers of the police department, or such officers as are assigned by the chief of police, to enforce all street traffic laws of this city and all state vehicle laws applicable to street traffic in this city.

Sec. 24-27. Authority of police officers to direct traffic. [Code 1971, § 28-4]

Officers of the police department, or such officers as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand, or signal in conformance with this chapter and other traffic laws, provided that in the event of a fire or other emergency, to expedite traffic, or to safeguard pedestrians, officers of the police department may

direct traffic as conditions may require, notwithstanding the provisions of this chapter and other traffic laws.

Sec. 24-28. Authority of members of department of fire, building, and emergency services to direct traffic. [Code 1971, § 28-5; Res. No. 49-98, 6-9-1998]

Members of the department of fire, building, and emergency services may direct or assist the police in directing traffic at the scene or in the immediate vicinity of any event to which they are called to respond.

Sec. 24-29. Records retention and disposition. [Code 1971, § 28-17]

- (a) Records Retention and Disposition Schedule No. 4-P-1, containing records retention periods for city police records established pursuant to part 185, title 8 of the NYCRR, is hereby adopted for use by the police department/traffic violations bureau.
- (b) This council authorizes the disposition of records in accordance with retention periods set forth in the adopted records retention and disposition schedule.

Sec. 24-30. Authority of city to install devices. [Code 1971, § 28-47]

The city shall place and maintain traffic control signs, signals, and devices when and as required under this chapter and other traffic ordinances of the city to make effective the provisions of this chapter and such ordinances.

Sec. 24-31. When signs required; presumptions as to previously placed traffic control devices. [Code 1971, § 28-48(b)—(d)]

- (a) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.
- (b) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.
- (c) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

Sec. 24-32. Ratification and confirmation of signs, signals, devices upon adoption of Code.

All traffic control signs, signals, devices, and markings in place on the adoption date of this Code are ratified and confirmed.

Sec. 24-33. through Sec. 24-50. (Reserved)

DIVISION 2

NON-MOVING OFFENSES, PROCEDURES, FINES, ETC. 13

Sec. 24-51. Notice of violation (summons). [Res. No. 50-93, 5-25-1993]

The notice of violation (summons) shall contain information advising the person charged the manner and time in which he may plead either guilty or not guilty to the violation alleged in the notice. Such notice of violation (summons) shall also contain a warning to advise the person charged that failure to plead in the manner and time provided shall be deemed an admission of liability and that a default judgement may be entered thereon.

A notice of violation (summons) shall be served personally upon the operator of the motor vehicle who is present at the time of service and his name and address, together with the plate designation and the plate type shown by the registration plates of said vehicle, and the expiration date, the make or model, and body type of said vehicle, shall be inserted thereon. The notice of violation (summons) shall be served upon the owner of the motor vehicle if the operator is not present by affixing such notice to such vehicle in a conspicuous place. Whenever so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for identification of such person, the words "owner of the vehicle bearing license" may be inserted to be followed by the plate designation and plate type as shown by the registration plates of said vehicle together with the expiration date, the make of model, and body type of said vehicle. Service of the notice of violation (summons), or a duplicate thereof by affixation as therein provided shall have the same force and effect and shall be subject to the same penalties for the disregard thereof as though the same were personally served with the name of the person charged with the violation inserted therein.

For the purposes of this division, an owner who is not the owner thereof, but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive such notice for violation (summons), whether personally served on such operator or served by affixation in the manner aforesaid, and the service made in either manner as herein shall also be deemed to be lawful service upon such owner.

Sec. 24-52. Responsibility of owner and operator. [Res. No. 50-93, 5-25-1993]

The operator of a vehicle shall be primarily liable for the penalties imposed pursuant to this division. The owner of the vehicle, even if not the operator thereof, shall also be liable therefor if such vehicle was used or operated with his permission, expressed or implied, but in such case, the owner may recover any penalties paid by him from the operator.

Sec. 24-53. Methods of pleading and payment of fines. [Res. No. 50-93, 5-25-1993]

- (a) A plea shall be entered within 10 days after service of the notice of violation (summons). A plea may be entered in person or by representative or by ordinary

13. Editor's note—Res. No. 50-93, adopted May 25, 1993, repealed Div. 2, §§ 24-51—24-59, which pertained to the traffic violations bureau, and enacted new provisions designated as Div. 2, §§ 24-51—24-54, to read as herein set out. See the Code Comparative Table.

mail at such location as the city shall from time to time fix. Any plea entered by mail, if mailed in proper form within 10 days after service of the notice of violation (summons), shall be accepted.

- (b) Pleas by mail shall be made by:
 - (1) Entering the desired plea on the notice of violation (summons);
 - (2) Entering the name and address in the space provided;
 - (3) Signing the plea form; and
 - (4) Mailing the notice of violation (summons) with the plea form completed to the mailing address stated in the violation.
- (c) A plea of guilty shall be accompanied by a check of money order for the payment in full of the scheduled fine as hereinafter provided.
- (d) A respondent pleading not guilty, or guilty with an explanation, may request a hearing. This shall be done at the time of pleading by completing the notice of violation (summons) in accordance with the instructions thereon.

If a plea of not guilty, or guilty with an explanation, is made in person at the time provided, an immediate hearing may be held by the respondent on his request if convenient.

Upon receipt of a notice of violation (summons) with a plea of guilty, or not guilty with an explanation, the city shall advise the respondent of the date, time and place when he must appear for a hearing.

Sec. 24-54. Schedule of fines and penalties. [Res. No. 50-93, 5-25-1993; Res. No. 113-00, 12-12-2000; Res. No. 64-08, 7-22-2008; amended by 11-29-2011 by Res. No. 83-11]

- (a) [The following is a schedule of fines and penalties:]

Violation	Fine
Failure to deposit required coins in a parking meter, overtime parking in a metered space, or other meter violation	\$10
Double-parked	\$20
Parked on a sidewalk	\$20
Parked within intersection	\$20
Parked on crosswalk	\$20
Stopped, standing or parked on any bridge or tunnel or underpass	\$20
Stopped, standing or parked on railroad tracks	\$20
Stopped, standing or parked on highway median	\$20
Stopped, standing or parked on expressway	\$20

Blocking public or private drive	\$20
Parked within 20 feet of crosswalk	\$20
Parked within 30 feet of stop sign or yield sign	\$20
Parked too close to fire station	\$20
Parked within 50 feet of railroad crossing	\$20
Parked within 15 feet of fire hydrant	\$20
Parked with less than 10 feet of roadway	\$20
Stopped, standing or parked more than 12 inches from curb (two-way street)	\$20
Stopped, standing or parked more than 12 inches from curb (one-way street)	\$20
Stopped, standing or parked facing wrong direction	\$20
Parking prohibited in bus stop	\$20
Parking prohibited in taxi-stand	\$20
Parking prohibited in a load zone	\$20
Parking prohibited on publicly or privately owned premises without permission	\$20
Parking in municipal lot without permission	\$20
Parking on subway	\$20
Double parking	\$20
Parking prohibited during certain hours	\$20
Parking prohibited at any time	\$20
Parking prohibited here to corner	\$20
Stopping, standing or parking prohibited police emergency	\$20
Other stopping, standing or parking violations	\$20
Handicap parking (on street), first offense; or as otherwise provided by state law	\$150 — \$175
Handicap parking (on street), second offense within a period of two years; or as otherwise provided by state law	\$175 — \$250
Handicap parking (off street), first offense; or as otherwise provided by state law	\$150 — \$175
Handicap parking (off street), second offense within a period of two years; or as otherwise provided by state law	\$175 — \$250
Expired inspection (less than 60 days)	\$25
Expired inspection (more than 60 days)	\$50

Pedestrian violations	\$20
Sweeper ordinance violation	\$20
Snowplow ordinance violation	\$20
Failure to obtain oversize/overweight vehicle permit	\$250

- (b) Additional penalties. Provided further that all of the above penalties shall double unless paid within 10 days of issuance of the notice of violation (summons), except handicapped parking violations unless otherwise provided by law. In addition, there shall be imposed an administrative service fee penalty of \$25 after the passage of 60 days.

DIVISION 3
TRAFFIC VIOLATIONS BUREAU

Sec. 24-55. Establishment. [Res. No. 111-03, 12-23-2003]

The City Court of the City of Olean, New York, is hereby authorized to establish a Traffic Violations Bureau to assist the Court in the disposition of charges in relation to traffic violations, pursuant to Article 14-B of the General Municipal Law.

Sec. 24-56. Person in charge; hours of operation. [Res. No. 111-03, 12-23-2003]

The City Court shall designate the person or persons who shall be in charge of the Traffic Violations Bureau and the days and hours that the Bureau shall be open for the transaction of its official business.

Sec. 24-57. Jurisdiction. [Res. No. 111-03, 12-23-2003]

The Traffic Violations Bureau is hereby authorized to dispose of violations of traffic laws, ordinances, rules and regulations when such offenses shall not constitute the traffic infraction known as speeding, or a misdemeanor or felony, within 10 days after a person has been notified of a violation by the affixing of a notice of violation on a vehicle parked in violation of this chapter, traffic law, rule or regulation, or within three days after personal service of a Uniform Traffic Summons. Days that the Bureau shall not be open for official business shall not be computed for the three-day period.

Sec. 24-58. Procedure for payment of fines. [Res. No. 111-03, 12-23-2003]

- (a) A person may appear in person or by a written power of attorney in such form as shall be prescribed by the City Court by paying a fine established by the City Court and, in writing, waiving a hearing in court, pleading guilty to the charge and authorizing the person in charge of the Bureau to make such a plea and accept payment of the said fine.
- (b) The Bureau shall accept such designated fines and issue receipts therefor.
- (c) If a person charged with a traffic violation does not answer within the designated time, the Bureau shall cause a complaint to be entered against such person who

does not answer within the designated time and warrant to be issued for his arrest and appearance before the Court.

- (d) Any person who shall have been, within the preceding 12 months, guilty of a number of parking violations in excess of three or more parking violations, shall not be permitted to appear and answer to a subsequent violation at the Traffic Violations Bureau, but must appear in Court at a time specified by the Bureau.
- (e) Nothing contained in this article shall authorize the Traffic Violations Bureau to deprive a person of his right to counsel or to prevent him from exercising his right to appear in Court to answer to, explain, or defend any charge of violation of any traffic law, ordinance, rule or regulations.

Sec. 24-59. Waiver and power of attorney; form provided.

The waiver and power of attorney referred to in § 371 of the General Municipal Law shall be in substantially the following form:

Date _____, I, the undersigned, hereby waive a hearing in court and plead guilty to the traffic violation as charged on the reverse side hereof, and duly constitute the Clerk of the City Court or _____, my attorney, and authorize him/her to appear in Court, enter a plea and pay my fine which is enclosed herewith.

This is my _____ offense for this violation within the current calendar year.

Name _____ Motor Vehicle License No. _____

Address _____ Operator's License No. _____

Sec. 24-60. Records and reports. [Res. No. 111-03, 12-23-2003]

The Bureau shall keep records and submit detailed monthly reports to the City Court of all notices or summons issued and disposed of by said Bureau and such other information as may be prescribed by the City Court of Olean by law and transmit with said reports all sums collected to the City Court.

DIVISION 4
REMOVAL OF VEHICLES

[Res. No. 20-09, 3-24-2009; amended 3-9-2016 by Res. No. 15-16]

Sec. 24-61. Authorization.

- (a) The Olean Chief of Police shall have the power and authority to provide for the removal, immobilization and storage of vehicles parked in violation of any statute, ordinance, rule or regulation for vehicles on which there are any number of outstanding traffic warrants or fines for parking violations.
- (b) When a vehicle is parked or abandoned on a public street or public parking lot in the City of Olean during a snowstorm, flood, fire or other public emergency which affects that portion of the public street or parking lot upon which said vehicle is

parked or abandoned, said vehicle may be removed by or under the direction of the Chief of Police.

- (c) When a vehicle is found unattended on a public street or public parking lot within the City of Olean where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Chief of Police.
- (d) When a vehicle is parked or stopped upon a public street or public highway within the City of Olean in excess of 36 hours, said vehicle may be removed by or under the direction of the Police Chief, Fire Chief or Director of Public Works when conditions, in his/her sole discretion, shall require such removal.
- (e) Any unattended vehicle found parked upon a street or on any City-owned property or property under the jurisdiction or control of the City against which there are three or more outstanding or otherwise unsettled parking violation summonses for which judgments have been issued may, by or under the direction of a police officer or parking enforcement officer, either by towing or otherwise, be removed or conveyed to and impounded in any place designated by the Chief of Police or immobilized in such a manner as to prevent its operation, except that no such vehicle shall be immobilized by any means other than by use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.
- (f) Such vehicles towed and removed as aforesaid may be stored at a private impound lot as designated by the Olean Chief of Police.
- (g) Such towing, removal and storage shall be at the sole expense and risk of the owner of the vehicle.

Sec. 24-62. Notice of warning to owner.

It shall be the duty of the police officer, parking enforcement officer removing or immobilizing such motor vehicle or under whose direction such motor vehicle is removed or immobilized to inform as soon as practicable the Chief of Police or his designee, who shall in turn inform by telephone (if possible) and by first class mail the owner of the impounded or immobilized vehicle of the nature and circumstances of the prior unsettled parking violations summonses, for which or on account of which such vehicle was impounded or immobilized. In any case involving immobilization of a vehicle pursuant to this subsection, such police officer or parking enforcement officer shall cause to be placed on such vehicle, in a conspicuous manner, a notice sufficient to warn any individual to the effect that such vehicle has been immobilized and that any attempt to move such vehicle might result in damage to such vehicle.

Sec. 24-63. Tampering with or attempted removal of immobilized vehicle.

Any attempt by any person to tamper with, deface, remove or destroy an immobilization device or to move by any means a vehicle towed or secured as herein provided may result in the prosecution of such person for any offense separate from and in addition to the parking violations; in addition, such person shall be liable for any loss suffered by the City of Olean due to any such attempt.

Sec. 24-64. Release of vehicle to owner; suspension of restrictions.

- (a) The owner or person entitled to possession of such vehicle may secure the release of the vehicle by complying with the rules and regulations of the Parking Enforcement Division concerning all outstanding summonses and judgments against said vehicle and by payment of the total sum due as outlined in Section 24-54, Schedule of Fines and Penalties. Additional fees may be owed to the contractor hired to immobilize or tow said vehicle prior to removal of immobilization device or release from storage.
- (b) While a vehicle is immobilized as herein provided, parking restrictions to which the vehicle may be subject shall be suspended during such immobilization period.

Sec. 24-65. Severability.

If any provision of this Division 4 or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the division and the application of such division to other persons and circumstances shall not be affected thereby.

Sec. 24-66. Repealer.

This Division 4 shall supersede any and all the provisions of ordinances, rules or regulations previously enacted or promulgated which are inconsistent with the provisions of this division.

DIVISION 5
IMMOBILIZATION (BOOTING), STORAGE AND FINES
[Res. No. 20-09, 3-24-2009; amended 3-9-2016 by Res. No. 15-16]

Sec. 24-67. Definitions.

The following terms, when used in this Division 5, shall have the meanings indicated:

APPLICANT — The entity or individual that is applying for a license to tow and/or store vehicles on behalf of the City of Olean and/or to attach immobilization devices as prescribed by this chapter.

CITY — The City of Olean.

IMMOBILIZATION DEVICE — A device which when locked to one of the wheels or axles of a parked motor vehicle immobilizes the motor vehicle, and which cannot be removed by the owner of the motor vehicle.

LICENSE — The license, issued by the City of Olean, authorizing the licensee to attach immobilization devices to motor vehicles within the City of Olean, or to conduct a business that does so and/or to impound and store vehicles pursuant to the provisions of this chapter.

LICENSEE — An entity or individual holding a valid license issued under this chapter.

MOTOR VEHICLE — Includes automobiles, trucks and vans.

PERSON — An individual, partnership, unincorporated association, corporation, limited-liability company or other entity.

PROPERTY — A parcel of land located within the City of Olean, regardless of the form of legal ownership.

Sec. 24-68. Licenses.

It shall be unlawful for any person or entity to operate a business which attaches immobilization devices to motor vehicles within the City, without first having obtained a license.

Sec. 24-69. Application for license.

- (a) An application for a license under this chapter shall be filed with the Clerk of the City upon forms which shall be provided by the City and which shall be verified under oath.
- (b) A verified application for a license shall contain the following information:
 - (1) The name and address of the applicant, the names and addresses of all corporate shareholders having more than 25% ownership share, the names and addresses of all officers and directors, if the applicant is a corporation, and of all members of an unincorporated association, partnership or limited-liability company, as the case may be.
 - (2) A disclosure of misdemeanor or felony convictions against the applicant or any person described in subsection (b)(1), where the convictions were entered and the date thereof.
 - (3) Any other relevant information which the City may require.
- (c) Any license issued hereunder shall be valid for a period of two years from the date of its issuance. Any such license may be renewed in the thirty-day period prior to its expiration date upon submission to the City Clerk of the same information that would be required under an initial application.
- (d) Insurance. No license hereunder shall be issued before the applicant provides a certificate of insurance or other proof satisfactory to the City Clerk to demonstrate that the licensee is insured against liability for personal injury and property damage in an amount of at least \$100,000. Said certificate of insurance shall require that the City Clerk receive 10 days' prior written notice of cancellation or amendment of said policy.

Sec. 24-70. Fees for license.

There shall be no fee associated with this license.

Sec. 24-71. Suspension or revocation of license.

- (a) The license of any person to attach immobilization devices within the City or to operate a business which engages in attachment of immobilization devices to motor vehicles within the City may be suspended or revoked for a period to be determined

by the City Clerk if such person shall violate any provisions of this chapter or any rule or regulation adopted hereunder or if the licensee shall be guilty of making a false statement or misrepresentation in its application for a license. No suspension or revocation shall be made by the City Clerk without a hearing having been held thereupon not less than five business days after written notice thereof shall have been given to the licensee, either in person or by registered or certified mail.

- (b) The City Clerk, upon receiving information giving him/her reasonable cause to believe that any licensee has violated any provision of this chapter or has been convicted of any violation referred to in this section or is guilty of having made a false statement or misrepresentation in its application, and upon finding that the public safety and welfare requires immediate action, may temporarily suspend forthwith such person's license and permission to attach immobilization devices within the City until such time as a hearing is held by the City Clerk as provided hereinabove and the City Clerk shall have rendered his or her determination thereon.
- (c) Effect of suspension or revocation. It shall be unlawful for any person to attach an immobilization device to any motor vehicle within the City or to cause such a device to be attached if it has been determined, in accordance with this section that said person's license to operate within the City has been suspended or revoked.

Sec. 24-72. Penalties for offenses.

Any person who violates any provision of this chapter shall be punishable for each violation by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.

Sec. 24-73. Applicability.

In addition to any other penalties or fines imposed for the violation of any parking law, rule or regulation, the provisions of this chapter shall apply to the following categories of vehicles:

- (1) Vehicles which have three or more outstanding and unpaid parking violations issued against them and which, after mailing a notice to the registered owner at the last address shown for him or her in the Department of Motor Vehicles' registration records for the automobile in question, are found operated or parked on any public street, public highway or private road open to public travel, including any portion of the entire width between the boundary lines of said roads, streets or highways, paved or unpaved, or on any property leased by or in the possession and control of the City of Olean.

Sec. 24-74. Removal of vehicles.

Within 48 hours or by the first business day after towing, the Police Department shall send a certified letter to the registered owner of such vehicle at the address described in § 24-61(e) above of the fact of its towing, the place where it may be recovered and the conditions under which it will be released.

Sec. 24-75. Costs to be paid.

Before the owner of any vehicle taken into custody, as above provided, shall be allowed to repossess or to secure the release of said vehicle, the owner or his agent shall pay the following:

- (1) All sums due the City of Olean for any parking violations issued and outstanding against such vehicle and/or any other vehicle owned by such person.
- (2) Additional fees may be owed to the contractor hired to immobilize or tow said vehicle prior to removal of immobilization device or release from storage for the costs of booting, towing, and storage for each day that such vehicle is so stored.

Sec. 24-76. Identification required for release.

No such vehicle shall be released until the owner or his agent has established his identity and right to possession and has a proper receipt therefore signed by the Olean City Clerk.

Sec. 24-77. (Reserved)

Sec. 24-78. Severability.

If any provision of this Division 5 or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the division and the application of such division to other persons and circumstances shall not be affected thereby.

Sec. 24-79. Repealer.

This Division 5 shall supersede any and all the provisions of ordinances, rules or regulations previously enacted or promulgated which are inconsistent with the provisions of this division.

Sec. 24-80. (Reserved)

**ARTICLE III
OPERATION OF VEHICLES GENERALLY**

Sec. 24-81. Speed limits. [Code 1971, § 28-64; Res. No. 187-90, 11-27-1990; Res. No. 38-00, 5-23-2000; Res. No. 2-03, 1-28-2003; Res. No. 40-04, 5-25-2004; Res. No. 59-07, 8-14-2007; Res. No. 84-08, 10-14-2008; Res. No. 60-10, 8-24-2010]

- (a) It shall be unlawful for any person to ride, drive, or cause to be propelled any automobile, motorcycle, or any other vehicle on any public street, highway, or thoroughfare of the city at a rate of speed greater than 30 miles per hour.
- (b) The speed limit on the following streets is 15 miles per hour, and signs to this effect shall be installed:
 - (1) North 15th Street, north half of 100 block of North 15th Street to West Sullivan Street.
 - (2) West Sullivan Street between North 14th Street and North 15th Street.
 - (3) West Forest Avenue from North Union Street to Maple Street.

- (4) South 4th Street between West State Street and Green Street.
 - (5) Irving Street between South 3rd Street and South 5th Street.
 - (6) East Spring Street at the eastern property line of 500 East Spring Street.
- (c) The speed limit on the following streets is 25 miles per hours, and signs to that effect are to be installed:
- (1) Rowland Avenue, for the full length of the street.

Sec. 24-82. Right turn on red prohibited at designated intersections. [Code 1971, § 28-27.1(c); Res. No. 54-91, 5-28-1991; Res. No. 117-02, 10-22-2002; Res. No. 24-03, 4-22-2003]

Right turns on red shall be prohibited as follows:

- (1) A "no right turn on red" sign shall be installed and maintained at the intersection of Laurens and North Union Streets for traffic exiting Laurens Street onto North Union Street.
- (2) A "no right turn on red" sign shall be installed and maintained at the intersection of Front and Main Streets for traffic exiting Front Street onto Main Street.
- (3) A "no right turn on red" sign shall be installed and maintained at the intersection of North 24th and West State Streets for traffic exiting North 24th Street onto West State Street.
- (4) A "no right turn on red" sign shall be installed and maintained at the intersection of Wayne and North Union Streets for the traffic exiting Wayne Street onto North Union Street.

Sec. 24-83. Posting of certain signs. [Res. No. 77-91, 8-13-1991; Res. No. 137-91, 12-10-1991]

- (a) Signs necessary to prohibit traffic movements other than right turns during the period from 6:00 a.m. to 6:00 p.m. on weekdays shall be posted. Necessary expenses shall be charged to the traffic signs account.
- (b) Appropriate signs and pavement markings shall be installed at South 1st Street by West State Street for the purpose of requiring all northbound traffic on South 1st Street to turn right in an easterly direction onto West State Street.

Sec. 24-84. One-way streets and alleys. [Code 1971, § 28-31; Res. No. 107-02, 9-24-2002; Res. No. 42-06, 4-25-2006]

- (a) Whenever any ordinance of this city designates any one-way street or alley, the director of public works shall place and maintain signs giving notice thereof, and no such regulations shall be effective until such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.
- (b) Upon those streets and parts of streets and in those alleys described in this section

regulating traffic upon the public streets of the city, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

Anderson Avenue. Anderson Avenue from North 11th Street to West Sullivan Street.

1st Street, South. South 1st Street from West Henley Street to Irving Street.

2nd Street, North. North 2nd Street from Laurens Street to West State Street.

Brickell Avenue. Brickell Avenue from Wayne Street to Coleman Street.

Carolina Street. In the vicinity of the small island just in front of the east property boundary of 201 Carolina Street.

Clinton Street, South. South Clinton Street from East State Street to East Henley Street.

Fulton Street. Fulton Street from East State Street to East Henley Street.

Garden Avenue. Garden Avenue between Front Street and King Street, one way going east.

Putnam Street, West. Putnam Street between North Fifth Street and North Sixth Street.

Second Street, South. South Second Street from West State Street to West Henley Street.

South Street. South Street from South Union Street to South Barry Street.

Sullivan Street, West. West Sullivan Street from North Sixth Street to North Eighth Street.

Times Square. Times Square from North Barry Street to North Union Street.

Vermont Street. Vermont Street from York Street to Virginia Street.

Virginia Street. Virginia Street from Vermont Street to Carolina Street.

Sec. 24-85. Truck route system. [Code 1971, §§ 28-8, 28-9; Res. No. 44-07, 6-26-2007]

(a) There is hereby established and enacted a truck route system for the city upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of five tons are permitted to travel and operate.

(b) The truck route system of the city shall consist of the following streets and highways within the limits of the city:

Buffalo Street from the west city line to its intersection with North 12th Street.

State Street from the west city line to the east city line.

Union Street from the south city line to its intersection with Main Street.

Wayne Street from its intersection with North 12th Street to its intersection with North Union Street.

- (c) All trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of five tons are hereby excluded from all streets and highways within the city excepting those streets and highways set forth in this section. This exclusion, however, shall not be construed to prevent the delivery or pickup of merchandise or other property along the streets and highways of this city from which such vehicles and combinations are otherwise excluded.
- (d) The director of public works of the city shall erect official signs in proper positions sufficiently legible to be seen by an ordinarily observant person delineating and marking the truck route system upon the streets and highways enumerated in this section.

Sec. 24-85.1. Vehicles exceeding five tons prohibited on South First Street between State Street and Henley Street. [Res. No. 97-92, 11-23-1993]

- (a) No vehicular traffic shall be permitted on South First Street from West State Street to Henley Street wherein the total gross weight of such vehicle plus the load exceeds five tons. Nothing contained in this section shall be construed as prohibiting vehicles of the aforementioned size or weight from using such street for the transaction of any business at any premises located on such street.
- (b) Conspicuous signs shall be placed at the intersection of Henley Street and South First Street and at West State and South First Streets indicating the prohibition as stated in this section.

Sec. 24-85.2. Vehicles exceeding five tons prohibited on Henley Street Extension from its intersection with North 20th Street to its terminus at the lands of the Cattaraugus County Nursing Home. [Res. No. 20-97, 3-11-1997]

- (a) No vehicular traffic shall be permitted on Henley Street Extension from 20 feet west of the intersection of North 20th Street to its terminus at the lands of the Cattaraugus County Nursing Home wherein the gross weight of such vehicle plus load exceeds five tons.
- (b) Conspicuous signs shall be placed indicating the prohibition stated in this section.

Sec. 24-86. Designation of through streets. [Code 1971, § 28-30]

Those streets and parts of streets described in this section are hereby declared to be through streets for the purposes of this article.

Bishop Street. Bishop Street from King Street to Davis Avenue.

Buffalo Street. Buffalo Street from Reed Street to the Buffalo Street city line.

Center Street. Center Street from Main Street to Fourth Avenue.

Fourth Street, North. North Fourth Street from Wayne Street to Pine Street.

Front Street. Front Street from Main Street to East State Street.

Garden Avenue. Garden Avenue from Front Street to King Street.

Genesee Street. Genesee Street from Main Street to the city line on Genesee Street.

Green Street, East. East Green Street from its intersection with South Union Street to Adams Street.

Green Street, West. West Green Street from its intersection with South Union Street to South Seventh Street.

Henley Street, East. East Henley Street from its intersection with South Union Street to Fulton Street.

Henley Street, West. West Henley Street from its intersection with South Union Street to South Nineteenth Street.

Irving Street. Irving Street from South Union Street to South Eleventh Street.

King Street. King Street from East State Street to Johnson Avenue.

Laurens Street. Laurens Street from North Union Street to North Fourth Street.

Main Street. Main Street from North Union Street to the Main Street city line.

Maple Street. Maple Street from Root Street to Oak Street.

North Sixth Street. North Sixth Street at its intersection with Putnam Street.

Pine Street. Pine Street from North Union Street to the Olean Creek.

Seneca Avenue. Seneca Avenue from Front Street to the Seneca Avenue city line.

Spruce Street. Spruce Street from Wayne Street to Pine Street.

State Street, East. East State Street from Union Street to the east city line.

State Street, West. West State Street from Union Street to the west city line.

Sullivan Street, West. West Sullivan Street from North Union Street to North Fifteenth Street.

Union Street, North. North Union Street from State Street to Franklin Street.

Union Street, South. South Union Street from State Street to the South Union Street city line.

Washington Street. Washington Street from North Fourth Street to North Twenty-First Street.

Wayne Street. Wayne Street from North Union Street to North Ninth Street.

Sec. 24-86.3. Thru trucks prohibited in excess of 10,000 pounds. [Res. No. 78-99, 10-12-1999]

A "Thru Trucks Prohibited in Excess of 10,000 pounds" sign shall be installed at:

The corner of North Union Street and Main Street (near Pizza Hut).

Editor's note: Res. No. 78-99, adopted Oct. 12, 1999, which set out provisions pertaining to the prohibition of thru trucks in excess of 10,000 pounds did not specifically amend this Code. Hence, said resolution was included as § 24-86.3 at the discretion of the editor to read as herein set out. See the Code Comparative Table.

Sec. 24-86.4. Thru trucks prohibited. [Res. No. 56-99, 7-27-1999; Res. No. 48-11, 6-28-2011]

"Thru Trucks Prohibited" signs be installed at:

West Henley Street at the corners of S. Union Street, S. 12th Street, S. 18th Street and S. 19th Street.

West State Street at the corner of S. 19th Street

Editor's note: Res. No. 56-99, adopted July 27, 1999, which set out provisions pertaining to the prohibition of thru trucks did not specifically amend this Code. Hence, said resolution was included as § 24-86.4 at the discretion of the editor to read as herein set out. See the Code Comparative Table.

Sec. 24-87. Stop intersection ordinances unaffected by Code. [Code 1971, § 28-81(d)]

Nothing in this Code or the ordinance adopting this Code shall be deemed to affect the validity of any ordinance designating stop intersections, and all such ordinances are hereby recognized as continuing in full force and effect.

Sec. 24-88. Yield streets designated. [Code 1971, § 28-28; Res. No. 89-04, 9-28-2004; Res. No. 19-10, 3-23-2010; amended 10-11-2011 by Res. No. 78-11]

Those streets and parts of streets described below are hereby declared to be yield streets, and yield signs shall be erected at the locations described in this section:

Intersection of Adams Street and Fulton Street on the northeast side of Adams Street.

Easterly intersection of Franchot Boulevard and South Union Street.

Westerly intersection of Franchot Boulevard and South Union Street.

Easterly intersection of York Street and South Union Street.

Easterly intersection of Reservoir Road and South Union Street.

Northerly intersection of Higgins Avenue and Delaware Avenue.

Easterly intersection of Clark Bros plant access road and Buffalo Street.

Southerly intersection of North Barry Street and Main Street.

Easterly intersection of the access road from Avenue B to Buffalo Street.

Northerly and southerly intersections of Pine Street and River Street.

Southerly intersection of Oregon Road and River Street.

Northeasterly intersection of North Clark Street and Goodrich Avenue.

West property boundary of 201 Carolina Street.

Intersection of River Street and Oregon Road for the purpose of regulating traffic on Oregon Road.

Southerly intersection of Brickell Avenue and Coleman Street.

Sec. 24-89. Parking or operating uninspected vehicles. [Res. No. 58-93, §§ 1, 2, 5-25-1993]

- (a) It shall be unlawful to operate or park on the public streets of this city unless a certificate of inspection as required by Article 5 of the Vehicle and Traffic Law of the State of New York is displayed upon the vehicle or affixed to the registration certificate of the vehicle as may be required by the laws of the State of New York. Any violation of this section that occurs while a motor vehicle is parked in the public streets of this city shall constitute a parking violation.
- (b) A violation of this provision shall be subject to such penalty as may from time to time be established by the common council.

Sec. 24-90. through Sec. 24-105. (Reserved)

**ARTICLE IV
STOPPING, STANDING AND PARKING**

**DIVISION 1
GENERALLY**

Sec. 24-106. Application of article. [Code 1971, § 28-76]

- (a) The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times, at those times specified in this article, or as indicated on official traffic control devices, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.
- (b) The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or for a specified time.

Sec. 24-107. Necessity of signs. [Code 1971, § 28-80]

Whenever by this article or any other ordinance of this city any parking time limit is

imposed or parking is prohibited on designated streets, it shall be the duty of the director of public works to erect appropriate signs giving notice thereof. No such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense.

Sec. 24-108. City clerk to supervise and administer municipal laws regarding parking. [Code 1971, § 2-79]

Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as otherwise provided in this article, the city clerk shall be responsible for the supervision and administration of the municipal laws, rules, and regulations applicable to the downtown offstreet and onstreet parking. The chief of the police department shall continue to be responsible for enforcement and shall coordinate with the city clerk in the implementation of the enforcement policies and procedures. All city employees from time to time appointed by the city, other than police officers and peace officers, shall be under the direction and supervision of the city clerk.

Sec. 24-109. Ratification and confirmation of rates and charges for parking.

All rates and charges for parking spaces or for the use of parking lots or parking facilities operated by the city are ratified and confirmed.

Sec. 24-110. Ten feet of roadway to be left available for traffic. [Code 1971, § 28-79]

It shall be unlawful for any person to park any vehicle upon a street in such a manner or under such conditions as to leave available less than 10 feet of width of the roadway for free movement of vehicular traffic.

Sec. 24-111. Angle parking. [Code 1971, § 28-84; Res. No. 58-07; 8-14-2007]

Those streets or parts of streets described in this section are hereby declared to be streets where angle parking, that is, parking in a position other than parallel to the curb, is permitted.

	From	To
Both sides of North Union Street	State Street	Main Street
Both sides of South Union Street	State Street	Henley Street
North side of Times Square	Union Street	95 feet east
South side of Times Square	Barry Street	293 feet west
North side of South Street	Union Street	Barry Street

Sec. 24-112. Free use of parking lots, metered spaces. [Code 1971, § 28-92]

The city hereby grants free use of municipal parking lots and all metered spaces each Friday after 5:00 p.m.

Sec. 24-113. Handicap parking. [Code 1971, § 28-93; Res. No. 59-93, §§ 1—5, 5-25-1993; Res. No. 33-98, 4-21-1998; Res. No. 86-99, 11-9-1999; Res. No. 87-00, 9-26-

2000; Res. No. 29-06, 3-28-2006; Res. No. 45-06, 4-25-2006; Res. No. 52-06, 5-9-2006; Res. No. 43-08, 5-27-2008; Res. No. 106-08, 11-25-2008]

- (a) It shall be a violation for any person to stop, stand or park a vehicle in any area designated as a place for handicapped parking as defined by this section or the Vehicle and Traffic Laws of the State of New York, unless the vehicle bears a permit issued by the city authorizing parking in areas designated within the city as a place for parking for handicapped persons or a registration issued by the State of New York under Section 404-a of Vehicle and Traffic Law and such vehicle is being used for the transportation of a severely disabled or handicapped person.
- (b) Permits for parking in handicapped spaces shall be issued by the city clerk of the City of Olean or such other agent as may be designated by the common council of the city to make such certification and shall be issued to:
 - (1) Any resident of New York State who is a severely disabled person as hereinafter defined upon application of such person or such person's parent or guardian; or
 - (2) Any facility or agency licensed by the State of New York that operates a motor vehicle for the purpose of transporting handicapped persons upon the application of such facility or agency.

For the purposes of paragraph (a) of this section, such permit shall be for the use exclusively of a vehicle in which the person to whom it has been issued is being transported and such permit shall not be transferable and shall be forfeited if utilized by any other person. Any abuse by any person, facility or agency to whom such permit has been issued of any privilege, benefit, precedence or consideration granted pursuant to the issuance of such permit shall be sufficient cause for revocation of said permit.

- (c) Parking in violation of this law shall be subject to a penalty of \$25 for the first offense, and \$50 to \$100 for the second offense occurring within a two-year period within the city.
- (d) For the purposes of this section, a severely disabled person shall mean any person having one or more of the following impairments, disabilities or conditions which are permanent in nature:
 - (1) Has limited or no use of one or both limbs;
 - (2) Has a neuromuscular dysfunction which severely limits mobility;
 - (3) Has a physical impairment or condition which is other than those specified above, but is of such nature as to impose unusual hardship in utilization of public transportation facilities and such condition is certified by a physician duly licensed to practice medicine in this state as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty (reference Vehicle and Traffic Law § 404-a).

(e) The following on-street locations are for handicapped parking:

Street	Location
4th, North	Two spaces on the east side, adjacent to Olean High School
South	First two spaces at northeast end, Sundays only
13th Street North	One space on the east side, directly south of the "No Parking Here to Corner" sign south of Washington Street
17th, South	On the west side of South 17th Street from its intersection with West State Street southerly for a distance of 50 feet.
Henley Street, West	On the north side of West Henley Street 79 feet east from the northeast corner of South 1st Street for a distance of 45 feet easterly.
Union Street	Olean Municipal Building (2); (one each) Sears; Council Opticians; Ray's Barbershop; Raxx Dress Shop; Key Bank; Community Bank; On the Side Sub Shop; Antique store (Shaner Building); Old Rack and Rib Room site; To Your Health Building; Jo Ann Fabric Store On the west side of 17th Street from its intersection with West State Street southerly for a distance of 35 feet.
Union Street North	At 132 North Union Street
Union Street North	At the location formerly occupied by Meter No. A40
Union Street North	On the west side to the north of Angee's Restaurant at 475 North Union Street
Union Street North	In front of 705 North Union Street
Washington Street	One space on the north side, directly east of the "No Parking Here to Corner" sign on North 13th Street

Sec. 24-114. Standing or parking in bus stops or taxicab stands. [Code 1971, § 28-88]

It shall be unlawful for any person to stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when any such bus stop or taxicab stand has been officially designated and appropriately signed, except in an emergency or in compliance with directions of a police officer or traffic control device.

Sec. 24-115. Designation of bus stops. [Code 1971, § 28-86]

(a) Nothing in this Code or the ordinance adopting this Code shall be deemed to affect the validity of any ordinance designating bus stops, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set

out in full in this Code.

- (b) Whenever any ordinance of this city designates a bus stop, it shall be the duty of the director of public works to place and maintain appropriate signs designating the limits of such stand. Except in an emergency, no driver of a bus shall park or stand any bus on any street at any place other than a bus stop for the purpose of this section.

Sec. 24-116. Parking or standing of taxicabs. [Code 1971, § 28-87]

It shall be unlawful for any driver of a taxicab to park or stand any taxicab at any place other than an officially designated taxicab stand, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.

Sec. 24-117. Parking on subways of streets. [Code 1971, § 28-89; Res. No. 135-94, 1-10-1995; Res. No. 45-09, 5-12-2009]

- (a) ¹⁴It shall be unlawful and contrary to the provisions of this section to park any vehicle upon the subway of any public street in the city, as defined in § 1-2, if such subway is not covered/finished with blacktop or concrete.
- (b) It shall be unlawful and contrary to the provisions of this section to park any vehicle upon the subway of any public street in the city, as defined in § 1-2, in those areas of the city designated on the official zoning map as R1, R2 and R3. Parking on the subway shall be prohibited in all other areas of the city where such parking obstructs the public right-of-way.
- (c) The prohibitions specified in this section shall not apply on the nights that street sweeping is being carried on in that particular part of the city, nor during snow and ice removal as provided in this Code.
- (d) Any violation of this section shall be prosecuted in city court and shall be punishable by a fine not to exceed \$25.

Sec. 24-118. Parking on premises or property other than public streets. [Code 1971, § 28-90]

- (a) It shall be unlawful for any person to park, stand, store, or leave a motor vehicle upon any publicly or privately owned premises or property, parking areas, or parking lots, without the consent and permission of the owner or lessee of such premises.
- (b) To effectuate the prohibition on such premises as described in subsection (a) of this section, a conspicuous sign shall be posted at the entrances to such parking lot or parking area informing the public as to the permitted conditions of parking thereon. A sign as described in this section shall be deemed substantial compliance with this

14. (Except in areas designated R1, R2 and R3, parking on the subway is permitted in the City of Olean. The purpose of this amendment is to require that the subway be finished with blacktop or concrete if vehicles are to be parked on it.)

section:

PARKING RESTRICTED (six inches)

EXCEPT FOR (LIST PERSONS OR CONDITIONS PERMITTED) ONLY

(four inches)

ALL OTHERS KEEP OUT (six inches)

UNDER PENALTY OF LAW (two inches)

VIOLATION— Sec. 24-118 of CODE OF ORDINANCES

POLICE ENFORCEMENT (two inches)

- (c) Such sign shall be no more than three feet high by four feet wide. The words "police enforcement" and "under penalty of law" on such signs shall be construed, among other things, to mean a request by the owner or lessee that the police or special patrolmen shall enforce the provisions of this section against persons parking, standing, storing, or leaving vehicles on such premises without the consent of the owner or lessee, and that the police are authorized to enter upon such premises to enforce the provisions of this division. Such sign shall state the conditions of parking or the persons authorized by the owner or lessee to use such premises for parking, or both. Persons not included within such authorization or violating the regulations and conditions set out on such sign shall be deemed to be using such premises unlawfully without the authority and consent of the owner or lessee. This section may be enforced by the police or special patrolmen in the same manner as elsewhere provided for in this chapter for the enforcement of traffic or parking ordinances, including the use of tags, summonses, towing, and any other procedure authorized by law.
- (d) Proof of ownership of a vehicle shall be presumptive evidence in an action for enforcement of this section that the owner parked or caused his vehicle to be parked on such premises.
- (e) If such premises adjoin or abut a building or structure whose entrances or exits open upon such parking area, no vehicle shall be left parked, standing, or placed in such a manner as to obstruct such entrances or exits to the street or public right-of-way. Such passageway shall be equal in width to the width of such entrances or exits in each instance, but in no case shall be less than five feet wide and shall permit persons to enter and leave such building or structure with safety. A sign attached to such building or structure at the place of such entrances or exits shall inform users of such parking area as to such restrictions, and failure to obey the regulations contained in this section shall be deemed a violation of this section.
- (f) On demand of the police, any owner or lessee requesting police enforcement of this section shall furnish to the police a statement, in writing, signed by him or his agent, to the effect that a specified vehicle was unlawfully parked, stored, or left

upon his premises at a certain time or during a certain period without his consent or permission, and such owner or lessee shall be available to testify to such facts in court at the request of the police. Failure of an owner or lessee to comply with the request of the police, as set out in this subsection, shall be sufficient cause for the chief of police or his subordinates to cease enforcing this section at the premises of such owner or lessee who fails to give the cooperation required in this subsection.

- (g) Where any owner of any premises desires to completely prohibit parking thereon, he may notify the public to that effect by a conspicuous sign placed on such premises stating in substance:

NO PARKING
POLICE ENFORCEMENT
UNDER PENALTY OF LAW
SECTION 24-118 of CODE OF ORDINANCES

Such sign shall be not greater than two feet in height by three feet in width, with red lettering not more than four inches high upon a white background. Any person who parks or leaves a vehicle on such posted premises shall be deemed in violation of this section.

- (h) All signs erected pursuant to former section 28-90 are ratified and shall be considered to be in compliance with this section.

Sec. 24-119. (Reserved) ¹⁵

Sec. 24-120. through Sec. 24-133. (Reserved)

DIVISION 2
**RESTRICTIONS AND PROHIBITIONS FOR SPECIFIC STREETS
(NONMETERED)**

Sec. 24-134. Prohibited at all times. [Code 1971, § 28-101; Res. No. 97-91, 8-13-1991; Res. No. 156-91, 12-10-1991; Res. No. 149-91, 1-14-1992; Res. No. 16-92, 2-25-1992; Res. No. 38-92, 4-14-1992; Res. No. 43-92, 4-14-1992; Res. No. 49-92, 4-14-1992; Res. No. 87-92, 5-12-1992; Res. No. 47-93, 4-13-1993; Res. No. 71-93, 6-8-1993; Res. No. 118-93, 8-24-1993; Res. No. 126-93, 9-15-1993; Res. No. 127-93, 9-15-1993; Res. No. 132-93, 9-28-1993; Res. No. 135-93, 9-28-1993; Res. No. 184-93, 12-28-1993; Res. No. 48-94, 6-28-1994; Res. No. 49-94, § 2, 7-26-1994; Res. No. 50-94, 6-14-1994; Res. No. 59-94, 6-28-1994; Res. No. 61-94, 6-28-1994; Res. No. 108-94, 10-25-1994; Res. No. 120-94, 11-22-1994; Res. No. 2-95, 2-14-1995; Res. No. 83-95, 10-24-1995; Res. No. 95-95, 11-28-1995; Res. No. 108-95, 1-9-1996; Res. No. 14-96, 3-12-1996; Res. No. 18-96, 3-12-1996; Res. No. 28-96, 3-26-1996; Res. No. 47-96, 5-28-1996; Res. No. 24-97,

¹⁵ Editor's Note: Res. No. 50-93, adopted May 25, 1993, repealed § 24-119, which pertained to parking prohibited in specified area. See the Code Comparative Table.

3-25-1997; Res. No. 74-97, 9-9-1997; Res. No. 111-97, 2-11-1997; Res. No. 10-98, 2-24-1998; Res. No. 70-98, 10-13-1998; Res. No. 67-98, 11-24-1998; Res. No. 11-99, 2-23-1999; Res. No. 20-99, 2-23-1999; Res. No. 31-99, 4-6-1999; Res. No. 55-99, 8-24-1999; Res. No. 57-99, 8-24-1999; Res. No. 55-00, 6-27-2000; Res. No. 74-00, 8-8-2000; Res. No. 86-00, 9-12-2000; Res. No. 96-00, 10-10-2000; Res. No. 60-01, 6-12-2001; Res. No. 125-01, 11-13-2001; Res. No. 53-02, 7-9-2002; Res. No. 56-02, 7-9-2002; Res. No. 83-02, 7-9-2002; Res. No. 1-03, 1-28-2003; Res. No. 73-03, 9-9-2003; Res. No. 83-03, 9-23-2003; Res. No. 90-03, 10-14-2003; Res. No. 93-03, 10-28-2003; Res. No. 10-04, 2-24-2004; Res. No. 11-04, 2-24-2004; Res. No. 32-04, 4-27-2004; Res. No. 34-04, 4-27-2004; Res. No. 67-04, 7-27-2004; Res. No. 69-04, 7-27-2004; Res. No. 79-04, 8-10-2004; Res. No. 116-04, 11-23-2004; Res. No. 107-05, 10-25-2005; Res. No. 60-06, 5-23-2006; Res. No. 110-06, 9-26-2006; Res. No. 138-06, 12-26-2006; Res. No. 89-08, 10-14-2008; Res. No. 06-09, 2-10-2009; Res. No. 68-09, 10-27-2009; Res. No. 07-10, 2-9-2010; Res. No. 56-10, 8-24-2010; Res. No. 57-10, 8-24-2010; Res. No. 75-10, 9-28-2010; Res. No. 77-10, 9-28-2010]

When signs are erected giving notice thereof, it shall be unlawful for any person to park a vehicle at any time upon any of the following streets:

Street	Side	Extent
Driveway between 112 Clinton Street, South and 116 Clinton Street, South		15 feet on either side of driveway.
1st Street	East	Between West Henley and Irving Streets.
1st Street, North	Both	From Laurens Street to Sullivan Street
1st Street, North	East	From Laurens Street to Whitney Avenue
1st Street, North	East	From 614 North 1st Street north to North Union Street
1st Street, North	East	From its intersection with Wayne Street north to the first driveway
1st Street, North	East	Between Wayne Street and Coleman Street
1st Street, North	West	From State Street to Laurens Street
1st Street, North	West	From Sullivan Street to Reed Street
1st Street, North	West	Starting approximately 296 feet north of the Pennsylvania Central tracks to Wayne Street
2nd Street, North	East	Between Laurens Street and Sullivan Street
2nd Street, North	West	300 block
2nd Street, North	West	From the northerly end of the driveway at 121 North 2nd Street and to extend 61 feet south.
2nd Street, South	West	From State Street to Henley Street
3rd Avenue	West	From the northerly end of the driveway at 409 3rd

		Avenue, to extend 30 feet south.
3rd Street, North	East	From its intersection with West State Street to a point approximately 84 feet north of such intersection
3rd Street, North	East	From the end of the premises known as 330 North 3rd Street, north to the end of the street
3rd Street, North	East	35 feet north from its intersection with West Sullivan Street
3rd Street, North	East	Between Laurens Street and Sullivan Street
3rd Street, North	East	From the driveway of 330 North 3rd Street to the intersection of Reed Street
3rd Street, North	Northeast	Between driveway of Olean Travel Service and Strochmann Company
3rd Street, North	West	From State Street to Laurens Street
3rd Street, North	West	From Sullivan Street to Reed Street
4th Street, North		From the southerly driveway of Olean Senior High School for a distance of 100 feet south
4th Street, North	East	From 80 feet north of State Street to Putnam Street
4th Street, North	East	From Wayne Street to Coleman Street
4th Street, North	East	Between 168 feet and 48 feet from the intersection with West Forest Avenue
4th Street, North	West	From Wayne Street northerly to the north bounds of 509 North 4th Street
4th Street, North	West	From its southwest intersection with West Sullivan Street southerly for 40 feet
4th Street, North	West	From the south boundary of 937 North 4th Street, to the north boundary of 939 North 4th Street
4th Street, North	West	From the south boundary of Penn Avenue, to the north boundary of Forest Avenue
4th Street, South	East	No parking and no standing between Irving Street and West Henley Street except the section for twenty-minute-limit parking
4th Street, South	East	From its intersection with Irving Street north to the driveway of School 10
4th Street, South	West	From West State Street to West Henley Street
5th Avenue	West	From 402 5th Avenue north to the dead end of the street
5th Street, North	West	Between Sullivan Street and Reed Street

5th Street North	West	Between Washington and Sullivan Streets
5th Street, South	West	From its intersection with West State Street south 25 feet
6th Street, North	East	From the south corner of driveway of 502 North 6th Street to a point 20 feet south
6th Street North	East	From its intersection with Wayne Street north approximately 110 feet
6th Street North	West	From State Street to Sullivan Street
6th Street, South [Repealed 4-11-2017 by Res. No. 22-17]		
6th Street, South [Added 9-27-2016 by Res. No. 78-16]	West	From its intersection with West Henley Street north approximately 295 feet
6th Street, South [Added 4-11-2017 by Res. No. 22-17]	West	From 175 feet south from its intersection with West State Street south to its intersection with West Henley Street
7th Street North	East	From Wayne Street to Clark Bros
7th Street, North	West	From State Street to Sullivan Street
7th Street, South	East	From West Henley Street extending to Irving Street to include the entire east side of the block of South 7th Street
8th Street, North	East	Between Buffalo and Reed Street
8th Street, North	East	From Reed Street to Wayne Street
8th Street, North	East	From a point 70 feet north of West State Street to Washington Street
8th Street, North	West	From its intersection with Buffalo Street north to the southerly boundary of Sullivan Street
8th Street, North	West	From driveway at 527 North 8th Street north to end of street
8th Street, North [Added 8-27-2013 by Res. No. 71-13]	West	Between its intersection with West State Street extending to its intersection with Washington Street
8th Street, South	East	In the 200 block
8th Street, South	West	Between West State Street and Henley Street
9th Street, North	West	From 121 North 9th Street to the northerly end of 133 North 9th Street
9th Street, North	West	Between Reed Street and Wayne Street

9th Street, South	East	100 Block between West State and West Henley Streets
9th Street, South	West	Between West Henley and Irving Streets
10th Street, North	East	100 block
10th Street, North	West	From Reed Street to Wayne Street
10th Street, South	East	Between West State and Irving Streets
11th Street, North	West	Between West Sullivan Street and Reed Street
11th Street, North [Added 9-25-2012 by Res. No. 66-12]	West	Between Washington Street and Sullivan Street
11th Street, North [Added 8-27-2013 by Res. No. 70-13]	West	Starting at a point 97 feet north from its intersection with West State Street extending to its intersection with Washington Street
11th Street, South	East	From its intersection with West State Street south 25 feet
12th Street, North	East	Beginning at a point approximately 100 feet from the north curbline of West Street to Washington Street
12th Street, North	West	Between Reed Street and Sullivan Street
12th Street, South	West	From State Street to Henley Street
13th Street, North	East	Intersection of West State Street at existing crosswalk 65 feet easterly and 98 feet easterly from existing crosswalk
13th Street, North	West	From Sullivan to Reed Streets
13th Street, South	West	Between West State Street and West Henley Street
15th Street, North	Both	Between Sullivan Street and Subcon Industries
15th Street, North	East	Northerly from West Sullivan Street
15th Street, North	West	Between Washington Street and Sullivan Street
15th Street, North	West	From State Street to Washington Street
16th Street, South	West	Beginning at the intersection with West State Street and extending to the boundary line between 1703 West State Street and 108 South 16th Street
17th Street, South	East	From State Street to Henley Street
19th Street, North	East	From approximately 60 feet north from West State Street on northeast corner
19th Street, South	East	Entire length
19th Street, South	West	From intersection with West State Street south to

		112 South 19th Street
20th Street, South	West	The 200 block between Henley Street and the sewer plant
24th Street, South	East	From State Street 96 feet north
25th Street, South [Added 10-9-2012 by Res. No. 70-12]	West	Starting at a point 60 feet to 125 feet north from the end of the existing pavement
26th Street, South	East	From its intersection with West State Street to its southerly bounds
Alder Street [Added 11-29-2011 by Res. No. 85-11]	Both	Between Prospect Avenue and Delaware Avenue
Alder Street	Both	From Seneca Avenue northerly to Spring Street
Alder Street [Added 3-26-2013 by Res. No. 17-13]	West	No parking and no standing for a distance of 25 feet north and south of each Alder Street entrance and exit of East View Elementary School
Arland Avenue	North	From Main Street to Route 16
Barry Street	Both	From State Street to Times Square
Barry Street	Both	From Tompkins Street to Hamilton Street
Barry Street	East	From Hamilton Street to Sullivan Street
Barry Street	West	From State Street to South Street
Barry Street	West	From Times Square to Tompkins Street
Barry Street, North	East	Between the northerly curblineline of East State Street and a point 90 feet northerly therefrom
Barry Street, North	East	South Street to State Street
Barry Street, North	West	From its intersection with Delaware northerly to the driveway of the Social Security parking lot
Barry Street, North	West	Between parking lot entrance/exit for Social Security office and Delaware Plaza
Barry Street, North	West	Between East State Street and Times Square Street
Barry Street, South		In front of the driveway at 107 1/2 S. Barry Street
Barry Street, South	East	Between the southerly curblineline of East State Street and a point 115 feet southerly therefrom
Barry Street South	East	From East Green Street to Franchot Blvd
Barry Street, South	West	Between East State Street and South Street
Bishop Street	South	Entire length
Brickell Avenue	Both	From Wayne Street to Coleman Street

Buffalo Street	East	From West Sullivan Street to North 9th Street
Center Street [Added 11-13-2012 by Res. No. 75-12]	Both	Between Main Street and First Avenue
Center Street	South	From its intersection with 1st Avenue east to 33 feet beyond the intersection
Center Street	South	From its intersection with First Avenue westerly for a distance of 20 feet
Clinton Street, North	East	From the intersection of Laurel Avenue to a point approximately 30 feet south.
Clinton Street, North	East	From the intersection of North Clinton and Tompkins Streets to a point 20 feet south of such intersection
Clinton, South	East	Between East Green and East Henley Streets
Coleman Street	North	From its intersection with North Union Street West to the first driveway.
Coleman Street	North	For a distance of 76 feet easterly from its intersection with Van Campen Avenue
Coleman Street	North	From its intersection with North Union Street west to 20 feet beyond the first driveway
Coleman Street	South	From Union Street to North 1st Street
Coleman Street	South	From Van Campen Avenue to North 4th Street
Connell Street	East	Between North Union and River Streets
Crown Street	North	Twenty feet easterly from intersection with King Street
Delaware Avenue	North	From North Union Street to North Barry Street
Duke Street	East	Beginning at the intersection of East State Street for a distance of 50 feet
Edgewood Avenue	Both	From its intersection with Buffalo Street to the end of the open street
Elm Street, East	North	Between Walnut Street and Ash Street
First Avenue [Added 12-11-2012 by Res. No. 82-12]	West	Starting at a point 255 feet south from the curblines of Genesee Street, thence south 35 feet
Forest Avenue, East	West	From North Union Street northerly to Pine Street
Franklin Street	Both	Within the boundary lines of the Hysol Corp. property
Front Street	North	From Main Street to a point 160 feet east

Front Street	Both	From Main Street to East State Street
Fulton Street	West	From State Street to Henley Street
Garden Avenue	South	Twenty feet east from Davis Street intersection,
Gardiner Avenue	North	Between Maple Street and North 4th Street
Green Street, West	North	From its intersection with South 4th Street east 25 feet
Green Street, West	South	From Union Street to 4th Street
Grossman Street	West	Entire length
Hamilton Avenue	South	Near the Boardmanville School turnaround, a distance of approx. 25 feet from the fire hydrant to the exit of the turnaround
Hamilton Street	North	From its intersection at North Union Street to a point approximately 189 feet east
Henley Street, East	North	From Barry Street to Union Street
Henley Street, East	North	From South Clinton to its intersection with Fulton Street
Henley Street, East	South	From its intersection with South Union Street to the point of beginning of the premises known as 116 East Henley Street
Henley Street, East	South	From its intersection with South Barry Street to its intersection with South Clinton Street
Henley Street, East	South	From its intersection with South Barry Street westerly 50 feet
Henley Street, East	South	Between South Union and South Barry Streets
Henley Street, West	North	From the easterly curbline of South 1st Street to a point 58 feet east
Henley Street, West	North	Beginning at its intersection with South 2nd Street easterly for a distance of two car lengths
Henley Street, West	North	From West 2nd Street west to 138 South 2nd Street
Henley Street, West	South	No parking and no standing between South 1st Street and South 4th Street
Henley Street, West	South	From its intersection with South 1st Street, west approximately 96 feet
Homer Street [Repealed 4-10-2012 by Res. No. 09-12]		
Homer Street Ext.	North	Between Niagara Mohawk poles 25 and 26

Homer Street	East	Beginning at the south boundary of the lands occupied by Cecchi News Agency located at 234 Homer Street extending 200 feet northerly therefrom
Hoop Street	North	From its intersection with Rowland Avenue to go northwest to its end
Irving Street	North	From South 2nd Street westerly to South 11th Street
Irving Street	North	For a distance of 40 feet from Union Street
Jay Street	North	From Barry Street east to end of Jay Street
Jefferson Street	West	Entire length
Laurel Avenue	South	From its easterly end to a point approximately 60 feet west
Laurens Street	North	From its intersection with North 2nd Street westerly to a point equal to one car length west of the entrance to the parking lot of the Cattaraugus County Health Department premises
Laurens Street	North	40 feet west from the intersection of North 2nd Street and 40 feet east from the intersection of North 3rd Street
Laurens Street	North	20 feet west from the intersection of North 2nd Street and 20 feet east from the intersection of North 3rd Street
Laurens Street	North	From its intersection with North 3rd Street east 30 feet
Laurens Street	North	From Union Street to North 2nd Street
Laurens Street	South	From Union Street to North 3rd Street
Lincoln Avenue	Both	From the intersection of Buffalo Street to the intersection of the Bethany Evangelical Lutheran Church parking lot.
Main Street	East	73 feet south of the intersection of the southeast corner of Hamilton Avenue and Main Street for a distance going southerly for 48 feet
Main Street	South	By Pizza Hut Restaurant 140 feet east of the east line of North Union Street
Maple Street	East	From a distance of 150 feet north from its intersection with West Forest Avenue
Maple Street	East	Between its intersection with West Forest Street to its intersection with Gardiner Avenue

Maple Street	West	1200 block between Elm and Oak Streets
Orchard Avenue	West	In the 300 block
Orchard Street	East	Between East State Street and Garden Avenue
Oviatt Street, West	South	Entire length
Penn Avenue	North	Entire length
Pleasant Street	East	From Elmore Avenue north to city line
Pleasant Street	West	From 343 West Pleasant Street to the city line
Putnam Street	North	Between 4th Street and 6th Street
Putnam Street	North	Between its intersection with North 11th Street to its intersection with North 12th Street
Queen Street	West	Between Bell Street and Division Street
Queen	Both	Between Bell and Division Streets
Reed Street	Both	From Union Street to North 1st Street
Reed Street [Added 6-14-2016 by Res. No. 46-16]	North	No parking and no standing starting from the east curblineline of North 5th Street, extending westerly to the west curblineline of North 6th Street
Reed Street [Added 6-9-2015 by Res. No. 42-15]	North	Starting from the east curblineline of North 5th Street, extending westerly to the west curblineline of North 6th Street
Reed Street	North	Between its intersection with North 12th Street to its intersection with North 13th Street
Reed Street [Repealed 5-13-2014 by Res. No. 41-14]		
Reed Street	South	From its intersection with North 5th Street approximately 90 feet west
Riverside Drive, West	Both	From South Union Street to Martha Avenue
Root Street	North	Between North 1st Street and Maple Street
Rowland Avenue	East	From East State Street to the end of the street
Rowland Avenue	West	Between East State Street and the railroad tracks
School Street	South	From 420 School Street for a distance of 100 feet east to 502 School Street
Seneca Street	North	For a distance of 375 feet westerly from its intersection with King Street
Skyview Drive	Both	Entire length
Spring Street, East	North	From Adler to Queen Street
Spring Street, East	North	For a distance of 25 feet east and west from the

		existing crosswalk by the main entrance to East View Elementary School
Spring Street, East	South	No standing for a distance of 50 feet east and west from the crosswalk by the main entrance to East View Elementary School
Spring Street, East	South	No parking or standing for a distance of 100 feet east and west from the crosswalk by the main entry of East View Elementary School.
Spring Street, East	South	From Front Street to Alder Street
State Street	North	From 24th Street 80 feet east
State Street, East		From a point east of the Alcas driveway to a point in the vicinity of Grossman Avenue
State Street, East	North	Between the easterly curb of North Barry Street and a point 100 feet easterly therefrom
State Street, East	North	From a point 28 feet west of Pole 110 to a point six feet east of Pole 109
State Street, East [Added 7-9-2013 by Res. No. 51-13]	North and south	From Orchard Avenue east to the City line
State Street, East	South	Between the easterly curblines of South Barry Street and a point 85 feet easterly therefrom
State Street, East	South	For a distance of 40 feet east and west from Roland Avenue
State Street, East	South	At a point commencing at the intersection of Front and East State Street easterly to the city line
State Street, West	Both	From the intersection of 13th Street westerly to the westerly city line
State Street, West		Between the westerly curblines of North Union Street and a point 45 feet westerly therefrom
State Street, West		On the subway to the city line
State Street, West	South	Between South Union Street and South 1st Street
State Street, West	South	From Union Street to 1st Street
State Street, West	South	Between 4th Street and 5th Street
State Street, West	South	From the ambulance entrance to Street Francis Hospital east to South 20th Street
State Street, West		Next to 410 West State Street
State Street, West	South	In front of Crown Printing and between South 11th Street and South 12th Street

State Street, West		In front of 912 West State Street
Stowell Avenue	West	From its intersection between East State Street and Griffin Street
Sullivan Street	North	Between 4th Street and 6th Street
Sullivan Street	North	For a distance of 50 feet east and 50 feet west of intersection of 3rd Street
Sullivan Street	North	From Union Street to North 4th Street
Sullivan Street, East	Both	For its entire length except for loading and unloading at Montgomery Ward's warehouse
Sullivan Street, West	Both	From the east corner of driveway located at 707 West Sullivan Street to a point approximately 35 feet east
Sullivan Street, West	Both	The 100 block
Sullivan Street, West	North	From North 2nd Street intersection east 102 feet toward North 1st Street
Sullivan Street, West	North	From North 2nd Street to North 4th Street
Sullivan Street, West	South	From its intersection with North 1st Street to a point approximately 120 feet east of such intersection
Sullivan Street, West	South	From North 1st Street west to first driveway
Sullivan Street, West [Added 11-24-2015 by Res. No. 111-15]	South	From 11th Street to 12th Street
Times Square	North	From the intersection at North Union Street to a point approximately 214 feet easterly
Tracey Street	Both	From corner 150 feet east
Union Street, North	Both	From Franklin Street to Connell Street
Union Street, North	East	At the intersection of East Pine, East Oak, and East Elm Streets for a distance of approximately 25 feet from each corner
Union Street, North	East	Between the northerly curblines of East State Street and a point 80 feet northerly therefrom
Union Street, North [Added 6-25-2013 by Res. No. 42-13]	East	Starting from the northeast corner of the intersection of North Union Street to a point 140 feet north
Union Street, North	West	Between the northerly curblines of West State Street and a point 60 feet northerly therefrom
Union Street, North	West	From Forest Avenue to Water Street

Union Street North	West	50 feet from its intersection with Elm Street and to extend 33 feet south
Union Street, North	West	Between Franklin Street and the northerly terminus of North Union Street
Union Street, South	East	Between the southerly curbline of East State Street and a point 45 feet southerly therefrom
Union Street, South [Added 6-12-2012 by Res. No. 45-12]	East	From East State Street to South Street
Union Street, South	East	Between the southerly end of the bridge over the Allegheny River and a point 243 feet southerly therefrom
Union Street, South	West	Between the southerly curbline of West State Street and a point 80 feet southerly therefrom
Union Street South	West	From the southerly edge of the Veterans' Memorial Bridge to extend south for a distance of 95 feet
Vine Street		At end of Vine Street
Walnut Street	East	Between its intersection with Pine Street up to its intersection with East Oak Street
Walnut Street [Added 4-22-2014 by Res. No. 27-41]	West	Between East Elm Street and East Water Street
Washington Street	North	From its northwesterly intersection with 13th Street West 25 feet
Washington Street	South	From North 4th Street westerly to North 21st Street
Washington Street		In front of the driveway providing access to the premises at 1625 Washington Street
Water Street West	North	From Union Street to Maple Street
Wayne Street	Both	Between 8th Street and 12th Street
Wayne Street	North	Between North 1st Street and a point 35 feet west of the west edge of Brickell Avenue
Wayne Street	North	From a point 35 feet east of the east edge of North 4th Street to a point 35 feet west of the west edge of North 4th Street
Wayne Street	North	From 4th Street to 12th Street Exceptions. Parking is permitted as follows: From a point 42 feet westerly from the

		intersection of North 8th Street and Wayne Street for a distance of 100 feet
		Beginning at a point 40 feet westerly from the intersection of North 6th Street and Wayne Street to a point 140 feet easterly of the intersection of North 7th Street and Wayne Street
Wayne Street	North	From a point 35 feet east of the east edge of North 5th Street to a point 35 feet west of the west edge of North 5th Street
Wayne Street	North	From a point 35 feet east of the east edge of North 6th Street to a point 35 feet west of the west edge of North 6th Street
Wayne Street	North	From North 7th Street to North 8th Street
Wayne Street	North	From a point 35 feet east of the east edge of North 7th Street to a point 35 feet west of the west edge of North 7th Street
Wayne Street	North	From its intersection with the westerly boundary of North 8th Street for a distance of 25 feet west
Wayne Street	North	From a point 35 feet east of the east edge of North 8th Street to a point 35 feet west of the west edge of North 8th Street
Wayne Street	North	From a point 55 feet east of the centerline of North 9th Street and proceeding westerly to North 12th Street
Wayne Street	North	From its intersection with Brickell Avenue west 54 feet
Wayne Street	North	From its intersection with North Union Street to Brickell Avenue
Wayne Street	North	From a point beginning at the intersection of Van Campen Avenue to a point 150 feet west of Van Campen Avenue
Wayne Street	South	Between North 12th and North 1st Street
Wayne Street	South	From Union Street to North 9th Street
Wayne Street	North	350 feet west of intersection of Brickell Avenue to a point 15 feet westerly
Whitney Avenue	Both	From North Union Street to North 1st Street
Worden Avenue	East	150 feet north of its intersection with Washington Street
Wright Street	East	From State Street to north end of Wright Street

York Street	Both	Between the easterly curblines of South Union Street and a point 100 feet easterly therefrom
York Street [Added 11-15-2017 by Res. No. 85-17]	North	No parking and no standing on the straightaway between South Union Street and East Riverside Drive (for a total distance of 118 feet)
York Street [Added 11-15-2017 by Res. No. 85-17]	South	No parking and no standing between South Union Street and East Riverside Drive (for a total distance of 154 feet)
York Street	South	From its intersection with Monroe Terrace to its intersection with Vermont Street
York Street	West	From its intersection with the westerly branch of York Street 100 feet south

Sec. 24-135. Prohibited from designated sign to corner. [Code 1971, § 28-101.1; Res. No. 78-90, 10-9-1990; Res. No. 121-92, 7-28-1992; Res. No. 136-92, 8-25-1992; Res. No. 170-92, 11-10-1992; Res. No. 172-92, 2-23-1993; Res. No. 67-93, 5-25-1993; Res. No. 126-93, 9-15-1993; Res. No. 152-93, 10-26-1993; Res. No. 158-93, 12-14-1993; Res. No. 160-93, 12-14-1993; Res. No. 15-94, 3-22-1994; Res. No. 31-94, 4-26-1994; Res. No. 49-94, § 3, 7-26-1994; Res. No. 51-94, 6-14-1994; Res. No. 12-96, 2-27-1996; Res. No. 72-96, 8-27-1996; Res. No. 73-96, 8-27-1996; Res. No. 14-97, 2-25-1997; Res. No. 40-97, 5-27-1997; Res. No. 41-97, 5-27-1997; Res. No. 42-97, 5-27-1997; Res. No. 43-97, 5-27-1997; Res. No. 69-98, 9-8-1998; Res. No. 74-98, 11-24-1998; Res. No. 65-99, 8-24-1999; Res. No. 28-00, 4-5-2000; Res. No. 29-00, 4-5-2000; Res. No. 37-00, 5-9-2000; Res. No. 31-01, 4-24-2001; Res. No. 45-01, 5-29-2001; Res. No. 53-01, 5-29-2001; Res. No. 59-01, 6-12-2001; Res. No. 72-01, 7-24-2001; Res. No. 95-01, 9-4-2001; Res. No. 105-01, 10-9-2001; Res. No. 57-02, 6-11-2002; Res. No. 82-02, 7-9-2002; Res. No. 96-02, 9-10-2002; Res. No. 23-03, 4-8-2003; Res. No. 53-03, 7-8-2003; Res. No. 67-03 9-9-2003; Res. No. 84-03, 9-23-2003; Res. No. 94-03, 10-28-2003; Res. No. 12-04, 2-24-2004; Res. No. 13-04, 2-24-2004; Res. No. 17-04, 3-23-2004; Res. No. 33-04, 4-27-2004; Res. No. 39-04, 5-25-2004; Res. No. 88-04, 9-28-2004; Res. No. 105-04, 10-26-2004; Res. No. 106-04, 10-26-2004; Res. No. 118-04, 11-23-2004; Res. No. 119-04, 11-23-2004; Res. No. 120-04, 11-23-2004; Res. No. 67-05, 7-26-2005; Res. No. 129-05, 1-10-2006; Res. No. 26-06, 4-11-2006; Res. No. 43-06, 4-25-2006; Res. No. 77-06, 6-27-2006; Res. No. 92-06, 7-25-2006; Res. No. 119-06, 10-24-2006; Res. No. 141-06, 12-26-2006; Res. No. 13-08, 2-26-2008; Res. No. 38-08, 5-13-2008; Res. No. 85-08, 10-14-2008; Res. No. 86-08, 10-14-2008; Res. No. 88-08, 10-14-2008; Res. No. 58-10, 8-24-2010; Res. No. 59-10, 8-24-2010; Res. No. 72-10, 9-28-2010; Res. No. 73-10, 9-28-2010; Res. No. 74-10, 9-28-2010; Res. No. 03-11, 2-8-2011]

When signs are erected giving notice thereof, it shall be unlawful for any person to park a vehicle at any time upon any of the following streets from designation sign to the corner:

Street	Side	Extent
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1st Avenue	West	70 feet from the southwest corner of 1st Avenue and Genesee Street
1st Avenue [Added 10-9-2012 by Res. No. 67-12]	West	For a distance of 112 feet south of Center Street
1st Street, North	East	230 feet south from south curblineline of Laurens Street
1st Street, North	East	32 feet north of its intersection with Reed Street
2nd Avenue	West	35 feet from its intersection with Front Street
2nd Avenue	West	Southerly 65 feet from its intersection with Genesee Street
2nd Street, North	East	50 feet from its intersection with West State Street
2nd Street, North	West	72 feet from its intersection with West State Street
2nd Street, North	West	40 feet south of the curblineline of Laurens Street
2nd Street, South	East	In front of 117 South 2nd Street
3rd, North	East	20 feet from the intersection of Lauren Street
4th Avenue	West	From approximately 60 feet south of its intersection with Center Street to the fire hydrant.
4th Street, North	East and west	At its intersection with West Sullivan Street for a distance of 60 feet north
4th Street, North	West	40 feet south from its intersection with Reed Street
4th Street, North	East	15 feet south of the intersection from Reed Street
4th, North	East	20 feet south from the intersection of Laurens Street
4th, North	East	20 feet north from the intersection of Laurens Street
4th Street, South	Southeast	50 feet from its intersection with West State Street
5th Street, North	Northeast	115 feet north from its intersection with Reed Street
6th Street, North	East	44 feet south of the street line of Washington Street
6th Street, North	East	From approximately 20 feet north of its intersection with Putnam Street to the intersection with Putnam Street
8th Street, North	East	40 feet north from its intersection with Buffalo Street
8th Street, South	East	40 feet south from its intersection with West State

		Street
9th Street, North	East	From the intersection of Wayne Street, 120 feet south
10th Street, North	East	35 feet north from the intersection of Buffalo Street
13th Street, North	East	30 feet from the northeast intersection of North 13th Street and Washington Street
13th Street, South	East	30 feet from the northeast corner of the intersection of West Henley Street and South 13th Street northerly for a distance of 30 feet
13th Street, South	East	90 feet south from the intersection with West State Street
13th Street, South	West	90 feet north of the north line of West Henley Street
14th Street, North	East	74 feet south from the southeast intersection of Washington and North 14th Streets
14th Street, North	East	95 feet north from its intersection with West State Street
14th Street, North	West	On the 100 block of North 14th Street, 40 feet south from its intersection with Washington Street
25th Street, South	West	Southerly from the intersection of the south curbline of West State Street and the west curbline of South 25th Street for a distance of 40 feet
18th Street, South	East	81 feet south from the southeast intersection of West State and South 18th Street
21st Street North	East	58 feet south from the intersection with Washington Street
21st Street, North [Added 11-22-2016 by Res. No. 93-16]	East	100 feet north from the intersection of West State Street
26th Street, South	East	150 feet south from its intersection with West State Street
26th Street, South	West	70 feet south from its intersection with West State Street
Alder Street and East Spring Street	All intersection corners	100 feet from intersection
Avenue A	North	128 feet east from its intersection with Homer Street

Barry Street	West	Just northerly last metered parking space immediately north of the Dragon House Restaurant
Barry Street North	West	Just southerly last metered parking space immediately south of the Dragon House Restaurant
Barry Street North	West	40 feet south of the intersection of North Barry and Main Streets
Barry Street, North	West	From the intersection of North Barry Street and Delaware Avenue to a point 180 feet north of the intersection
Barry Street, North	East	20 feet south from the intersection of Albany Avenue
Bell Street	South	60 feet east from its intersection with Queen Street
Bishop Street	North	From its intersection with Queen Street easterly 100 feet
Bishop Street	West	45 feet south from the intersection of North 10th Street
Buffalo Street	Northeast	40 feet west from its intersection with North 8th Street
Buffalo Street	West	From its intersection with Washington Street to a point approximately four feet north of the driveway servicing the resident at 807 Buffalo Street
Center Street	South	30 feet east from the intersection with 2nd Avenue
Chestnut Street and East State Street intersection	West	100 feet from corner of East State Street
Clark Street, North	West	75 feet north from north curblineline of East State Street
Clinton Street, South	Both	Approximately 50 feet north from the intersection of East Henley Street
Duke Street		150 feet westerly of street line of Duke Street
Elm Street		Corner of North Union Street
Elm Street, East	East	90 feet from the southeast corner of East Elm Street and Walnut Street
Elm Street, East	South	Opposite 209 East Elm Street, a distance of 130 feet from its intersection with Walnut Street

Forest Avenue, East	All intersection corners	At the intersection of North Union Street
Genesee Street	North	160 feet west from its intersection with Main Street
Griffin Street	South	Beginning at Duke Street westerly 100 feet
Griffin Street	South	54 feet east from its intersection with Stowell Avenue
Grossman Avenue [Added 12-13-2016 by Res. No. 101-16]	East	120 feet south from its intersection with East State Street
Hamilton Avenue	North	For a distance of 60 feet east from its intersection with Main Street
Hamilton Avenue	South	90 feet east from its intersection with Main Street
Henley Street	Northeast	50 feet east from the intersection of South 4th Street and West Henley Street
Henley Street, East	North	196 feet east of intersection with South Union Street
Highland Avenue	South	60 feet west from the curbline of Front Street
Irving Street	North	15 feet east from the intersection with South 2nd Street
Irving Street	North	15 feet west from the intersection with South 2nd Street
King Street	East	30 feet north from its intersection with Seneca Avenue
King Street	West	30 feet north from its intersection with Seneca Avenue
Laurens Street	North (pole)	Install on light standard approximately 40 feet of the intersection of North 2nd Street
Laurens Street [Added 4-22-2014 by Res. No. 21-14]	North	20 feet west of its intersection with North 2nd Street
Laurens	North	20 feet west from its intersection with North 1st Street
Laurens	North	20 feet west from its intersection with North 4th Street
Laurens	South	20 feet east from its intersection with North 4th Street
Linwood Avenue	East	From Oviatt Street northerly 250 feet

Ohio Street, East	North	20 feet east from the edge of the sidewalk furthest from the corner of York Street
Ohio Street, East	South	20 feet east from the edge of the sidewalk furthest from the corner of York Street
Orchard Avenue		At Bishop Street intersection
Oviatt Street West	North	From the intersection of the west curbline of Main Street and the north curb line of West Oviatt Street for a distance of 40 feet
Pine Street, East	North	125 feet east from the intersection with North Union Street
Pine Street, East [Added 6-28-2016 by Res. No. 47-16]	South	20 feet west from the curbline of Walnut Street
Pine Street, East	South	30 feet from the southeast corner of East Pine Street and Walnut Street
Prospect Avenue [Added 6-13-2017 by Res. No. 43-17]	South	For a distance of 880 feet east from its intersection with Front Street
Putnam Street	South	20 feet west from its intersection with North 5th Street
Putnam Street	Southeast	20 feet west from the edge of the sidewalk furthest from the corner of North 11th Street
Putnam Street	Southwest	20 feet east from the edge of the sidewalk furthest from the corner of North 12th Street
Reed Street	North	15 feet east from the intersection of North 4th Street
Reed Street	North	85 feet west from the intersection of North 7th Street
Reed Street	South	15 feet west from the intersection of North 4th Street
Reed Street [Added 5-13-2014 by Res. No. 42-14]	South	15 feet east from the intersection with North 5th Street
Reed Street [Added 6-14-2016 by Res. No. 45-16]	South	40 feet east from the curbline of North 6th Street
Reed Street	South	20 feet west from the edge of the sidewalk furthest from the corner of North 12th Street
Reed Street	South	20 feet east from the edge of the sidewalk furthest from the corner of North 13th Street

School Street	South	From the intersection of the east curbline of Front Street and the south curbline of School Street for a distance of 195 feet easterly
Spring Street, West	North curb	Near Niagra Mohawk pole No. 2 situated at the northeast corner line of 110 W. Spring Street
State Street, West	North	From its intersection with North 3rd Street
State Street West	South	65 feet west of west curbline of South 1st Street
State Street, West	South	85 feet west of its intersection with South 3rd Street
State Street, West	South	To the driveway of the Campbell Oil Co. station, 719 West State Street
State Street West	Southwest Corner	40 feet west of its intersection with South 12th Street
Sullivan Street, West	North	68 feet westerly from the northwest corner of West Sullivan Street and North 12th Street
Tompkins	South	20 feet from the southeasterly edge of the handicap accessibility ramp on Tompkins Street at its intersection with North Berry Street
Union Street, North		From the premises of 1220 North Union Street to a point 30 feet further from the intersection of North Union Street and East Oak Street
Union Street, North [Added 8-25-2015 by Res. No. 72-15]	Northeast	35 feet from its intersection with the crosswalk at East Forest Avenue
Union Street, North [Added 9-9-2014 by Res. No. 90-14]	Northeast	50 feet from its intersection with the crosswalk at East Forest Avenue
Union Street, North [Added 8-25-2015 by Res. No. 72-15]	Northwest	35 feet from its intersection with the crosswalk at West Forest Avenue
Union Street, North [Added 9-9-2014 by Res. No. 90-14]	Northwest	50 feet from its intersection with the crosswalk at West Forest Avenue
Union Street, North	Northwest corner	25 feet from its intersection with Franklin Street
Union Street, North [Added 8-25-2015 by Res. No. 72-15]	Southeast	35 feet from its intersection with the crosswalk at East Forest Avenue
Union Street, North [Added 9-9-2014 by	Southeast	70 feet from its intersection with the crosswalk at East Forest Avenue

Res. No. 90-14]		
Union Street, North [Added 8-25-2015 by Res. No. 72-15]	Southwest	35 feet from its intersection with the crosswalk at West Forest Avenue
Union Street, North [Added 9-9-2014 by Res. No. 90-14]	Southwest	50 feet from its intersection with the crosswalk at West Forest Avenue
Union Street, North	Southwest	20 feet south from its intersection with the crosswalk at East Forest Street
Union Street, North	Southwest	20 feet south from its intersection with the crosswalk at West Forest Street
Union Street, North	West	In front of 701 North Union Street, at the west line of said street.
Union Street, North	West	30 feet south from the intersection with West Water
Union Street, North	West	80 feet south from the intersection of the south curb of West Elm Street and the west curb of North Union Street
Union Street	East	20 feet from its intersection with East Henley Street
Union Street, S.	West	64 feet from its intersection with West State Street
Union Street, S.	West	20 feet north from the southwest corner of West Riverside Dr.
Washington Street	North	Between 11th Street and 12th Street 58 feet east from the corner of 12th Street
Washington	North	From the intersection of 12th Street westerly to the boundary between 1302 1/2 and 1306 Washington Street
Washington Street	North	27 feet from its northwest intersection with North 6th Street
Washington Street	North	52 feet east from the intersection with North 13th Street
Washington Street	North	54 feet west of the northwest corner of the intersection of North 13th Street and Washington Street

Sec. 24-136. Seasonal restrictions. ¹⁶ [Res. No. 42-10, 6-8-2010; amended 1-10-2012

16. Editor's Note: Former Sec. 24-136, Alternate side of the street parking, added 5-27-2008 by Res. No. 36-06, was repealed

by Res. No. 96-11]

The standing or parking of vehicles upon the streets of the City shall be prohibited from May 15 until October 15 in each year, according to the following biweekly schedule:

- (1) No parking shall be permitted from 2:00 a.m. until 7:00 a.m. on the following streets in the City:
 - a. Week A: [Amended 9-27-2016 by Res. No. 77-16]

Sunday night/Monday morning: Center Street; School Street; Genesee Street; Inwood Drive; Woodview Avenue; Woodview Court; Oviatt Street; Hamilton Avenue; Euclid Avenue; VanBuren Avenue; Willow Street; Rosedale Terrace; East and West Baldwin Avenue; Madison Avenue; Delaware Avenue; (from North Union Street to Olean Creek); Root Street; East Connell Street; Brookview Avenue; Gardiner Avenue; East and West Forest Avenue; East and West Water Street; East and West Elm Street; East and West Oak Street; E Pine Street; Thorn Street; West Arland Avenue; Highland Terrace; Stardust Lane; Skyview Drive; Satellite Circle; Gemini Drive.

Monday night/Tuesday morning: Higgins Avenue; North 4th Street (from Wayne St to Spruce St); Spruce Street; North 1st Street (from Wayne Street to North Union Street); North Union Street (from North 1st Street to end); Keating Avenue; Maple Street; Walnut Street; River Street (from East Forest Avenue to Pine Street); Martin Street; North Barry Street (from Main Street to Delaware Avenue); Main Street; Front Street (from Main Street to School Street); Fifth Avenue; Fourth Avenue; Third Avenue; Second Avenue; First Avenue; Fairview Avenue.

Tuesday night/Wednesday morning: Wayne Street; Buffalo Street (from 12th Street to City line); Homer Street; Fountain Street; Johnson Street; Franklin Street; Coleman Street; North 5th Street (from Wayne Street to dead end); North 6th Street (from Wayne Street to dead end); North 7th Street (from Wayne Street to dead end); North 8th Street (from Wayne Street to dead end).

Wednesday night/Thursday morning: North Barry Street (East State Street to dead end); South Barry Street; North Clinton Street; South Clinton Street; Fulton Street; East Riverside Drive (from South Union Street to end of curbing); Indiana Avenue; Bradley Drive; Carolina Street; Vermont Street; Virginia Street; East and West Ohio Street; York Street; Garfield Court; Grant Court; Monroe Terrace; West Riverside Drive; Martha Avenue; North 1st Street (from State Street to Wayne Street); South 1st Street; North and South 2nd Street; North and South 3rd Street; North 4th Street (from State to Reed Street); South 4th Street (from State Street to Green Street).

- b. Week B:

Sunday night/Monday morning: Front Street; (from School Street to East State

Street); Prospect Avenue; Grandview Avenue; Seneca Avenue; Garden Avenue; Bishop Street; Griffin Street; Plum Street; Goodrich Avenue; Brook Street; Prince Street; Crown Street (from Queen Street to King Street); Bell Street; Delaware Avenue (from Queen Street to Gulf Street); Kingston Drive; Division Street; East Spring Street.

Monday night/Tuesday morning: Rowland Avenue; Hoop Street; Grossman Avenue; Osgood Avenue; Jefferson Street; Richmond Avenue; Niagara Street; North and South Clark Street; Orchard Avenue; Chestnut Street; King Street; Queen Street; Alder Street; Stowell Avenue; Duke Street; Charles Street; James Street.

Tuesday night/Wednesday morning: Worden Avenue; Winters Avenue; North and South 5th; North and South 6th; North and South 7th; North and South 8th; North and South 9th; North and South 10th Street; North and South 11th Street; North and South 12th Street; Putnam Street (between 11th Street and 12th Street); North and South 13th Street; North and South 14th Street; North 15th Street; South 16th Street; North and South 17th Street; North and South 18th Street; North and South 19th Street; North 20th Street; North 21st Street; North 24th Street; South 25th Street; South 26th Street.

Wednesday night/Thursday morning: Whitney Avenue; Reed Street (from 7th Street to 13th Street); W Sullivan Street; Laurens Street; Washington Street; Buffalo Street (from Washington Street to Wayne Street); West Henley Street; Irving Street; West Greene Street; Hamilton Street; Tompkins Street; Laurel Avenue; Times Square; South Street; East Henley Street; East Greene Street; Adams Street; Franchot Boulevard.

- (2) No parking or standing of vehicles shall be permitted between 3:00 a.m. to 6:00 a.m. Monday through Saturday on North and South Union Street (between south City line and Main Street); West State Street; and East State Street (from east City line to 15th Street).

Sec. 24-137. Seasonal alternate parking. [Code 1971, § 28-102.1]

Parking prohibition signs shall be erected on each side of the 100 block of South 3rd Street with the following wording for the appropriate side of the street:

East side: No Parking Tuesday, Thursday, Friday, 10:00 a.m. to 5:00 p.m., October 1 through April 1, Seasonal.

West side: Parking only Tuesday, Thursday, Friday, 7:00 a.m. to 5:00 p.m., October 1 through April 1, Seasonal.

Sec. 24-138. Prohibited between 7:00 a.m. and 9:00 a.m., Monday through Friday. [Code 1971, § 28-103]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a

vehicle between the hours of 7:00 a.m. and 9:00 a.m., Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
State Street, East	North	Between a point 100 feet east of the east curbline of North Barry Street and Clinton Street

Sec. 24-139. Prohibited between 7:00 a.m. and 9:00 a.m. and 3:00 p.m. and 5:00 p.m., Monday through Friday. [Code 1971, § 28-104; Res. No. 09-07, 2-13-2007]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 7:00 a.m. and 9:00 a.m. and 3:00 p.m. and 5:00 p.m., Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
Buffalo Street	East	Between West Sullivan and North 9th Street
Martin Street	East	Beginning 352 feet northwest from the intersection with East Connell Street and ending 402 northwest from same.

Sec. 24-140. Prohibited between 7:00 a.m. and 5:00 p.m., Monday through Friday. [Code 1971, § 28-104.1; Res. No. 109-06, 9-26-2006]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
17th Street, North [Added 1-8-2013 by Res. No. 84-12]	Both	Between Washington Street and Sullivan Street
Hamilton Avenue	South	No parking and no standing from "No Parking Here to Corner" sign easterly 90 feet
Main Street	East	No parking and no standing between Oviatt Street and Hamilton Avenue
Sullivan Street, West	North	Between 4th Street and 5th Street.
Union Street, North [Repealed 4-28-2015 by Res. No. 29-15]		
Washington Street	North	No parking and no standing from the northwest corner of North 15th Street westerly to a point 130 feet east of

North 17th Street.

Sec. 24-141. Prohibited between 7:30 a.m. to 3:30 p.m. except on weekends and holidays. [Code 1971, § 28-104.2]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 7:30 a.m. and 3:30 p.m., except on weekends and holidays:

Street	Side	Extent
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Jefferson Street	East	From 107 to 111 Jefferson Street
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Sec. 24-142. Prohibited between 8:00 a.m. and 4:00 p.m. [Code 1971, § 28-105; Res. No. 137-90, 5-28-1991; Res. No. 08-10, 2-9-2010; Res. No. 76-10, 9-28-2010]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 8:00 a.m. and 4:00 p.m., when signs are in place giving notice thereof:

Street	Side	Extent
Barry Street, North	Both	From House No. 307 to Luther Manufacture Company
Elm Street, East	South	From National Grid Pole #4 extending east 140 feet to National Grid Pole #5
West Forrest Avenue South	Maple Street, and North 4th Street	

Sec. 24-143. Overnight parking prohibited. [Added 11-22-2016 by Res. No. 91-16]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 12:00 midnight and 5:00 a.m. seven days per week, when signs are in place giving notice thereof:

Street	Side	Extent
Reed Street	North	Throughout the entire portion of paved right-of-way

Sec. 24-144. Prohibited between 8:00 a.m. and 5:00 p.m. except on Saturdays, Sundays, and holidays. [Code 1971, § 28-105.01; Res. No. 76-91, 8-13-1991; Res. No. 63-93, 5-25-1993; Res. No. 49-94, § 1, 7-26-1994; Res. No. 61-95, 9-12-1995; Res. No.

37-03, 6-10-2003; Res. No. 39-03, 7-8-2003; Res. No. 18-10, 3-23-2010]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 8:00 a.m. and 5:00 p.m., except on Saturdays, Sundays, and holidays, when signs are in place giving notice of thereof:

Street	Side	Extent
N. 2nd Street	East	At 116 No. 2nd Street and to extend north 20 feet from the northern edge of the driveway at 116 North 2nd Street.
Henley, W.	South	From the corner of South 4th Street to the corner of South 5th Street

Sec. 24-145. Prohibited between 8:00 a.m. and 8:00 p.m., Monday through Friday.
[Code 1971, § 28-105.02]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 8:00 a.m. and 8:00 p.m., Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
Elm Street, East	South-easterly	Between Walnut Street and River Street opposite the end of the Transfiguration Church School, a total distance where parking is prohibited for 56 feet.

Sec. 24-146. Prohibited between 9:00 a.m. and 5:00 p.m., Monday through Friday.
[Res. No. 56-91, 5-28-1991]

It is unlawful to park a motor vehicle between 9:00 a.m. and 5:00 p.m. on any day except Saturday or Sunday in any of the following locations:

301—303 South Union Street (Kustom Car Care).

Sec. 24-147. Prohibited between 9:00 a.m. and 11:00 p.m. [Code 1971, § 28-105.2]

Parking shall be prohibited on both sides of Delaware Avenue from Union Street to Barry Street from 9:00 a.m. until 11:00 p.m. Appropriate signs shall be erected on Delaware Avenue to enforce prohibition of parking.

Sec. 24-148. Prohibited between 4:00 p.m. and 6:00 p.m., Monday through Friday.
[Code 1971, § 28-106]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle between the hours of 4:00 p.m. and 6:00 p.m., Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
State Street, East	South	Between a point 85 feet east of the easterly curblineline of South Barry Street and Clinton Street

Sec. 24-149. Prohibited except on Saturday from 4:00 p.m. to 7:00 p.m. and on Sunday from 6:00 a.m. to 2:00 p.m. [Code 1971, § 28-106.1]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle except on Saturday from 4:00 p.m. to 7:00 p.m. and on Sunday from 6:00 a.m. to 2:00 p.m.:

Street	Side	Extent
1st Street, South East		Between West State Street and West Henry Street

Sec. 24-150. Five-hour limit. [Code 1971, § 28-107]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than five hours at any time, when signs are in place giving notice thereof:

Street	Side	Extent
State Street, East	Both	From Union Street to Barry Street

Sec. 24-151. Two-hour limit—Generally. [Code 1971, § 28-108; Res. No. 97-10, 12-28-2010]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours at any time, when signs are in place giving notice thereof:

Street	Side	Extent
4th Street, North	East	From Wayne Street to Lincoln Street
5th Street, North	Both	From Wayne Street to Clark Bros.
10th Street, North [Added 4-9-2013 by Res. No. 20-13]	West	From West State Street for a distance of 145 feet north
Barry Street	West	From Hamilton Street to Economic Club.
Coleman Street	North	From Van Campen Avenue to North 4th Street

Hamilton Street	Both	From Union Street to Barry Street
Sullivan Street, East	Both	From Union Street to Barry Street
Times Square	Both	From Union Street to Barry Street
Union Street, North	Both	From PRR tracks to Reed Street
Union Street, North [Added 8-25-2015 by Res. No. 74-15]	Both	From Sullivan Street North to Main Street
Wayne Street	North	From North 4th Street to North 5th Street

Sec. 24-152. Same—Monday through Friday. [Code 1971, § 28-109; Res. No. 17-09, 3-10-2009]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
(Reserved)		

Sec. 24-153. Same — Parallel parking between 8:00 a.m. and 4:00 p.m. [Code 1971, § 28-109.1]

Upon the following streets or parts thereof, parallel parking shall be allowed, for a time limit of two hours, between the hours of 8:00 a.m. and 4:00 p.m., when signs are in place giving notice thereof:

Street	Side	Extent
6th Street, North	East	From West State Street to Putnam Street

Sec. 24-154. Same—Between 8:00 a.m. and 5:00 p.m. [Code 1971, § 28-110; Res. No. 126-93, 9-15-1993]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 8:00 a.m. and 5:00 p.m., when signs are in place giving notice thereof:

Street	Side	Extent
3rd. Street, North [Repealed 11-10-2015 by Res. No. 101-15]		

Tompkins South From the "No Parking Here to Corner" sign to the westerly bounds of 206 Tompkins Street

Sec. 24-154.1. Same—Between 7:00 a.m. and 6:00 p.m. [Res. No. 3-94, 2-22-1994; Res. No. 32-94, 4-26-1994]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, when signs are in place giving notice thereof.

Street Side Extent

Tompkins South From the "No Parking Here to Corner sign to the westerly bounds of North Clinton Street

Sec. 24-155. Same—Between 8:00 a.m. and 5:00 p.m., Monday through Friday. [Code 1971, § 28-111; Res. No. 68-92, 4-28-1992; Res. No. 95-00, 10-10-2000]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, when signs are in place giving notice thereof:

Street Side Extent

2nd Street, North West Commencing from 215 North 2nd Street (north line) to intersection of North 2nd and Laurens Streets.

4th Street, N. West Commencing from 327 North 4th Street north to the intersection of Reed and North 4th Streets

Coleman Street North For its entire length.

Sec. 24-155.1. Same—Between 8:00 a.m. and 6:00 p.m. Mondays through Fridays. [Res. No. 15-02, 2-26-2002]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, when signs are in place giving notice thereof.

Street Side Extent

Wayne Street North In the 400 Block.

Sec. 24-156. Same—Between 8:00 a.m. and 5:00 p.m., except Sundays and holidays.
[Code 1971, § 28-111.1]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 8:00 a.m. and 5:00 p.m., except Sundays and holidays, when signs are in place giving notice thereof:

Street	Side Extent
2nd Street, North West	In the 100 Block.

Sec. 24-157. Two-hour parking — 7:00 a.m. to 5:00 p.m., Monday through Friday.
[Added 8-23-2011 by Res. No. 59-11; 9-13-2011 by Res. No. 64-11; 4-28-2015 by Res. No. 30-15; 8-25-2015 by Res. No. 73-15; 9-27-2016 by Res. No. 75-16; 12-13-2016 by Res. No. 98-16]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 7:00 a.m. and 5:00 p.m., except Saturdays, Sundays and holidays, when signs are in place giving notice thereof:

Street	Side Extent
6th Street, South [Added 4-11-2017 by Res. No. 22-17]	West From its intersection with West State Street south approximately 175 feet
State Street, West	Both From Union Street west to 13th Street
Union Street, North	Both From Henley Street north to Main Street

Sec. 24-157.1. Two-hour parking—8:00 a.m. to 5:00 p.m., Monday through Saturday. [Res. No. 73-93, 6-8-1993; Res. No. 104-93, 8-24-1993]

It shall be unlawful for any person to park a vehicle for a period of time longer than two hours, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday, when signs are in place giving notice thereof:

Street	Side Extent
Tompkins Street	South From the east bounds of the "No Parking Here to Corner" sign easterly to Clinton Street

Sec. 24-158. One-hour limit—Generally. [Code 1971, § 28-112; Res. No. 45-93, 3-23-

1993]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than one hour at any time, when signs are in place giving notice thereof:

Street	Side	Extent
N. 19th Street	East	From the "No Parking Here to Corner" sign approximately 47 feet to the driveway.
Clark Street, South	East	
State Street, West	Both	From Union Street to 4th Street
State Street, West	North	From North 4th Street to North 7th Street
Union Street, North	Both	From State Street to PRR tracks.
Union Street, South	East	From State Street to South Street
Wayne Street	North	Starting 54 feet west of Brickell Avenue to the PRR tracks.

Sec. 24-159. Same—Between 9:00 a.m. and 5:00 p.m., except Sundays. [Code 1971, § 28-112.1]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than one hour, between 9:00 a.m. and 5:00 p.m., except Sundays, when signs are in place giving notice thereof:

Street	Side	Extent
2nd Street, North	East	From West State Street 280 feet for the first sign, and a second sign to be placed 48 feet north of the first sign.
2nd Street, North	West	From a point 40 feet south of the curbline of Laurens Street, and a second sign 90 feet south of the curbline of Laurens Street

Sec. 24-160. Same—Between 9:00 a.m. and 6:00 p.m., except Sundays. [Code 1971, § 28-112.2]

Appropriate signs shall be erected on the north side of West Sullivan Street beginning at its intersection with Buffalo Street 125 feet west allowing one hour parking from 9:00 a.m. to 6:00 p.m., except Sunday.

Sec. 24-161. Same—Between 8:00 a.m. and 6:00 p.m. [Code 1971, § 28-113]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than one hour, between the hours of 8:00 a.m. and 6:00 p.m., when signs are in place giving notice thereof:

Street	Side	Extent
7th Street, North	West	From Reed Street to Clark Bros.
8th Street, North	West	From Wayne Street to Clark Bros.
9th Street, North	West	From Reed Street to Wayne Street
10th Street, North	West	From State Street to a point approximately 100 feet north.
11th Street, North	West	From State Street to a point approximately 100 feet north.

Sec. 24-162. Same—Between 8:00 a.m. and 8:00 p.m. [Code 1971, § 28-114]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than one hour, between the hours of 8:00 a.m. and 8:00 p.m., when signs are in place giving notice thereof:

Street	Side	Extent
2nd Street, North	East	From the intersection of State Street and 2nd Street, 261 feet north.

Sec. 24-163. Thirty-minute limit—Generally. [Code 1971, § 28-115; Res. No. 171-92, 11-10-1992; Res. No. 151-93, 10-26-1993; Res. No. 137-06, 12-26-2006]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 30 minutes, when signs are in place giving notice thereof:

Street	Side	Extent
Union Street, North	Both	Beginning at its intersection with West Oak Street and extending 75 feet south.

Sec. 24-164. Same—8:00 a.m. to 5:00 p.m. except Sundays and holidays. [Code 1971, § 28-115.1; Res. No. 84-95, 11-14-1995; Res. No. 114-01, 10-23-2001]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 30 minutes between 8:00 a.m. and 5:00 p.m., except Sundays and holidays, when signs are in place giving notice thereof:

Street	Side	Extent
2nd Street, N.	East	Beginning 45 feet from the corner of Laurens Street, south of the driveway of 120 North 2nd Street
8th Street, South	East	Between the driveways of 109 S. 8th Street and 111 S. 8th Street

Sec. 24-165. Same—8:00 a.m. to 5:00 p.m. [Code 1971, § 28-115.2]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 30 minutes between 8:00 a.m. and 5:00 p.m., when signs are in place giving notice thereof:

Street	Side	Extent
4th Street, N.	East	Widened portion running from the intersection of West State Street and North 4th Street
13th Street, South	West	Between W. State Street and W. Henley Street

Sec. 24-166. Twenty-minute limit—Generally. [Code 1971, § 28-116; Res. No. 108-94, 11-22-1994; Res. No. 41-99, 6-8-1999]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 20 minutes, when signs are in place giving notice thereof:

Street	Side	Extent
8th., North	East	From a point 20 feet north of West State Street to a point 70 feet northerly of West State Street
Clinton Street, North	East	95 feet north of its intersection with East State Street
State Street, East	North	From Save-Way Market to 51 ft.
Union Street, South	West	From State Street to Library.
Wayne Street	North	From 7th Street to 100 feet east.

Sec. 24-167. Same—8:00 a.m. to 4:00 p.m. Monday through Friday. [Res. No. 112-92, 7-28-1992]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer time than 20 minutes between 8:00 a.m. and 4:00 p.m., Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
4th Street, South	East	Beginning at the northwesterly corner of the Ivers J. Norton School building for a distance of 135 feet to the southwesterly corner of the Ivers J. Norton School building.

Sec. 24-168. Fifteen-minute limit—Generally. [Code 1971, § 28-116.1; Res. No. 101-94, 10-11-1994; Res. No. 95-03, 10-28-2003; Res. No. 06-08, 2-12-2008]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 15 minutes, when signs are in place giving notice thereof:

Street	Side	Extent
Seneca Street	North	In front of 707 Seneca Street
State Street, East	North	At 661 East State Street

Sec. 24-169. Same—8:00 a.m. to 5:00 p.m. Monday through Friday. [Code 1971, § 28-116.1.1; Res. No. 51-94, 6-14-1994; Res. No. 61-94, 6-28-1994; Res. No. 50-98, 6-9-1998; Res. No. 2-05, 1-11-2005; Res. No. 108-06, 9-26-2006]

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a longer period than 15 minutes between 8:00 a.m. and 5:00 p.m. Monday through Friday, when signs are in place giving notice thereof:

Street	Side	Extent
4th Street, North	East	Starting at a point 45 feet south from its intersection with Laurens Street and to continue 90 feet south from its starting point.
Laurens Street	North	The 200 block.
Laurens Street	South	From the western boundary of 413 Laurens Street to the "here to corner" sign at North 4th Street
Main Street	East	In front of School 530 feet from the crosswalk

Sec. 24-170. Same—9:00 a.m. to 9:00 p.m., except Sunday. [Code 1971, § 28-116.2]

Upon the following streets or portions thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 15 minutes between 9:00 a.m. and 9:00 p.m., except Sunday, when signs are in place giving notice thereof:

Street	Side	Extent
Walnut Street	West corner	At its intersection with East Pine Street

Sec. 24-171. Same—9:00 a.m. to 5:00 p.m. [Code 1971, § 28-116.3]

Upon the following streets or portions thereof, it shall be unlawful for any person to park a vehicle for a longer period of time than 15 minutes between 9:00 a.m. and 5:00 p.m.:

Street	Side	Extent
State Street, East		In front of 649 East State Street

Sec. 24-172. Reserved. ¹⁷

Sec. 24-173. Parking during snowfalls. [Code 1971, § 28-118; Res. No. 6-96, 2-13-1996; Res. No. 46-01, 5-29-2001; Res. No. 08-09, 3-24-2009; Res. No. 18-13, 3-26-2013; Res. No. 102-15, 11-24-2015]

(a) Definitions. The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

CHIEF — The Chief of Police or, in his/her absence, the duly authorized representative.

DIRECTOR — The Director of Public Works or, in his/her absence, the duly authorized representative.

MAYOR — The Mayor of the City or, in his/her absence, his/her duly authorized representative.

PRIMARY STREETS — Designated as follows: North and South Union; East and West State.

ROADWAY — That portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder or berm.

SECONDARY STREETS — Shall be designated as all streets other than those identified as primary or subprimary streets.

SNOW EVENT — The proactive response plan declaring that parking restrictions will be in effect to allow City snowplows to effectively clear City streets.

STREET or HIGHWAY — The entire width between the boundary lines of every publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

¹⁷. Editor's Note—Former Sec. 24-172, Parking on South First Street between West State and West Henley Streets, adopted as § 28-117 of the 1971 Code, was repealed July 27, 2004, by Res. No. 68-04.

SUBPRIMARY STREETS — Shall be designated as follows: Alder from Seneca to Spring; Buffalo; Clark; Clinton, North and South; Constitution; Delaware from Union to Barry; Eighth, North, between West Sullivan Street and Wayne Street; Elm, East and West; Euclid, 15th; First South from State to Irving; First, North; Forest, North (200 and 300 blocks); Fourth, South (200 block); Fourth, North from Wayne north; Franchot Boulevard (east of Union); Franklin; Front; Genesee; Green, West; Hamilton; Henley West; Higgins; Highland Terrace; Homer; Indiana Avenue; Irving; Johnson; King; Laurens; Madison; Main; 19th, South; Oregon; Oviatt (east of Main); Pine; Prospect; Queen; Reed from Third to 13th; River; Seneca; Seventh; South; Spring, East; Spruce; Stardust; Sullivan, West, from Union to 15th; Sunrise, from Stardust to Van Buren; Terrace; Third, North (300 block); 12th; 21st; 24th; Times Square; Union Street, North Extension; Van Buren; Washington; Wayne; York.

(b) Snow event declaration and procedure.

- (1) Declaration: The Mayor or his designee, after consultation with the Director and Chief, may declare a snow event on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast by the National Weather Service or other weather service, that weather conditions will make it necessary to impose parking restrictions in order to allow City snowplows to effectively clear City's streets.
- (2) Notice: The City shall cause a public announcement of such parking prohibitions and/or restrictions and the areas designated for said restrictions by means of broadcasts and/or telecasts from various commercial stations serving the City and on the public access channel of any cable television franchisee servicing the City, and social media resources available to the City. The Director shall cause a notice of declaration to be posted in the City Building for such period of time as the parking regulations are in effect, and the Chief shall notify police dispatch of the same.
- (3) Termination: Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the individual declaring the snow event in the same manner of notice as above.

(c) Prohibition.

- (1) No person shall allow any vehicle to remain parked on any City street in violation the parking restrictions instituted as part of a declared snow event as set forth herein.
- (2) Restrictions for primary and subprimary streets. Upon declaration of a snow event, the parking of motor vehicles on primary streets shall be prohibited between the hours of 3:00 a.m. and 7:00 a.m., and parking on subprimary streets shall be prohibited between 12:00 midnight and 7:00 a.m.
- (3) Restrictions for secondary streets. Upon declaration of a snow event, the parking of motor vehicles on secondary streets shall be prohibited between the hours of 8:00 a.m. and 4:00 p.m.

- (d) Enforcement.
- (1) Whenever this section is alleged to have been violated, the Chief or the appropriate designee shall have the authority to issue and serve a ticket upon the violator if he or she has reasonable cause to believe that a violation of this section has been committed. Such ticket shall be in the form authorized by state law.
 - (2) Members of the Police Department are hereby further authorized to remove or cause the removal and/or impounding of any vehicle that obstructs or otherwise impedes traffic on any street in the City. Such vehicle may be removed and conveyed by or under the direction of a member of the Police Department. The Chief is authorized to engage the services of any private towing company to remove vehicles that are found in violation of the prohibitions of this section. Before the owner or person in charge of such vehicle shall be permitted to remove the same from the custody of the private towing company, said owner shall furnish evidence of identity and ownership and shall sign a receipt and pay a fee to cover cost of removal plus the cost of storage.
- (e) Exemptions.
- (1) In all areas of the City, an owner of a motor vehicle who resides at premises which do not have a driveway shall be permitted to park their vehicles in any City-owned public parking lot free of charge during the snow event.
 - (2) Motor vehicles with handicapped stickers and duly authorized emergency response vehicles shall also be exempt from the provisions of this section.
 - (3) In the event that the Mayor excepts certain streets from the snow event, those vehicles parked on streets or portions of streets specifically excepted from the declaration of emergency shall be exempt from the provisions of this section.
 - (4) A stalled vehicle shall not exempt the owner of the vehicle from the penalties of this section. Whenever a vehicle becomes stalled for any reason on any City street on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway. No person shall abandon or leave his/her vehicle in the roadway except for the purpose of immediately securing assistance.
- (f) Relationship to other laws. Any provision of this section which becomes effective by declaration as prescribed above shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedent over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer. Nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.
- (g) Penalty. The fine for any violation of this section shall be \$50 and shall be imposed on the registered owner of the vehicle. This fine is in addition to any costs for

removal and storage payable to any towing company engaged to remove a vehicle under this section.

Sec. 24-174. Parking restricted in War Veterans Park. [Code 1971, § 28-119]

When signs are in place giving notice thereof, parking in War Veterans Park shall be restricted to park visitors and stadium patrons only.

Sec. 24-175. No parking between driveway. [Res. No. 96-95, 11-28-1995]

A "No Parking Between Driveway" sign shall be installed as appropriate at:

308 North Clinton Street.

Sec. 24-176. No blocking of driveways. [Res. No. 94-99, 12-14-1999]

A "Do Not Block Driveway" sign be installed at:

629 East State Street in front of Mickey's Deli.

Sec. 24-177. through Sec. 24-190. (Reserved)

DIVISION 3
METERED PARKING 18

Sec. 24-191. Meter zones. [Code 1971, § 28-123; Res. No. 55-92, 4-14-1992; Res. No. 88-02, 8-13-2002; Res. No. 30-11, 5-24-2011; Res. No. 73-13, 9-10-2013; 12-10-2013 by Res. No. 96-2013; 12-10-2013 by Res. No. 97-13; amended 8-23-2011 by Res. No. 59-11; 9-13-2011 by Res. No. 64-11; 4-28-2015 by Res. No. 30-15; 8-25-2015 by Res. No. 73-15; 9-27-2016 by Res. No. 75-16; 12-13-2016 by Res. No. 98-16]

Parking meters shall be installed, operated, maintained, policed, and supervised on the streets or parts of streets, and municipally owned parking areas described below:

Hamilton Street. South side from Union Street to North Barry Street.

Olean Municipal Building Parking Lot.

Times Square. North and South sides from Union Street to Barry Street.

Union Street, North. Both sides from Sullivan Street North to Main Street.

Union Street, North. East and West sides from State Street to Coleman Street.

Union Street, South. East side from South Street to East Henley Street, except there not be placed a parking meter in front of any lot currently occupied solely as a residence.

Sec. 24-192. Construction; regulation. [Code 1971, § 28-124; Res. No. 88-02, 8-13-

18. State law reference—Power of city relative to parking meters, Vehicle and Traffic Law § 1640(a)(9).

2002; Res. No. 62-05, 7-12-2005; Res. No. 70-06, 6-13-2006; Res. No. 62-07, 8-28-2007]

- (a) Parking meters shall be so devised and regulated as to provide for parking periods not in excess of three hours for \$0.25 per 30 minutes in parking meter zones lying outside and exclusive of the following zones:
 - (1) That zone commencing at the intersection of Union Street with Coleman Street and extending south to the intersection of North Union Street and State Street, except as provided for otherwise in § 24-192(f).
- (b) All parking meters, except such meters as may be established by other provisions of law, lying in:
 - (1) That parking meter zone commencing at the intersection of North Union Street and Coleman Street and extending south to the intersection of North Union Street and State Street; and
 - (2) (Reserved)
 - (3) That zone commencing at the intersection of South Street and South Union Street and extending east on the south side of the street to the intersection of South Barry Street and South Street:

Shall be operated by the insertion of one or more \$0.10 coins for 20 minutes, or a \$0.25 coin for one hour.

- (c) Until such time as meters shall be modified so as to implement the foregoing, currently metered fees shall be enforceable.
- (d) The common council hereby authorizes placement of short-term meters throughout the city. Such short-term meters shall be for parking period as described below:
 - (1) Not to exceed 10 minutes at a fee of \$0.05.
 - (2) Not to exceed 20 minutes at a fee of \$0.10.
 - (3) Not to exceed 30 minutes at a fee of \$0.05. per 10 minutes.
- (e) All parking meters, except such meters as may be established by other provisions of law lying in:
 - (1) That zone commencing at the intersection of Whitney Avenue and First Street and extending east to the intersection of Whitney Avenue and North Union Street:

Shall be so devised and regulated as to provided for parking periods not in excess of five hours for \$0.25 per hour.

- (f) All parking meters in the following zones, except such meters as may be established by other provisions of law, shall be so devised and regulated as to provide parking periods not in excess of eight hours by the insertion of one or more \$0.05 coins for

10 minutes, \$0.10 coins for 20 minutes, or \$0.25 coins for one hour:

- (1) That zone commencing at the intersection of North Union Street and Whitney Avenue extending 520.6 feet southerly on the east side of North Union Street.

Sec. 24-193. Designation of parking spaces. [Code 1971, § 28-125]

The director of the department of public works shall designate by appropriate markings parking meter spaces as determined by the common council.

Sec. 24-194. Vehicles to be parked within lines. [Code 1971, § 28-126]

Any vehicle parked in any parking meter space established by this division shall be parked with the front bumper of such vehicle alongside of or in line with the parking meter adjacent to such parking meter space, or parallel space, or as otherwise indicated between parallel lines. It shall be unlawful for any person to park any vehicle across any line or marking designating the parking meter space, or to park any vehicle in such a way that such vehicle shall not be wholly within a parking space, as designated by such lines or markings.

Sec. 24-195. Deposit of coin. [Code 1971, § 28-127; Res. No. 88-02, 8-13-2002]

- (a) In order that the police officers may properly compute the time during which a vehicle is parked in any parking meter space established by this division, the owner or operator of such vehicle shall, upon entering such parking space during the time of limited parking, immediately deposit one \$0.05 coin or one or more \$0.10 coins or one or more \$0.25 coins of the United States in the parking meter situated at the parking space and shall set in operation the meter erected adjacent to the space in which his car is parked.
- (b) Five cents, 0.10 or \$0.25 coins of the United States shall be the only coins used to operate the parking meters.

Sec. 24-196. Overtime metered parking. [Code 1971, § 28-127.1]

It shall be unlawful to be parked at a meter for which time has expired. The passage of an interval in excess of one hour since the issuance of a prior notice and citation shall constitute a separate offense for which additional notice and citation may be made. In the enforcement of this provision, no more than three separate notices and citations in a twenty-four-hour period shall be made upon any vehicle continuously parked at the same metered location.

Sec. 24-197. Overtime parking; parking adjacent to expired meter. [Code 1971, § 28-128; Res. No. 88-02, 8-13-2002]

- (a) Between the hours of 9:00 a.m. and 5:00 p.m. daily, except Sundays, it shall be unlawful for any person to park a motor vehicle for a period longer than the time period fixed by this division and governed by a parking meter. Such restrictions shall not apply to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, and if any such days are on Sunday, the next day thereafter.

- (b) It shall be unlawful for any person to permit a vehicle to remain in any parking meter space when such meter is displaying a signal showing that such vehicle shall have been parked beyond the period of time fixed by this division. It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle registered in his name to be parked overtime or beyond the lawful period of time described in this division.
- (c) It shall be unlawful for any car to be parked in any parking meter space for a period in excess of 12 minutes for each \$0.01 deposited or one hour for a \$0.05 coin in those parking meter zones located outside of the area embraced from the east side of North Union Street from the Pennsylvania Railroad to the East State Street intersection and the west of North Union Street from the Pennsylvania Railroad to the West State Street intersection. Where the meter adjacent to such space indicates that the space has been occupied for a period in excess of 12 minutes for each \$0.01 deposited or one hour for a \$0.05 coin, it shall be presumed that this regulation has been violated. In that parking meter zone located from the east side of North Union Street from the Pennsylvania Railroad to the East State Street intersection and from the west side of North Union Street from the Pennsylvania Railroad to the West State Street intersection, it shall be unlawful for any car to be parked in any parking meter space for a period in excess of 30 minutes for each \$0.05 coin deposited, and where the meter adjacent to such space indicates that the space has been occupied for a period in excess of one-half hour for each \$0.05 coin deposited, it shall be presumed that this regulation has been violated. It is further presumed that the owner or operator of any vehicle occupying a space adjacent to a parking meter in which 12 minutes or a multiple thereof or one-half hour's time or one full hour's time, as the case may be, has run as indicated on the meter, is guilty of a violation of this section.
- (d) Nothing in this division shall prevent the owner or operator of a vehicle from parking his vehicle in a space without depositing a coin, as provided in this division, where it appears that 12 minutes, a multiple thereof, or one to five full hours' time has not run since the deposit of a previous coin.

Sec. 24-198. Deposit of slugs prohibited. [Code 1971, § 28-129]

It shall be unlawful for any person to deposit or cause to be deposited in any parking meter installed pursuant to this division any slug, device, or substitute for a coin of the United States.

Sec. 24-199. Defacing, injuring, tampering with, etc., meters. [Code 1971, § 28-130]

It shall be unlawful for any unauthorized person to deface, injure, tamper with, open, break, destroy, or impair a parking meter installed pursuant to this division.

Sec. 24-200. Commercial vehicles. [Code 1971, § 28-131]

Commercial vehicles using a parking meter space established by this division and not engaged in either loading or unloading freight or passengers shall comply with all the provisions of this division.

Sec. 24-201. Parking meter fund. [Code 1971, § 28-133]

The moneys collected from the parking meters installed pursuant to this division are to be deposited by the city clerk in a parking meter fund, which may be disbursed on order of the common council.

Sec. 24-202. Parking meter bag fees for contractors and persons showing special circumstances. [Code 1971, § 28-134]

The parking meter bag fees charged by the city to contractors and persons showing special circumstances shall be: \$5 per day with a returnable \$15 deposit.

Sec. 24-203. Violations of division—Report required. [Code 1971, § 28-135]

It shall be the duty of each traffic patrolman or such other officer as shall be instructed by the chief of police, in his beat or district, to take the number of any meter at which any vehicle is overparked, as provided in this division. Such officer shall also take the state vehicle tag number of such vehicle and report such number to the police department, together with the length of time during which such vehicle is parked in violation of any of the provisions of this division, as well as any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

Sec. 24-204. (Reserved) ¹⁹

Sec. 24-205. Additional penalty. [Res. No. 99-92, § 28-137, 6-9-1992]

In addition to any other penalty as may be provided by law, the penalty as provided by section 24-204 shall be increased until paid in accordance with the following schedule:

- (1) After 10 days, two times the basic penalty provided by section 24-204.
- (2) After 30 days, four times the basic penalty provided by section 24-204.
- (3) After 60 days, eight times the basic penalty provided by section 24-204.
- (4) After 90 days, 16 times the basic penalty provided by section 24-204.

Notwithstanding the mathematical calculations as provided by this section, the maximum additional penalty shall be \$100.

Sec. 24-206. through Sec. 24-225. (Reserved)

DIVISION 4
MUNICIPAL PARKING LOTS

Sec. 24-226. Description of facility. [Code 1971, § 28-140]

The offstreet parking facilities shall consist of real property owned by the city and being more fully described as follows:

¹⁹ Editor's Note: Res. No. 50-93, adopted May 25, 1993, repealed § 24-204, which pertained to notice to be attached to vehicle. See the Code Comparative Table.

All that certain tract or parcel of land situated in the City of Olean, County of Cattaraugus, State of New York, and being lots 1, 26, 28, 30, 32, 34, and part of lots 2, 27, 29, 36, 38, 40 and 42 in block no. 60 according to a map made by T.J. Gosseline, Esq. of the Village (now City) of Olean, bounded and described as follows:

Beginning at a point in the easterly bounds of North First Street, such point being north 00° 20 feet 34 inches west, 418.21 feet from the point of intersection of such easterly bounds of North First Street with the northerly bounds of Laurens Street, and running thence from such point of beginning and along such easterly bounds of North First Street, north 00° 20 feet 34 inches west, 256.88 feet to the point of intersection of such easterly bounds of North First Street with the southerly bounds of West Sullivan Street as opened (such West Sullivan Street being opened to a width of 60 feet); thence along such southerly bounds of West Sullivan Street as opened, south 89° 17 feet 38 inches east, 162.51 feet to a point; thence south 00° 02 feet 34 inches east, parallel to the easterly border of North First Street, 88.73 feet to a point; thence south 89° 56 feet 52 inches west, parallel to the northerly bounds of Laurens Street, 8.50 feet to the southeasterly corner of lot 28, block 60; thence south 00° 02 feet 34 inches east, along the easterly bounds of lots 30, 32 and 34, and parallel to the easterly bounds of North First Street, 75 feet to the southeasterly corner of lot 34; thence south 89° 56 feet 52 inches west, along the southerly bounds of lot 34 and parallel to the northerly bounds of Laurens Street, 32.00 feet to a point; thence south 00° 02 feet 34 inches east, parallel to the easterly bounds of North First Street, 8.00 feet to a point; thence south 89° 56 feet 52 inches west, parallel to the northerly bounds of Laurens Street, 5.00 feet to a point; thence south 00° 02 feet 34 inches east, parallel to the easterly bounds of North First Street, 48.00 feet to a point; thence north 89° 56 feet 52 inches east, parallel to the northerly bounds of Laurens Street, 5.00 feet to a point; thence south 00° 02 feet 34 inches east, parallel to the easterly bounds of North First Street, 35 feet to a point; thence south 89° 56 feet 52 inches west, parallel to the northerly bounds of Laurens Street, 122.00 feet to the place of beginning, and containing 0.8495 acres of land more or less.

Excepting and reserving to Benedict John Bordonaro, et al., a certain easement 8.00 feet in width, such easement being a portion of the premises conveyed by Georgia W. Devilin to Benedict John Bordonaro, et al. by deed dated January 20, 1959, and recorded in the Cattaraugus County Clerk's Office on January 21, 1959, in Liber 589 Deeds at page 285, such easement being more particularly described as follows:

Beginning at the northwest corner of lot no. 36, block no. 60 of the T. J. Gosseline survey, such point also being located in the easterly bounds of North First Street and running thence from such point of beginning and along the northerly bounds of such lot no. 36, north 89° 56 feet 52 inches east, 122.00 feet to a point; thence south 00° 02 feet 34 inches east, 8.00 feet to a point; thence south 89° 56 feet 52 inches west, 122.00 feet to a point in such easterly bounds of North First Street, north 00° 02 feet 34 inches, 8.00 feet to the point and place of beginning.

Sec. 24-227. Periods when lot open. [Code 1971, § 28-141.2]

The lot shall be open for public parking during those periods that may be set by the common council from time to time.

Sec. 24-228. Liability of registered owner of vehicle; penalty for violation. [Code 1971, § 28-141.6]

The registered owner of any vehicle parked within the lot in violation of this article shall, on conviction thereof, be fined the sum of \$10.

Sec. 24-229. Removal, recovery of improperly parked vehicles, generally. [Code 1971, § 28-141.7]

Any vehicle parked on the lot in violation of this article shall be removed to a garage, automobile pound, or other place of safety. The registered owner of such vehicle shall be entitled to recover the vehicle upon proper identification and upon exhibiting the certificate of registration to the city. Upon proper identification, the registered owner will be required to pay to the city the reasonable value of the costs and removal and storage of the vehicle which costs are hereby declared to be a lien upon the vehicle pursuant to General Municipal Law § 20(30). In addition thereto, the owner of such vehicle may on conviction thereof be fined pursuant to sections 24-228 and 24-231(a).

Sec. 24-230. Removal of vehicles by police officer. [Code 1971, § 28-141.8]

Any police officer finding a vehicle parked in violation of this article is hereby authorized to provide for the removal of such vehicle to a garage, automobile pound, or other place of safety.

Sec. 24-231. Parking permit. [Code 1971, §§ 28-141, 28-141.1, 28-141.3, 28-141.5; Res. No. 115-94, 11-8-1994]

- (a) Any motor vehicle parked within the limits of the lot during the period in which the lot is open for public parking which does not have a permit displayed pursuant to this section shall be parked in violation of this article.
- (b) Permits to park motor vehicles on the facility shall be issued by the city clerk upon payment of a monthly fee to be set from time to time by the common council.
- (c) Each permit shall entitle the vehicle to park on the facility during the hours that it is open for public parking.
- (d) Each permit to park shall be issued for a period of one month commencing on the first calendar day thereof and expire by its terms on midnight on the last calendar day of the same month.
- (e) Each vehicle parked on the lot during the hours in which it is open for public parking shall have the permit issued to the vehicle displayed in the interior of the vehicle. The permit shall be so displayed that it can be seen by observation through the front windshield or left front window of the vehicle.
- (f) It is the policy of the city to encourage the purchase of parking permits in bulk in order to facilitate downtown development. To this end, until further action of the common council, there shall be applied a 25% reduction in monthly parking rates to any user of municipal parking lots purchasing 20 or more monthly parking permits providing payment for a twelve-month period for all such parking spaces made in advance. All such parking spaces reserved shall be on a first come, first serve basis

and shall be subject to availability with the specified lot. Utilization of the general authority pursuant to this resolution shall be subject to such regulations as from time to time may be established by the city clerk and any such arrangements made by user may be revoked by the common council at any time upon repayment of the pro-rata amount remaining utilized.

Sec. 24-232. Commercial or freight carrying vehicles or trailers prohibited. [Code 1971, § 28-141.9]

No commercial or freight carrying vehicle or trailer shall be parked in the lot at any time.

Sec. 24-233. Fees for parking in city lots. [Res. No. 9-03, 2-25-2003, effective 6-1-2003; Res. No. 63-07, 8-28-2007]

The city fees for parking in city-owned parking lots are \$0.25 for one-hour parking, and \$30 for monthly parking.

Sec. 24-234. Two-hour parking. [Added 9-12-2017 by Res. No. 77-17]

Within City Parking Lot #10 (located on the corner of Laurens Street and North First Street), it shall be unlawful for any person without a permit to park a vehicle for a period of time longer than two hours, when signs are in place giving notice thereof.

Sec. 24-235. through Sec. 24-250. (Reserved)

ARTICLE V MISCELLANEOUS RULES

Sec. 24-251. Restrictions upon pedestrians. [Code 1971, §§ 28-167, 28-168]

- (a) No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.
- (b) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.
- (c) No pedestrian shall cross a roadway other than in a crosswalk in the control traffic district or in any business district.
- (d) No pedestrian shall cross a roadway other than in a crosswalk upon any of the through streets or parkways as set forth in this article.

Authority to regulate the crossing of roadways by pedestrians, Vehicle and Traffic Law § 1640(a)(3) Pedestrians, Vehicle and Traffic Law § 1150 et seq.

Sec. 24-252. Funeral or other processions. [Code 1971, § 28-35]

- (a) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated, as required by this section. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police

officers.

- (b) Each driver in a funeral or other procession shall drive as near to the righthand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe.
- (c) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle by a pennant or by such other method as may be determined by the traffic division.

Sec. 24-253. Coasting, etc., on streets or roadways. [Code 1971, § 28-12]

It shall be unlawful for any person to operate, propel, or coast any carts or bobs upon any public street or roadway in the city excepting such streets or roadways as may be designated by the common council as permissible for such purpose. A street or roadway for the purpose of this section shall mean that portion of a public street or highway which has been improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Sec. 24-254. Use of skateboards. [Code 1971, § 18-9]

- (a) Definitions. For the purposes of this section, the following terms shall have the meanings indicated:

BUSINESS DISTRICT — The business districts of the city are as follows: State Street, Union Street, Wayne Street and Front Street.

SKATEBOARD — A single platform which is mounted on wheels, having no mechanism or other device with which to steer or control the direction of movement thereof while being used, operated, or ridden.

- (b) Skateboards on roads and highways. Every person operating a skateboard upon the paved portion of a highway or road, dedicated or otherwise, shall operate such skateboard in strict observance of all laws applicable to vehicles and the use thereof and in compliance with all rules of the road applicable to the operation of a vehicle and in compliance with all traffic ordinances, except as to those provisions of laws and ordinances which by their nature can have no application.
- (c) Skateboards emerging from alleys, driveways, and buildings. The operator of a skateboard emerging from an alley, driveway, or building shall, upon approaching a sidewalk, yield the right-of-way to all pedestrians approaching on the sidewalk.
- (d) Standing, storage, or parking of skateboards. No person shall stand, park, or otherwise place in a position of temporary storage a skateboard upon a highway, street, sidewalk, or against any building abutting a sidewalk in such manner which shall obstruct or render injury to a pedestrian or interfere with vehicular traffic.
- (e) Skateboarding prohibited in certain places. No person shall use, operate, or ride upon any skateboard on any sidewalk or on any highway or road within any business district.
- (f) Operation on sidewalks. Whenever any person shall operate a skateboard upon a

sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

- (g) Responsibility of parent or guardian. The parent of the minor child or the guardian of any minor shall not authorize or knowingly permit any such child to violate any of the provisions of this section.
- (h) Penalties for offenses; fees.
 - (1) Any person violating any provisions of this section shall be guilty of an offense and shall forfeit and pay a fine not to exceed \$25 for each and every offense.
 - (2) Any skateboard operated in violation of this section may be immediately impounded. The city shall store such impounded skateboards in a suitable, secure location. No impounded skateboards may be released until all storage costs and fees have been paid. The violator shall be responsible for the payment of all such costs and fees. The per diem storage fee shall be \$2. The impound fee shall be \$5.

Sec. 24-255. Operating motor vehicles in public parks prohibited. [Code 1971, § 28-10]

- (a) It shall be a violation of this section to operate a motor vehicle within the boundaries of any of the public parks of the city.
- (b) Motor vehicles, within the meaning of this section, shall be defined as every vehicle operated or driven by any power other than muscular power, with the exception of vehicles necessary for maintenance.

Sec. 24-256. Riding bicycles in public parks or playgrounds prohibited. [Code 1971, § 28-11]

Riding of bicycles in any of the public parks or playgrounds of the city shall be prohibited.

Sec. 24-257. Use of bicycles and rollerblades. [Res. No. 4-98, 2-10-1998]

- (a) (Definitions.) For the purpose of this section, the following terms have the meaning indicated:

BICYCLES — A vehicles consisting of a frame mounted on two or three wheels equipped with foot pedals.

BUSINESS DISTRICT — The business districts of the city for purpose of this section is from Whitney Avenue south along North Union Street to the intersection of Route 417; and from the intersection of Route 417 west along West State Street to the intersection of 4th Street.

ROLLERBLADES — A device with wheels placed on, or in substitution for, shoes.

- (b) Bicycling and rollerblades prohibited in certain places. No person shall use, operate, or ride upon any bicycle or rollerblades on any sidewalk within any business

district.

- (c) Operation on sidewalks. Whenever any person shall operate a bicycle or rollerblades upon a sidewalk, such a person shall yield the right-of-way to any pedestrian and give an audible signal before overtaking and passing such pedestrian.
- (d) Responsibility of parent or guardian. The parent or guardian of a minor child or the guardian of any minor shall not authorize or knowingly permit any person or any such child to violate any provision of this section.
- (e) Penalties of offenses, (i) Any person violating any provision of this section shall be guilty of an offense and shall forfeit and pay a fine not to exceed \$25 for each and every offense; (ii) Any bicycle operated in violation of this section may be immediately impounded. The city shall store such impounded bicycle in a suitable, secure location. No impounded bicycle may be released until all storage costs and fees have been paid. The violator shall be responsible for payment of all such fees and costs. The per diem storage fee shall be \$2. The impound fee shall be \$5.

Chapter 25, TRAILERS, TRAILER CAMPS, AND TOURIST CAMPS EN

Sec. 25-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automobile trailer, trailer coach or trailer means any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in Section 120-5 of the New York State Vehicle and Traffic Law operated thereon, except motorcycle sidecars, vehicles being towed by non-rigid support and vehicles designed and primarily used for other purposes and occasionally drawn by such motor vehicle, including any vehicle or structure so designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons and so designed that it is or may be mounted on wheels and used or drawn by its own or other motive power. Specifically, excluded from this definition shall be dwellings referred to as "manufactured housing" provided such dwelling comply with U.S. Housing and Urban Development Regulations (24 CFR, Part 36) and further provided any such dwelling shall also meet the following criterion:

- (1) The dwelling shall be built on a permanent foundation with a cellar or basement.
- (2) The dwelling shall be minimum body width of 24 feet.

- (3) The dwelling shall have a roof pitch of not less than four in 12.
- (4) The dwelling shall have an overhang of at least eight inches.
- (5) The dwelling shall have a shingled roof with vinyl or aluminum siding. Wood siding shall be permitted with the consent of the common council and mayor by resolution.
- (6) The dwelling shall comply with all structural and thermal components for this zone.
- (7) The dwelling, its construction, and required municipal approvals shall be otherwise as provided or required by the local, state and federal law and regulation

Cabin plot means a section of ground not less than 30 feet by 40 feet in area upon which only one camp cottage or cabin is located

Recreational vehicle means a self-propelled or towed vehicle containing a living unit not intended for permanent occupancy

Tourist camp means any park, tourist park, tourist court, camp, court, site, lot, parcel, or tract of land upon which one or more camp cottages or cabins are located and maintained for the accommodation of transients by the day, week, or month, whether a charge is made or not

Trailer camp means any park, trailer park, trailer court, court, camp, site, lot, parcel, or tract of land designed, maintained, or intended for the purpose of supplying a location or accommodations for any trailer coach and upon which any trailer coach is parked and shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the trailer camp and its facilities or not. "Trailer camp" shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale

Unit means a section of ground of not less than 800 square feet of unoccupied space in an area designated as the location for only one automobile and one trailer.

(Code 1971, § 29-1; Res. No. 4-93, 1-26-1993; Res. No. 87-95, 10-24-1995; Res. No. 57-97, 5-27-1997; Res. No. 95-02, 9-10-1902)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 25-2. Code enforcement office: general powers and duties.

(a) It is hereby made the duty of the code enforcement office to enforce all provisions of this chapter or such provisions as may hereinafter be enacted. For the purpose of securing such enforcement, the code enforcement office shall have the right and hereby is empowered to enter upon any premises upon which any automobile trailers, camp

cottages, or cabins are located or about to be located and to inspect such trailers, cottages, or cabins and all accommodations connected therewith at any reasonable time.

(b) The code enforcement office is further empowered to issue orders granting, renewing, and revoking such permits, as are provided for in accordance with the provisions of this chapter.

(Code 1971, § 29-3; Res. No. 91-90, § II, 3-12-1991)

Sec. 25-3. Parking of trailers.

(a) It shall be unlawful, within the limits of the city for any person to park any trailer, automobile trailer, trailer coach or recreational vehicle on any street, alley, or highway or other public place or on any tract of land owned by any person, occupied or unoccupied, within the city, except as provided in this chapter.

(b) Emergency or temporary parking of any trailer, automobile trailer, trailer coach or recreational vehicle is permitted on any street, alley, or highway for not longer than one hour, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for street, alley or highway.

(c) Notwithstanding any provision of this chapter to the contrary, parking of one unoccupied trailer or recreational vehicle in an accessory private garage building or in a rear yard or side yard, in any district is permitted subject to the set back requirements of the zoning code. Furthermore, an unoccupied trailer or recreational vehicle may be parked on a private driveway on any residential lot provided the trailer or recreational vehicle is registered to the owner or actual occupant of the property and does not interfere with the exits from the dwelling or otherwise protrude into the street or sidewalk.

(d) Notwithstanding any provision of this chapter to the contrary, parking and/or occupancy of a trailer or recreational vehicle in the driveway, side yard, or rear yard of a dwelling by a bonafide guest of the property is permitted for 72 hours provided that the registered owners of the trailer or recreational vehicle do not maintain a residence within 50 miles of the city.

(e) Notwithstanding any provision of this chapter to the contrary, parking and overnight occupancy of trailers when in connection with an activity sponsored by a property owner in areas zoned by the zoning code of the city as B-1 (Business-1), B-2 (Business-2), and industrial districts shall be permitted when the landowner obtains a permit from the code enforcement office for the use of the property for temporary trailer parking and occupancy, providing:

- (1) Fifty feet is maintained between the trailer and any occupied building.
- (2) Twenty feet is maintained between any two or more trailers on the same premises.
- (3) Fifty feet is maintained between the trailer and the public right-of-way.

(4) Trailers shall be self-contained (water and sanitary) and meet all department of transportation and health department requirements or shall be connected to city services.

(5) The property owner sponsoring or authorizing the temporary parking, as provided in this section, shall be responsible for all activities within the permit area.

(6) There shall be an application fee of \$50.00 for authority to permit parking of one or more trailers for any seven-day period. Permit shall be issued by the code enforcement office upon inspection of the property to ensure compliance and shall be for a seven calendar day period, and shall not be renewable for the same activity for a period of 30 days.

(f) Notwithstanding any provision of this chapter to the contrary, the code enforcement office may issue a permit to park construction trailers on parcels of land owned or leased by applicant for a period not in excess of six months with no more than one renewal to be authorized. A fee in the amount of \$25.00 per month shall be paid upon the issuance of any permit, and an additional fee of \$25.00 shall be paid upon any renewal to the permit. Permits issued by the code enforcement office in connection with this provision shall specifically prohibit any applicant or agency or its employee or any person to dwell in such trailer or to occupy the trailer overnight. Permits will specifically prohibit the permittee to connect the trailer with the city water supply and/or sanitary sewer systems.

(Code 1971, § 29-4; Res. No. 91-90, § III, 3-12-1991; Res. No. 87-95, 10-24-1995)

Sec. 25-4. Applicability of plumbing, electrical, and building ordinances.

All plumbing, electrical, building, and other work on, or at any camp licensed under this chapter shall be in accordance with the ordinances of the city regulating such work, unless such ordinances are specifically made inapplicable under the terms of this chapter.

(Code 1971, § 29-6)

Sec. 25-5. Trailer or tourist camp in city prohibited.

No person shall own, operate, or maintain any trailer or tourist camp in the city.

Chapter 26, VEHICLES FOR HIRE EN

ARTICLE I. IN GENERAL

Secs. 26-1--26-20. Reserved.

ARTICLE II. OMNIBUSES

Secs. 26-21--26-40. Reserved.

ARTICLE III. TAXICABSEN

DIVISION 1. GENERALLY

Sec. 26-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driver means and includes any person who drives a taxicab, whether such person is the owner of such vehicle or employed by the owner.

Driver's license means and includes permission granted by the city to the person holding such license to operate and drive upon the streets of such city any licensed taxicab.

Owner means and includes any person owning or having control of the use of a taxicab used for hire upon the streets of the city.

Taxicab means and includes any motor vehicle engaged in the business of carrying persons for hire, excepting a sightseeing car, whether such vehicle is operated from a street stand or subject to calls from a garage, home, or office.

Taxicab license means and includes permission granted to the holder of such license by the city to keep and use for hire a taxicab in such city.

Taxicab stand means and includes any place in any public street which is designated and exclusively reserved for the use of taxicabs.

(Code 1971, § 30-25)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 26-42. Vehicles exempted.

Vehicles operated as part of the bus transportation system or operating with permission of the Interstate Commerce Commission, ambulances, vehicles used by undertakers in the conduct of their business, and vehicles rented for the purpose of being driven by the person renting such vehicle shall be exempt from the provisions of this article.

(Code 1971, § 30-26)

Sec. 26-43. Penalty for violation of article by owner.

Any owner who operates or permits the operation of a taxicab which is not licensed or equipped in accordance with the provisions of this article, who operates or permits the operation of such a vehicle the license of which has been suspended or revoked, or who otherwise violates any provision or requirement of this article shall, upon conviction, be punished as provided in section 1-8.

(Code 1971, § 30-82)

Sec. 26-44. Suspension and revocation of license.

In addition to the fine or imprisonment, or both, provided for in this article, any licensee shall be subject to the suspension or revocation of his license upon conviction for a violation. The chief of police may, at his discretion, suspend a license granted under the provisions of this article pending the determination of a charge for violation against any holder of such a license.

(Code 1971, § 30-83)

Sec. 26-45. Fraudulent misrepresentation by driver.

No person owning or driving a taxicab shall deceive any passenger who may ride or who may desire to ride in any such vehicle as to his destination by the shortest route, the lawful price to be charged for such ride, convey such passengers to a place other than that directed by them, or in any other way than by the shortest route.

(Code 1971, § 30-76)

Sec. 26-46. Cruising and soliciting.

No taxicab, while waiting employment by passengers, shall stand on any public street or place, at a parking place controlled by a parking meter, or at any place other than at or upon a public taxicab stand, designated and established in accordance with this article. However, the owner of such vehicle may use parking places controlled by parking meters at such times as such vehicle is being used for his own private and personal purposes, provided that at such times there shall be displayed a large legible sign on the windshield of such vehicle reading "This Car Not For Hire." Nor shall any driver of a taxicab seek employment by repeatedly and persistently driving his vehicle up and down the street adjoining any theater, hall, hotel, public gathering place, railway, or bus station, or interfere with the proper access to or egress from such places, but any driver may solicit employment by driving through any public street or place without stops other than those necessary by reason of traffic or traffic control, and at such speed so as not to interfere with or impede traffic.

(Code 1971, § 30-74)

Sec. 26-47. Lost articles.

Every driver of a taxicab shall take to the nearest police station and leave with the officer in charge any property lost or left in his vehicle, and such police officer shall issue to the driver a receipt therefor. Such articles shall be held at police headquarters, unless sooner claimed by the owner thereof, for a period of six months. If no claim is made by the owner within that period, such articles shall be returned to the driver upon presentation of the original receipt.

(Code 1971, § 30-75)

Secs. 26-48--26-60. Reserved.

DIVISION 2. OWNER'S LICENSE

Sec. 26-61. Required.

It shall be unlawful for any person to use or keep for hire within the city any taxicab without first having obtained a license therefor. Such person shall have such license in force and effect in accordance with the provisions of this division.

(Code 1971, § 30-46)

Sec. 26-62. Application.

An application for an owner's license shall be made by the owner of the vehicle to the chief of police upon a blank form furnished by the chief of police and shall state:

- (1) The name, residence, and age of the owner of the taxicab;
- (2) The manufacturer and type of the vehicle to be used, the serial number, the state license number, the year of manufacture, and the seating capacity of the vehicle;
- (3) Whether the vehicle has been previously licensed to operate as a taxicab and, if so, for what year and in what place;
- (4) Whether the applicant has previously held an owner's license and if such license has ever been revoked and, if so, for what cause;
- (5) The applicant's previous experience, if any, as the owner or driver of a taxicab;
- (6) Such other information as the chief of police may require.

(Code 1971, § 30-47)

Sec. 26-63. Proof of insurance of vehicle.

No owner's license for any vehicle shall be issued until proof is furnished to the chief of police that liability insurance in the sums of \$50,000.00 per person, \$100,000.00 for each accident, and \$10,000.00 for property damage is carried on each vehicle. If insurance is not carried, any license for the vehicle will be automatically revoked.

(Code 1971, § 30-48)

Sec. 26-64. Fees for vehicles.

The taxicab owner's license fee per annum shall be as now or hereafter established by ordinance.

(Code 1971, § 30-51(a))

Sec. 26-65. Duration.

Each taxicab owner's license shall be issued as of August 1 and shall expire on July 31 next succeeding unless sooner suspended or revoked.

(Code 1971, § 30-51(b))

Sec. 26-66. Issuance; display; change of ownership.

(a) If, upon inspection, a taxicab is determined to be of proper construction, in proper condition, and in compliance with the provisions of this article, then upon the approval of the application and the payment of the required license fee, the chief of police shall issue a suitable owner's license for such vehicle of such size and form as may from time to time be prescribed by the chief of police. The license shall remain the property of the city and shall be for identification purposes only.

(b) The owner shall be required to display the license in a prominent position on the exterior of the car or, at the discretion of the chief of police, at such a place on the interior of the car as the chief of police may direct. It shall be the responsibility of the owner to affix the license pursuant to the directions of the chief of police and to maintain the license in such condition that it is readily identifiable and the particulars on the license may be read.

(c) The license holder of any taxicab shall immediately notify the chief of police of any change in ownership of his vehicle and shall surrender his license to the chief of police if such change of ownership occurs.

(Code 1971, § 30-49)

Sec. 26-67. Register.

The chief of police shall keep a register of the name of each person to whom an owner's license for a taxicab is issued in accordance with this division. This register shall also contain the license number and a description of such vehicle, together with a complete record of inspections.

(Code 1971, § 30-53)

Sec. 26-68. Transfer.

No taxicab owner's license shall be transferred, sold, or assigned without the written approval of the common council, which approval shall not be unreasonably withheld. If the state registration number of any vehicle licensed as a taxicab shall be changed during the time when such vehicle is licensed by the city, such change and the new registration number shall be immediately reported to the chief of police.

(Code 1971, § 30-50(a))

Sec. 26-69. Replacement of vehicle.

If a vehicle is licensed as a taxicab and the owner thereof removes such taxicab from service and substitutes another vehicle therefor, such fact shall be immediately reported to the chief of police. Upon request, after an inspection of the new vehicle to be used for taxicab purposes, and after surrender of the owner's license for such vehicle, a new owner's license shall be issued for such vehicle for the remainder of the license year at a fee in the amount now or hereafter established by ordinance.

(Code 1971, § 30-50(b))

Sec. 26-70. Suspension and revocation.

A taxicab owner's license may be revoked or suspended at any time at the discretion of the chief of police if the vehicle licensed is used for immoral business or purposes, if the license holder is convicted of a violation of this article, or twice convicted within a period of six months of a violation of any state law relating to the operation of taxicabs. Whenever any owner's license is revoked, the license shall be surrendered to the chief of police. If an owner's license is suspended, the license shall be surrendered to the chief of police and retained by him until the suspension period expires. If any person to whom an owner's license is issued has such license suspended on three occasions, such owner's license shall thereupon be revoked.

(Code 1971, § 30-52)

Secs. 26-71--26-85. Reserved.

DIVISION 3. DRIVER'S LICENSE

Sec. 26-86. Required.

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the limits of the city without such driver having first obtained, paid for and having in force and effect a driver's license under the provisions of this division.

(Code 1971, § 30-32)

Sec. 26-87. Application.

Each applicant for a taxicab driver's license must comply with the following to the satisfaction of the chief of police:

- (1) Must first have obtained a state chauffeur's license.
- (2) Be of the age of 18 years or over.

(3) Be of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind, which might render him unfit for the safe operation of a public vehicle.

(4) Fill out on a blank form, to be provided by the chief of police, a statement giving his full name, residence, places of residence for five years previous to moving to his present address; age, height, color of eyes and hair; place of birth, length of time he has resided in the city, whether a citizen of the United States; places of previous employment; whether married or single; whether he has ever been arrested or convicted of a felony or misdemeanor; whether he has been summoned to court; whether he has been previously licensed as a driver or chauffeur, and if so, whether his license has ever been revoked, and for what cause; and the number of chauffeur's license issued by the state which statement shall be signed and sworn to by the applicant and filed with the chief of police as a permanent record. Any false statements by the applicant for a driver's license shall be promptly reported by the chief of police to the district attorney of the county. The chief of police is hereby authorized and empowered to require any additional -information as he may deem necessary.

(Code 1971, § 30-33)

Sec. 26-88. Photograph of driver.

Every applicant for a taxicab driver's license shall file with his application three unmounted, unretouched, clear, front view photographs of himself taken within 30 days preceding the filing of his application. The photographs shall be of a size required by the chief of police, and one of them shall be attached to the driver's license when such license is issued. Every licensed driver shall permanently display in the taxicab which the driver is operating, at a place designated by the chief of police, his city taxicab driver's license containing his photograph so that the license is clearly visible to the occupants of the vehicle.

(Code 1971, § 30-35)

Sec. 26-89. Examination of drivers.

Each applicant for a taxicab driver's license shall be examined by the chief of police or a member of his department designated by him as to the applicant's knowledge of the provisions of this article, the traffic regulations of the city, the motor vehicle and highway traffic laws of the state, and the geography of the city. If the results of such examination are not satisfactory to the chief of police, a driver's license shall be refused.

(Code 1971, § 30-34)

Sec. 26-90. Annual fees; transfer.

The license fee per annum for each original taxicab driver's license and for each renewal thereof shall be as now or hereafter established by ordinance or resolution. Such licenses shall not be transferable.

(Code 1971, § 30-38)

Sec. 26-91. Issuance.

Upon satisfactory fulfillment of the requirements of this division, there shall be issued to the applicant a license which shall be in such form as to contain a photograph and signature of the licensee, and blank spaces upon which a record may be made of any arrest of or serious complaint against him. All licenses shall be numbered in the order in which they are issued and shall contain the name and place of residence of the licensee and the date of issuance and expiration of the license. Any licensee who defaces, removes, or obliterates any official entry made upon his license shall be punished by the revocation of his license. Driver's licenses shall be issued as of August 1, in each and every year, and shall be valid to and including July 31, next succeeding, unless previously suspended or revoked.

(Code 1971, § 30-36)

Sec. 26-92. Record.

There shall be kept in the office of the chief of police a complete record of each license issued to a driver, and of all renewals, suspensions, and revocations thereof, which record shall be kept on file with the original application of the driver for a license.

(Code 1971, § 30-40)

Sec. 26-93. Renewal.

The chief of police may renew a taxicab driver's license from year to year by appropriate endorsement thereon. A driver, in applying for a renewal of his license, shall make such application not less than 30 days next preceding its expiration upon a form furnished by the chief of police entitled "Application for Renewal of License," which shall be filled out with the full name and address of the applicant together with a statement of the date upon which his original license was granted, the number thereof, and such other information as the licensing officials may deem necessary.

(Code 1971, § 30-37)

Sec. 26-94. Suspension and revocation.

(a) A taxicab driver's license or permit may at any time be suspended or revoked for cause after a hearing by the chief of police. Any such suspension shall be noted on the license together with a statement of the reasons therefor. When the license or permit is suspended or revoked, a note of the revocation or suspension shall be forthwith sent to the common council.

(b) A second suspension for the same reason, or, in any case, a third suspension of a driver's license, shall cause the revocation of the license. No driver whose license or

permit has been revoked shall be again licensed as a taxicab driver in the city unless upon the presentation of reasons satisfactory to the common council.

(Code 1971, § 30-39)

Secs. 26-95--26-110. Reserved.

DIVISION 4. STANDS

Sec. 26-111. Location and number; license fee.

The location and number of public taxicab stands heretofore established is continued. The common council shall establish a greater or lesser number of stands and shall relocate the existing location of the stands upon a showing by the owner of a licensed taxicab of public necessity and convenience in so doing.

(Code 1971, § 30-59(a))

Sec. 26-112. Rental fee.

Each owner of a licensed taxicab in the city shall pay to the city the sum now or hereafter established by ordinance per year for each stand rented by the owner. The city will issue to each owner of taxicabs within the city one stand for all taxicabs owned up to and including five, two stands for all taxicabs up to and including ten, and three stands to any owner owning more than ten licensed taxicabs.

(Code 1971, § 30-59(b))

Sec. 26-113. Duties of driver.

It shall be the duty and obligation of the driver of the taxicab to keep the stand at which his vehicle is located in a clean and sanitary condition. While a taxicab is at a taxicab stand, the driver shall remain at the car or within a distance of 100 feet thereof.

(Code 1971, § 30-60)

Secs. 26-114--26-130. Reserved.

DIVISION 5. RATES AND CHARGES

Sec. 26-131. Schedule.

The common council shall fix from time to time a schedule of rates for the operation of taxicabs within the city. Such rates shall be made public by the common council and duly posted at the police station and city clerk's office. Whenever rates shall be changed by the common council, a copy of the new rate schedule shall be mailed to each taxicab owner at the address appearing on the license of the owner. Waiting time shall be included in the schedule of rates published under this section. The owner of each cab shall keep and maintain a schedule of rates in each cab at a place approved by the chief of police.

(Code 1971, § 30-66)

Sec. 26-132. Overcharge and disputed fares.

No taxicab owner or operator shall charge or attempt to charge a higher rate of fare than is provided for by this division, nor shall any passenger refuse to pay the proper and legal fare. All disputes as to fares shall be determined by the officer in charge of the police station nearest to the place where the dispute occurred. Whenever a passenger requests a receipt, such a receipt shall be furnished by the driver of a taxicab. The receipt shall include the name of the driver, the name of the licensed owner, and the amount of the fare collected.

(Code 1971, § 30-68)

Sec. 26-133. Prepayment of fares.

Every driver of a taxicab shall have the right to demand payment of the regular fare in advance and may refuse employment unless prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey an orderly person upon request anywhere in the city unless previously engaged.

(Code 1971, § 30-67)

Chapter 27

WATER AND SEWERS AND SEWAGE DISPOSAL

CHARTER REFERENCES

Sewers and drains, Art. XXIV.

CROSS REFERENCES

Definitions and rules of construction generally, § 1-2.
Environmental control, ch. 8.
Health and human services, ch. 10.
Nuisances, ch. 16.
Solid Waste, ch. 20.

LOCAL LAW REFERENCES

Water, § LL7-21 et seq.

ARTICLE I POLICY IN GENERAL

[Amended 4-28-2015 by Res. No. 28-15]

Sec. 27-1. Rules and regulations, generally.

- (a) Supervision of system. The water and sewer system and all structures or properties connected to the City of Olean water and sewer system shall be under the supervision of the Department of Public Works. All work performed in connection with the system shall conform with the New York State Uniform Fire Prevention and Building Code and shall be subject to inspection by the Code Enforcement Office. The Department of Public Works may establish such other and further regulations as may be necessary or appropriate to assure implementation and standardization of the policy matters contained in this article.
- (b) Policy creates a contract. Each and every person who shall be supplied or whose property shall be supplied with water by the City of Olean must agree to comply and must comply with these rules and regulations, and the same shall constitute a part of the contract existing between such person and the City. Any owner and/or consumer of water service supplied under Article II below shall, as condition of such service, be obligated to adhere to each and every other article of this chapter as applicable.
- (c) Properties outside City limits. No water or sewer service shall be provided to any person or property residing outside the City of Olean, unless such property is located in a municipality with an established water and sewer district and such district is has entered into an intermunicipal agreement with the City.
- (d) Connections. Any owner of a structure or property that is connected to the water and sewer system shall be responsible for maintaining, at his or her expense, the supply and connecting lines of the property to the water and sewer mains. Any owner seeking to connect his or her property to the water and sewer mains shall be required to obtain a permit from the Department, and the connection shall be completed in the manner approved by the Office of Code Enforcement. Any work contracted by the owner under this section shall be performed by a contractor and plumber licensed by the City. The owner, at his or her option, may request that the City undertake the work necessary to perform the connections, and the City shall bill the owner the actual cost incurred by the City, plus an additional service fee of \$100.
- (e) Disconnections upon demolition. Any owner of a structure or property which is connected to the city water and sewer system who applies for a permit authorizing the demolition or removal of the connected structure shall, at his or her own expense, be required to disconnect any water or sewer line servicing the structure at the City mains. The disconnect shall be completed in the manner approved by the Office of Code Enforcement prior to the demolition of the structure unless otherwise agreed to by the City. Any work contracted by the owner under this section shall be performed by a contractor and plumber licensed by the City. The owner, at his or her option, may request that the City undertake the work necessary to perform the disconnect and the City shall bill the owner the actual cost incurred by the City plus an additional service fee of \$100, all of which is to be paid in

advance by the owner. If any owner shall fail to disconnect the lines from the mains, the City may undertake the necessary work and shall be entitled to file a lien against the property for the actual cost incurred, plus a penalty of \$500.

- (f) Water Division. All transactions under this Chapter 27 shall be with the Department of Public Works, and all matters herein prescribed to be done by the Water Division or Sewer Division shall respectively be had with and done by the Department of Public Works for the City.
- (g) Violations. It shall be unlawful to violate any provision of this chapter.
- (h) Monthly minimum. All premises, whether vacant or not, which is serviced by a meter, whether or not said premises is occupied will be charged a minimum monthly fee plus any water consumption.
- (i) Regulatory authority. Those rules and regulations not specifically enumerated in this chapter which are necessary to the safe and efficient management of the water system shall be prescribed by the Director of Public Works and described in the Water and Sewer Policy, as amended from time to time.

Sec. 27-2. through Sec. 27-5. (Reserved)

ARTICLE II WATER

DIVISION 1 WATER, SEWER, AND SEWAGE DISPOSAL

Sec. 27-6. Definitions. [Added 4-28-2015 by Res. No. 28-15]

As used in this article, the words and phrases listed below shall be deemed to have the following meanings:

APPLICANT — The owner or occupant of property, or his or her authorized agent, applying for water service from the City.

CONSUMER — The owner or occupant of premises to which water service is furnished as provided in this chapter.

CUSTOMER — The consumer of record receiving water service from the City.

DATE OF PRESENTATION — The date upon which a bill or notice is mailed or delivered personally to the customer.

DEPARTMENT or DEPARTMENT OF PUBLIC WORKS — The City of Olean Department of Public Works.

FIRE PROTECTION SERVICE — Delivery of water to premises for automatic fire protection.

BUILDER, CONTRACTOR or REAL ESTATE DEVELOPER — Any person owning or having an interest in a plot or tract of land who applies for a supply of water to such premises which are intended to be sold, conveyed or leased by said person to an owner or

occupant.

CITY — The City of Olean.

CROSS CONNECTION — Any unprotected connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or any substance that is not or cannot be approved as equally safe, wholesome and potable for human consumption.

DEPARTMENT — The City of Olean Water Division of the Department of Public Works of the City of Olean.

INDUSTRIAL SERVICE — Delivery of water to a customer for use in manufacturing or processing activities.

MAIN EXTENSIONS — Extension of distribution pipelines, exclusive of service connections, beyond existing facilities.

METERED PREMISES — The integral property or area, including improvements thereon, to which water service is or will be provided. The word "premises," as used herein, shall mean any structure, or component thereof, serviced by its own individual meter.

OWNER — The person who has legal or equitable title to the premises and who is ultimately responsible for unpaid water charges which are levied against the property.

OWNER'S SERVICE PIPE — The pipe or tubing leading from the curb stop and curb box across the customer's or other person's property to the building, structure or premises.

PERSON — An individual, firm, association, lessee or corporation, either public or private.

PRIVATE STREET — Any street, avenue, road or way that is not for any highway purpose under the jurisdiction of the legislative body of a village, town, city, county or the State of New York.

PUBLIC STREET — Any street, avenue, road or way that is for any highway purpose under the jurisdiction of the legislative body of any village, town, city, county or State of New York.

RESIDENTIAL SERVICE — Delivery of water to one- to four-family residential dwellings for household residential purposes, including water for sprinkling lawns, gardens, and shrubbery; watering livestock; washing vehicles; and other similar and customary purposes.

SERVICE CONNECTION — The tap or connection to the main, corporation stop, curb box, curb stop, and sufficient tubing or pipe to connect the corporation stop to the curb box.

SPECIFICATIONS — The written requirements adopted by the Department and published for general reference concerning requirements for work and materials related to the water system.

WATER BILL — A bill that includes but is not limited to water and sewer charges, rents, and corresponding late fees and penalties.

WATER SYSTEM, WATER SUPPLY SYSTEM or PUBLIC WATER SUPPLY — The entire system of pipes, valves, buildings, reservoirs, plants, wells, and other facilities owned by the City and used for the supply, treatment, storage and transmission of water.

Sec. 27-7. Required water connections. [Added 4-28-2015 by Res. No. 28-15]

- (a) Generally. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public potable water main of the City, is hereby required, at his expense, to connect such facilities directly with the proper public potable water main in accordance with the provision of this article, within 90 days after the date of official notice to do so, provided that potable water is required by the New York State Uniform Fire Prevention and Building Code.
- (b) Private water wells; use. The installation of private water wells in the City is prohibited unless permission is obtained through a resolution of the Common Council. Any private water well authorized by the Common Council shall be for nonhuman consumption purposes only and in no way shall such well be connected to the water system, nor shall it discharge into the sanitary sewer system.

Sec. 27-8. Description of service. [Added 4-28-2015 by Res. No. 28-15]

- (a) Supply. The Department will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to a customer at a proper pressure and to avoid any shortage or interruption in delivery. The Department has, however, the right to limit the amount of water furnished.
- (b) Quality. The Department will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to a customer at a proper pressure and to avoid any shortage or interruption in delivery. The Department has, however, the right to limit the amount of water furnished.
- (c) Service area. The City will supply water to the City of Olean and may supply the same to other water districts and other potential users based upon an intermunicipal agreement. The Department reserves the right to refuse or limit service to any consumer located outside the City if the supply of water for the City or its inhabitants becomes insufficient because of such outside service.

Sec. 27-9. Classes of service. [Added 4-28-2015 by Res. No. 28-15]

- (a) Residential.
- (b) Commercial.
- (c) Industrial.
- (d) Fire Protection.

Sec. 27-10. Application for service. [Added 4-28-2015 by Res. No. 28-15]

- (a) Generally. All applications for the use of water must be made, in writing, on forms provided by the Department and signed by the owner of the property where service is to be provided.
 - (1) No agreement will be entered into by the City with any applicant for service until all charges due from the applicant for water services at any premises now or heretofore owned or occupied by him which are in arrears shall have been paid.
 - (2) When acted upon by the Department, the application shall constitute a contract between the City and the owner obligating the owner to be responsible for the payment to the City of the established rates and charges and further obligates the owner and any consumer at the property to comply with the Department's rules and regulations. The City shall have all remedies at law and at equity available for the enforcement of the contract, including the collection of rates and charges, and the contract may be terminated by the City without recourse of the applicant, its successors and/or assigns.
 - (3) Applications will be accepted subject to there being an existing main owned by or under the management and operation of the City and/or a municipal system in a street, right-of-way or easement abutting the premises to be served. Acceptance shall in no way obligate the City to extend its mains to service the premises except as hereinafter provided.
- (b) Separate application for each premises. A separate application must be made for each metered premises as defined in Section 27-2. Submetering may be permitted subject to the approval of the Department; unless so approved, submetering is prohibited.
- (c) Notification of discontinuance. Any consumer desiring to discontinue the use of water must notify the Water Department, and an employee of the Department will shut the water off at the curb. No rebate will be made for any period of discontinuance.
- (d) Temporary service. Application of builders, contractors, real estate developers and others for temporary water service may be accepted and temporary water service may be supplied, providing it does not interfere with use of water for other customers. The quantity of water taken for such purposes shall be determined either by meter or by estimate, and shall be paid for in accordance with the rate schedule applicable to metered commercial purposes and any premium levied by the City. Customers requiring temporary water service shall reimburse the City for all its expense in connection with providing necessary temporary service connections. A deposit specified by the Department may be required.
- (e) Extension of public mains. Applications for the extension of public mains may be initiated by the Department or by a petition by abutting property owners, as well as owners of the property to be served by the extension. Applications for the extension of public mains may be denied by the Department for failure to fully comply with

the laws of the City or the rules, regulations and specifications adopted under those laws, or if approval of the application is not in the best interest of the City. The Department reserves the right to refuse all petitions for extensions of mains where the estimated water rents will not warrant the cost of installation or for other bonafide reasons.

- (f) Costs and expenses of service. All costs and expenses incidental to the installation and connection of the service connection shall be borne by the customer. The customer shall indemnify and hold harmless the City from any and all loss, liability, damage, injury or expense directly or indirectly resulting from or arising out of the work done under or in connection the approved application and/or installation.
- (g) Plumbing plan required in certain instances. Where service is desired for multiple-dwelling, commercial, or industrial use, a detailed plumbing plan showing service supply, fixtures and equipment and any other water use facilities must be submitted at the time of application.
- (h) Effect of application. The application for water service is merely a written request for service and does not bind the applicant to take service for any particular length of time nor does it bind the Water Department to give service, except under reasonable conditions.

Sec. 27-11. Extension of public mains. [Added 4-28-2015 by Res. No. 28-15]

- (a) Generally. Notwithstanding the application requirements as set forth in Section 27-5, water and sewer accounts may be established in the name of a non-owner-occupant (consumer) of property supplied service, provided the additional requirements of this section have been met.
- (b) Accommodation only. This section is an accommodation to the owner and occupant of a supplied property. The property owner remains liable for all water and sewer charges incurred for service to the property, and the City reserves all its rights to the collection of fees and enforcement of the policies in this chapter.
- (c) Eligibility.
 - (1) The property owner must be a registered landlord as defined in Section 6-80 and must be in good standing with all obligations to the City for the property subject to the agreement.
 - (2) The consumer must be in good standing with the Water Division and current in all obligations to the City.
- (d) Disconnection of service for nonpayment.
 - (1) Generally. A property owner is prohibited from terminating service for nonpayment by a consumer on his or her own; however, a property owner may request termination of the water service for nonpayment, provided he or she signs a written authorization attesting that the request for disconnection is for nonpayment of the water bill by the consumer and for no other purpose. The written authorization must be accompanied with nonrefundable

disconnect fee of \$75.

- (2) Procedure. Upon receipt of the authorization and fee the Water Division will post a ten-day termination for nonpayment notice at the property. Upon the expiration of the ten-day notice, the property owner (or their representative) shall contact the Water Division to check the status of the bill and schedule an appointment to be present at the property in order to allow the Division access to the meter being disconnected to verify the water is off at the curb stop. [Amended 2-9-2016 by Res. No. 04-16]
 - (3) Restoration of service. Water service will not be restored to the property until the past due amount is paid in full or the service is placed into the property owner's name.
 - (4) Effect of nonpayment. Nonpayment of charges by the first day of the month following the disconnection will terminate the landlord-tenant agreement, and the service will automatically revert in the property owner's name; restoration of service to the property will not occur until the past due amount is paid in full, and the minimum monthly fee shall continue to accrue.
- (e) Voluntary termination of agreement. The tenant and landlord may terminate the agreement at any time by written authorization signed by both parties.
 - (f) Reservation of rights. The City reserves the right to reject any landlord-tenant application for any reason without recourse.
 - (g) Hold harmless. The property owner and consumer agree to defend, indemnify and hold the City, its officers, officials, employees harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or in connection with the administration of the landlord-tenant water agreement.

Sec. 27-12. Rendering of water bills. [Added 4-28-2015 by Res. No. 28-15]

- (a) Water bills for all consumers will be issued on the first day of the month following the preceding month's reading for the prior month's usage.
- (b) The property owner shall be responsible for the payment of all bills rendered for water services. Failure to receive a bill shall not be considered an act or waiver of payment.

Sec. 27-13. Failure to pay water bill when due. [Added 4-28-2015 by Res. No. 28-15]

- (a) Water bills are due and payable on the 17th day of the month in which the bill is issued.
- (b) On the 20th day of the month in which the bill is issued, a late fee of 10% (10% of the total monthly water account balance) will be assessed and added to the account. A monthly list of delinquent accounts will be made available in the City Clerk's office and will be posted on the City's webpage.
- (c) No late notices will be mailed to property addresses; however, the property owner or consumer may have the option to be notified by electronic mail if so available.

Sec. 27-14. Partial payments on account. [Added 4-28-2015 by Res. No. 28-15]

- (a) All electronic payments must be for the full monthly bill amount. [Amended 2-9-2016 by Res. No. 04-16]
- (b) Partial payments will be accepted; however, the account will not be considered current and may reflect a past due status until the amount due is paid in full. [Amended 2-9-2016 by Res. No. 04-16]
- (c) The Department is not authorized to accept partial payments on accounts for those accounts which have been established under a landlord-tenant agreement.

Sec. 27-15. Special bills; when due and payable. [Added 4-28-2015 by Res. No. 28-15]

All special bills and charges for services rendered, materials sold or expenses incurred by the Water Department in connection with the rules and regulations set forth herein must be paid at the office of the City Clerk within 45 days after the bill is rendered.

Sec. 27-16. Shutoff for failure to comply. [Added 4-28-2015 by Res. No. 28-15]

In case any provision of this chapter is not complied with at any premises, or the owner of any premises fails to do any matter required to be done by him or her in accordance with the rules and regulations set forth herein, or such owner fails to make any payments of money payable to the City under or in accordance with such rules and regulations or any payment of water rents or rates due to the City for the supply of water, or otherwise with reference to such premises, the Water Department may shut off the water supply from such premises until such provision of this chapter is complied with, such matter is done and such payments made; and when any water supply is so shut off, no advance payment made to the City for the supply of water at such premises, or any part of such payment need be refunded by reason of such shutting off of such water supply. Water service shut off shall occur in accordance with the provisions set forth in Section 27-13.

Sec. 27-17. Shutting off water. [Added 4-28-2015 by Res. No. 28-15]

- (a) Right of City. Water may be shut off by the Water Department from any service or main for the purpose of making or constructing new work or making repairs in the water system, or for enforcement of payment of moneys or charges due to the City for water supply and for other matters in accordance with the rules and regulations set forth in this chapter in order to enforce compliance with such rules and regulations. In case of making or constructing new work or in making repairs, the right is reserved to shut off the water from any consumer without notice for as long a period as may be necessary.
- (b) Notice. In the event of shutoff for violation of these rules and regulations, written notice shall be sent, prior to shutoff, by certified mail to the owners of the premises as shown by the latest assessment rolls of said City. Notice shall also be conspicuously posted on the front door of the building. Each notice shall be postmarked and posted not less than 15 days prior to shutoff. The notice shall include the anticipated date the water will be shut off, the reason for the shutoff, and it shall notify the property owners and tenants of their right to request a hearing.

The City may, in its discretion, provide additional notice, but failure to do so does not preclude shutoff. It is understood and agreed, however, the City is not liable for any damage which may result to any person or premises from the shutting off of the water from any main or service for any purpose whatever, even in cases where no notice is given.

Sec. 27-18. Disputed bills and adjustments. [Added 4-28-2015 by Res. No. 28-15]

No City official is authorized to make adjustments in the water or sewer bills after issuance. If a customer wishes to dispute his or her bill, it must be submitted, in writing, to the Mayor within 90 days of the bill date as listed on the bill. A dispute committee consisting of the Mayor, DPW Director and a community member at large who reside within the City of Olean will hear the case and make a recommendation to the Common Council, at which time the Council will have the final say as to whether an adjustment can be made.

Sec. 27-19. through Sec. 27-20. (Reserved)

Sec. 27-21. Connecting or supply pipes. [1971 Charter Laws § 189; Laws of N.Y. (1915), ch. 535, § 55; L.L. No. 3-1934, § 5]

The connecting or supplying pipes leading from buildings or yards to the distribution pipe shall be inserted and kept in order at the expense of the owner or occupant of the buildings or yards. Such connecting or supplying pipes shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the Common Council or other persons having charge thereof. All such connecting or supplying pipes shall be so constructed and connected in the manner directed by the Common Council or persons in charge.

Sec. 27-22. Rates and charges. [Code 1971, § 31-13; Res. No. 121-93, 9-15-1993; Res. No. 42-94, 7-26-1994; Res. No. 53-96, 6-11-1996; Res. No. 99-99, 12-21-1999; Res. No. 34-03, 5-27-2003; Res. No. 125-04, 12-14-2004; Res. No. 59-06, 5-9-2006; Res. No. 27-07, 4-10-2007; Res. No. 23-08, 3-11-2008; Res. No. 25-08, 3-11-2008; Res. No. 72-08, 8-26-2008; 4-28-2015 by Res. No. 28-15]

The Common Council shall, from time to time, establish, by resolution, service fees for the provision of certain services by the City's Water Department, such fees to offset the reasonable costs for labor and materials of the City in connection with the following activities:

- (1) The current water and sewer rate schedule is attached hereto as "Schedule A."²⁰
- (2) Water rates. In order for the Council to change water rates, it shall hold a public hearing prior to adoption of resolution.

Sec. 27-23. (Reserved) ²¹

20. Editor's Note: Schedule A is on file in the City offices.

21. Editor's Note: Former § 27-23, Service fees, as amended, was repealed by Res. No. 72-08, 8-26-2006.

Sec. 27-24. (Reserved) ²²

Sec. 27-25. Meter requirements; general regulations. [Res. No. 72-08, 8-26-2008; Res. No. 52-09, 7-28-2009]

- (a) All meters shall be of a type, size and manufacture approved by the city.
- (b) The city shall furnish the official water meter for each property at its expense in those instances where the diameter of the meter is two inches or less; in those instances where the diameter of the meter is in excess of two inches, the city shall furnish the meter at the expense of the property owner. In either case, the meter shall remain the property of the city and shall be installed and protected by the property owner at his expense. Normal maintenance on this water meter shall be provided by the city. Maintenance, repair or replacement required because of improper use, accident, hot water, freezing, vandalism, theft, removal without the prior authorization of the Water Department or other extraordinary cause shall be at the property owner's expense. In addition to the actual cost of repair or replacement of the meter, the property owner shall pay the fee set forth in Sec. 27-23, Service fees.²³
- (c) Only one official water meter shall be used to record water consumption for each service line. The official water meter shall be the only one read by the Water Department. Any and all additional meters desired by the property owner shall be installed on the house or outlet side of the official water meter, and all such additional meters shall be furnished, installed and maintained by the property owners at their expense.
- (d) Gate valves, check valves and approved backflow-prevention devices shall be installed at the official water meter in accordance with the specification of the City of Olean Water Department. No other devices or appurtenances shall be installed on the street or inlet side of the official water meter unless approved in writing by the Water Department.
- (e) When a backflow-prevention device is to be installed on the outlet or house side of the official water meter, no connections, taps, fixtures, devices or other appurtenances shall be allowed between the backflow-prevention device and the official water meter.
- (f) All valves, check valves, backflow preventers and other fixtures must be of a type approved by the Water Department.
- (g) No person, persons, firm, partnership, corporation or other entity shall, without written authorization of the Water Department or its designee, interfere with, tamper with, unseal or remove the official water meter after it has been inspected, approved and sealed by the Water Department, by order of the Water Department.

22. Editor's Note: Former Sec. 27-24, Required water connections, was superseded 4-28-2015 by Res. No. 28-15. See now Sec. 27-7.

23. Editor's Note: See now Sec. 27-22, Rates and charges.

- (h) Whenever a water meter, previously recorded in the records kept by the Water Department as having been sealed by the Water Department, shall be found to have been interfered with, tampered with, unsealed or removed without verbal or written authorization of the Water Department or its designee, the property owner shall be charged the fees provided in Sec. 27-23, Service fees,²⁴ of the City of Olean, together with the actual cost of repairing, replacing and/or resealing the water meter. The imposition of such fees shall not be held to bar any criminal prosecution for violation of any provision of this section nor to bar the imposition of penalties as provided in Sec. 1-8 of the Code of Ordinances.

Sec. 27-26. Installation. [Res. No. 72-08, 8-26-2008; Res. No. 52-09, 7-28-2009]

- (a) The official water meter shall be set in a position as close as practical to the point where the water service line enters the building.
- (b) Except where the Water Department has permitted otherwise in writing, the official water meter shall not be located in excess of 50 feet from the property line. It shall be the responsibility of the property owner to protect the water meter as directed.
- (c) Unless otherwise directed by the Water Department, the rated size of the official water meter shall be equal to or less than the diameter of the domestic service line. A minimum of a three-inch meter will be required for service lines four inches in diameter or larger.
- (d) In the case of service lines greater than two inches in diameter, a valved bypass shall be installed to facilitate testing and meter repair. The valve on the bypass shall be sealed by the Water Department.
- (e) All water meters shall be installed by a licensed plumber at the expense of the property owner. Whenever a water meter is to be replaced by a new water meter, the plumber shall obtain the new meter from the Water Department and shall post a deposit of \$100. The deposit shall be returned to the plumber upon his return of the old water meter to the Water Department.

Sec. 27-27. Responsibilities of city and consumer. [Res. No. 72-08, 8-26-2008]

- (a) An official water meter damaged by frost, negligence or misuse by the property owner or any other person shall be replaced and repaired at the property owner's expense as outlined in the water and sewer rate schedule. [Amended 4-28-2015 by Res. No. 28-15]
- (b) The city will not be held responsible in any way for damage to service lines, meters, house piping, valves or any other fixtures as a result of frost or any other reasons, nor shall the city be responsible in any way for damage to property from the above causes or from leakage of water from any part of the service lines or house piping.
- (c) If, by special request and the approval of the Water Department, a meter has been removed and the service shut off at the curb for a full billing period, there will be no

24. Editor's Note: See Sec. 27-22, Rates and charges.

service charge for that particular period.

- (d) The consumer in any premises not equipped with a curb box and curb faucet shall install, if for any reason the service of water to such premises is or should be discontinued, whether temporarily or otherwise, such curb box and curb faucet of the size, type and in the manner approved by the Water Department.
- (e) In the event that it is necessary for the city to remove or replace the official water meter and the Water Department is of the opinion that such removal or replacement cannot be effected or is inadvisable until repairs have been made by the property owner to the service line or house piping, the Water Department may order repairs to be made by the property owner at his expense.
- (f) The Water Department shall have the sole right to determine the location, size, type and manufacture of any and all meters, connections and other appliances.
- (g) In the event that it becomes necessary to change the location, size, type or manufacture of a water meter, the expense shall be borne by the consumer.
- (h) In any event, the city shall not be liable for any damage to service lines, house piping or property caused by removal, replacement or testing of the official water meter or for any cause whatsoever.

Sec. 27-28. Accessibility; failure of meter to register. [Res. No. 72-08, 8-26-2008]

- (a) The property owner shall keep the official water meter, backflow-prevention devices and other fixtures readily accessible and unobstructed for inspection, testing, reading and repair. Where meters, backflow-prevention devices or other required devices and fixtures are in locations which are inaccessible or unsafe due to water or other obstructions as determined by the Water Department, the property owner shall be responsible for the removal of water or obstructions at his expense.
- (b) The Water Department or any employee of the Water Department shall have the right to enter the premises or property of any property owner, tenant or other consumer where city water is being supplied at any time between 8:00 a.m. and 4:00 p.m. for the purpose of installing, inspecting, reading, removing, testing or repairing the official water meter or for inspecting the backflow-prevention devices or any fixtures used in connection with the water system for any purpose whatsoever.
- (c) When access to the meter cannot be had for any quarter, the customer may be billed for water consumption upon the basis of average usage indicated by the records of the Water Department, based upon the water meter reading for the preceding year, the actual consumption to be billed on the next available meter reading.
- (d) Whenever a meter fails to register the quantity of water consumed, the consumer shall be charged for water consumption upon the basis of average usage indicated by the water meter reading for the year preceding its failure to register.

Sec. 27-29. Accuracy and testing. [Res. No. 72-08, 8-26-2008]

- (a) Any person making a complaint as to the correctness of a water bill must do so

within 10 days after the rendition of the bill by making a written application to the Water Department.

- (b) The Accounts Manager of the Water Department is authorized to correct any bill which resulted from a meter which has been tested and found inaccurate. Any adjustment to a bill will be for the period tested only. No adjustments will be made for prior billing periods. Any claim for a reduction in a water bill which does not relate to a claimed inaccuracy of the meter shall be referred to the Water Department. The Water Department shall have no authority to reduce a water bill for any reason other than tested inaccuracy of a meter. Any such other claims for reduction shall be reviewed by the Water Department and shall be submitted by it with its recommendations to the City Council for determination. The determination of the Council shall be final.
- (c) Whenever the accuracy of the meter is in issue, a test shall be made. The expense incurred in making such test shall be borne by the consumer, except that if the meter is found to register inaccurately, the cost of the test shall be borne by the city. No meter shall, however, be considered inaccurate that does not vary more than 2% from the normal. Reasonable opportunity will be given the protesting consumer to be present at such test.
- (d) If the meter tested is inaccurate, any adjustments to the bill will be for the period tested only. No adjustment will be given for prior billing periods.
- (e) The Water Department may require a meter test at any time if it appears the official water meter has been tampered with, the seal broken or removed or when there is significant change in recorded consumption.
- (f) Only official water meters shall be tested for accuracy. If necessary, the meter shall be replaced at the Water Department's option.

Sec. 27-30. Specifications; remote registers. [Res. No. 72-08, 8-26-2008; Res. No. 52-09, 7-28-2009]

- (a) The Water Department shall establish specifications for official water meters furnished by the city.
- (b) The location of all remote registers shall be established by the Water Department.

DIVISION 2

BACKFLOW-PREVENTION REQUIREMENTS

Sec. 27-31. General regulations. [Res. No. 72-08, 8-26-2008; Res. No. 52-09, 7-28-2009]

- (a) The Water Department shall establish specifications for backflow-prevention devices, and no device shall be installed without the Water Department's permission.
- (b) Each service line to a facility shall be protected in a manner commensurate with the degree of hazard of the facility. The degree of hazard and type of backflow-prevention device to be used to achieve containment shall be based on use of the

facility and availability of containments.

- (c) The Water Department shall determine the type of backflow-prevention device to be installed based upon the determination of the degree of actual or potential hazard.
- (d) All reduced-pressure-zone devices (RPZ) and double-check-valve assemblies (DCV) must be on the current listing of acceptable devices issued by New York State Department of Health. The design of all backflow-prevention-device installations shall be approved by the New York State Department of Health or Cattaraugus County Department of Health.
- (e) All backflow-prevention devices shall be subject to approval by the Water Department.
- (f) Backflow-prevention devices shall be required as indicated for the following types of uses:

Degree of Hazard
(illustrative only)

Type of Facility

Type of Protection
(minimum requirement)

Hazardous

Industrial plants, metal-plating industries, hospitals, nursing homes, medical buildings, sanitariums, laboratories, veterinary facilities

Acceptable air gap or reduced-pressure-zone device (RPZ)

- (g) No cross-connections are permitted between a supplementary water supply and the city's water supply.

Sec. 27-32. Installation. [Res. No. 72-08, 8-26-2008]

- (a) Unless otherwise specified, backflow-prevention device(s) shall be installed at the official water meter as required by the Plumbing Code of the City of Olean.
- (b) No RPZ or DCV backflow-prevention device shall be placed in service until such time as a completed works approval has been issued by the New York State Department of Health or the Cattaraugus County Department of Health.
- (c) All backflow-prevention devices shall be furnished, installed, tested, protected and maintained by the property owner at his own expense.

Sec. 27-33. Testing. [Res. No. 72-08, 8-26-2008]

- (a) After installation, all backflow-prevention devices shall be tested in place by a certified backflow-prevention-device tester in the presence of the Water Department's authorized representative. The tester's written certification shall be furnished to the Water Department within 10 days after the test has been performed.

A new service line will not be put into service before certification is received and approved by the Water Department.

- (b) Yearly tests shall be performed on each RPZ and DCV backflow-prevention device by a certified backflow-prevention device tester to ensure continued reliability. The tester's written report shall be forwarded to the Water Department within 10 days after the test has been performed.
- (c) Any backflow-prevention device which fails to function properly shall be repaired or replaced within 30 days or as directed by the Water Department and tested after the repair or replacement by a certified backflow-prevention-device tester. The tester's written report shall be forwarded to the Water Department within 10 days after the test has been performed.
- (d) The results of all tests as specified herein under this section, shall be forwarded to the Cattaraugus County Department of Health by the tester within 10 days after the test has been performed.

Sec. 27-34. through Sec. 27-40. (Reserved)

ARTICLE III SEWERS AND SEWAGE DISPOSAL

[Amended in its entirety 4-26-2016 by Res. No. 25-16]

DIVISION 1 GENERALLY

Sec. 27-41. Definitions.

- (a) Definitions. Unless otherwise stated in the section where the term is used in this article, the meaning of terms used in this article shall be as stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Futhermore, a masculine pronoun shall include the feminine. "Shall" is mandatory; "may" is permissive.

ABNORMAL SEWAGE — Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See "normal sewage."

ACT or THE ACT — The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., as may be amended.

ADMINISTRATOR — The Regional Administrator of the United States Environmental Protection Agency (USEPA), Region 2.

AMMONIA — The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

APPLICANT — That person who makes application for any permit. The applicant may be an owner, new or old, or his agent.

APPROVAL AUTHORITY — The USEPA, or the New York State Department of Environmental Conservation (NYSDEC), in the event the NYSDEC is delegated approval authority responsibility by the USEPA.

APPROVED LABORATORY PROCEDURE — The procedures defined as "standard methods" in this article, or other procedures approved by the Superintendent, for flow measurement or determination of the concentration of pollutants or their surrogates in waters, wastewaters, and/or sludges.

ASTM (AMERICAN SOCIETY FOR TESTING AND MATERIALS) — The latest edition of any ASTM specification, when stipulated in this article.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER — An authorized representative of the industrial user may be:

- (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;
- (3) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BACKGROUND CONCENTRATION — The sewage concentration of a pollutant in process water supply, as determined by the industry and which corresponds to the same time period as that of the wastewater sample acquisition.

BOD (BIOCHEMICAL OXYGEN DEMAND) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

BUILDER — Any person or corporation who undertakes to construct, either under contract or for resale, any building.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

CATEGORICAL PRETREATMENT STANDARDS — The National Categorical Pretreatment Standards or Standard, including without limitation the definitions and standards contained in 40 CFR Chapter (1), Subchapter (N), Parts 405 through 471.

CHLORINE DEMAND — The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

CHLORINE REQUIREMENT — The difference between the amount of chlorine added to water, sewage, or industrial wastes and the amount of residual chlorine remaining at the end of a fifteen-minute contact period.

CITY — The City of Olean, incorporated on April 26, 1893.

CITY CHARTER — The Charter of the City, as amended.

COD (CHEMICAL OXYGEN DEMAND) — The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter in a sample that is susceptible to oxidation by a specific chemical oxidant expressed in milligrams per liter.

COLOR — The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred-percent transmittance is equivalent to zero optical density.

COMBINED SEWER — A sewer receiving both surface runoff and sewage.

COMPOSITE SAMPLE — The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

CONNECTION — Attachment of one user to a sewer. (See "extension.")

CONNECTION CHARGE (TAP FEE) — The one-time application fee to offset City of Olean expenses to process an application for a connection of a building/street lateral to the public sewer. The fee also covers plan review, permit issuance, street repair cost, and inspection costs. The fee may be scaled to the amount of work involved, or to the size of the public sewer involved.

CONTRACTOR — Any person, firm, or corporation approved by the Common Council to do work in the City.

CONTROL AUTHORITY — The City of Olean.

CONTROL MANHOLE — A manhole accessible to the Control Authority in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

CONVENTIONAL POLLUTANT — A pollutant that the POTW treatment plant was designed to treat, defined in accordance with the Act.

COOLING WATER — Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

COUNTY — Cattaraugus County.

DEVELOPER — Any person or corporation who undertakes to construct simultaneously more than one housing unit on a given tract or land subdivision.

DIRECT DISCHARGE — The discharge of treated or untreated wastewater directly to

the waters of the State of New York. (For reference, see "indirect discharge.")

DIRECTOR — The Director of Public Works for the City, or his authorized deputy, agent or representative.

DOMESTIC WASTES — See "sewage, domestic."

DRY SEWERS — The sanitary sewer installed in anticipation of future connection to a POTW but which is not used, in the meantime, for transport of storm or sanitary sewage.

EASEMENT — An acquired legal right for the specific use of land owned by others.

END OF PIPE — For the purpose of determining compliance with limitations prescribed by Article 9, "end of pipe" shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.

END OF PIPE CONCENTRATION — The concentration of a substance in a sample of wastewater at end of pipe.

END OF PROCESS CONCENTRATION — See "National Categorical Pretreatment Standard."

ENFORCEMENT RESPONSE PLAN — The plan containing detailed procedures indicating how the Control Authority will investigate and respond to instances of industrial noncompliance, including, without limitation, violations which will adversely affect the operation or implementation of the pretreatment program and the Control Authority's response thereto.

EPA — The United States Environmental Protection Agency.

EXTENSION — Attachment of a sewer line with more than one user to an existing sewer line.

FACILITY — All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.

FLOATABLE OIL — Oil, grease, or fat in a physical state such that it will separate by gravity from wastewater by treatment in a wastewater treatment facility.

FLOW RATE — The quantity of liquid or waste that flows in a certain period of time.

FWPCAA — The Federal Water Pollution Control Act Amendments, or the Act.

GARBAGE — Solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

GRAB SAMPLE — A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater at one point and time.

ICS FORM — The form used by the NYSDEC to survey industries to perform and update the Industrial Chemical Survey.

INDIRECT DISCHARGE — The introduction of pollutants into a POTW from any nondomestic source.

INDUSTRIAL — Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

INDUSTRIAL CHEMICAL SURVEY (ICS) — The survey of industries in New York State, initiated by the NYSDEC, to determine chemical usage and storage by those industries.

INDUSTRIAL PRETREATMENT PROGRAM (IPP) — A program administered by a POTW that meets the criteria established in Title 40, Protection of Environment, Chapter I, Environmental Protection Agency, Part 403, General pretreatment regulations for existing and new sources of pollution, and which has been approved by a Regional Administrator or State Director in accordance with 403.11 of the above regulation.

INDUSTRIAL PRETREATMENT PROGRAM ADMINISTRATOR (IPP ADMINISTRATOR) — The Director of Public Works or the Wastewater Treatment Plant Chief Operator acting on behalf of the Control Authority.

INDUSTRIAL USER — Any source of indirect discharge, including all nondomestic sources and including commercial facilities, hospitals, and government agencies.

INDUSTRIAL WASTES — The liquid, solid, and gaseous waste, including suspended solids, resulting from the processes employed in industrial or commercial establishments.

INFILTRATION — Water, other than wastewater, that enters a sewer system (excluding building drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

INFLOW — Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

INSPECTOR — The plumbing and building inspector of the City, or his authorized deputy, agent, or representative.

INTERFERENCE — A discharge that alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the publicly owned treatment works (POTW), its treatment processes or operations, or its sludge processes, use, or disposal, and therefore causes a violation of the POTW's State Pollutant Discharge Elimination (SPDES) permit or prevents sewage sludge use or disposal in compliance with specified applicable federal or state statutes, regulations, or permits.

LATERAL, BUILDING — The sewer extension from the building drain to the street lateral or other place of wastewater disposal.

LATERAL, STREET — The sewer extension from the public sewer to the property line.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL

STANDARD — Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT — A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD — Any regulation developed under the authority of Section 307(B) of the Act, and 40 CFR 403.5.

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

NEW OWNER — That individual or entity who purchased property within the service area of the City of Olean after the effective date of this article.

NEW SOURCE — A facility from which there is or may be a discharge of pollutants, construction of which began after publication of the proposed pretreatment standard pursuant to Section 307(c) of the Clean Water Act (CWA) which will apply to the facility if standards are promulgated.

NEW USER — A discharger to the POTW who commences discharge after the effective date of this article.

NONCOMPLIANCE — Any violation of the provisions of this chapter pertaining to the introduction, continuing discharge, or failure to install controls to reduce concentrations of pollutants into the POTW.

NORMAL SEWAGE — See "sewage, normal."

NPDES — The National Pollutant Discharge Elimination System.

NUISANCE — The use or lack of use of the POTW in such a manner so as to endanger life or health, give offense to the senses, or obstruct or otherwise interfere with the reasonable use or maintenance of the POTW.

NYSDEC — The New York State Department of Environmental Conservation or other duly authorized official of said department.

NYSDPW — New York State Department of Public Works.

OIL AND GREASE — The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease, and oil in a sample, expressed in milligrams per liter.

OLD OWNER — That individual or entity who owns or owned a property, within the service area of the POTW, purchased prior to the effective date of this article, or who inherited the property at any time and intends to sell the property, or has sold the property to a new owner; also the agent of the old owner.

OTHER WASTES — Garbage (shredded or unshredded), refuse, wood, egg shells,

coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

OUTLET SEWER — A public sewer constructed and paid for at the general expense of the City.

OWNER — Any individual, firm, company, association, society, person, or group having title to real property.

PASS THROUGH — A discharge that exits the POTW in quantities or concentrations that, alone or with discharges from other sources, causes a violation of the POTW's NPDES permit.

PERMIT — A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this article.

PERMIT TO DISCHARGE — A written permit to deposit or discharge industrial waste into the POTW.

PERSON — Any individual, firm, company, association, society, corporation or group, including a city, town, or village.

PETITION SEWER — A public sewer constructed and paid for at the expense of the owners of property adjoining the sewer.

PHOSPHORUS, TOTAL — See "total phosphorus."

pH — The negative logarithm of the concentration of hydrogen ions in the grams-ionic weights per liter of solution.

POLLUTANT — Any solid, liquid, or gaseous waste containing any of the following: soluble or insoluble substances of organic or inorganic nature which may deplete the dissolved oxygen content of the receiving stream; settleable solids that may form sludge deposits; grease and oils; floating solids which may cause unsightly appearance; color; phenols and other substances to an extent which would impart any taste or odor to the receiving stream; and toxic or poisonous substances in suspension, colloidal state, solution, or gases.

POLLUTION — The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of the state's waters, lands and/or airs resulting from the introduction of a pollutant into these media.

POTW TREATMENT PLANT — That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

PRETREATMENT (TREATMENT) — The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be achieved by physical, chemical, or biological process, process changes, or by other means, except as

prohibited by 40 CFR 403.6(D).

PRETREATMENT REQUIREMENTS — Any substantive or procedural requirement related to pretreatment other than a National Pretreatment Standard imposed on an industrial user.

PRETREATMENT STANDARD or NATIONAL PRETREATMENT STANDARD — Any categorical standard or prohibitive discharge standard.

PRIORITY POLLUTANTS — The most recently revised or updated list, developed by the EPA, in accordance with the Act.

PROHIBITIVE DISCHARGE STANDARD — See "national prohibitive discharge standard."

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking, and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

PROPERTY LINE — The edge of a public street line if the building sewer is to connect with the public sewer in a public street.

PUBLIC SEWER — A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

PUBLICLY OWNED TREATMENT WORKS (POTW) — A treatment works, as defined by Section 212 of the Act, (33 U.S.C 1292), which is owned, in this instance, by City of Olean. This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

RECEIVING WATERS — A natural water course or body of water (usually waters of the state) into which treated or untreated sewage is discharged.

RECORDS — Shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including, but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, graphs and inspection reports. For the purposes of this article, "records" shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.

ROOF DRAIN — A drain installed to receive water collecting on the surface of a roof for disposal.

SANITARY SEWER — A sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

SEPTAGE — All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved type of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries. Also sludge

from small sewage treatment plants. Septage shall not have been contaminated with substances of concern or priority pollutants.

SEPTIC TANK — A private domestic sewage treatment system consisting of an underground tank (with suitable baffling), constructed in accordance with any and/or all local and state requirements.

SERVICE AREA OF THE POTW — The legally defined bounds of real property from which wastewater may be discharged into the POTW. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated by action of the City of Olean Council.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

SEWAGE TREATMENT PLANT — Any arrangement of devices and structures used for treating sewage.

SEWAGE, DOMESTIC (DOMESTIC WASTES) — Liquid wastes from the noncommercial preparation, cooking, and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings, and institutions, or liquid wastes from clothes washing and/or floor/wall washing. Therefore, domestic sewage includes both black water and grey water. (See "sewage, sanitary.")

SEWAGE, NORMAL

- (1) Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:
 - a. B.O.D. (five-day): 2,090 pounds per million gallons (250 milligrams per liter), or less.
 - b. Suspended Solids: 2,500 pounds per million gallons (300 milligrams per liter), or less.
 - c. Phosphorus: 125 pounds per million gallons (15 milligrams per liter), or less.
 - d. Ammonia: 250 pounds per million gallons (30 milligrams per liter), or less.
 - e. Total Kjeldahl Nitrogen: 417 pounds per million gallons (50 milligrams per liter), or less.
 - f. Chlorine Demand: 209 pounds per million gallons (25 milligrams per liter), or less.
 - g. Chemical Oxygen Demand: 2,920 pounds per million gallons (350 milligrams per liter), or less.
 - h. Oil and Grease: 830 pounds per million gallons (100 milligrams per liter), or less.

- (2) In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered normal sewage.

SEWAGE, SANITARY — Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from stormwater, surface water, industrial, and other wastes. (See "domestic wastes.")

SEWAGE, UNUSUAL STRENGTH OR CHARACTER — Sewage which has characteristics greater than those of normal sewage and/or which contains substances of concern.

SEWER — A pipe or conduit for carrying sewage.

SEWER DISTRICT — Any area outside of the City's collection and conveyance system, which discharges wastes into the City's system or at the treatment plant in order to have the sewage generated in that area treated.

SEWER, COMBINED — A sewer designed to receive and transport both surface runoff and sewage.

SEWER, PUBLIC — A sewer in which all abutting property owners have equal rights, and the use of which is controlled by the City of Olean.

SEWER, SANITARY — A sewer which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

SEWER, STORM (STORM DRAIN) — A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

SEWERAGE SURCHARGE — The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage. (See "volume charge.")

SEWERAGE SYSTEM (also POTW) — All facilities for collecting, regulating, pumping, and transporting wastewater to and away from the POTW treatment plant.

SIGNIFICANT INDUSTRIAL USER

- (1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- (2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12 on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement [in accordance with 40

CFR 403.8(f)(6)].

SIGNIFICANT NONCOMPLIANCE — Any violation or group of violations that meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);
- (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1), multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG LOAD — Any discharge of water, sewage, or industrial waste which occurs for any period longer than 15 minutes and exceeds more than five times the average flow or concentration during normal operating hours.

SPDES — The State Pollution Discharge Elimination System.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) — A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

STANDARD METHODS — Procedures contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, procedures established by the Administrator, pursuant to Section 304(G) of the Act and contained in 40 CFR, Part 136, and amendments thereto. (If 40 CFR, Part 136, does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.) Also any other procedure approved by the Administrator, or any other procedure approved by the Superintendent, whichever is the most conservative.

STATE — State of New York.

STATE BUILDING CONSTRUCTION CODE APPLICABLE TO PLUMBING — The New York State Uniform Fire Prevention and Building Code.

STATE'S WATERS — See "waters of the state."

STORM SEWER or STORM DRAIN — A pipe or conduit which carries stormwater, surface waters, and drainage, but excludes sewage and industrial wastes.

STORMWATER — Excess water which is derived from precipitation. This would include surface runoff.

SUBSTANCES OF CONCERN — Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

SUMP PUMP — A mechanism used for removing water from a sump or wet well.

SUPERINTENDENT — The Director of Public Works as nominated by the Mayor of the City of Olean and confirmed by the City of Olean Council as the Superintendent of Water and Wastewater. Such an individual shall be licensed to practice engineering in the state, and otherwise qualified to oversee water treatment and distribution and POTW operations. This definition shall also include his authorized deputy, agent, or representative.

SUSPENDED SOLIDS — Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids; and which are removable by laboratory filtering.

TAP or TAP-IN — A connection between the public sewer and the building sewer.

TOTAL KJELDAHL NITROGEN (TKN) — The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample and released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

TOTAL PHOSPHORUS — The result obtained using an approved laboratory procedure to determine the total quantity of orthophosphate in a sample of wastewater following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

TOXIC POLLUTANT — Those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, are known to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. Toxic pollutants shall include, but not be limited to, any pollutant identified pursuant to FWPCAA Section 307(a).

TOXIC SUBSTANCES — Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA 307(A), or other acts.

UNPOLLUTED WATER — Water which is free of any pollutant or waste.

USER — Any person who contributes, causes, or permits the contribution of wastewater into the City's facilities.

USER, EXISTING — A discharger to the POTW who is discharging on or before the effective date of this article.

USER, INDUSTRIAL — A discharger to the POTW who discharges nondomestic wastewaters.

USER, NEW — A discharger to the POTW who initiates discharge after the effective date of this article.

USER, SIGNIFICANT INDUSTRIAL (SIU)

- (1) An industrial user of the City of Olean POTW who is:
 - a. Subject to National Categorical Pretreatment Standards promulgated by the EPA;
 - b. Having substantial impact, either singly or in combination with other industries, on the operation of the treatment works;
 - c. Using, on an annual basis, more than 10,000 pounds or 1,000 gallons of raw material containing priority pollutants and/or substances of concern and discharging a measurable quantity of these pollutants to the sewer system;
 - d. Discharging more than 5% of the flow or load of conventional pollutants received by the POTW treatment plant.
- (2) Note: A user discharging a measurable quantity of a pollutant may be classified as nonsignificant if, at the influent to the POTW treatment plant, the pollutant is not detectable.

WASTEWATER — The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER DISCHARGE PERMIT — A permit as set forth in this article.

WASTEWATER, UNUSUAL STRENGTH OR CHARACTER — See "sewage, unusual strength or character."

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

WATERS OF THE STATE (STATE'S WATERS) — All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(b) Abbreviations. The following abbreviations shall have the designated meanings:

- (1) ANSI: American National Standards Institute.
- (2) ASTM: American Society for Testing and Materials.
- (3) AWWA: American Water Works Association.
- (4) BOD: Biochemical oxygen demand.
- (5) CFR: Code of Federal Regulations.
- (6) CPLR: Code of Public Law and Rules.
- (7) COD: Chemical oxygen demand.
- (8) EPA: Environmental Protection Agency.
- (9) L: Liter.
- (10) Mg: Milligram.
- (11) Mg/l: Milligrams per liter.
- (12) NCPI: National Clay Pipe Institute.
- (13) NPDES: National Pollutant Discharge Elimination System.
- (14) NYSDEC: New York State Department of Environmental Conservation.
- (15) NYSDOH: New York State Department of Health.
- (16) NYSDOT: New York State Department of Transportation.
- (17) P: Total phosphorus.
- (18) PSI: Pounds per square inch.

- (19) POTW: Publicly owned treatment works.
 - (20) PPM: Parts per million, weight basis.
 - (21) SIC: Standard Industrial Classification.
 - (22) SPDES: State Pollutant Discharge Elimination System.
 - (23) SWDA: Solid Waste Disposal Act, 42 U.S.C. § 690 L et seq.
 - (24) U.S.C.: United States Code of Laws.
 - (25) USEPA: United States Environmental Protection Agency.
 - (26) TSS: Total suspended solids.
- (c) Undefined terms. Terms not defined in this article, or terms found to be ambiguous or improperly defined in this article, shall be defined by the Act, or regulations pursuant thereto.

Sec. 27-42. Use of public sewers required.

- (a) Connecting private sewage system to storm sewer unlawful. No person shall connect a private sewage system so that sewage flows into a storm sewer or into a drain intended exclusively for stormwater.
- (b) Discharge of sewage into well prohibited. No person shall discharge sewage into a well.
- (c) Wastewater discharge unlawful. It shall be unlawful to discharge into any natural outlet, within the City of Olean, or in any area under the jurisdiction of the said municipality, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this article.
- (d) Limitations on use of public sewers. The use of the City of Olean public sewers shall be strictly limited and restricted to receive and accept the discharge of sewage and other wastes, including industrial wastes generated on or discharged from real property within the bounds of the service area of the POTW.
- (e) Wastewater from outside the POTW service area: intermunicipal agreements.
 - (1) The City of Olean Council, on the recommendation of the Superintendent, shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.
 - (2) If the person is a municipality, that municipality shall have enacted a Sewer Use Law as restrictive on the discharge of sewage and other wastes and the restrictions contained in this article.
 - (3) If the person is not a municipality, the acceptance shall be made only with the expressed written consent of the Superintendent (the issuance of a permit) setting forth the terms and conditions of such an acceptance.

- (f) Basis of sewer use requirement. All requirements, directives, and orders calling for mandatory use of the sewers within the service area of the POTW for the proper discharge of sewage and other wastes, including industrial wastes, shall be established and given by the City of Olean Common Council, NYSDEC, USEPA, and/or other such state or federal agencies which have enforcement powers.

Sec. 27-43. Inflow.

- (a) New inflow sources prohibited. No connections shall be made to a sanitary or to a combined sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.
- (b) Existing inflow sources disconnected. For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the Superintendent, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the Superintendent, prior to the sale of the property as outlined below.
 - (1) Prior to the indexing and recording of a conveyance of real property with the City Assessor, as required by Chapter C, Article VI, Section 6.007 of the Charter of the City of Olean, the grantor shall obtain from the Superintendent an inspection certificate certifying that the property is free of inflow sources. In lieu of an inspection by the Superintendent, the transferor may obtain an inspection certificate from a plumber duly licensed by the City and which dated within 30 days of the proposed transfer date certifying that the property is free of inflow sources.
 - (2) The Superintendent may waive the disconnection requirement if, after an inspection by the Superintendent or his designated representative, he determines that both the property line is not located within 100 feet of the storm sewer and in their opinion the property lacks sufficient natural drainage so that the inability to continue the inflow would result in damage to the property or an adjoining property.
 - (3) Notwithstanding the above, this section shall only apply to bona fide transfer of the property for value and shall not apply to transfers between family members, spouses, in lieu of foreclosure, or transfers where the grantee is an executor or administrator of an estate and the grantee is taking title to the property through a bequests under a last will and testament or through intestate succession. For the purpose of this section, a referee's deed in foreclosure shall constitute a bona fide transfer for value.
- (c) Existing inflow sources disconnected when property sold. Upon notice from the Tax Assessor, the Superintendent shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and, if so, if all connections which contribute inflow have been disconnected.
- (d) No reconnection of inflow source allowed. It shall be a willful violation of this

article for any person to reconnect any inflow source which has been disconnected pursuant to this article.

- (e) Charges for inflow. The Superintendent is enabled to take whatever action is necessary to determine the amount of inflow including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to Division 5, Section 27-167; however, the City of Olean Council may cause a surcharge at a rate not to exceed five times that for normal sewage volume charge.

Sec. 27-44. Enforcement, penalties and violation of article.

- (a) Enforcement response plan. The Superintendent shall prepare an Enforcement Response Plan. The Enforcement Response Plan, in a step-by-step fashion, shall outline the procedures to be followed to identify, document, and respond to violations by users of the POTW. All violations by users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.

(1) The Enforcement Response Plan shall:

- a. Describe how the Superintendent will investigate instances of noncompliance.
- b. Describe the types of escalated enforcement actions that the Superintendent will take in response to all anticipated types of user violations and the time periods within which to initiate and follow-up these actions.
- c. Adequately reflect the City of Olean Council's responsibility to enforce all applicable standards and requirements.

(2) The Enforcement Response Plan shall contain:

- a. Criteria for scheduling periodic inspection and/or sampling visits to POTW users.
- b. Forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence.
- c. Systems to track due dates, compliance schedule milestones, and pending enforcement actions.
- d. Criteria, responsible personnel, and procedures to select and initiate an enforcement action.

(3) The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors, such as:

- a. Magnitude of the violation.
- b. Duration of the violation.

- c. Effect of the violation on the receiving water.
 - d. Effect of the violation on the POTW.
 - e. Effect of the violation on the health and safety of the POTW employees.
 - f. Compliance history of the user.
 - g. Good faith of the user.
 - h. And shall promote consistent and timely use of enforcement remedies.
- (4) The City of Olean Council shall approve the Enforcement Response Plan. The Enforcement Response Plan shall be reviewed at least every five years.
- (b) Administrative remedies.
- (1) Notification of violation. Whenever the Superintendent finds that any user has violated or is violating this article, or any wastewater discharge permit, order, prohibition, limitation, or requirement permitted by this article, the Superintendent may serve upon such person a written notice stating the nature of the violation. Within 10 calendar days of the date the Superintendent mails the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Superintendent by the user. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the user of liability for any violations caused by the user before or after receipt of the notice of violation.
 - (2) Consent orders. The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order.
 - (3) Administrative or compliance orders.
 - a. When the Superintendent finds that a user has violated or continues to violate this article or a permit or administrative order issued thereunder, he may issue an administrative order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued, severed and abated unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.
 - b. The user may, within 15 calendar days of receipt of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by

registered mail. The Superintendent shall then:

1. Reject any frivolous petitions;
2. Modify or suspend the order; or
3. Order the petitioner to show cause in accordance with Sec. 27-44(b)(8) and may as part of the show-cause notice request the user to supply additional information.

(4) Administrative fines.

- a. Notwithstanding any other section of this article, any user who is found to have violated any provision of this article, or a wastewater discharge permit or administrative order issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each calendar day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.
- b. The user may, within 15 calendar days of notification of the Superintendent's notice of such fine, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
 1. Reject any frivolous petitions;
 2. Modify or suspend the fine; or
 3. Order the petitioner to show cause in accordance with Sec. 27-44(b)(8) and may as part of the show-cause notice request the user to supply additional information.

(5) Cease-and-desist orders.

- a. When the Superintendent finds that a user has violated or continues to violate this article or any permit or administrative order issued hereunder, the Superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:
 1. Comply forthwith.
 2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.
- b. The user may, within 15 calendar days of the date the Superintendent mails notification of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

1. Reject any frivolous petitions;
 2. Modify or suspend the order;
 3. Order the petitioner to show cause in accordance with Sec. 27-44(b)(8) and may as part of the show-cause notice request the user to supply additional information.
- (6) Termination of permit. Any user who violates the following conditions of this article or a wastewater discharge permit or administrative order, or any applicable or state and federal law, is subject to permit termination: (1) violation of permit conditions or conditions of an administrative order, (2) failure to accurately report the wastewater constituents and characteristics of its discharge, (3) failure to report significant changes in operations or wastewater constituents and characteristics, (4) refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling, or (5) failure to pay administrative fines, fees or user charges. Noncompliant industrial users will be notified, by registered mail, of the proposed termination of their wastewater permit. The user may, within 15 calendar days of the date the Superintendent mails such notification, petition the Superintendent to permit continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
- a. Reject any frivolous petitions;
 - b. Order the petitioner to show cause in accordance with Sec. 27-44(b)(8) and may as part of the show-cause notice request the user to supply additional information.
- (7) Water supply severance. Whenever a user has violated or continues to violate the provisions of this article or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. The user may, within 15 calendar days of severance, petition the Superintendent to reconnect water supply service. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
- a. Reject any frivolous petitions;
 - b. Reconnect the water supply; or
 - c. Order the petitioner to show cause in accordance with Sec. 27-44(b)(8) and may as part of the show-cause notice request the user to supply additional information.
- (8) Show-cause hearing.
- a. The Superintendent may order any user appealing administrative remedies for violations of this article to show cause, before the City of

Olean Council, why an enforcement action, initiated by the Superintendent, should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City of Olean Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City of Olean Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least 10 calendar days before the hearing in accordance with Sec. 27-44(b)(10) of this article. Service shall be made on any principal or executive officer of a user's establishment or to any partner in a user's establishment. The notice of the hearing shall be served at least 10 calendar days before the hearing, in accordance with Sec. 27-44(b)(10). The City of Olean Council may itself conduct the hearing, or may designate any of its members or any officer or employee of the City of Olean to conduct the hearing:

1. Issue, in the name of the City of Olean Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to any matter involved in such hearings;
 2. Take the evidence;
 3. Take sworn testimony;
 4. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City of Olean Council for action thereon.
- b. After the City of Olean Council has reviewed the evidence and testimony, it may order the user to comply with the Superintendent's order or fine, modify the Superintendent's order or fine, or vacate the Superintendent's order or fine.
- (9) Failure of user to petition the superintendent. In the event the Superintendent issues any administrative order, terminates the user's permit, or makes any fine as set forth in this article, and the user fails, within the designated period of time set forth, to petition the Superintendent, as provided in appropriate sections of this article, the user shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.
- (10) Notice. The notices, orders, petitions, or other notification which the user or Superintendent shall desire or be required to give pursuant to any sections of this article shall be in writing and shall be served personally or sent by certified mail or registered mail, return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the user pursuant to the sections of this article shall be mailed to the user where the user's effluent is discharged into transmission

lines to the City of Olean's POTW. Any notice, petition, or other communication mailed to the Superintendent shall be addressed and mailed to the City of Olean Hall of the City of Olean.

- (11) Right to choose multiple remedies. The Superintendent shall have the right, within the Superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this article. The Superintendent may utilize more than one administrative remedy established pursuant to this article, and the Superintendent may hold one show-cause hearing combining more than one enforcement action.

(c) Judicial remedies.

(1) Civil actions for penalties.

- a. Any person who violates any of the provisions of or who fails to perform any duty imposed by this article, or any administrative order or determination of the Superintendent promulgated under this article, or the terms of any permit issued hereunder, shall be liable to the City of Olean for a civil penalty not to exceed \$1,000 for each such violation, to be assessed after a hearing (unless the user waives the right to a hearing) held in conformance with the procedures set forth in this article. Each violation shall be separate and distinct violation, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the City of Olean attorney, or his designated attorney, at the request of the Superintendent in the name of the City of Olean, in any court of competent jurisdiction giving preference to courts local to the City of Olean. In addition to the above described penalty, the Superintendent may recover all damages incurred by the City of Olean from any persons or users who violate any provisions of this article, or who fail to perform any duties imposed by this article or any administrative order or determination of the Superintendent promulgated under this article, or the terms of any permit issued hereunder. In addition to the above described damages, the Superintendent may recover all reasonable attorney's fees incurred by the City of Olean in enforcing the provisions of this article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Superintendent may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- b. In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other relative factors as justice may require.

- c. Such civil penalty may be released or compromised by the Superintendent before the matter has been referred to the City of Olean attorney, and where such matter has been referred to the City of Olean attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the City of Olean attorney, with the consent of the Superintendent.

(2) Court orders.

- a. In addition to the power to assess penalties as set forth in this article, the Superintendent shall have the power, following the hearing held in conformance with the procedures set forth in this article, to seek an order:
 - 1. Suspending, revoking, or modifying the violator's wastewater discharge permit; or
 - 2. Enjoining the violator from continuing the violation.
- b. Any such court order shall be sought in an action brought by the City of Olean attorney, at the request of the Superintendent, in the name of the City of Olean, in any court of competent jurisdiction giving precedence to courts local to the City of Olean.
- c. The City of Olean attorney, at the request of the Superintendent, shall petition the Court to impose, assess, and recover such sums imposed according to this article. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(3) Criminal penalties.

- a. Any person who willfully violates any provision of this article or any final determination or administrative order of the Superintendent made in accordance with this article shall be guilty of a Class A misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$500 nor more than \$1,000, or imprisonment not to exceed one year, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- b. Any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall be guilty of a Class A misdemeanor and, upon conviction, shall be

punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

- c. No prosecution under this section shall be instituted until after final disposition of a show cause hearing, if any, was instituted.
- (4) Additional injunctive relief. Whenever a user has violated or continues to violate the provisions of this article or permit or order issued hereunder, the Superintendent, through counsel, may petition the Court, in the name of the City of Olean, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with any order or determination thereunder by the Superintendent.
- (5) Summary abatement.
- a. Notwithstanding any inconsistent provisions of this article, whenever the Superintendent finds, after investigation, that any user is causing, engaging in, or maintaining a condition or activity which, in the judgment of the Superintendent, presents an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Superintendent may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity; or where the giving of notice is impracticable, or in the event of a user's failure to comply voluntarily with an emergency order, the Superintendent may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 calendar days, the Superintendent shall provide the user an opportunity to be heard, in accordance with the provisions of this article.
 - b. If the user is not within the geographic boundaries of the City of Olean, the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in the intermunicipal agreement.
 - c. The Superintendent, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment.
- (d) Miscellaneous.
- (1) Delinquent payments.
- a. If there shall be any payments which are due to the City of Olean, or any

department thereof, pursuant to any article or section of this article, which shall remain due and unpaid, in whole or in part, for a period of 20 calendar days from the date of billing by the City of Olean, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to 10% of the original bill.

- b. In the event that there are any sewer taxes, water taxes, assessments, or other service charges which shall have been assessed within the previous calendar year as of February 15 of any year, the Superintendent shall report the names of the defaulting persons to the City of Olean Mayor, the City of Olean Clerk, the City of Olean Chief Assessor, and the City of Olean Treasurer on or before March 1 of the same year. The City of Olean Chief Assessor is hereby directed to add the entire amount of the sewer tax, assessment, or other service charge which shall be in default, plus penalty and interest, as provided for in this article, to the real property taxes due and owing to City of Olean in the next succeeding year, and the City of Olean Chief Assessor is directed to collect the same in the same manner as real property taxes due and owing to the City of Olean are collected.
 - c. Where charges are delinquent and the violator is not a resident of the City of Olean, or is located outside the geographical boundaries of the City of Olean, then the City of Olean attorney is authorized to seek recovery of charges, including punitive damages, in a court of competent jurisdiction or make arrangements with the appropriate county where the user is located to add the amount of the sewer assessment or other charges which shall be in default, plus penalty and interest, as provided for in the law, to the real property taxes due to the county in the next ensuing year.
- (2) Performance bonds. The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this article or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.
 - (3) Liability insurance. The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this article or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.
 - (4) Informant rewards. The Superintendent is authorized to pay up to \$500 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the Superintendent is authorized to disperse up to 10% of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000, including the discovery reward.

- (5) Public notification. The Superintendent shall provide public notification, in the daily newspaper with the largest circulation in the City of Olean, of users which were in significant noncompliance of local or federal pretreatment standards or requirements since the last such notice. The frequency of such notices shall be at least once per year.
- (6) Contractor listings.
 - a. Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City of Olean.
 - b. Existing contracts for the sale of goods or services to the City of Olean held by a user found to be in significant violation with pretreatment standards may be terminated at the discretion of the City of Olean Council.
- (e) Violations of article.
 - (1) Any person found to be violating any provision of this article, except Section 27-48, shall be served by the Control Authority, through registered mail, a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
 - (2) The Control Authority may request any user responsible for a noncompliant discharge to the City collection or treatment facilities to show cause why enforcement action should not be taken. A notice shall be served on the user designating the time and place of the hearing to be held regarding the violations, the reasons why the action is to be taken, the proposed enforcement action, and requesting the user to show cause why the proposed enforcement action should not be taken.
 - (3) The Control Authority may issue notice of such hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings. Testimony will be taken under oath, recorded, and kept on file for inspection by the public or any interested party.
 - (4) After the Control Authority has reviewed the evidence, it may issue a directive to the user responsible for the discharge specifying corrective action to be taken and a schedule for completion of this action.
 - (5) In addition to any fines or penalties under this article, the Control Authority may seek temporary restraining orders, plug or disconnect service or permanent injunctions if there is any imminent danger to health, safety, or property as the result of the violation. Any violation of this article of the Code of Ordinances and any violation of directives and permits issued by the Control Authority shall be the subject of the City's Enforcement Response Plan as approved by the United States Environmental Protection Agency and as may be changed from time to time.

- (6) Any person who fails to comply with the provisions of this article after the time period established in Subsection (a) and/or the Enforcement Response Plan may be liable to monetary forfeitures. If such fines are to be levied, the violator shall be notified in writing through registered mail as to the nature of the violation and the amount of the fine. The fine for significant noncompliance is \$1,000 per day. In addition, the Control Authority, after proper notification of violations and imposing of fines through registered mail, may preside over and conduct a show-cause hearing. Depending upon the outcome of the hearing, the Control Authority may revoke or suspend the user's permit to discharge. The permit may be reissued by the Control Authority after the user demonstrates that he is in compliance with all provisions of this article.
- (7) The continued violation of any provision of any section of this article, other than those pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day such violation of any provision hereof shall continue.
- (8) As an alternative, upon violation of this article, the proper authorities of the City, in addition to other remedies, may institute any appropriate action or proceedings, including an injunction to prevent such unlawful use, construction or maintenance of cesspools, septic tanks, sewage disposal systems, pipes or drains to restrain, correct or abate such violation to prevent the occupancy of any building, structure, or land where such violations of this article are found.
- (9) Any person violating any of the provisions of this article shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.
- (10) Any person violating the terms of the provisions of this article that pertain to FWPCAA shall be liable to civil and criminal penalties and fines which will be levied in accordance with judicial procedures.
- (11) At least annually, the POTW will publish in the largest daily newspaper in the City of Olean notification of industrial users that were in significant noncompliance with applicable pretreatment requirements during the previous 12 months.
- (12) Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article, or permit to discharge, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall be liable to civil and criminal penalties and fines which will be levied in accordance with judicial procedures.

Sec. 27-45. Unlawful deposits on public or private property.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any

unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste. Exceptions may be granted by the Common Council to an owner or lessee acting in the normal course of farm or garden operations but only after specific application to the Director by such owner or lessee and upon such conditions as the Common Council may impose.

Sec. 27-46. Unlawful discharge of polluted waters; pertinent laws and requirements.

- (a) It shall be unlawful for any person to discharge to any watercourse, either directly or through any storm sewer, within the City, or in any area under the jurisdiction of the City, any sewage, industrial wastes, or other polluted waters. Use of separate storm sewers and sanitary sewers is mandatory for all future construction in the City. No combined sewers will be allowed to be constructed in the future.
- (b) Disposal into the sewer system of any pollutant by any person is unlawful except in compliance with federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1977, and any more stringent state and local standards.
- (c) Any new and existing industry discharging into any City-owned sewer will be required to complete successfully a permit application and receive a written permit to discharge issued by the IPP Administrator. As a condition for this permit, the industrial applicant must provide information describing wastewater constituents and characteristics, and type of activity involved. The information to be submitted will be at the direction of the IPP Administrator, who will indicate constituents and characteristics to be tested and procedures for conducting such tests. Permission to discharge will be for a period of three years. All industry shall apply for permission to continue discharging a minimum of 90 days prior to expiration of existing permit. The permit shall include at a minimum the following five conditions: (1) a statement of duration; (2) a statement of nontransferability; (3) applicable federal, state, and local effluent limits; (4) self-monitoring, sampling, reporting, notification, and record-keeping requirements; (5) a statement of applicable civil and criminal penalties. During the effective period of a permit to discharge, the IPP Administrator is authorized to modify any condition(s) contained within that permit. The industry shall be informed of any proposed changes at least 30 days prior to the effective date of change. Any changes or new conditions shall include a reasonable time schedule as set up by the IPP Administrator.
 - (1) A permit to discharge is issued to a specific industry, not a location, and therefore is not transferable. Should any industry discharging to the City's sewers modify any of its processes so as to increase or decrease the flow or pollutant loading by greater than 20% of the present industrial discharge, such industry shall seek written permission for a permit to discharge from the IPP Administrator for that modification prior to initiating this modification of discharge. The IPP Administrator shall require from the industry the same type of information that any existing or new industry initiating an industrial discharge to City-owned sewers is required to provide. The IPP Administrator is authorized to monitor all industrial discharges and at his discretion shall

order City monitoring or self-monitoring of the industrial discharges. Such monitoring will be directed by the IPP Administrator.

- (2) The industrial user shall be responsible for record retention and shall retain and preserve for no less than three years any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof related to monitoring, sampling, and chemical analyses made by or on behalf of the user in connection with its discharge. All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activity brought against the IU shall be retained and preserved by the industrial users until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
- (d) The IPP Administrator is authorized to ensure compliance of industrial users (as defined in 40 CFR 403) with federal, state, or local pretreatment standards and any other applicable requirements promulgated by EPA in accordance with Section 307 of FWPCAA. In addition to any other remedy as provided by any law or rule, the IPP Administrator is authorized to ensure compliance of industrial users as defined in 40 CFR 403 by revocation of any permit issued pursuant to this section for violation of any provision of this section.

Sec. 27-47. Right of entry to inspect, etc.; reports to City.

- (a) The inspector, the director and other duly authorized employees of the City, NYSDEC, and EPA bearing proper credentials and identifications shall be permitted to enter upon all properties of the industry, for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. Wastewaters shall be accessible, through such means as a control manhole, for purposes of inspection, observation, measurement, sampling and testing. In addition, the inspector, director or other duly authorized employees of the City, NYSDEC, and EPA bearing proper credentials and identifications shall be permitted to review and copy any existing monitoring records of any industrial user to verify compliance or violation.
- (b) When the IPP Administrator has reason to believe an industry's discharge should be monitored in order to ensure compliance with the provisions of this article, then at his discretion the industry in question will be required to file one or more reports on the constituents and characteristics of its discharge. The industrial user shall construct a sampling manhole, install monitoring equipment, and monitor if IPP Administrator determines such sampling point and monitoring is required. This information to be submitted, and the methods for collecting data, shall be at the direction of the IPP Administrator. The City may monitor and analyze or cause to be monitored or analyzed the industrial waste streams of any industry if the IPP Administrator has reason to believe an industry's discharge should be monitored in order to insure compliance with the provisions of this article. The City can also back-charge the industry for this monitoring and analysis.

Sec. 27-48. Injuring, etc., City sewerage works prohibited.

It shall be unlawful for any person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment, including control manholes, which is a part of the City sewerage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

Sec. 27-49. Severability.

If any provision, paragraph, word, section or article of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraph, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Sec. 27-50. Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of such inconsistency or conflict.

Sec. 27-51. Emergency suspensions.

The IPP Administrator may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The IPP Administrator may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the IPP Administrator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The IPP Administrator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the IPP Administrator that the period of endangerment has passed, unless the termination proceedings in Section 27-42(E.6) of this chapter are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the IPP Administrator prior to the date of any show-cause or termination hearing under § 27-42(E.6) of this chapter.

Sec. 27-52. through § 27-80. (Reserved)

DIVISION 2
CONTRACTORS

Subdivision I General Provisions

Sec. 27-81. Contractors required to present certificate of insurance before issuance of permit.

A contractor must present a certificate of insurance showing suitable liability insurance before a permit will be issued for construction of building sewers, sewer extensions, or private sewage disposal.

Sec. 27-82. through Sec. 27-98. (Reserved)

Subdivision II License

Sec. 27-99. Certificate of competency from Examining Board of Plumbers prerequisite to issuance of license to connect with City sewers.

The Director of Public Works shall not issue a license to anyone to connect with City sewers unless such person has obtained and produces a certificate of competency from the Examining Board of Plumbers.

Sec. 27-100. through Sec. 27-115. (Reserved)

**DIVISION 3
EXTENSIONS**

Sec. 27-116. Construction of sewer extensions by City; petition of property owners.

Sewer extensions, including individual building sewers from the public sewer to the property line, may be constructed by the City under public contract if, in the opinion of the Common Council, the number of properties to be served by such extension warrants its cost. Under this arrangement the property owner shall pay for the building sewer from the public sewer to his residence or place of business in accordance with the requirements of this article. Property owners may propose sewer extensions within the incorporated City by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the Common Council. The cost of such extensions may be assessed to the benefited property owners in any manner determined by the Common Council.

Sec. 27-117. Construction of sewer extensions by property owners, builders, or developers.

If the City does not elect to construct a sewer extension under public contract, the property owner, builder, or developer may construct the necessary sewer extension, if such extension is approved by the Common Council in accordance with the requirements of Section 27-118. He or they must pay for the entire installation, including all expenses incidental thereto. Each building sewer must be installed and inspected as previously required and the inspection fees shall be paid. Design of sewers shall be as specified in Section 27-118. The installation of the sewer extension must be subject to periodic inspection by the Director and expenses for this inspection shall be paid for by the owner, builder, or developer. The Director's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the exfiltration test required in Section 27-119 before it is to be used. The cost of sewer extension thus made

shall be absorbed by the developers or the property owners, including all building sewers. Such extension, when built, shall become a public sewer, subject to complete control and authority of the City.

Sec. 27-118. Design of sewer extensions; plans and specifications.

- (a) All extensions to the sanitary sewer system owned and maintained by the City shall be properly designed in accordance with and in strict conformance with all requirements of the State Department of Health. Plans and specifications for sewer extensions shall be submitted to and approval obtained from the Director and the State Department of Health before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.
- (b) Sewer design shall be in accordance with the following provisions. Pipe materials shall be either extra-strength vitrified clay conforming to ASTM Specification C-200; or reinforced concrete conforming to ASTM Specification C-76; or Plastic Truss Pipe ASTM D-1788-62T Type I or IV ABS material in municipal sewer pipe quality. No standard strength clay pipe or nonreinforced concrete pipe shall be used. Minimum internal pipe diameter shall be eight inches. Joints for each kind of pipe shall be designed and manufactured such that "O" ring gaskets of the "snap-on" type are employed. Gaskets shall be continuous, solid, natural, or synthetic rubber and shall provide a positive compression seal in the assembled joint such that the requirements of Section 27-119 are met. Joint preparation and assembly shall be in accordance with the manufacturer's recommendations. Wye branch fittings shall be installed for connection to building sewers in accordance with Section 27-138. Trench widths as measured just above the crown of the pipe shall not exceed the following:

Pipe Diameter (inches)	Trench Width (feet, inches)
8	3,3
10	3,6
12	3,9
14	4,0

If the trench widths are found, during field inspection, to exceed the limits in the table in Subsection (b) of this section, the sewer pipe shall be encased with a minimum of six inches of concrete. Pipe shall be firmly and evenly bedded on a minimum of three inches of 1A or 1 crushed stone (NYSDPW Specification). Pipe thickness and field strength shall be calculated on the following criteria:

- (1) Safety factor: 1.5.
- (2) Load factor: 1.5.

- (3) Weight of soil: 120 pounds/cubic feet.
- (4) Wheel loading: 16,000 pounds.
- (c) Utilizing the above information, design shall then be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, "Design and Construction of Sanitary and Storm Sewers."
- (d) Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding 400 linear feet. The manholes shall be constructed with a poured 3,000 psi concrete base 12 inches thick, steel troweled concrete or mortar bench walls and inverts, and precast four-foot diameter concrete manhole barrel sections with concentric tapered top section, as specified by ASTM C-478. The manhole frame and cover shall be the standard design of the City and shall be set with no less than two courses of brick underneath to allow for later adjustment in elevation. All joints shall be sealed against infiltration. No manholes shall be constructed without steps or ladder rungs.

Sec. 27-119. Requirements of final exfiltration test to be satisfied.

- (a) All sewers shall satisfy requirements of a final exfiltration test before they will be approved and sewage flow accepted from them by the City. This test consists of filling the pipe with water to provide a head of at least five feet above the top of the pipe or five feet above groundwater, whichever is higher, at the highest point of the pipeline under test, and then measuring the loss of water from the line by the amount which must be added to maintain the original level. In this test, the line must remain filled with water for at least 24 hours prior to the taking of measurements. Exfiltration shall be measured by the drop of water level in a standpipe with closed bottom end, or in one of the sewer manholes available for convenient measuring.
- (b) When a standpipe and plug arrangement is used in the upper manhole of a line under test, there must be some positive method of releasing entrapped air in the sewer prior to taking measurements. The test length intervals for either type of test shall be as ordered or approved but in no event shall they exceed 1,000 feet. In the case of sewers laid on steep grades, the length of line to be tested by exfiltration at any one time may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the line. The test period, wherein the measurements are taken, shall not be less than two hours in either type of test.
- (c) The total leakage of any section tested shall not exceed the rate of 100 gallons per mile of pipe per 24 hours per inch of nominal pipe diameter. For purposes of determining the maximum allowable leakage, manholes shall be considered as sections of forty-eight-inch-diameter pipe, five feet long. The equivalent leakage allowance shall be 4.5 gallons per manhole per 24 hours, for forty-eight-inch-diameter manholes. If leakage exceeds the specified amount, the necessary repairs or replacements required shall be made to permanently reduce the leakage to within the specified limit, and the test shall be repeated until the leakage requirement is met.

Sec. 27-120. To become property of City; guarantee.

All sewer extensions constructed at the property owner's, builder's, or developer's expense, after final approval and acceptance by the Director, shall become the property of the City and shall thereafter be maintained by the City. Such sewers, after their acceptance by the City, shall be guaranteed by the owner's builder or developer against defects in materials, or workmanship for 18 months. The guarantee shall be in a form provided for by the City. At the sole discretion of the City, a completion bond or certificate check may be demanded as part of the guarantee.

Sec. 27-121. through Sec. 27-135. (Reserved)

DIVISION 4
BUILDING SEWERS AND CONNECTIONS

Sec. 27-136. Building sewer permit — Required.

It shall be unlawful for any person to uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director.

Sec. 27-137. Same — Classes; application; fees.

There shall be two classes of building sewer permits: for residential and small commercial service, and for service to large commercial and industrial establishments. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. In cases where the building sewer will connect to an outlet sewer, a tap-in fee of \$100 for a residential and small commercial sewer permit shall be paid to the Director or his designated representative at the time of application. For purposes of this division, a small commercial service shall be a service not reasonably expected to exceed 7,500 cubic feet per three months of discharge into the sewer system. A maximum of four residential apartment units may be connected to a single retention sewer. No fee shall be charged for connection to a petition sewer. The tap-in fee to outlet sewers for large commercial and industrial establishments shall be \$350. The Director shall determine the class of applicants.

Sec. 27-138. Separate and independent building sewers to be provided.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where building sewers are to serve multiple dwelling structures, there shall be provided at least one separate building sewer for each group of four living units, the size and capacity of the same to meet requirements of the New York State Uniform Fire Prevention and Building Code applicable to plumbing.

Sec. 27-139. Existing building sewers.

Existing building sewers may be used in connection with new buildings only when there are found, on examination and test by the inspector, to meet all requirements of this division.

Sec. 27-140. Tapping of public sewers.

No tapping of the public sewer shall be permitted except four-inch branch into an eight-inch sewer and six-inch branch into a ten-inch or larger sewer, and in each specific case only by permission of the Director. Making of the tap shall be under the supervision of the Director.

Sec. 27-141. Building sewer pipe specifications.

The building sewer shall be schedule 40 or heavier plastic pipe (PVC or ABS), service-weight cast iron pipe or extra-heavy cast iron pipe. Joints shall be tight and waterproof. Building sewer pipe of cast iron shall have a maximum length of 10 feet between joints, or shall meet requirements of the State Building Construction Code applicable to plumbing.

Sec. 27-142. Size and slope of building sewers.

The size and slope of the building sewer shall be subject to the approval of the inspector, but in no event shall the diameter be less than four inches, nor shall the slope of the pipe be less than 1/4 inch per foot.

Sec. 27-143. Installation of building sewers.

Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to and within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost, but in no event shall be less than three feet. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. The ends of building sewers which are not connected to the building drain of the structure for any reason shall be sealed against infiltration by a suitable stopper, plug, or other approved means.

Sec. 27-144. Procedure where building drains are too low to permit gravity flow to public sewers.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage or industrial wastes carried by such drain shall be lifted by approved mechanical means and discharged to the building sewer.

Sec. 27-145. Excavations.

- (a) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the inspector. Pipe laying and backfill shall be performed in accordance with Sections 3 through 6 of ASTM Specification C12, except that the trench width measured at the top of the installed pipe shall not exceed 24 inches. All trench bottoms shall be shaped to cradle the pipe. Selected and rammed backfill at sides of pipe and covering pipe shall be required.

- (b) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the City.

Sec. 27-146. Joints and connections.

- (a) All joints and connections shall be made gastight and watertight. No cement joints will be permitted.
- (b) Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead not less than one-inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast iron pipe and other pipe material shall be made with special adaptors and joint materials approved by the inspector.
- (c) Premolded gasket joints for hub and plain end cast iron pipe may be used if approved by the inspector, and shall be a neoprene compression-type gasket which provides a positive double seal in the assembled joint. The gasket shall be a premolded, one-piece unit, designed for jointing the cast iron hub and plain end soil pipe and fittings. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendations using acceptable lubricant and special pipe-coupling tools designed for that purpose. The plain spigot end shall be forced into the hub end of the pipe for the full depth of the hub itself. Lubricant shall be a bland, flax-base, nontoxic material and shall not chemically attack the gasket materials.

Sec. 27-147. Connection of building sewers into existing public sewers; permit for street openings; owners to bear costs and expense.

The connection of the building sewer into an existing public sewer shall be made at the public sewer. Trench excavation proposed to be made in any portion of the public street or City-controlled right-of-way, including areas of sidewalk, "subway" or berm, roadway, paved or unpaved, shall not be laid out, commenced nor performed in any degree until a specific permit for street opening shall have been obtained from the Director. Persons, firms or corporations having met the requirements of the City as to capability to perform the work, filing of insurance bonds, proven responsibility, and in good standing for payment of accounts due the City, will be eligible for issuance of such permit. All regulations of the City in regard to street openings shall apply. All costs and expenses incident to the installation and connection of the entire length of building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The method of connection of the building sewer to the public sewer will be dependent upon the type of pipe material used and in all cases shall be approved by the Plumbing and Building Inspector.

Sec. 27-148. Inspections.

- (a) The applicant for the building sewer permit shall notify the inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the inspector or his representative.
- (b) When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the inspector before the trenches are filled. The person performing such work shall notify the inspector when the installation of the building sewer is completed. The filling of a trench before inspection is made will subject the person to whom a permit is issued to a penalty of \$25 for each offense.

Sec. 27-149. Procedure when frequent maintenance of building sewers is anticipated.

When any building sewer is to serve a school, hospital, or similar institution or public building, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the inspector, will receive sewage or industrial wastes of such volume or character that frequent maintenance of such building sewer is anticipated, then such building sewer shall be connected to the public sewer through a manhole. The inspector shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the inspector. If required, a new manhole shall be installed in the public sewer pursuant to Section 27-118, and the building sewer connection made thereto as directed by the inspector.

Sec. 27-150. through Sec. 27-165. (Reserved)

DIVISION 5
RATES AND CHARGES

Sec. 27-166. Normal sewage service charges.

All persons discharging or depositing wastes into the public sewers shall pay a sewer service charge proportional to the liquid volume of waste so deposited, which charge shall be collected as a sewer rent.

Sec. 27-167. Surcharge for abnormal sewage.

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage and depositing inflow per Sec. 27-43 shall pay a surcharge. This surcharge shall be 1.5 times the rate set for normal sewage as set per Sec. 27-180.

Sec. 27-168. Segmenting the POTW.

The service area of the POTW may be segmented to assist in a fair distribution of user charges, especially if there is a pump station serving a segment.

Sec. 27-169. Measurement of flow.

The volume of flow to be used in computing sewer service charges and abnormal sewage surcharges shall be based upon metered water consumption as shown on the records of meter readings maintained by the City of Olean Water Department. In the event that a

person discharging wastes into the POTW produces evidence to the Superintendent demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the Superintendent shall either establish a percentage of the total metered water to be used as a basis for such computations, or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from unmetered sources, the Superintendent shall either direct the installation of water meters on the other sources of water supply, or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this section shall be of a type and design acceptable to the Superintendent and shall be installed, maintained, and periodically tested as required by the Superintendent, at the owner's expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing, and reading by the Superintendent. Any person discharging wastes into the POTW may install a flow measuring device at his option, of the type, design, installation, and maintenance standards of the Superintendent, at the owner's expense.

Sec. 27-170. Billing period.

The billing period shall be monthly for industrial and nonindustrial users.

Sec. 27-171. Pretreatment program costs.

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the user, and include:

- (1) Reimbursement of costs of setting up and operating the pretreatment program.
- (2) Issuing permits.
- (3) Monitoring, inspections, and surveillance procedures.
- (4) Costs of equipment and supplies.
- (5) Reviewing accidental discharge procedures.
- (6) Construction inspections.
- (7) Filing appeals.
- (8) Application for consistent removal status as outlined in 40 CFR 403.
- (9) Other reasonable expenses to carry out the program to satisfy the requirements of this article, the NYSDEC, and the federal government.

Sec. 27-172. Charges for trucked and hauled wastes.

The charge for treatment and disposal of trucked or hauled waste which has been introduced into the POTW shall be as established by the City of Olean Council. The manner of determining the volume dumped shall be at the discretion of the Superintendent.

Sec. 27-173. Capital recovery.

The City of Olean may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat, and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

Sec. 27-174. Collection of charges.

Provisions of Sec. 27-44 of this article relating to the collection of penalties shall apply to the collection of sewer service charges and abnormal sewage service surcharges, unless where otherwise provided by application of the Sewer Rent Law by City of Olean.

Sec. 27-175. Fiscal year for system.

The POTW shall be operated on the basis of a fiscal year commencing on the first day of June and ending on the 31st day of May.

Sec. 27-176. Impact fees.

The City of Olean Council shall have the authority to impose impact fees on new development, which development may:

- (1) Cause enlargement of the service area of the POTW.
- (2) Cause increased hydraulic and/or treatment demands on the POTW.

Sec. 27-177. Use of revenues.

Revenues derived from user charges and associated penalties, and impact fees, shall be credited to a special fund called the Sewer Fund of the City of Olean. Monies in this fund shall be used exclusively for the following functions:

- (1) For the payment of the operation and maintenance, including repair and replacement costs of the City of Olean POTW;
- (2) For the discovery and correction of inflow and infiltration;
- (3) For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the City of Olean POTW;
- (4) For the extension, enlargement, replacement of, and/or additions to the City of Olean POTW, including any necessary appurtenances.

Sec. 27-178. Records and accounts.

- (a) The City of Olean shall maintain and keep proper books of records and accounts for the POTW, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the POTW. The City of Olean will cause an annual audit of such books of record and account for the preceding fiscal year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized officials, and the public, on request.

- (b) In conjunction with the audit, there shall be an annual review of the sewer charge system to determine if it is adequate to meet expenditures for all programs for the coming year.
- (c) Classification of old and new industrial users should also be reviewed annually.
- (d) The City of Olean shall maintain and carry insurance on all physical properties of the POTW, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

Sec. 27-179. Sewer rentals — Structure divisions.

- (a) There is hereby imposed a schedule of sewer rentals.
- (b) For the purpose of fixing and imposing the collection of sewer rentals, all structures using that part of the sewer system of the City located within its boundaries are divided into three groups as follows:
 - (1) Group I shall consist of residence dwellings occupied by not more than two family units. Group I shall also include all church structures.
 - (2) Group II shall include all commercial and retail establishments and all commercial establishments and structures wherein living quarters are maintained in the same structure. Group II shall also include all apartments consisting of more than two residence units and all hospitals, schools and fraternal and social groups and public buildings.
 - (3) Group III shall consist of all industrial and manufacturing structures or units.

Sec. 27-180. Rates.

- (a) For sewer rates provided within the boundaries of the City, the rates shall from time to time be amended by the Common Council with the establishment of a resolution: Prior to passage of any resolution modifying sewer rates, the Council shall hold a public hearing.
- (b) For sewer services provided outside the City of Olean, the rates shall from time to time be amended by the Common Council with the establishment of a resolution.

Sec. 27-181. Same — Billing and collection.

- (a) The Department of Public Works is hereby authorized to continue the monthly billing of all units included in Groups I, II and III.
- (b) Sewer rents shall be billed and collected pursuant to the provisions of the Olean Code of Local Laws, Ch. LL7, Art. III, Div. 3.

Sec. 27-182. through Sec. 27-185. (Reserved)

Sec. 27-186. Unlawful to discharge stormwater, etc., to sanitary sewers.

- (a) Stormwater and all others of unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, and approved by the Director. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Director, to a storm sewer but only in accordance with SPDES requirements and any other state or federal regulation.
- (b) No industry shall increase the discharge of clean process water, noncontact water, or in any way dilute such industry's discharge as a method of achieving compliance with any pollutant discharge limits. Each existing or new industry shall take appropriate steps to provide protection from any accidental discharge or slug discharge of prohibited pollutants into the sewage works. Such appropriate steps may include the development, submission, and approval of the IPP Administrator of a detailed slug control plan. Any measure taken shall be at the owner's expense.
- (c) Plans, specifications, and any other pertinent information relating to proposed facilities shall be submitted for the approval of the IPP Administrator, and no construction of such facilities shall be commenced until such approvals are obtained in writing. Such approvals, however, shall not relieve the user of the responsibility of meeting any required effluent limitations.
- (d) In all cases of accidental or slug discharges, it is the responsibility of the industry to immediately notify the POTW of the discharge. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. All employees shall be aware of the need to inform the POTW and shall be advised of the emergency notification procedures. Within one week following the accidental discharge, the industry shall submit to the IPP Administrator a detailed written report describing the cause of the discharge and measures to be taken by the industry to prevent future occurrences.

Sec. 27-187. Discharge of certain waters and wastes to public sewers prohibited.

- (a) Generally. Except as provided in this division, it shall be unlawful for any person to discharge, or cause to be discharged any of the following described waters or wastes within the POTW.
- (b) Prohibited.
 - (1) Any gasoline, benzene, naphtha, fuel oil or mineral oil, or other flammable or explosive liquid, solid, or gas.
 - (2) Any noxious or malodorous gas such as hydrogen sulfide, sulphur dioxide, or nitrous oxide, or other substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower or greater shall be subject to the review and approval of the inspector.

- (4) Any ashes, cinder, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, cardboard, wood, paunch manure, hair and fleshings, entrails, lime slurry, lime, beer or distillery slops, whey, chemical residues, paint residues, cannery waste, bulk solids or any other substance, solid, viscous or in any other form, capable of causing obstruction to the flow of the sewers, or other interference with the proper operation of the sewage works.
 - (5) Any stormwater, roof drains, spring water, cistern or tank overflow, or the contents of any privy vault, septic tank or cesspool, or the discharge or effluent from any air conditioning machine or refrigeration unit.
 - (6) Any waste considered as a hazardous waste under 40 CFR 261.
 - (7) Any 1, 1, 1-Trichloroethane above background concentrations; any pollutant which creates a fire or explosion in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140° F. or 60° C. using the test method specified in 40 CFR 261.21; pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that might cause acute worker health and safety problems; petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
 - (8) Any trucked or hauled pollutants, except that discharge points designated by the City; the discharge of any pollutant that causes pass through; oxygen-demanding pollutants [such as biochemical oxygen demand (BOD)], released in a discharge at a flow rate or pollutant concentration that will cause interference.
 - (9) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
 - (10) Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
 - (11) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C. (104° F.) unless the approval authority, upon request of the POTW, approves alternate temperature limits.
 - (12) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
 - (13) Any wastewater or similar by-product from high-volume fracking, oil drilling, or natural gas drilling operations.
- (c) Limited.
- (1) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works. Free acids and alkalies must be neutralized at

all times within a permissible pH range of 6.0 to 9.0.

- (2) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the IPP Administrator in compliance with applicable state or federal regulations.
- (3) Any liquid or vapor which would cause the influent to the treatment plant to have a temperature higher than 104° F.
- (4) Any waters or wastes which contain grease or oil or other substance that will solidify or become discernibly viscous at temperatures between 32° F. and 104° F.
- (5) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, exceeding an average of 50 mg/l n-hexane extractable soluble matter.
- (6) No person shall discharge or cause to be discharged any waters or waste containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage conveyance or treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the sewage treatment plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage as it is discharged from the industry.

Limits of Toxic Substances in Sewage	24-Hour Composite (mg/l)
Chromium (hexavalent)	1.5
Chromium (total)	4.0
Copper (total)	2.1
Cadmium (total)	1.0
Cyanide (amenable)	0.2
Zinc (total)	3.5
Nickel (total)	0.9
Arsenic (total)	0.02
Lead (total)	5.0
Mercury (total)	0.05
Silver (total)	5.0
Trichloroethylene	1.0

- (7) Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than

limitations imposed under this division for sources in that subcategory, shall immediately supersede the limitations imposed under this division for that particular industrial subcategory. The IPP Administrator shall notify all affected users of the more stringent limits and applicable reporting requirements. The national categorical pretreatment standards, located in 40 CFR Chapter 1, Subchapter N, Parts 405-471, are hereby incorporated into this article by reference.

- (8) Any pollutant which creates a fire or explosion in the City's sewage treatment plant, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140° F. or 60° C. using the test method specified in 40 CFR 261.21.
- (9) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement.

Sec. 27-188. Grease, oil and sand interceptors.

- (a) Information regarding the City of Olean's Fats, Oil, and Grease (FOG) Management Program can be obtained in the Office of the Department of Public Works or can be found online at <http://www.cityofolean.org/dpw/pdf/CeaseTheGrease.pdf>.
- (b) Grease, oil and sand interceptors shall be provided when the limits in Section 27-187 for those substances are exceeded or when, in the opinion of the IPP Administrator, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the IPP Administrator, and shall be located as to be readily and easily accessible for cleaning and inspection.
- (c) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
- (d) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Plumbing and Building Inspector at any time.

Sec. 27-189. Admission of waters or wastes into public sewers; preliminary treatment facilities.

- (a) The admission into the public sewers of any waters or wastes having (1) a five-day biochemical oxygen demand concentration greater than 250 mg/l or (2) containing more than 250 mg/l of suspended solids, shall be subject to review by the IPP

Administrator.

- (b) Where necessary, in the opinion of the IPP Administrator, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the chlorine requirements to 20 mg/l or (2) reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 27-187, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the IPP Administrator, and no construction of such facilities shall be commenced until such approvals are obtained in writing. Failure to comply with one or more of the remedial procedures as required by the IPP Administrator will constitute a major violation of this section.
- (c) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 27-189.1. Notification requirements.

All categorical and noncategorical industrial users shall notify the City immediately of all discharges that could cause problems to the City of Olean POTW treatment plant. These discharges shall include, but not be limited to:

- (1) Slug loadings.
- (2) Pollutants which create a fire or explosion hazard in the POTW.
- (3) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 6.0.
- (4) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
- (5) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (6) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C. (104° F.).

Sec. 27-189.2. Notice of violation/resampling requirement.

If sampling by an industrial user indicates a violation, the user must notify the IPP Administrator within 24 hours of becoming aware of the violation. The user must also resample and submit results of this resampling to the IPP Administrator within 30 days. [Reference 40 CFR 403.12(g).]

Sec. 27-189.3. Notice of hazardous wastes discharge.

All industrial users must notify in writing the IPP Administrator, the New York State

Department of Environmental Conservation, and the United States Environmental Protection Agency of any discharge that would be considered a hazardous waste if disposed of in a different manner. [Reference 40 CFR 403.12(p).]

Sec. 27-190. Installation of control manholes.

When required by the IPP Administrator, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the IPP Administrator. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Sec. 27-191. Measurements, tests and analyses of the characteristics of waters and wastes.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Sections 27-187 and 27-189 shall be determined in accordance with analytical methods as published in 40 CFR Part 136, titled "Guidelines Establishing Test Procedures for the Analysis of Pollutants," upon suitable samples taken at the control manhole provided for in Section 27-190. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Sec. 27-192. Division prevents special agreements or arrangements relative to acceptance of certain wastes for treatment.

No special agreement or arrangement between the City and any industrial concern for treating an industrial waste of unusual strength or character shall be allowed if the special agreement results in a violation of applicable pretreatment standards or requirements.

Sec. 27-193. When standards apply; laboratory methods; alternate methods; sampling, compliance schedules and reports.

- (a) All of the preceding standards (noncategorical waste standards) in this division are to apply at the point where the industrial wastes are discharged into the POTW and any chemical or mechanical corrective treatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of analytical methods as published in 40 CFR 136 titled "Guidelines Establishing Test Procedures for the Analysis of Pollutants." The frequency and duration of the sampling of any industrial waste shall be determined by the IPP Administrator based upon the contaminants with respect to its harmfulness to the treatment facility or receiving stream but no less frequently than semiannually. The IPP Administrator shall have authority to require monitoring in excess of 24 hours for the purpose of measuring flow. Variations from this schedule would be at the discretion of the IPP Administrator. A report outlining the nature and concentration of pollutants shall be submitted to the IPP Administrator no more than 30 days after any required sampling is completed. In the case of an industry which is or would be

subject to a categorical pretreatment standard, a baseline monitoring report shall be submitted within 180 days after the effective date of the standard. In the case of an industry that is not yet discharging categorical waste to the POTW and is subject to a categorical pretreatment standard, a baseline monitoring report will be submitted to the IPP Administrator at least 90 days prior to the first discharge. This information shall at least include identifying information, permits, description of operations, flow measurements, pollutant measurements certification and a compliance schedule if necessary. Baseline monitoring reports must contain a statement reviewed by an authorized representative of the IU and certified by a qualified professional about the user's compliance with applicable categorical standards. A compliance schedule shall be established by the IPP Administrator based upon the extent of noncompliance. A series of status reports to the City will be outlined and target dates established for stepwise compliance.

- (b) Where such industrial waste stream monitoring has been required by the IPP Administrator to demonstrate compliance with applicable pretreatment standards or other standards, the industry shall submit within 90 days following the date for final compliance (or, if a new source, following the commencement of its discharge), to the IPP Administrator, a report that contains flow and pollutant measurements, a certification of whether pretreatment standards are being consistent, and, if not, a description of needed additional O&M or pretreatment. Reports on compliance with categorical standards (ninety-day compliance reports) must contain a statement reviewed by an authorized representative of the IU and certified by a qualified professional about the user's compliance with applicable categorical standards and whether any pretreatment or operation and maintenance (O&M) is required to attain compliance. If the industry is not meeting the standards, the report shall outline additional pretreatment or operations necessary to bring the industry into compliance. A compliance schedule shall be established by the IPP Administrator based upon the extent of noncompliance. A series of status reports to the City will be outlined and target dates established for stepwise compliance. Prior to any changes or construction, a review by the IPP Administrator and written permit must be granted before any construction is to begin. Baseline monitoring reports, ninety-day compliance reports, and periodic compliance reports from categorical industrial users must be signed by an appropriate official of the categorical industrial users and shall contain such certification statement as provided in 40 CFR 403.6(a)(2)(ii) attesting to the integrity of the analytical data submitted.
- (c) Information and data on industry obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency inspections without restriction unless the industry specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industry. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the National

Pollutant Discharge Elimination System (NPDES) permit, State Pollutant Discharge Elimination System (SPDES) permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Status reports must be submitted within 14 days of compliance milestones and upon the final compliance date.

Sec. 27-194. Parameters of concern.

Class A - Halogenated Hydrocarbons

- A01. Methyl Chloride
- A02. Methylene Chloride
- A03. Chloroform
- A04. Carbon Tetrachloride
- A05. Freon/Genatron
- A06. Other Halomethanes
- A07. 1,1,1-Trichloroethane
- A08. Other Haloethanes
- A09. Vinyl Fluoride
- A10. Vinyl Chloride
- A11. Dichloroethylene
- A12. Trichloroethylene
- A13. Tetrachloroethylene
- A14. Chlorinated Propane
- A15. Chlorinated Propene
- A16. Hexachlorobutadiene
- A17. Hexachlorocyclopentadiene
- A18. Chlorinated Benzene
- A19. Chlorinated Toluene
- A20. Fluorinated Toluene
- A21. Polychlorinated Biphenyl (PCB)
- A22. Chlorinated Naphthalene
- A23. Dechlorane (C₁₀Cl₁₂)
- A24. Hexachlorocyclohexane (BHC)
- A99. Halogenated Hydrocarbons Not Specified Above

Class B - Halogenated Organics (Other than Hydrocarbons)

- B01. Phosgene
- B02. Methyl Chloromethyl Ether
- B03. Bis-Chloromethyl Ether
- B04. Other Chloroalkyl Ethers
- B05. Benzoyl Chloride
- B06. Chlorothymol
- B07. Chlorinated Phenol
- B08. Chlorinated Cresols or Xylenols

- B09. Chlorendic Acid
- B10. Chloroaryl Ethers
- B11. Dichlorophene or Hexachlorophene
- B12. Chlorinated Aniline (Including Methylene Bis)(2-Chloroaniline)
- B13. Dichlorobenzidine
- B14. Chlorinated Diphenyl Oxide
- B15. Chlorinated Toluidine
- B16. Kepone (C10Cl10O)
- B17. Dichlorovinyl Sulfonyl Pyridine
- B18. Chloropicrin
- B19. Trichloromethyl Thio-Phthalimide
- B20. Trichloro-Propylsulfonyl Pyridine
- B21. Tetrachloro-Methylsulfonyl Pyridine
- B22. Tetrachloro-Isophthalonitrile
- B99. Halogenated Organics Not Specified Above

Class C - Pesticides (Includes Herbicides, Algaecides, Biocides, Slimicides and Mildewcides)

- C01. Aldrin/Dieldrin
- C02. Chlordane and Metabolites
- C03. DDT and Metabolites
- C04. Endosulfan/Thiodan and Metabolites
- C05. Endrin and Metabolites
- C06. Heptachlor and Metabolites
- C07. Malathion
- C08. Methoxychlor
- C09. Parathion
- C10. Toxaphene
- C11. Sevin
- C12. Kelthane
- C13. Diazinon
- C14. Dithane
- C15. Carbaryl
- C16. Silvex
- C17. Dithiocarbamates
- C18. Maneb
- C19. Dioxathion
- C20. Tandex/Karbutilate
- C21. Carbofurans
- C22. Pentac
- C23. Folpet
- C24. Dichlone
- C25. Rotenone
- C26. Lindane/Isotox
- C27. Simazine
- C28. Methoprene

C99. Pesticides Not Specified Above

Class D - Aromatic Hydrocarbons

- D01. Benzene
- D02. Toluene
- D03. Xylene
- D04. Biphenyl
- D05. Naphthalene
- D06. Ethylbenzene
- D07. Styrene
- D08. Acenaphthene
- D09. Fluoranthene
- D99. Aromatic Hydrocarbons Not Specified Above

Class E - Tars

- E01. Coal Tar
- E02. Petroleum Tar
- E99. Tars Not Specified Above

Class F - Substituted Aromatics (Other than Hydrocarbons and Non-Halogenated)

- F01. Phenol, Cresol or Xylenol
- F02. Catechol, Resorcinol, or Hydroquinone
- F03. Nitrophenols
- F04. Nitrobenzenes
- F05. Nitrotoluenes
- F06. Aniline
- F07. Toluidines
- F08. Nitroanilines
- F09. Nitroanisole
- F10. Toluene Diisocyanate
- F11. Dimethylaminoazobenzene
- F12. Benzoic Acid (and Benzoate Salts)
- F13. Phthalic, Isophthalic or Terephthalic Acid
- F14. Phthalic Anhydride
- F15. Phthalate Esters
- F16. Phenoxyacetic Acid
- F17. Phenylphenols
- F18. Nitrobiphenyls
- F19. Aminobiphenyls (Including Benzidine)
- F20. Diphenylhydrazine
- F21. Naphthylamines
- F22. Carbazole
- F23. Acetylaminofluorene

F24. Dyes and Organic Pigments
F25. Pyridine
F99. Substituted Aromatics Not Specified Above

Class G - Miscellaneous

G01. Asbestos
G02. Acrolein
G03. Acrylonitrile
G04. Isophorone
G05. Nitrosamines
G06. Ethyleneimine
G07. Propiolactone
G08. Nitrosodimethylamine
G09. Dimethylhydrazine
G10. Maleic Anhydride
G11. Methyl Isocyanate
G12. Epoxides
G13. Nitrofurans
G14. Cyanide

Class M - Metals and Their Compounds

M01. Antimony
M02. Arsenic
M03. Beryllium
M04. Cadmium
M05. Chromium
M06. Copper
M07. Lead
M08. Mercury
M09. Nickel
M10. Selenium
M11. Silver
M12. Thallium
M13. Zinc
M99. Metals Not Specified Above

Sec. 27-195. through Sec. 27-210. (Reserved)

**ARTICLE IV
CROSS-CONNECTION CONTROL**

Sec. 27-211. Definitions. [Res. No. 129-92, § 2, 8-25-1992]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a

different meaning:

ACCEPTABLE BACKFLOW PREVENTION DEVICE — An acceptable reduced pressure zone device or double check valve assembly as used to contain potential contamination within a facility. In order for the reduced pressure zone device or the double check valve assembly to be acceptable, it must be listed on the most current version of the state department of health list of acceptable devices.

AESTHETICALLY OBJECTIONABLE FACILITY — A facility in which substances are present which, if introduced into the public water supply system, could be a nuisance to other water customers but would not adversely affect human health. Typical examples of such substances are: food-grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, etc.

APPROVED — Accepted by the director of public works as meeting an applicable specification stated or cited in this article, or as suitable for the proposed use.

AUXILIARY WATER SUPPLY — Any water supply on or available to the premises other than the approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, harbor, etc., or used waters. These waters may be contaminated or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

BACKFLOW — A flow condition induced by a differential in pressure that causes the flow of water or other liquids and/or gases into the distribution pipes of the supply system any source other than its intended source.

CERTIFIED TESTER — That individual or firm approved to accomplish the necessary inspections and operational tests of backflow prevention devices.

CONTAMINATION — The presence in water of a substance that tends to degrade its quality.

CUSTOMER — A water user served by the supply system.

CUSTOMER'S WATER SYSTEM — The piping used to convey water supplied by the City supply system throughout a customer's facility. The customer's water system shall include all those parts of the piping beyond the control point of the customer's service. The control point is either the curb valve or the main valve located in the public right-of-way that isolates the customer's facilities from the city distribution system.

DEGREE OF HAZARD — Whether a facility is rated as hazardous, aesthetically objectionable or nonhazardous.

DIRECTOR — The director of public works.

DOUBLE CHECK VALVE ASSEMBLY, ACCEPTABLE — An assembly composed of two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the water tightness of each check valve.

HAZARDOUS FACILITY — Is one in which substances may be present which if introduced into the public water system would or may endanger or have an adverse effect on the health of other water customers. Typical examples are laboratories, sewage treatment plants, chemical plants, hospitals and mortuaries.

NONHAZARDOUS FACILITY — Is one which does not require the installation of an acceptable backflow prevention device.

PUBLIC WATER SUPPLY SYSTEM — The city system including the source, treatment works, transmission mains, distribution system and storage facilities. This includes the distribution system up to its connection with the customer's water system.

REDUCED PRESSURE ZONE DEVICE, ACCEPTABLE — A device containing a minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between two check valves. During the normal flow and at the cessation of normal flow the pressure between these two checks shall be less than the upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

Sec. 27-212. Purpose. [Res. No. 129-92, § 1, 8-25-1992]

The purpose of this article is to:

- (1) Protect the public potable water supply of the city from the possibility of contamination by isolating within its customers' internal distribution systems or its customers' private water systems such contaminations or pollutants which could backflow into the public water supply system; and
- (2) To comply with the requirements of the New York State Sanitary Code § 5-1.31.

Sec. 27-213. Protection of distribution system from contamination; responsibility of director of public works. [Res. No. 129-92, § 1.2, 8-25-1992]

The director of public works shall be responsible for the protection of the city distribution system from contamination due to the backflow of contaminants through the water service connection. If, in the judgment of the director, an acceptable backflow prevention device is required at the city's water service connection to any customer's premises for the safety of the water system, the director shall give notice in writing to the customer to install such an acceptable backflow prevention device at each service connection to the premises. The customer shall immediately install such approved device or devices at the customer's own expense; and failure, refusal or inability on the part of the customer to install the device or devices immediately shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

Sec. 27-214. Installation of backflow prevention devices. [Res. No. 129-92, § 3, 8-25-1992]

- (a) The customer's water system shall be open for inspection at all reasonable times to authorized representatives of the city.

- (b) The director shall rate a customer's water system according to its degree of hazard to the public water supply system.
- (c) An acceptable backflow prevention device shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served, but in all cases before the first branch line leading off the service line, as follows:
 - (1) Whenever a customer's water system is rated hazardous, an acceptable reduced pressure zone device shall be installed.
 - (2) Whenever a customer's water system is rated aesthetically objectionable, as a minimum, an acceptable double check valve assembly shall be installed.
- (d) The design of the installation of an acceptable backflow prevention device must be prepared in accordance with state laws and regulations. The design must be approved by the director and all agencies required by the applicable state laws and regulations.
- (e) It shall be the duty of the customer at any premises where backflow prevention devices are installed to have certified inspections and operational tests made at least once a year. In those instances where the director deems the hazard to be great enough, he may require certified inspections at more frequent intervals. Certified inspections and operational tests must also be made when any backflow prevention device is to be installed, repaired, overhauled or replaced, in addition to the requirement of an annual certified inspection and operational test. All inspections and tests shall be at the expense of the customer and shall be performed by the device manufacturer's representative, or by a certified tester approved by the state department of health. It shall be the duty of the director to see that certified inspections and operational tests of the backflow prevention devices are made. These devices shall be repaired, overhauled or replaced at the expense of the customer whenever the devices are found to be defective. Records of such test, repairs and overhaul shall be kept and also made available to the director. Copies of all testing and maintenance records shall be sent to the director immediately after the work is performed.
- (f) All presently installed prevention devices which do not meet the requirements of this section but were approved devices for the purposes described in this section at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under subsection (e) of this section, be excluded from the requirements of these rules so long as the director is assured that they will satisfactorily protect the utility system. Whenever the existing device is moved from the present location or requires more than minimum maintenance, or the director deems it constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this section.
- (g) No water service connection to any customer's water system shall be installed unless the water supply is protected as required by state laws and regulations and this article. Service of water to any premises shall be discontinued by the city if a

backflow prevention device required by this chapter is not installed, tested or maintained, or if it is found that a backflow prevention device has been removed or bypassed. Service will not be restored until such conditions or defects are corrected.

Sec. 27-215. Protection of potable water within customers' premises. [Res. No. 129-92, § 4, 8-25-1992]

- (a) In accordance with Sanitary Code § 5-1.31, all users of a public water system shall prevent cross connections between the potable water piping system and any other piping system within the customer's premises. The plumbing inspector shall direct customers to make necessary modifications to internal plumbing systems whenever protection of potability of water within the premises against water quality degradation is required.
- (b) Where a residential customer maintains an auxiliary water supply in addition to the public water supply, the two systems must not be interconnected. Where the two systems are interconnected, the following options will be deemed appropriate and within the requirements of existing state laws and regulations and with this article:
 - (1) Disconnection of the auxiliary water supply from the public water supply. An inspection to determine compliance will be made initially and at least every three years thereafter or whenever the property is sold. The inspection may be made by the water supplier or the local building codes inspector.
 - (2) Installation of an acceptable reduced pressure zone (RPZ) device on the public water supply connection.
 - (3) Proper abandonment of the auxiliary water supply.
 - (4) Sampling for the auxiliary water supply to determine quality in accordance with New York State Sanitary Code §§ 5-1.50 and 5-1.51. Sampling frequency will be specified by the state or local health department. Where water quality does not meet the standards, one of the first three alternatives would apply.

Sec. 27-216. Additional remedy. [Res. No. 129-92, § 6, 8-25-1992]

In addition to any other remedy provided by this article at law or in equity, the director of public works may order disconnection of water service at the service entrance for the affected premises.

Sec. 27-217. through Sec. 27-219. (Reserved)

**ARTICLE V
PLUMBING**

**DIVISION 1
ADMINISTRATION**

Sec. 27-220. Applicability of Code. [Res. No. 40-95, 6-27-1995; Res. No. 69-06, 6-13-2006]

The provisions of this code shall apply to plumbing, including the trade or business of plumbing and the practices, materials and fixtures used in and for piping, appliances and appurtenances in connection with any of the of the following: sanitary drainage, venting systems and the public or private water systems within, or adjacent to, any building or other structure. This article shall apply to all work done in the city rights-of-way or when making any connection or repair to a connection to city water, sanitary sewer lines and storm sewers. Specifically exempt from the provisions of Division 2 of this article are the following:

- (1) A homeowner doing plumbing work in his or her owner-occupied one- and two-family dwelling;
- (2) Minor repairs to plumbing systems done by owners or bona fide employees of owners;
- (3) Work by City of Olean employees in the streets of the city. If there be any inconsistency between this plumbing code and the Uniform Fire Prevention and Building Code as from time to time stated, the more stringent and restrictive standard shall govern.

DIVISION 2

QUALIFICATION OF THE PLUMBING TRADE OF THE CITY OF OLEAN

Sec. 27-221. License required. [Res. No. 40-95, 6-27-1995]

- (a) No person shall engage in the business of plumbing in the City unless licensed as a master plumber under the provisions of this Code.
- (b) No person employed as an apprentice or journeyman plumber shall work as a plumber in the City unless being certified as provided by this article.

Sec. 27-222. Corporate rights. [Res. No. 40-95, 6-27-1995; Res. No. 45-96, 5-14-1996]

A domestic corporation desiring or intending to conduct the trade, business, or calling of a plumber as an employing or master plumber, may do so provided one or more officers of such corporation separately or in the aggregate actually owns at least 50% of the issued and outstanding capital stock of said corporation, and provided that each of such officers holding such percentage of the stock is the holder of a certificate of competency of the City of Olean. In case one or more officers of a corporation engaged in such business shall die, the corporation may continue the business during the time necessarily required for the administration for the estate of such deceased officer, not exceeding two years from the granting of letters, provided one or more surviving officers of the corporation is the holder of a certificate of competency. Each and every member of said corporation holding a certificate of competency shall comply with all the rules and regulations applicable to master or employing plumbers in the City.

Each such corporation engaged in the trade business or calling of plumbing shall register with the clerk of the City annually as a firm of employing or master plumbers and pay such fees as may from time to time be established by the Common Council by resolution.

Sec. 27-223. Application for license. [Res. No. 40-95, 6-27-1995]

It shall be unlawful for any person to engage in the business of plumbing or to install, alter or repair any plumbing system, (except repair of system in the personal residence of person doing the work) in the City, or to display a sign or give other notice setting forth or intending to imply that he/she is engaged in the business of plumbing, unless he/she has obtained a certificate of competency as a master plumber after examination, and has duly registered said certificate and received a certificate or registry and metal sign from the City.

Sec. 27-224. Examination requirements. [Res. No. 17-99, 2-23-1999; Res. No. 91-02, 9-10-1902; Res. No. 44-08, 5-27-2008]

- (a) An applicant for a master plumber's license certificate shall file written application to the office of the plumbing inspector, on the form provided by the examining board of plumbers. The examining board of plumber's shall approve the application if:
 - (1) The applicant shall have had a minimum of eight years of practical plumbing experience consisting of at least 1,500 hours per year and is able to furnish satisfactory evidence of such facts. A two-year degree in plumbing, sanitary engineering or plumbing engineering from a recognized collage or university shall count as two years' experience and a four-year degree as four years' experience.
- (b) If the application is approved, the board shall notify the applicant in writing of such approval stating the place and time of the examination. If the application is disapproved, the examining board of plumbers shall notify the applicant in writing of such disapproval stating the reasons for disapproval.

Sec. 27-225. (Reserved)

Editor's note: Res. No. 17-99, adopted Feb. 23, 1999, repealed in its entirety § 27-225. Formerly, § 27-225 pertained to master plumber examination. See the Code Comparative Table.

Sec. 27-226. Master plumber certification. [Res. No. 40-95, 6-27-1995]

Before issuing a certificate to engage in the business of master or employing plumber, the board shall inquire into the applicant's fitness and qualifications for conducting such business and may require the applicant to submit under oath such evidence. The examining board of plumbers shall issue, upon payment of the required license certificate fee, a master plumber's license certificate to those applicants who meet the qualifications and pass the examination. Such license certificates shall be issued in the name of the examining board of plumbers.

Sec. 27-227. Annual master plumber license fee. [Res. No. 40-95, 6-27-1995]

The annual fee for a master plumber license in the City shall be as provided by the Common Council from time to time. The fees will be received by the City clerk's office processed through the code enforcement division. A new identification photograph must be furnished by applicant every year at the time or renewal for the license.

Sec. 27-228. through Sec. 27-229. (Reserved)

Editor's note: Res. No. 17-99, adopted Feb. 23, 1999, repealed in their entirety §§ 27-228 and 27-229. Formerly, § 27-228 pertained to journeyman plumber—certificate of competency examination requirements. Further, § 27-229 pertained to material similar to aforementioned section as it relates to examination. See the Code Comparative Table.

Sec. 27-230. Same—Certification. [Res. No. 40-95, 6-27-1995]

The examining board of plumbers shall issue journeyman plumber's license certificates to those applicants who pass the examination upon payment of the required license fee. Such license certificates shall be issued in the name of the examining board of plumbers.

Sec. 27-231. Same—Annual license fee. [Res. No. 40-95, 6-27-1995]

The annual fee for a journeyman plumber license in the City shall be as provided by the Common Council from time to time. The fees will be received by the City clerk's office, processed through the code enforcement division. A new identification photograph must be furnished by applicant every year at the time of renewal of the license.

Sec. 27-232. Apprenticeship. [Res. No. 40-95, 6-27-1995]

No person shall engage as a plumbing apprentice in the City unless so registered in the code enforcement division. The annual registration fee shall be as provided by the common council from time to time. It shall be the duty of the apprentice to certify annually as to the place(s) and time(s) of employment by each firm employing the apprentice during the proceeding year.

Sec. 27-233. Out-of-town contractors. [Res. No. 40-95, 6-27-1995]

Out-of-town plumbers wishing to engage in the work of an employing or master plumber within the city must take the master plumber examination unless:

- (a) There is reciprocity agreement for city plumbers from the community of applicant and payment of the fee as may be established by the common council from time to time.
- (b) Applicant shall meet the requirements for a temporary permit for a single site as may be established by the examination board of plumbers and the payment of a fee as may be established from time to time by the common council.

Sec. 27-234. Failure of tests; journeymen and master plumbers. [Res. No. 40-95, 6-27-1995]

An applicant who fails to pass the examination for a plumber's license shall not be permitted to apply for another examination until after the expiration of six months following the date of such examination.

Sec. 27-235. Apprenticeship, journeyman, master plumber; automatic suspension; renewal/reinstatement requirements. [Res. No. 40-95, 6-27-1995]

All plumber's license certificates shall expire in January following the date of issuance. License certificates may be renewed for a period of one year each succeeding January

upon payment during the month of January of the required license fee to the city clerk. A license certificate which has expired due to failure to pay the annual fee, will be deemed suspended without hearing and the licensee shall not be permitted to perform plumbing work.

Reinstatement fees as provided at section 27-240 shall be collected prior to reinstatement. After April 30 an additional penalty of \$100 shall be affixed to the fee to reinstate the license of a master plumber. After July 31 and a new test must be taken for reinstatement unless the plumber has requested and has been granted a waiver by the plumbing board of appeals. Waiver shall be granted only for good cause shown. Upon application for a waiver, an unconditional, non-refundable waiver fee of the amount of \$50 paid. No waiver shall be granted after the passage of five years.

Sec. 27-236. Reinstatement; journeyman and master plumber military service. [Res. No. 40-95, 6-27-1995]

The examining board of plumbers shall reinstate a license certificate which expires while a license is in the active military service upon payment of the annual license certificate fee and submission and evidence of such military service. Such license certificate shall be reinstated without re-examination and without payment of lapsed renewal fee.

Sec. 27-237. Grounds for revocation or suspension; journeyman and master plumber. [Res. No. 40-95, 6-27-1995]

The examining board of plumbers shall revoke or suspend a license certificate after a hearing before the examining board of plumbers when the findings show one or more of the following:

- (1) That the licensee obtained or conspired with others to obtain a license certificate by inducing the issuance thereof in consideration of the payment of money or delivery of any other thing of value or by and through a willful misrepresentation of facts to the examining board of plumbers or the code enforcement division.
- (2) That the licensee willfully violated any plumbing ordinance or resolution of the city, or any law of this state regulating plumbing or plumbers.
- (3) That the licensee has been guilty of negligence or incompetence in the performance of plumbing or in supervision of plumbing performed by apprentice or journeyman employed by a master plumber.
- (4) That the licensee has been convicted of a felony.
- (5) That the licensee has willfully loaned or in any manner transferred his license certificate to another person, to permit such person to engage illegally in plumbing contrary to this article.
- (6) That the licensee has willfully engaged in conduct not in accord with generally accepted standards of professional conduct for the trade, workmanship or business.
- (7) That licensee has worked as a plumber while his/her license is suspended.
- (8) That a master plumber has allowed a journeyman/apprentice to work in violation of

the registration provisions of this article.

Sec. 27-238. Discipline proceedings; journeyman and master plumber. [Res. No. 40-95, 6-27-1995]

No license certificate shall be subject to discipline (except suspension for non-renewal) until a written complaint is filed with the examining board of plumbers stating facts which, if proved, would constitute grounds for suspension or revocation of a license certificate as provided in this article and until an impartial hearing is held before the board.

When a written complaint is filed, the examining board of plumbers shall set a date for a hearing which shall be held in the Municipal Building, Olean, New York. The board shall send to the licensee charged in the complaint, by personal delivery or certified mail, a correct copy of the complaint and a notice stating when and where a hearing will be held. Such notice shall be served at least 20 days before the date set for the hearing.

If a license certificate is suspended or revoked, the license certificate shall be surrendered to the examining board of plumbers, but it shall be returned to the licensee upon reinstatement.

Sec. 27-239. Reinstatement of revoked license certificate; journeyman and master plumber. [Res. No. 40-95, 6-27-1995]

The examining board of plumbers may, in its discretion, reinstate a plumber's license certificate not less than three months, and not more than three years, after such license certificate has been revoked. Reinstatement by the examining board of plumbers may only be ordered after a hearing before the examining board of plumbers on the petition of the person whose license certificate has been revoked. Whenever a petition for reinstatement is filed with the examining board of plumbers together with such fee as may be established by the common council from time to time, it shall serve a copy of the petition and notice on all parties of record. The notice by the board shall state when the license certificate in question was revoked, and when and where the hearing will be held. Such notice shall be served at least 20 days before the date set for the hearing. The examining board of plumbers shall hear all material evidence in support of or against the petition and shall allow or deny the petition for reinstatement of the license certificate. The decision of the examining board of plumbers shall be given to the petitioner and to all parties of record either by personal delivery or certified mail.

If the petition for reinstatement is denied the petitioner may file his petition for rehearing within 20 days after receipt of the examining board of plumbers order, whereupon the examining board of plumbers will then order either a denial or allowance of the petition or rehearing. If such petition for rehearing is granted, the entire record shall be referred to the board and a hearing held not less than 20 days after notice of the time and place of the rehearing, the examining board shall either grant or deny the petition for reinstatement.

No more than one rehearing on the same petition for reinstatement shall be allowed; and not more than one petition for reinstatement of the same license certificate shall be considered or heard within one year. If the petition for reinstatement is granted by the examining board of plumbers it shall issue a plumber's license certificate to the petitioner

upon payment of the required annual licenses certificate fee.

Sec. 27-240. Fees. [Res. No. 40-95, 6-27-1995; Res. No. 91-02, 9-10-2002]

- (a) The annual master plumber's license certificate fee shall be \$200.
- (b) The fee for reinstatement of master plumber's license certificates shall be \$100 plus the annual fee.
- (c) The annual journeyman plumber's license certificate fee shall be \$35 per year.
- (d) The fee for reinstatement of a journeyman plumber's license certificate shall be \$5 plus the annual fee.
- (e) The annual registration fee for an apprenticeship shall be \$5.
- (f) The fee for a temporary permit for out-of-town master plumbers shall be \$300 per job.
- (g) The examination fee for journeyman and/or master plumber's license shall be \$100.

Sec. 27-241. Responsibilities of employing master plumbers. [Res. No. 40-95, 6-27-1995]

It shall be the responsibility of an employing master plumber to employ only those apprentices or journeymen licensed with the city and to verify the employee's credentials.

An employing master plumber shall be responsible for all work performed by apprentices or journeymen employed by them.

Sec. 27-242. Insurance. [Res. No. 40-95, 6-27-1995]

Liability insurance. All master plumbers shall procure and maintain at their own expense and without expense to the city, insurance for liability for damage imposed by law, of the kinds and in the amounts hereinafter provided. Insurance shall be procured through insurance companies authorized to do such business in the State of New York covering all operations under their contracts whether performed by them or employees before receiving a master plumber certificate of competency and every year thereafter at the time of renewal of the master plumber license, a certificate or certificates of insurance in forms satisfactory to the city showing compliance with this paragraph, shall be furnished to the city, to be kept on file in the department of code enforcement division, which certificate or certificates shall provide that the policy shall not be changed or canceled until 10 days written notice has been given to the city. This requirement shall apply to active master plumber license holders; those with inactive status are waived. The kinds and amounts of insurance are as follows:

Workman's compensation insurance. A policy covering the obligations of the master plumber in accordance with workman's compensation law covering all operations.

Public liability and property damage insurances. The master plumber shall [have] public general liability and property damage insurance as shall insure and protect him/her, any employees and any subcontractor performing work for him/her, from claims for damages for personal injury, including accidental death, as well as from claims for property

damages which may arise from his operations in an amount of at least \$500,000.

DIVISION 3
REQUIREMENTS; EXAMINING BOARD

Sec. 27-243. Examining board of plumbers. [Res. No. 40-95, 6-27-1995]

The examining board of plumbers for the city is continued and shall be known as the examining board of plumbers. The examining board of plumbers in the city shall consist of five persons to be appointed by the mayor of whom two shall be employing master plumbers of not less than 10 years experience in the business of plumbing, and one shall be a journeyman plumber of like experience, and the other members of the board shall be the plumbing inspector of the city or qualified officer performing the duties as such inspector, and the director of public works.

Sec. 27-244. Term of office; vacancies. [Res. No. 40-95, 6-27-1995]

The term of office of each member of such board shall be three years, from the first day of January following the appointment. Vacancies occurring by expiration of a term shall be filled by the mayor for a full term. The mayor shall appoint board members for the unexpired term when vacancies occur as a removal from the city of any member. The plumbing inspector and the director of public works or the officers holding equivalent positions or acting in like capacities designated or appointed by the mayor as herein provided, shall be ex-officio members of such examining board, and when they shall cease to hold their offices by reason or on account of which they were so designated or appointed, their successors shall act on the board in the stead.

Sec. 27-245. Compensation of members of board. [Res. No. 40-95, 6-27-1995]

The master and journeyman plumbers serving as members of the examining board of plumbers shall receive compensation for their services as shall be determined by the city common council.

Sec. 27-246. Qualifications. [Res. No. 40-95, 6-27-1995]

All members of such board shall be United States citizens and residents of the City of Olean.

Sec. 27-247. Powers and duties. [Res. No. 40-95, 6-27-1995]

The examining board of plumbers shall have power and it shall be its duty:

- (1) To meet at stated intervals; they shall also meet whenever the director of the department of public works or the fire chief of the city or the mayor thereof shall in writing direct them to do so.
- (2) To have jurisdiction over and to examine all persons desiring or intending to engage in the trade, business or calling of plumbing as employing plumbers in the city which board shall be appointed with the power of examining persons applying for certificates of competency as such employing or master plumbers or as inspectors of plumbing, to determine their fitness and qualifications for conducting the business of master plumbers or to act as inspector of plumbing, and to issue

certificates of competency to all such persons who shall have passed a satisfactory examination before such board and shall be by it determined to be qualified for conducting the business of employing or master plumbers or competent to act as inspectors of plumbers.

- (3) To formulate in conjunction with the department of public works of the city for recommendation to the mayor and common council for approval regulations concerning plumbing in this city, including the materials, workmanship and manner of executing such work and from time to time to add to, amend or alter the same.
- (4) To charge and collect from each person applying for the examination the sum dictated by the board and all monies so collected shall be paid over to the treasury of the city.

DIVISION 4 PLUMBING INSPECTION

Sec. 27-248. Plumbing inspector. [Res. No. 40-95, 6-27-1995]

To provide for the administration and enforcement of this article, the position of plumbing inspector is hereby continued. The plumbing inspector shall be a code enforcement officer of the city assigned to the code enforcement office of the city and supervised by the chief of the fire department.

Sec. 27-249. Plumbing inspector qualifications. [Res. No. 40-95, 6-27-1995]

The plumbing inspector shall be a master plumber and a resident of the city and shall comply with provisions as set forth in section 48 of the General City Law.

Sec. 27-250. Duties of the plumbing inspector. [Res. No. 40-95, 6-27-1995]

The plumbing inspector shall maintain public office hours necessary to efficiently administer the provisions of the code and amendments thereto and shall perform the following powers and duties:

- (1) Require submission of, examine and check plans and specifications, drawings, descriptions and/or diagrams necessary to show clearly the character, kind and extent of plumbing work covered by applications for a permit applied for.
- (2) Access all fees for permits issued or inspections conducted as provided by this Code, issue receipts therefore, and a duplicate copy of which shall be maintained as a record.
- (3) Inspect all plumbing and drainage work authorized by any permits, or unauthorized installations, to assure compliance with provisions of this Code or amendments thereto, approving or condemning said work in whole or in part as conditions require.
- (4) Issue a certificate of approval for any work approved by the plumbing inspector.
- (5) Condemn and reject all work done or being done or materials used or being used, which do not lie in all respects comply with the provisions of this Code and

amendments thereto.

- (6) Order changes in workmanship and/or materials essential to obtain compliance with all provisions of this Code.
- (7) Investigate any construction or work regulated by this Code and issue such notices and orders provided for elsewhere in this article.
- (8) Keep a complete record of all the transactions of the plumbing inspector.
- (9) Maintain an official register of all persons, firms or corporations lawfully entitled to carry on or engage in the business of plumbing or to work at the trade of plumbing to whom a plumber's license certificate has been issued in accordance with the provisions set forth elsewhere in this article.

Sec. 27-251. Right of entry. [Res. No. 40-95, 6-27-1995]

The plumbing inspector shall be a code enforcement officer of the city and upon proper identification have the right of entry during usual business hours, or at reasonable times, to inspect any and all buildings and premises within the jurisdiction of this Code in the performance of his/her duties.

DIVISION 5
MISCELLANEOUS MATTERS

Sec. 27-252. Dangerous and/or unsanitary conditions. [Res. No. 40-95, 6-27-1995]

- (a) Dangerous or unsanitary plumbing conditions as defined elsewhere in this Code is hereby declared to be a nuisance.
- (b) In the event that any unsanitary conditions exist or any construction or work regulated by this Code is dangerous, unsafe, unsanitary, a nuisance or a menace to life, health or property or otherwise in violation of this Code, the fire chief or his designee may require an investigation and upon determining such information to be fact, shall order any person, firm or corporation using or maintaining any such condition or responsible for the use or maintenance thereof to discontinue the use or maintenance thereof to discontinue the use or demolish the same as he may consider necessary for the proper protection of life, health or property. In the space of potable water piping or potable water using appliance or device, where a cross connection is found to exist between the potable water and contaminated water and/or waste the director of public works shall order any person, firm or corporation supplying potable water to such system, to discontinue supplying potable water thereto until such cross connection is removed and the system is made safe to life, health and/or property.
- (c) Refusal, failure or neglect to comply with any order in connection with a dangerous or unsanitary condition shall be considered a violation of this Code.
- (d) When any plumbing system is maintained in violation of this Code or in violation of any notice issued pursuant to the provisions of this Code or where a nuisance exists in any building or on a lot on which a building is situated, the fire chief shall institute any appropriate action or proceeding in any court of competent jurisdiction

to prevent, restrain, correct or abate the violation or nuisance.

Sec. 27-253. Violations and penalties. [Res. No. 40-95, 6-27-1995]

Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of an unclassified misdemeanor and upon conviction thereof shall be punishable by fine or by imprisonment or by both such fine and imprisonment. Each separate date or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense and upon conviction thereof shall be punishable as herein provided.

Sec. 27-254. Special installations. [Res. No. 40-95, 6-27-1995]

The plumbing inspector may authorize with the consent of the fire chief that special permission be granted for the installation of plumbing work in a manner different from the provisions of this Code, when, in the judgment of the plumbing inspector or fire chief it is necessary to do so due to the circumstances of construction provided a letter from the owner or his agent is received requesting his permission.

Sec. 27-255. Plumbing inspector's license fee. [Res. No. 40-95, 6-27-1995]

The plumbing inspector shall have the master plumber's license fee waived until such time as the inspector is no longer employed by the city.

Sec. 27-256. Plumbing inspection fee. [Res. No. 40-95, 6-27-1995; Res. No. 109-97, 11-25-1997; Res. No. 54-02, 5-28-2002]

- (a) There are hereby established the following fees for inspections conducted by the plumbing inspector pursuant to this Code:

\$1.50 per unit fixture value as established by and based upon the Plumbing Code (IPC) of the New York Uniform Fire Prevention and Building Code Section 709, Table 709.1.

- (b) Plumbing inspection fee covers:

Four rough inspections on-site;
One final inspection on-site;
\$50 for any additional inspection requiring a trip to site.

Master plumber shall be required to be on-site for inspection unless presence is waived by plumbing inspector.

- (c) Exemptions from inspection fees: The following are exempt from the fees established pursuant to this section:

- (1) One-family residences.
- (2) Two-family residences.

Sec. 27-257. Unlawful approval. [Res. No. 40-95, 6-27-1995]

The issuance of a permit authorizing plans or specifications shall not prevent the

plumbing inspector from thereafter requiring the correction of errors in said plans and/or specifications or from rejecting the plumbing work or drainage work when there is a violation of this Code, any other ordinance of the city or any law of the State of New York pertaining to plumbing or plumbers, applicable in the city.

Sec. 27-258. Liability of city official or employee. [Res. No. 40-95, 6-27-1995]

This article shall not be constructed as imposing upon the city, any liability or responsibility for damage resulting from defective plumbing or drainage systems, or the installation thereof, nor shall the city or any official or employee thereof be held as assuming any such liability or responsibility by reasons or inspection authorized hereunder.

Sec. 27-259. Administration. [Res. No. 40-95, 6-27-1995]

- (a) Administration of this Code shall be the responsibility of the department of fire, buildings and emergency medical services.
- (b) The department of fire, buildings and emergency medical services shall develop rules and regulations to establish licensing procedures and administration of this Code.

Sec. 27-260. Fire protection system. [Res. No. 40-95, 5-27-1995]

- (a) Except in an emergency after notice to the fire dispatcher of the fire department, no person whether licensed or unlicensed may work on any sprinkler system unless a permit is obtained from the department of fire, buildings and emergency medical services.
- (b) No person may disconnect a sprinkler system without notifying the fire dispatcher.

Sec. 27-261. Adoption by reference. [Res. No. 40-95, 6-27-1995; Res. No. 91-02, 9-10-2002]

The Plumbing Code of New York State and the provisions of Article 4 of General City Law shall be adopted as reference. Should there be any other matters not covered by the City of Olean Plumbing Code, all inquiries and decisions shall be made by the chief of the fire department. (Plumbing Code of New York State)

- (1) There are hereby established the following fees for inspections conducted by the plumbing inspector pursuant to this Code:

\$1.50 per unit fixture value as established by and based upon the Plumbing Code (IPC) of the New York Uniform Fire Prevention and Building Code Section 709, Table 709.1.

Chapter 28

ZONING

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

CROSS REFERENCES

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

ARTICLE 1

TITLE, PURPOSE, AUTHORITY

Sec. 1.0. Short title.

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

Sec. 1.1. Authority.

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

Sec. 1.2. Long title.

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

Sec. 1.3. Purpose.

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

and regulated as hereinafter provided.

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

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

ARTICLE 2 INTERPRETATION

Sec. 2.0. Interpretation, separability and conflict.

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

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

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

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

2.0.4 This law is not intended to abrogate or annul any easement, covenant, or any other

private agreement. Such private agreements shall not allow what the law prohibits.

2.0.5 Whenever the requirements of this law are at variance with the requirements of other fully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern.

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

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

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

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

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

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

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

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

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

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

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

e) **MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to

massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

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

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

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

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

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

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

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

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

APARTMENT — See dwelling unit.

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

AREA, BUILDING — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of terraces and

uncovered steps. All dimensions shall be measured between the exterior faces of walls.

AREA, LOT — The total area within the lot boundary lines excluding any area included in a public street right-of-way.

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

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

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

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

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

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

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

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

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

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

BUILDING, ACCESSORY — See: Accessory structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTIGUOUS PARCEL — A tract of land under the control of the applicant or its agent that is not divided by any natural or manmade barriers such as existing streets and

highways, public rights-of-way identified on the official map and is not bisected by waterbodies.

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

CONVALESCENT HOME — See: Nursing home.

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

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

CREMATION — A heating process that incinerates deceased human beings.

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

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

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

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

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

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

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

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

DWELLING, ONE-FAMILY SEMI-DETACHED — A building containing one

dwelling unit and having one party wall and one side yard. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

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

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

DWELLING GROUP — See: Clustered projects.

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

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

FAMILY MEANS

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

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

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

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

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

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

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

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

inches or more.

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

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

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

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

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

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

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

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

HOSPITAL — An institution for the care and treatment of the sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury which require bed care, out-patient care or emergency room care.

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

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

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

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

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

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

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

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

LAND USE ACTIVITY — Any construction or other activity which changes the use or

appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: New structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

LODGING HOUSE — See: Boarding house.

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

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

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

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

LOT COVERAGE — See: Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OPEN SPACE — An area which is not developed with principal or accessory structures

and which is intended to provide light and air, and is designed for either environmental, scenic or recreational purposes. Open space may include, but is not limited to, decorative planting, preservation of existing natural areas, walkways, active and passive recreation areas and playgrounds. Open space shall not be deemed to include driveways, roadways or parking areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROOMING HOUSE — See: Boarding house.

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

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

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

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

SETBACK — The required distance in feet from:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

USE — This term is employed in referring to:

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

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

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

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

facilities for boarding animals receiving treatment.

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

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

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

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

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

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

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

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

ARTICLE 3 ESTABLISHMENT OF DISTRICTS

Sec. 3.0. Application of regulations.

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

Sec. 3.1. General regulations.

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

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

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

spaces shall be smaller than those required by this law.

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

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

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

Sec. 3.2. Zoning districts.

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

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

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

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

Sec. 3.4. Interpretation of district boundaries.

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

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

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

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

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

ARTICLE 4 ZONING USE DISTRICTS

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

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

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

4.0.2.a Permitted principal uses.

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

4.0.2.b Permitted accessory uses, buildings and structures.

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

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

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

5. Private parking lots.

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

1. Home occupations.

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

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

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

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

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

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

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

4.1.2.a Permitted principal uses.

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

4.1.2.b Permitted accessory uses, buildings and structures.

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

2. Antennas.

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

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

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

1. Home occupations.

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

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

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

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

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

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

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

4.2.2.a Permitted principal uses.

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

4.2.2.b Permitted accessory uses, buildings and structures.

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

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

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

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

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

1. Home occupation uses.

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

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

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

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

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

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

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

4.3.2.a Permitted principal uses.

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

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

4.3.2.b Permitted accessory uses, buildings and structures.

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

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

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

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

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

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

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

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

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

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

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

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

4.4.2.a Permitted principal uses.

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

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

4.4.2.b Permitted accessory uses, buildings and structures.

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

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

1. Amusement game centers.

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

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

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

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

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

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

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

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

4.5.2.a Permitted principal uses.

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

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

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

4.5.2.b Permitted accessory uses, buildings and structures.

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

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

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

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

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

law.

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

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

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

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

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

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

4.6.2.a Permitted principal uses.

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

4.6.2.b Permitted accessory uses, buildings and structures.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4.7. Industrial Use District (I).

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

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

4.7.2.b Permitted accessory uses, buildings and structures.

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

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

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

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

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

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

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

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

Sec. 4.8. General Industrial District (I2).

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

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

4.8.2.a Permitted principal uses.

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

4.8.2.b Permitted accessory uses, buildings and structures.

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

Sec. 4.9. Special Industrial District (I3).

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

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

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

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

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

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

[Sections 4.10 through 4.13 reserved for future use.]

Sec. 4.10. through Sec. 4.13. Reserved.

Sec. 4.14. Use regulation table. ²⁵

Sec. 4.15. Activities prohibited in all districts.

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

ARTICLE 5
INCENTIVE ZONING

Sec. 5.0. Intent.

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

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

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

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

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

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

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

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

Sec. 5.3. Zoning incentives which may be granted.

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

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

Sec. 5.4. Incentive zoning applications.

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

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

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

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

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

Sec. 5.5. Application review process.

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

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

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

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

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

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

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

council.

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

Sec. 5.6. Public hearings and environmental compliance.

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

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

Sec. 5.7. Final common council action.

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

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

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

ARTICLE 6

AREA AND BULK REGULATIONS DENSITY CONTROL

Sec. 6.0. Purpose.

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

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

The attached schedule of density controls is hereby adopted and declared to be part of this zoning chapter. It is hereinafter referred to as the "City of Olean density control schedule."²⁶

Sec. 6.2. Corner lots.

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

Sec. 6.3. Projections into required yards.

6.3.1 The following projections into required yards are permitted:

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

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

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

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

Sec. 6.4. Compliance with maximum residential density.

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

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

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

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

Sec. 6.6. Building separations.

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

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

Sec. 6.7. Exceptions to front yard requirements.

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

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

Sec. 6.8. General exception to height regulations.

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

Sec. 6.9. Exceptions to side yard requirements.

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

Sec. 6.10. Through lots.

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

Sec. 6.11. Transition yard requirements.

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

Sec. 7.0. Intent.

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

Sec. 7.1. Permitted uses.

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

7.1.1 Permitted principal uses.

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

7.1.2 Permitted accessory uses, buildings and structures.

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

4. Private parking lots.

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

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

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

3. Home occupations.

Sec. 7.2. Dimensional requirements.

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

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

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

Sec. 7.4. Signage.

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

Sec. 7.5. Site plan review.

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

ARTICLE 8
PLANNED BUSINESS DISTRICT (PB)

Sec. 8.0. Intent.

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

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

Sec. 8.1. Permitted uses.

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

8.1.1 Permitted principal uses.

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

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

8.1.2 Permitted accessory uses, buildings and structures.

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

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

1. Colleges and institutions of higher education.

2. Funeral homes.
3. Private golf courses.

Sec. 8.2. Dimensional requirements.

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

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

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

Sec. 8.4. Signage.

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

Sec. 8.5. Site plan review.

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

ARTICLE 9

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

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

Sec. 9.0. Special uses.

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

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

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

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

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

9.0.3 Procedures for special uses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The concept plan shall include the following information:

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

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

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

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

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

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

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

including emergency vehicle access.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 9.2. Appeal.

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

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

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

ARTICLE 10

DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS

Sec. 10.0. General.

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

Sec. 10.1. Lots and blocks.

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

Sec. 10.2. Streets, roads, and sidewalks.

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

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

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

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

Sec. 10.3. Off-street parking requirements.

10.3.1 General requirements.

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

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

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

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

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

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

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

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

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

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

10.3.5 Location of required parking spaces.

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

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

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

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

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

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

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

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

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

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

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

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

Side yard: Minimum six feet.

Rear yard: Minimum six feet.

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

Side yard: Minimum three feet.

Rear yard: Minimum three feet.

- (3) "I" Districts:

Side yard: No minimum.

Rear yard: No minimum.

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

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

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

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

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

Sec. 10.6. Driveway standards.

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

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

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

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

Sec. 10.7. Fences and walls.

Fences and walls are permitted as follows:

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

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

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

10.7.4 Fence and wall regulations.

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

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

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

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

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

Sec. 10.9. Design.

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

Sec. 10.10. Open space, parks and playgrounds.

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

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

10.10.2 Such lands shall have locational and physical characteristics which render

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

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

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

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

Sec. 10.11. Utilities.

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

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

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

Sec. 10.12. Industrial district regulations.

10.12.1 Design standards.

1. General standards. The following general standards are hereby adopted for the control of any industrial use:

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

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

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

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

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

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

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

and cartons shall be stored in suitable containers.

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

Sec. 10.13. Home occupation.

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

Sec. 10.14. Satellite TV antennas.

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

10.14.1 Satellite antenna size.

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

10.14.2 Satellite antenna location.

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

10.14.3 General provisions.

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

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

Sec. 10.15. Townhouse and multi-family developments.

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

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

1. Front yard—Minimum 25 feet or 10 feet per [story].

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

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

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

10.16.1 Minimum lot size shall be:

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

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

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

Sec. 10.17. Buffer and landscaping requirements.

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

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

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

10.17.3 Planting standards.

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

Sec. 10.18. Fast food restaurants.

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

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

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

Sec. 10.19. Drive-in use regulations.

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

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

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

Sec. 10.20. Commercial parking lots and structures.

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

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

Sec. 10.21. Swimming pool regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 10.23. Mobile home park development standards.

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

10.23.1 General requirements.

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

10.23.2 Tract requirements.

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

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

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

store all solid waste produced.

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

10.23.3 Lot requirements.

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

10.23.4 Lot improvement requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10.24.5 Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10.25.5 Abandonment.

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

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

ARTICLE 11 SIGNAGE

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

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

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

11.0.3 Signs restricted.

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

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

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

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

Sec. 11.1. Signs in residential use districts.

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

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

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

11.1.2 Bulletin boards.

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

residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11.2.3 General requirements.

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

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

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

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

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

Sec. 11.3. Signs in other use districts.

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

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

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

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

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

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

Sec. 11.4. Administration and violations.

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

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

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

ARTICLE 12 NON-CONFORMING BUILDINGS, USES AND LOTS

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 12.2. Necessary maintenance and repairs.

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

Sec. 12.3. Prior construction.

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

Sec. 12.4. Existing undersized lots.

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

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

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

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

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

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

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

Sec. 12.5. Reduction in lot area.

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

ARTICLE 13
GENERAL EXCEPTIONS

Sec. 13.0. Public properties.

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

Sec. 13.1. Public utilities.

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

ARTICLE 14
ZONING BOARD OF APPEALS

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

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

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

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

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

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

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

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

neighborhood; and

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

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

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

3. Area variances.

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

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

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

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

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

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

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

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

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

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

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

14.0.4 Mandatory referral.

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

14.0.5 Procedure.

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

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

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

14.0.6 Rules of procedure, by-laws, forms.

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

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

ARTICLE 15 ADMINISTRATION

Sec. 15.0. Enforcement.

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

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

Sec. 15.1. Building permits.

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

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

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

Sec. 15.2. Certificate of compliance.

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

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

Sec. 15.3. Inspection.

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

**ARTICLE 16
AMENDMENTS**

Sec. 16.0. Procedure.

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

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

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

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

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

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

Sec. 16.3. Public notice and hearing.

The common council of the city shall, by resolution, fix the time and place of the public hearing and cause notice to be given as follows:

16.3.1 By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the city, not less than 10 days prior to the date of public hearing.

16.3.2 By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in a manner prescribed by law.

16.3.3 (For zoning map amendments only.) By mailing a notice of such public hearing to the owners of all lands within a radius of 250 feet from any part of the property or properties for which the change will be applicable and such notice to all lands within the areas for which it will be applicable. This notice is provided as a courtesy only, and failure of the city to fully comply with this noticing provision shall not invalidate any future amendment.

Sec. 16.4. Protest by owners.

If a protest against the proposed amendment is presented to the common council, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the common council.

Sec. 16.5. Decision by common council.

The common council shall set the public hearing as required and shall render its decision within 60 days of the receipt of the planning board's report, (except the common council shall not be required to hold a public hearing prior to submission to the planning board). If the common council deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

Sec. 16.6. Notification of decision.

The common council shall notify the applicant for an amendment of its decision in writing within five days after the decision has been rendered.

Sec. 16.7. Filing with the secretary of state.

Every amendment to this Law shall be filed with the Secretary of State of New York and become effective five days thereafter.

ARTICLE 17
REMEDIES

Sec. 17.0. Complaints of violations.

Whenever a violation of this law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the code enforcement officer, who shall properly record such complaint and immediately investigate the report thereon.

Sec. 17.1. Procedure for abatement of violations.

17.1.1 Whenever in the opinion of the code enforcement officer, after proper examination and inspection, there appears to exist a condition which is a violation of any provision of this law, or of any rule or regulation adopted pursuant thereto, the code enforcement officer shall serve a written notice of violation upon the owner of the property in violation. Fourteen days after notification the condition shall be considered a violation and shall be subject to appropriate penalties and other remedies as provided for herein and under the laws of the State of New York.

17.1.2 Such notice of violation shall: (1) inform the owner of the nature and details of the condition and the reason why it is a violation, (2) recommend remedial action which if taken will effect compliance with this chapter and other rules and regulations of the city, and (3) state the date by which the violation must be remedied or removed in order to be in compliance with this law.

17.1.3 In the event the violation is not remedied within the time allowed, then the person notified of such violation shall be subject to conviction for a violation as defined by the Penal Laws of the State of New York and shall be subject to a fine of not more than \$250 or by sentence of imprisonment for a period of not more than 15 days, or both. Each week that the violation continues shall constitute a separate offense.

Sec. 17.2. Alternative penalty.

In addition to the foregoing remedies, an action or proceeding in the name of the city may be commenced in any court of competent jurisdiction to compel compliance with or restrain violation of this chapter or orders issued in compliance with this law.

In the case of any violation or threatened violation of any of the provisions of this law, or conditions imposed by the common council or planning board of the city, in addition to other remedies herein provided, the common council may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction,

moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**ARTICLE 18
FEE SCHEDULE**

A schedule of fees for all permits and applications required by this chapter shall be set by the mayor and common council of the city by resolution from time to time.

**ARTICLE 19
REPEAL**

The zoning law adopted by the city on November 12, 1993, as amended subsequently from time to time, is hereby repealed as to the effective date of this law. Such repeal shall not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes place.

**ARTICLE 20
EFFECTIVE DATE**

This zoning law of the city shall be effective upon adoption.

**ARTICLE 21
DOWNTOWN OLEAN FORM-BASED ZONING CODE
[Added 12-22-2015 by L.L. No. 8-2015]**

(a) The attached "Downtown Olean Form-Based Zoning Code" is added as a new Article 21.²⁷

(b) Relationship to Other Zoning Laws: Any conflict between the Downtown Olean Form-Based Zoning Code and any other City ordinance or regulation must be resolved in favor of the intent of the Downtown Olean Form-Based Zoning Code.

28 Attachment 1

**Use Regulation Table
[Amended 6-9-2015 by L.L. No. 3-2015; 6-24-2015 by L.L. No. 4-2015]**

Key to abbreviations:

- P - Permitted
- SP - Special Permit Required
- No letter - Not Permitted

Districts:

- | | |
|--|------------------------------|
| R1 = Single-Family Residential | WC = Waterfront Conservation |
| R2 = Single-Family/General Residential | I = Industrial |
| R3 = General Residential | I2 = General Industrial |
| RT = Residential Transition | I3 = Special Industrial |
| CC = City Center | PR = Planned Residential |
| GC = General Commercial | PB = Planned Business |

<i>Types of Uses</i>	<i>Use Districts</i>											
Residential uses	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB

27. Editor's Note: The Downtown Olean Form-Based Zoning Code is included in the online version of the Code of the City of Olean (eCode360®). Said document is also on file in the City offices.

Bed and breakfast			SP	P	P	P	P					SP	
Clustered Projects			SP			P	P					SP	
Detached single-family dwellings	P	P	P	P			P					P	
Dwelling units above first floor business				P	P	P	P						
Inns				P	P	P	P						
Mobile home parks												SP	
Multi-family dwellings			P	P	P	P	P					SP	
Semi-detached one-family d.u.'s			P	P			P					SP	
Senior citizen housing	P	P	P	P	P	P						SP	
Townhouses			SP	P	P		P						
Two-family dwellings			P	P			P					SP	
Accessory uses	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Accessory uses and structures customarily incident to any of the uses mentioned herein and not on the same lot			SP	SP	SP	P	P	P	P	P	P	P	P
Accessory uses and structures customarily incident to any of the uses mentioned herein and on the same lot	P	P	P	P	P	P	P	P	P	P	P	P	P
Antennas	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupations	SP	SP	SP	P		P	P					SP	
Parking lots, private	SP	SP	SP	P	P	P	P	P	P	P	P	P	P
General uses	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Adult care facilities	SP	SP	P	P	P	P	P	P	P	P	P	P	P
Agricultural uses			P										
Cemeteries								P	P	P			
Churches or places of worship	SP	SP	P	P	P	P	P					P	
Colleges and institutions of higher education			SP	SP	P	P	SP	P	P	P	SP	SP	
Daycare centers			SP	P	P	P		SP	SP	SP	P	P	
Governmental uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Hospitals			SP										
Libraries	SP	SP	P	P	P	P	P					P	P
Museums	SP	SP	SP	P	P	P	P					P	P
Non-profit clubs, membership			SP	P	P	P	P						P
Nursery schools			P	P	P	P						P	
Nursing (and convalescent) homes			SP	P		P							P
Private golf courses		SP				SP						SP	SP
Private or public schools	P	P	P	P	P	P						P	P
<i>Types of Uses</i>	<i>Use Districts</i>												
General uses (cont'd)	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Public parks and recreational uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Public utilities or transportation uses				SP	P	P		P	P	P			P
Solar energy production facility						SP	SP	SP	SP	SP			
Telecommunications tower							SP	SP	SP	SP			
Veterinary hospitals				SP		P		SP	SP	SP			P
Industrial uses	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Auto-body repair/metal finishing shop								P	P	P			
Contractor yards (and equipment)								P	P	P			
Manufacture, fabrication, extraction, assembly, and other handling of material, including offices and showrooms								P	P	P			P
Research laboratories					P	P		P	P	P			P
Trucking terminals								P	P	P			
Warehousing and wholesale and retail distribution centers including offices and showrooms					P	P		P	P	P			P
Business uses	R1	R2	R3	RT	CC	GC	WC	I	I2	I3	PR	PB	
Adult uses								SP	SP				
Amusement game centers					SP	P							P
Antique and craft shops				P	P	P	P						P

Art galleries				P	P	P	P					P
Banks and financial institutions				P	P	P	P	SP	SP	SP		P
Barber and beauty shops				P	P	P	P					P
Bars and night clubs				SP	P	P	P	SP	SP	SP		P
Bowling alleys					P	P						
Car washes						P						
Crematories/crematoriums								P	P	P		
Drive-in uses				SP	SP	P		SP	SP	SP		P
Dry cleaning businesses				SP	P	P		P	P	P		P
Funeral homes				SP	SP	SP		P	P	P		SP
Garages, service/repair					P	P		P	P	P		P
Gasoline filling stations						P		SP	SP	SP		P
Gasoline/grocery service marts						P		SP	SP	SP		P
General business offices				P	P	P		P	P	P		P
Hotels and motels				P	P	P	P	P	P	P		P
Medical clinics					P	P						
Newspaper and publishing facilities				P	P	P		P	P	P		P
Parking lots, commercial				SP	P	P	P	P	P	P		P
Parking structures					P	P		P	P	P		P
Personal service establishments				P	P	P	P					P
Photographic studios				P	P	P	P					P
Professional office buildings				P	P	P		P	P	P		P
Professional offices				P	P	P		P	P	P		P
Recreation uses, commercial				P	P	P	SP	P	P	P		P
Repair shops (non-vehicle)					P	P		SP	SP	SP		
Restaurants												
Fast food					P	P	SP	SP	SP	SP		P
Standard				P	P	P	SP	SP	SP	SP		P
Retail businesses and commercial uses other than listed above				SP	P	P		SP	SP	SP		P
Self-service laundries				SP	P	P						
Theaters				SP	P	P	P					P
Vehicles sales (automobile, boat, recreational) and/or repair					P	P		P	P	P		P

28 Attachment 2

City of Olean Zoning Law Density Control Table

Use District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Yard Requirements (feet)			Maximum Lot Coverage			Maximum Building Height (feet/story)	Minimum Building Separation On Same Lot (feet)
			Front	Side	Rear	Principal Use (%)	Garage Use (%)	Accessory Use (%)		
R1	9,000	60	25	4*	35	25	7	2	40 3	5
R2	6,000	50	20	4**	20	30	10	2	40 3	5
R3	4,000	40	15	4**	10	35	12	5	40 3	5
RT	4,000	40	15	4**	10	50	12	10	40 3	0

CC	2,000	30	0	0	0	50	12	10	75 5	0
GC	2,000	30	0	0	0	50	12	10	40 3	0
WC	4,000	40	15	4**	10	35	12	5	40 3	5
I	N/A	N/A	50	N/A	N/A	50	12	10	75 N/A	0
I2	N/A	N/A	50	N/A	N/A	50	12	10	75 N/A	0***
I3	N/A	N/A	50	20****	10****	50	12	10	75 N/A	0***
PR	10,000	100	40	20	10	25	10	10	30 2	5
PB	N/A	N/A	N/A	N/A	N/A	25	10	10	40 3	5

* The minimum width required for a side yard is four feet on any side, with both sides together totaling a minimum of 25 feet.

** The minimum width required for a side yard is four feet on any side, with both sides together totaling a minimum of 14 feet.

*** See section 10.22 for minimum separation distance requirements between adult uses and other specific uses.

**** These setbacks shall be doubled for any parcel that is adjacent to a residentially zoned area.

Chapter CCT

CODE COMPARATIVE TABLES

Sec. CCT-1. 1971 Charter Laws.

This table gives the location within parts II and III of sections of the 1971 Charter Laws.

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259, 260	Pt. II, § 7-62, Pt. II, § 7-63
262	Pt. II, § 7-64
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337A	Pt. II, § 5-60
337B	Pt. II, § 5-61
337C	Pt. II, § 5-62
394	Pt. II, § 23-4

Sec. CCT-2. 1971 Code.

This table gives the location within parts II and III of those sections of the 1971 Code, as updated through May 8, 1990, which are included. Sections of the 1971 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of local laws, ordinances or resolutions adopted subsequent thereto, see the table immediately following this table.

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29-3, 29-4	Pt. III, § 25-2, Pt. III, § 25-3
29-6	Pt. III, § 25-4
30-25, 30-26	Pt. III, § 26-41, Pt. III, § 26-42
30-32, 30-33	Pt. III, § 26-86, Pt. III, § 26-87
30-34	Pt. III, § 26-89
30-35	Pt. III, § 26-88
30-36	Pt. III, § 26-91
30-37	Pt. III, § 26-93
30-38	Pt. III, § 26-90
30-39	Pt. III, § 26-94
30-40	Pt. III, § 26-92
30-46— 30-48	Pt. III, § 26-61— Pt. III, § 26-63
30-49	Pt. III, § 26-66
30-50(a), 30-50(b)	Pt. III, § 26-68, Pt. III, § 26-69
30-51(a), 30-51(b)	Pt. III, § 26-64, Pt. III, § 26-65
30-52	Pt. III, § 26-70
30-53	Pt. III, § 26-67
30-59(a), 30-59(b)	Pt. III, § 26-111, Pt. III, § 26-112
30-60	Pt. III, § 26-113
30-66	Pt. III, § 26-131
30-67	Pt. III, § 26-133
30-68	Pt. III, § 26-132
30-74, 30-75	Pt. III, § 26-46, Pt. III, § 26-47
30-76	Pt. III, § 26-45
30-82, 30-83	Pt. III, § 26-43, Pt. III, § 26-44
31-1, 31-2	Pt. III, § 27-1, Pt. III, § 27-2
31-13	Pt. III, § 27-22
31-24	Pt. III, § 27-41
31-25— 31-29	Pt. III, § 27-43— Pt. III, § 27-47
31-30— 31-43	Pt. III, § 27-136— Pt. III, § 27-149
31-44— 31-48	Pt. III, § 27-116— Pt. III, § 27-120

31-49	Pt. III, § 27-48
31-50— 31-57	Pt. III, § 27-186— Pt. III, § 27-193
31-58	Pt. III, § 27-50
31-59	Pt. III, § 27-81
31-60	Pt. III, § 27-49
31-61— 31-64	Pt. III, § 27-96— Pt. III, § 27-99
31-65— 31-67	Pt. III, § 27-166— Pt. III, § 27-168
31-68	Pt. III, § 27-42

Sec. CCT-3. Subdivision Regulations.

This table shows the location within part III of the Subdivision Regulations as amended through May 8, 1990.

Subdivision Regulations Section Section this Code

1.200	Pt. III, § 22-4
1.300	Pt. III, § 22-3
2.100	Pt. III, § 22-1
2.200	Pt. III, § 22-1
3.101— 3.104	Pt. III, § 22-26— Pt. III, § 22-29
3.200	Pt. III, § 22-30
3.300	Pt. III, § 22-31
3.401, 3.402	Pt. III, § 22-32, Pt. III, § 22-33
4.100— 4.110	Pt. III, § 22-76— Pt. III, § 22-86
4.200	Pt. III, § 22-106
4.201— 4.205	Pt. III, § 22-110— Pt. III, § 22-114
4.301— 4.303	Pt. III, § 22-107— Pt. III, § 22-109
5.100	Pt. III, § 22-51
5.200	Pt. III, § 22-52
5.300	Pt. III, § 22-53
5.400	Pt. III, § 22-54
6.100	Pt. III, § 22-5
7.100	Pt. III, § 22-2

Sec. CCT-4. Zoning Ordinance.

This table shows the location within part III of the Zoning Ordinance as amended through May 8, 1990.

Zoning Ordinance Article	Section	Section this Code
1	1, 2	Pt. III, § 28-1, Pt. III, § 28-2
2	1	Pt. III, § 28-76
	1(h)	Pt. III, § 28-264
	2, 3	Pt. III, § 28-77, Pt. III, § 28-78
	3-A	Pt. III, § 28-118
	4	Pt. III, § 28-96
3	1, 2	Pt. III, § 28-116, Pt. III, § 28-117
	3, 4	Pt. III, § 28-119, Pt. III, § 28-120
4	1, 2	Pt. III, § 28-136, Pt. III, § 28-137
	3	Pt. III, § 28-139
	4	Pt. III, § 28-138
	5	Pt. III, § 28-140
5	1— 4	Pt. III, § 28-156— Pt. III, § 28-159
5A	1	Pt. III, § 28-236
6	1	Pt. III, § 28-176
	2	Pt. III, § 28-178
	3	Pt. III, § 28-177
7	1, 2	Pt. III, § 28-196, Pt. III, § 28-197
8	1— 3	Pt. III, § 28-216— Pt. III, § 28-218
9	1, 2	Pt. III, § 28-256, Pt. III, § 28-257
	2-A	Pt. III, § 28-258
	3— 7	Pt. III, § 28-259— Pt. III, § 28-263
10	1	Pt. III, § 28-27
11	1	Pt. III, § 28-26
12	1, 2	Pt. III, § 28-28
	3A	Pt. III, § 28-28
13	1— 4	Pt. III, § 28-29
14		Pt. III, § 28-4
15	1— 7	Pt. III, § 28-46— Pt. III, § 28-52
	8— 10	Pt. III, § 28-54— Pt. III, § 28-56

	11	Pt. III, § 28-53
16	1	Pt. III, § 28-30
16A	1— 5	Pt. III, § 28-306— Pt. III, § 28-310
17		Pt. III, § 28-5
18	1	Pt. III, § 28-3

Sec. CCT-5. Laws of N.Y. (Special Acts).

This table gives the location within parts II and III of Laws of New York (Special Acts).

Laws of N.Y. Year Chapter Section Section this Code

1915	535	31	Pt. II, § 23-2
		54	Pt. II, § 7-21
		55	Pt. II, § 27-21
		82	Pt. II, § 7-56
		83— 85	Pt. II, § 7-58— Pt. II, § 7-60
		88	Pt. II, § 7-61
		89	Pt. II, § 7-57
			Pt. II, § 7-62, Pt. II, § 7-63
		90	Pt. II, § 7-64
		91	Pt. II, § 5-1
		92	Pt. II, § 5-16
		97	Pt. II, § 5-31— Pt. II, § 5-36
			Pt. II, § 5-38— Pt. II, § 5-42
		99	Pt. II, § 27-3
		100	Pt. II, § 5-56, Pt. II, § 5-57
		125	Pt. II, § 23-4
1916	543	1	Pt. II, § 5-56, Pt. II, § 5-57 Pt. II, § 27-3

Sec. CCT-6. Local Laws.

This is a numerical listing of the local laws of the city used in this Code, Repealed or superseded laws and any omitted materials are not reflected in this table.

L.L. No.	Section	Section this Code
3-1934	5	Pt. II, § 7-21 Pt. II, § 27-21

2-1937	1(1)	Pt. II, § 6-22
	1(2)	Pt. II, § 6-21
	1(3)	Pt. II, § 6-24
	1(4)	Pt. II, § 6-23
	1(5)— 1(14)	Pt. II, § 6-25— Pt. II, § 6-34
1-1938	1	Pt. II, § 6-21— Pt. II, § 6-23
2-1939	1	Pt. II, § 6-22
		Pt. II, § 6-23
	2	Pt. II, § 6-26
		Pt. II, § 6-29
18-1940	1	Pt. II, § 5-31— Pt. II, § 5-36
		Pt. II, § 5-38— Pt. II, § 5-42
24-1940	1	Pt. II, § 6-22, Pt. II, § 6-23
1-1941	1	Pt. II, § 7-57 Pt. II, § 7-62, Pt. II, § 7-63
2-1941	2	Pt. II, § 6-21— Pt. II, § 6-23
1-1942	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
1-1944	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
1-1945	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
2-1946	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
1-1947	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
2-1948	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
3-1949	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
2-1950	2	Pt. II, § 6-22, Pt. II, § 6-23
		Pt. II, § 6-34
2-1955	2	Pt. II, § 6-22, Pt. II, § 6-23 Pt. II, § 6-34
1-1964	1	Pt. II, § 2-22
	2	Pt. II, § 2-21

	3— 7	Pt. II, § 2-23— Pt. II, § 2-27
3-1964	1	Pt. II, § 5-34— Pt. II, § 5-36
	2	Pt. II, § 5-33
	3	Pt. II, § 5-31
		Pt. II, § 5-33
		Pt. II, § 5-36
	4, 5	Pt. II, § 5-38
	6	Pt. II, § 5-38
		Pt. II, § 5-40— Pt. II, § 5-42
	7	Pt. II, § 5-32
	9	Pt. II, § 5-2
		Pt. II, § 5-34
1-1966	2— 3	Pt. II, § 7-23— Pt. II, § 7-53
	10	Pt. II, § 7-29
4-1967	1	Pt. II, § 3-3
1-1968	1	Pt. II, § 23-27
	3	Pt. II, § 23-27
6-1968	1	Pt. II, § 5-34— Pt. II, § 5-36
	2	Pt. II, § 5-22
	3	Pt. II, § 5-31
		Pt. II, § 5-33
		Pt. II, § 5-36
	4	Pt. II, § 5-37
	6, 7	Pt. II, § 5-38
	8	Pt. II, § 5-36
		Pt. II, § 5-40— Pt. II, § 5-42
	9	Pt. II, § 5-32
	11	Pt. II, § 5-2
		Pt. II, § 5-34
4-1973	1	Pt. II, § 23-27
2-1974	1	Pt. II, § 23-27
1-1976	1	Pt. II, § 23-27
1-1978	1	Pt. II, § 23-27
3-1979	I, II	Pt. II, § 5-56, Pt. II, § 5-57

	IV— VI	Pt. II, § 5-60— Pt. II, § 5-62
1-1950	1	Pt. II, § 23-37
2-1960	1— 3	Pt. II, § 4-47— Pt. II, § 4-46
1-1962	1	Pt. II, § 23-37
2-1962	2	Pt. II, § 4-1
1-1963	2, 3	Pt. II, § 3-1
1-1964	1	Pt. II, § 6-1
1-1965	1, 2	Pt. II, § 2-52, Pt. II, § 2-53
	3	Pt. II, § 2-51
	4— 9	Pt. II, § 2-54— Pt. II, § 2-59
	10	Pt. II, § 2-53
1-1987	I, II	Pt. II, § 5-56, Pt. II, § 5-57
	IV— VI	Pt. II, § 5-60— Pt. II, § 5-62
3-1987		Pt. II, § 26-261, Pt. II, § 26-262
	1— 3	Pt. II, § 26-263— Pt. II, § 26-265
1-1989	1	Pt. II, § 5-56— Pt. II, § 5-59
2-1989	1	Pt. II, § 5-59
2-1990	1— 4	Pt. II, § 2-37
3-1990	1	Pt. II, § 5-17
2-1991	1— 6	Pt. II, § 2-36
1-1992	3-3	Pt. II, § 5-3
67-96(Res.)		Pt. II, § 5-59(e)(5)
117-96(Res.)		Pt. II, § 2-36
1-00	arts. 1— 90	Pt. III, ch. 26, §§ 1— 90
3-00	1	Pt. III, § 14.0.1
4-00	1	Pt. III, § 10.5.1(3)(a)(2)
	2	Pt. III, § 10.5.1(3)(b)
	3	Pt. III, § 9.1.2.(7)
5-00	1	Pt. III, ch. 26, § 12.1.3
6-00	1	Pt. III, ch. 26, § 2.1
2-02	1	2-53(a)
4-02	1	Pt. III, Ch. 28, § 11.0.3.3.
5-02	1	Added Pt. III, Ch. 28, § 11.2.1.4.
6-02	1	Pt. III, Ch. 28, § 9.1.9.

7-02	1	Added Pt. III, Ch. 28, § 4.2.2.c.12.
1-03	1	Added Pt. III, Ch. 28, § 9.1.11.
1-04		Pt. III, Ch. 3, § 3-3.
2-05	1	Pt. III, Ch. 28, § 2.1.
1-08	1	Repealed Pt. II, Ch. 6, § 6-1
2-08	2	Added Pt. II, Ch. 6, § 6-41
3-08	1	
4-08		Added Pt. III, Ch. 19.7, §§ 19.7-1— 19.7-4
5-08		Pt. II, Ch. 2, § 2-36
1-2014	1, 2	Added Pt. II, Ch. L.L. 4.5, Art. I
2-2014	1— 3	Added Pt. II, Ch. L.L. 4.5, Art. II
3-2014		Pt. II, Ch. L.L. 6-61— 6-66, 6-70
1-2015		Added Pt. II, Ch. L.L. 7, § LL7-22
2-2015	1— 7	Added Pt. II, Ch. LL2.5, § LL2.5-1— LL2.5-7
3-2015		Pt. III, Ch. 28
4-2015		Pt. III, Ch. 28
5-2015		Pt. III, Ch. 28
6-2015	1— 10	Pt. II, Ch. LL4.5, Art. I
7-2015		Pt. III, Ch. 28
8-2015		Pt. III, Ch. 28, Art. 21 (eCode only)
1-2016		Pt. II, Ch. LL2, Art. V
1-2017		Pt. III, Ch. 6, Art. II

Sec. CCT-7. Ordinances and Resolutions.

This table gives the location within this Code of those ordinances and resolutions adopted since the 1971 Code, as updated through May 8, 1991, which are included herein. Ordinances and resolutions adopted prior to such date were incorporated into the 1971 Code, as supplemented. Ordinances and resolutions adopted since May 8, 1991, and not listed herein, have been omitted as repealed, superseded or not of a general and permanent nature.

Res. No.	Date	Section	Section this Code
85-90	6-12-1990	2	Pt. III, § 24-136
98-90	7-24-	A-F	Pt. III, § 16-2

	1990		
94-90	9-10-1990		Pt. III, § 24-136
120-90	9-10-1990	1, 2	Pt. III, § 2-101
		3a	Pt. III, § 2-101
		3b	Pt. III, § 2-101
78-90	10-9-1990		Pt. III, § 24-135
162-90	10-9-1990	7	Pt. III, § 2-46
129-90	11-27-1990		Pt. III, § 6-66
135-90	11-27-1990	1	Pt. III, § 11-1
		2	Pt. III, § 11-21
		2(a)— 2(c)	Pt. III, § 11-22— Pt. III, § 11-24
		2(d)	Pt. III, § 11-27
		2(e), 2(f)	Pt. III, § 11-25, Pt. III, § 11-26
		3(a)— 3(c)	Pt. III, § 11-51— Pt. III, § 11-53
		3(d)— 3(h)	Pt. III, § 11-53— Pt. III, § 11-57
		4	Pt. III, § 11-2
		5(a)— 5(c)	Pt. III, § 11-76— Pt. III, § 11-78
		5(d), 5(e)	Pt. III, § 11-78, Pt. III, § 11-79
		6(a)	Pt. III, § 11-32
		6(b)	Pt. III, § 11-29
		6(c)	Pt. III, § 11-28
		6(d)	Pt. III, § 11-30
		7	Pt. III, § 11-31
187-90	11-27-1990		Pt. III, § 24-81
25-91	3-12-1991		Pt. III, § 2-181
91-90	3-12-1991	II, III	Pt. III, § 25-2, Pt. III, § 25-3
25-91	3-26-	A— E	Pt. III, § 2-182— Pt. III, § 2-186

	1991		
36-91	3-26-1991	13-1	Pt. III, § 20-1
		13-2— 13-6	Pt. III, § 20-8— Pt. III, § 20-12
		13-7	Pt. III, § 20-5
		13-8	Pt. III, § 20-3
		13-9, 13-10	Pt. III, § 20-36, Pt. III, § 20-37
		13-12, 13-13	Pt. III, § 20-38, Pt. III, § 20-39
		13-14	Pt. III, § 20-6
		13-15	Pt. III, § 20-40
		13-16	Pt. III, § 20-13
		13-18(1)	Pt. III, § 20-4
		13-18(2)	Pt. III, § 20-2
		13-19	Pt. III, § 20-7
54-91	5-28-1991		Pt. III, § 24-82
56-91	5-28-1991		Pt. III, § 24-146
137-90	5-28-1991		Pt. III, § 24-142
76-91	8-13-1991		Pt. III, § 24-144
77-91	8-13-1991		Pt. III, § 24-83
78-91	8-13-1991		Pt. III, § 8-2
97-91	8-13-1991		Pt. III, § 24-134
127-91	9-24-1991		Pt. III, § 6-41
			Pt. III, § 6-66
			Pt. III, § 6-70
126-91	11-12-1991	11-30	Pt. III, § 6-208
130-	11-12-	1-3	Pt. III, § 27-4

91	1991		
137-91	12-10-1991		Pt. III, § 24-83
147-91	12-10-1991		Pt. III, § 27-41, Pt. III, § 27-42
153-91	12-10-1991		Pt. III, § 2-4
156-91	12-10-1991		Pt. III, § 24-134
149-91	1-14-1992		Pt. III, § 24-134
16-92	2-25-1992		Pt. III, § 24-134
18-92	2-25-1992		Pt. III, § 27-187
19-92	2-25-1992		Pt. III, § 2-187
6-92	3-10-1992	2	Pt. III, § 2-3
29-92	3-24-1992		Pt. III, § 20-7
30-92	3-24-1992		Pt. III, § 21-11
38-92	4-14-1992		Pt. III, § 24-134
42-92	4-14-1992		Pt. III, § 6-287
42-93	4-14-1992		Pt. III, § 6-289
43-92	4-14-1992		Pt. III, § 24-134
44-92	4-14-1992		Pt. III, § 2-67
49-92	4-14-1992		Pt. III, § 24-134
50-92	4-14-1992		Pt. III, § 2-161
52-92	4-14-1992		Pt. III, § 21-5

55-92	4-14-1992		Pt. III, § 24-191
57-92	4-14-1992	1(A)	Pt. III, § 2-205
			Pt. III, § 2-208
		1(B)	Pt. III, § 2-209
		2	Pt. III, § 2-210
		3— 8	Pt. III, § 2-226— Pt. III, § 2-231
		9	Pt. III, § 2-207
62-92	4-28-1992	25-11	Pt. III, § 19-1
63-92	4-28-1992	1— 3	Pt. III, § 4-61
67-92	4-28-1992	1	Pt. III, § 21-82
		2(26-41)	Pt. III, § 21-84
		3	Pt. III, § 21-89
		5, 6	Pt. III, § 21-108
		7— 9	Pt. III, § 21-109— Pt. III, § 21-111
68-92	4-28-1992		Pt. III, § 24-155
69-92	4-28-1992		Pt. III, § 2-182
75-92	5-12-1992		Pt. III, § 2-164
84-92	5-12-1992	26-91— 26-93	Pt. III, § 21-166— Pt. III, § 21-168
87-92	5-12-1992		Pt. III, § 24-134
90-92	5-26-1992	4-16	Pt. III, § 10-21
92-92	5-26-1992	4-21	Pt. III, § 10-26
47-92	6-9-1992		Pt. III, § 17-21
93-92	6-9-1992		Pt. III, § 17-3

99-92	6-9-1992	28-137	Pt. III, § 24-205
88-92	6-23-1992	rule 1— rule 5 rule 6 and App. rule 7— rule 9 rule 10— rule 26 rule 27 rule 28— rule 30 rule 31	Pt. III, § 2-37— Pt. III, § 2-41 Pt. III, § 2-42 Pt. III, § 2-43— Pt. III, § 2-45 Pt. III, § 2-47— Pt. III, § 2-63 Pt. III, § 2-36 Pt. III, § 2-64— Pt. III, § 2-66 Pt. III, § 2-68
97-92	11-23-1992		24-85.1
98-92	9-8-1992	Art. 1(1— 9) Art. 2(1— 7) Art. 3(1— 7) Art. 4(1) Art. 5(1) Art. 6(1) Art. 7(1— 8)	13-246— 13-254 13-261— 13-267 13-276— 13-282 13-291 13-301 13-311 13-321— 13-328
108-92	7-14-1992	1 2 3— 6 8, 9 10 11 12	Pt. III, § 3.5-2 Pt. III, § 3.5-1 Pt. III, § 3.5-5— Pt. III, § 3.5-8 Pt. III, § 3.5-9, Pt. III, § 3.5-10 Pt. III, § 3.5-4 Pt. III, § 3.5-11 Pt. III, § 3.5-3
112-92	7-28-1992		Pt. III, § 24-167

119-92	7-28-1992		Pt. III, § 20-7
121-92	7-28-1992		Pt. III, § 24-135
12-92	8-25-1992		Pt. III, § 10-25
122-92	8-25-1992		Pt. III, § 4-61
123-92	8-25-1992		Pt. III, § 10-27
129-92	8-25-1992	1	Pt. III, § 27-212
		1.2	Pt. III, § 27-213
		2	Pt. III, § 27-211
		3, 4	Pt. III, § 27-214, Pt. III, § 27-215
		6	Pt. III, § 27-216
131-92	9-8-1992		5-31
136-92	8-25-1992		Pt. III, § 24-135
146-92	11-24-1992		13-371— 13-377
168-92	10-27-1992		21-36
170-92	11-10-1992		24-135
171-92	11-10-1992		24-163
172-92	12-23-1993		24-135
4-93	1-26-1993		25-1
5-93	1-26-1993		24-204
6-93	1-26-1993		24-59
8-93	1-26-1993		12-76— 12-79

			Rpld 12-121— 12-127
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27-93	3-9-1993		Rpld 17-30
45-93	5-23-1993		24-158
47-93	4-13-1993		24-134
50-93	5-25-1993		Rpld 24-51— 24-59
			24-119, 24-204
			Added 24-51— 24-54
56-93	5-11-1993		5-32
57-93	6-8-1993	1-7	Adopting ordinance, p. vii
58-93	5-25-1993	1, 2	24-89
59-93	5-25-1993	1-5	24-113
63-93	5-25-1993		24-144
67-93	5-25-1993		24-135
71-93	6-8-1993		24-134
73-93	6-8-1993		24-157.1
79-93	7-27-1993		Rpld 24-157
84-93	7-27-1993		3-81(3)e.
92-93	7-27-1993		17-21(7)d.
104-93	8-24-1993		24-157.1
114-93	8-24-1993	1-3	21-37

118-93	8-24-1993		24-134
120-93	9-15-1993	1, 2	27-167
121-93	9-15-1993		27-22
123-93	9-15-1993		16-3(c)
126-93	9-15-1993		24-134, 24-135
			24-154
127-93	9-15-1993		24-134
132-93	9-28-1993		24-134
135-93	9-28-1993		24-134
150-93	10-26-1993		17-28
151-93	10-26-1993		24-163
152-93	10-26-1993		24-135
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