

# TOWN OF OTSEGO

## LAND USE LAW

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## **ARTICLE I: ENACTMENT, TITLE, AND PURPOSE**

### Section 1.01 Enactment

The Town Board of the Town of Otsego, County of Otsego, on this 12th day of April, 2000, adopts this Local Law pursuant to Section 10 of Article 2 of the Municipal Home Rule Law thereby superseding Section 261 of the Town Law.

### Section 1.02 Title

This Local Law shall be known as the Town of Otsego Land Use Law.

### Section 1.03 Purposes in View

This Local Law, following guidelines established by the Town of Otsego Comprehensive Plan, regulates the use of land in the Town of Otsego in order to provide for orderly economic growth while protecting the health and safety of citizens and visitors, the quality of the environment, and the historical and natural character of the Town.

This Local Law is intended to protect residential property, to preserve agricultural and wilderness lands, to encourage commercial development in suitable areas, and to provide for recreational facilities and open spaces for public and private use, and to facilitate the adequate provision of transportation, water, sewage, schools and other public requirements.

These regulations are designed, in part, to encourage economic development and the creation of employment and business opportunities for the residents of the Town. By careful land use planning, economic growth can be achieved in a manner compatible with other objectives of the Comprehensive Plan.

This Local Law provides local control without which safe and orderly economic growth cannot be assured.

### Section 1.04 Application of Regulations

This Law enumerates allowable uses within the Town of Otsego, and any use not specifically permitted is prohibited. No building or structure or part thereof shall be erected, moved, altered or demolished or use of land permitted, unless conformity with this Law.

All lots, buildings and uses of land or buildings existing when this Local Law was adopted may continue. Non-conformities of lots, buildings, or uses of land or buildings may not be increased, expanded, or exchanged for other non-conformities. Modifications, alterations and necessary repairs to an existing structure may be subject to building permit requirements, but will not require Planning Board review.

If there is any doubt as to whether or not this paragraph applies to a specific project, the Zoning Board of Appeals shall determine applicability.

Section 1.05 Non-conforming Uses

Reconstruction of non-conforming buildings, or recommencement of non-conforming uses is not permitted following a lapse of the use for more than two (2) years.

Any lot which is non-conforming due to size and/or road frontage, may be sold or developed provided the lot was of legal size and/or frontage at the time it was created. Parking, side yards, front yard setbacks, septic, height, etc. must be complied with or an area variance must be obtained from the Zoning Board of Appeals. Such a substandard lot may be developed for any permitted or special permitted use which the land use law allows for the district in which it is located.

Any non-conforming lot(s) which adjoin another lot and are held in common ownership shall be considered one lot for purposes of this law, in order to increase the conformity throughout the Town. (See definition of lot.)

Pre-existing uses shall not be altered in such a way as to create a non-conformity or to increase the degree of non-conformity.

**ARTICLE II: LAND USE DISTRICTS AND REGULATIONS**

Section 2.01 Land Use Districts

The following Land Use Districts are established in the Town and are indicated on the official Land Use Map.

- 2.02 Residential-Agricultural -1(RA-1)
- 2.03 Residential-Agricultural -2(RA-2)
- 2.04 Hamlet Residential (H-R)
- 2.05 Hamlet Business (H-B)
- 2.06 General Business District-1 (GB-1)
- 2.07 General Business District-2 (GB-2)
- 2.08 Recreational/Educational District (R/E)
- 2.09 Planned Development Unit (PDU)

Section 2.02 Residential-Agricultural 1 District (RA-1)

The **RA-1 District** comprises all land east of Rt.26 and north of Rt. 80 outside of the Recreational/Educational, General Business District 2, Hamlet Business and Hamlet Residential Districts. It encompasses all lands between Otsego Lake and Rt. 26, north of Rt.80/28. This is a low density Residential/Agricultural District which allows for certain non-residential/agricultural uses as special permitted uses.

Minimum Lots Size:	3 Acres
Minimum Frontage on a Road:	150 Feet
Minimum Front Yard Setback From Center of Road:	60 Feet
Minimum Side Yard:	30 Feet (each side)
Minimum Rear Yard Setback:	35 feet
Maximum Building Height:	40 feet

**Permitted Uses:**

1. One Family Dwelling
2. Two Family Dwellings
3. Home Occupations
4. Accessory Uses
5. Parks or Playgrounds
6. Agriculture
7. Forest Management Practices
8. Wildlife Management Practices

**Special Permitted Uses (see section 7.03):**

1. State Certified Educational Institutions
2. Health Care Facilities up to 10,000 square feet in building footprint size
3. Public Facilities/Utilities
4. Churches and Places of Worship
5. Cemeteries
6. Bed and Breakfasts
7. Campgrounds
8. Recreational Facilities \*\*\* See Special Requirements
9. Service Trade Establishment
10. Group Family Day Care, Day Care Centers or School Age Child Care
11. Adult Housing Facilities\*\*\* See Special Requirements

**Special Requirements:**

All special permitted uses require Site Plan approval.

\*\*\*Prior to approval of any permit for recreational facilities and/or adult housing facilities, the Planning Board shall determine that the facility(s):

- (1) Is of scale, density and appearance that is in harmony with the neighborhood character of the district in which it would be located.
- (2) Will not create demands which exceed the existing capabilities of public infrastructure, including roads, sewer, water and emergency services. Parking lots should be located on the subject property so that sufficient screening and buffering exists between the subject property and neighboring properties.
- (3) Will not introduce nuisances associated with traffic, noise or lighting, as measured at any property boundary, which are incompatible with adjoining or nearby land uses, or anticipated future land uses.
- (4) Will not substantially and adversely impact identifiable natural, cultural or visual resources known to be important to the Town.
- (5) Will include a landscaping and/or architectural plan and design compatible with the above requirements. In connection with the landscaping and/or architectural designs, the Planning Board, in its discretion, may seek the input from licensed professionals regarding such designs at the applicant's expense.
- (6) Will minimize lighting to the maximum extent possible while providing necessary security and safety.
- (7) Will minimize energy consumption.

If a proposed facility does not meet the standards as set forth above, the Planning Board shall consider it incompatible with the low-density, residential character of the district and shall deem the facility not allowable.

Section 2.03 Residential-Agricultural 2 District (RA-2)

The **RA-2 District** includes all lands west of County Rt.26 outside of the General Business Districts 1 and 2, the Hamlet Business and Hamlet Residential Districts and also includes lands east of 26 in that area of the

Town south of Rt. 80/28. This is a low density Residential/Agricultural District which allows for certain non-residential/agricultural uses as special permitted uses.

Minimum Lot Size:	3 Acres
Minimum Frontage on a Road:	150 Feet
Minimum Front Yard Setback From Center of Road:	60 Feet
Minimum Side Yard Setback:	30 Feet (each side)
Minimum Rear Yard Setback:	35 Feet
Maximum Building Height:	40 feet

**Permitted Uses:**

Same as in the RA-1 District

**Special Permitted Uses:**

Same as in the RA-1 plus:

1. Animal Hospitals limited to 4500 square feet
2. Mineral Extraction with a 20 acre minimum lot size. No processing of materials is permitted if conducted within 500 feet of a residential dwelling unit.
3. Motels limited to 8 units
4. Kennels
5. Multiple Family Dwellings
6. Food Trucks

**Special Requirements:**

All special permitted uses require Site Plan approval.

Section 2.04 The Hamlet Residential District (H-R)

The **H-R District** was developed for existing small hamlet areas that have already been largely developed with a mixture of uses.

Minimum Lot Size:	1 Acre
Minimum Frontage on a Road:	75 Feet
Minimum Front Yard Setback From Center of Road:	60 Feet
Minimum Side Yard Setback:	20 Feet (each side)
Minimum Rear Yard Setback:	30 Feet
Maximum Building Height:	35 feet

**Permitted Uses:**

1. One Family Dwelling
2. Two Family Dwellings
3. Home Occupations
4. Accessory Uses

**Special Permitted Uses:**

1. Churches and places of worship limited to 2000 square feet (building footprint)
2. Private Offices
3. Bed and Breakfasts
4. Multiple Family Dwelling

**Special Requirements:**

1. All special permitted uses require site plan approval.
2. No mobile homes are allowed in this district.

## Section 2.05 Hamlet Business District (H-B)

The **H-B District** was developed for the commercial centers of hamlets, which often have a mix of residential and commercial uses. It reflects the diversity of uses often found in rural hamlets. The types and sizes of businesses are kept small, as the businesses are solely those which meet the basic needs of the hamlet.

Minimum Lot Size:	1 Acre
Minimum Frontage on a Road:	75 Feet
Minimum Front Yard Setback From Center of Road:	60 Feet
Minimum Side Yard Setback:	15 Feet (each side)
Minimum Rear Yard Setback	30 Feet
Maximum Building Height:	35 feet

The square footage of all buildings referred to herein represents the building "footprint" (or one floor). These limits on size shall not apply to existing buildings which can be used for the permitted and special permitted uses regardless of their existing size. Furthermore, any building in existence on the date this provision is adopted shall be allowed to expand another 2000 square feet, if it would otherwise be constrained by the square footage limits set herein. All parking requirements and setbacks, however, must be met for said expansion to be permitted.

### **Permitted Uses**

1. Public Offices and Public Utility Facilities
2. Home Occupations
3. One and Two Family Dwellings
4. Accessory Uses

### **Special Permitted Use**

1. Retail trade wholly within a building. Building size is limited to 2000 square feet building footprint)
2. Barber Shops, Beauty Shops, Laundromats, Shoe Repair Shop. Building size is limited to 2000 square feet (footprint)
3. Business and Professional Office buildings limited to 2000 square feet (footprint)
4. Banks, Insurance Offices, Real Estate, Savings and Loan Offices, Credit Unions. Buildings are limited to 2000 square feet (footprint).
5. Motels limited to 8 units
6. Bed and Breakfasts
7. Churches and Places of Worship limited to 2000 square feet (footprint)
8. Mixed occupancy structures containing residential and commercial uses limited to 2000 square feet (footprint)
9. Small appliance repair shops limited to 2000 square feet (footprint)
10. Retail trade involving outdoor storage or display of items for sale limited to 2000 square feet (building footprint) including lawn and garden supplies, auto dealerships, including accessory repair shops operated during normal business hours, etc.
11. Service Station with sale of food or drink items limited to 2000 square feet (footprint)
12. Group Family Day Care, Day Care Centers and School Age Child Care
13. Eating and Drinking Establishments
14. Light Assembly
15. Multiple Family Dwellings
16. Food Trucks

### **Special Requirements:**



1. All uses in this district, except for public offices, public utility facilities, home occupations, one and two family dwellings and their accessory uses are subject to site plan approval.
2. No mobile homes are permitted in this district.
3. For expansion of existing conforming uses, no special permit shall be required. However, a site plan may be required at the discretion of the Planning Board.

Section 2.06 General Business-1 District (GB-1)

The **GB-1 District** was created to allow for business of a larger scale and variety than that in the hamlet business district. In the GB-1 there is no minimum building size required. In the GB-2, however, certain uses must meet a minimum building size to be allowed in the district. This is to encourage smaller sized businesses to locate in the HB district. GB-1 is located on the east side of Rt. 28 extending from the Village line southward to the NYSEG property.

Minimum Lot Area:	10,000 square feet with central sewer and/or water; 20,000 square feet without central sewer or central water
Minimum frontage on a road:	80 feet
Minimum front yard setback:	20 feet from the State right-of-way
Minimum side yard setback:	25 feet from residential and agricultural properties and 10 feet from commercial properties provided such would not violate any provisions of the New York State Uniform Fire Prevention and Building Code
Minimum rear yard setback:	25 feet from residential and agricultural properties and 10 feet from commercial properties provided such would not violate any provisions of the New York State Uniform Fire Prevention and Building Code
Maximum building height:	35 feet
Maximum coverage:	70%

**Permitted Uses:**

None

**Special Permitted Uses:**

1. Animal Hospitals
2. Building and Farm Supply
3. Business/Professional Office
4. Car Wash
5. Commercial Storage, Enclosed
6. Convenience Stores
7. Drive-In Use
8. Eating and Drinking Establishment
9. Motor Vehicle/Boat Trailer Sales
10. Motor Vehicle Repair Shop
11. Retail Trade
12. Service Establishment
13. Service Station
14. Shopping Center

15. Accessory Uses
16. Parking Lot (off-premise)
17. One Family Dwelling
18. Two Family Dwellings
19. Multiple Family Dwellings
20. Food Trucks

**Special Requirements:**

1. In the GB-1 District more than one building may be located on a lot; however, the maximum coverage of the lot is limited to 70% as stated above. The applicant must demonstrate that on-site septic, parking and all other supplementary regulations can be met before approval will be granted. Thus, if one is putting in an on-site septic system, then obviously, one cannot expect to have 70% coverage.
2. All uses are subject to site plan approval.
3. For expansion of existing conforming uses, no special permit shall be required. However, a site plan may be required, at the discretion of the Planning Board.

Section 2.07 General Business-2 District (GB-2)

The **GB-2 District** is located in several areas in the town which are suited for commercial development. See the land use map for specific locations.

Minimum Lot Size:	1 Acre without central water or central sewer; 20,000 square feet with central water or central sewer (unless specified otherwise)
Minimum Frontage on a Road:	80 Feet
Minimum Front Yard Setback From the Center of the Road:	50 Feet
Minimum Side Yard Setback:	25 feet from residential and agricultural properties; 10 feet from commercial properties; provided such would not violate the provisions of the New York State Uniform Fire Prevention and Building Code.(each side)
Minimum Rear Yard Setback:	Same as Side Yard Setback
Maximum Building Height:	40 feet
Maximum Coverage:	70%

**Permitted Uses:**

None

**Special Permitted Uses:**

1. Animal Hospitals
2. Business/Professional Offices at a minimum of 2001 square feet
3. Car Wash
4. Commercial Storage, Enclosed
5. Convenience Stores
6. Drive-In Uses

7. Eating and Drinking Establishments with a minimum building size of 2001 square feet and a minimum lot size of 2 acres
8. Motel/Hotel - a minimum of 9 and a maximum of 36 units and at least 3 acres of land
9. Motor Vehicle/Boat Trailer Sales
10. Motor Vehicle Repair Shop
11. Retail Trade at a minimum of 2001 square feet
12. Service Establishment at a minimum of 2001 square feet for barber shops, beauty shops, Laundromats and shoe repair; unspecified minimum size for other uses
13. Service Station
14. Shopping Center
15. Recreational Establishments with an enclosed building
16. Accessory Uses and Buildings
17. Warehouse and Storage Areas
18. Light Assembly
19. Accessory Uses
20. One Family Dwelling
21. Two Family Dwellings
22. Multiple Family Dwellings
23. Food Trucks

**Special Requirements:**

1. Same as in GB-1 plus:
2. Buildings cannot exceed 5,000 square feet (building footprint) on a single lot in the GB-2 District.
3. For expansion of existing conforming uses, no special permit shall be required. However, a site plan may be required. The Planning Board shall decide on all questions at their discretion.
4. The 2001 minimum square foot requirements for Business/Professional Offices, Eating and Drinking Establishments, Retail Trade and Service Establishments do not apply for existing buildings or affected portions thereof.

Section 2.08 Recreational/Educational District (R/E)

The **R/E District** was established to provide for and to tie together several parcels of land north of the Village of Cooperstown which provide educational and recreational opportunities for persons.

Minimum Lot Area:	10 Acres
Minimum frontage on a road:	50 feet
Minimum front yard setback:	20 feet from the highway right-of-way
Minimum side yard setback:	15 feet (each side)
Minimum rear yard setback:	25 feet
Maximum building height:	50 feet

**Permitted Uses:**

1. Country Clubs
2. Golf Clubs
3. Museums
4. Educational Institutions
5. Accessory Uses necessary to operate permitted uses

**Special Requirements:**

1. Any use in this district over 1500 square feet of building size requires site plan review and approval.
2. Any use under 1500 square feet does not require site plan review and approval by the Planning Board.

Section 2.09 Planned Development Units (PDUs)

Prior to the amendments adopted to this local law by the Town Board in 1995, there existed a provision for Planned Unit Developments (PDUs). PDUs were the only form under which commercial or business activity could occur because there was no commercial zone or business zone in the town. Via these zoning revisions in 1995, all but two of the previously created PDUs have now been rezoned into a general business district or a hamlet business district. Two prior remaining PDUs, the Lake View Motel and the Cooperstown Sportsman's Association, lie outside of the general business and hamlet business districts. They are in the RA Districts ( see Otsego Town Zoning Map), and thus, are non-conforming uses. Expansion of these uses would require a use variance since they now exist as non-conforming uses.

No Planned Unit Developments exist in the Town, nor is there any provision for new Planned Unit Developments to be created.

Section 2.10 Clustering

In accordance with Section 278 of the New York State Town Law, the Town Board grants to the Planning Board discretionary authority to make reasonable modification to existing land use requirements in the area of a subdivision at the time the Planning Board gives final approval to the plat. This authority is granted to provide the flexibility required so that the best possible subdivision can be created.

Clustering is permitted in the RA-1 and RA-2 Districts in the Town. In such instances the Planning Board is authorized to reduce the area requirements for subdivisions as follows:

Minimum Lot Size:	1 Acre
Minimum Frontage on a Road:	75 Feet
Minimum Front Yard Setback From Center of Road:	60 Feet
Minimum Side Yard Setback:	15 Feet (each side)
Minimum Rear Yard Setback:	30 Feet
Maximum Building Height:	40 feet

The procedures for review and approval of a cluster subdivision are as follows:

1. If the owner or subdivider of the land being subdivided desires this modification, he shall make application to the Planning Board at the same time as applying for subdivision approval in accordance with the Town Subdivision Regulations.
2. The Planning Board, before modifying such requirements, shall find that such modification would be consistent with the intent of this authorization, in conformance with the intent of the Comprehensive Plan, and in the Board's judgement, beneficial to the interests of the town and the neighborhood in which the subdivision is located.
3. The application of this procedure shall result in a permitted number of building lots or dwelling units which in no case shall exceed the number which in the Board's judgement could be permitted if the land were subdivided in conformance with the minimum lot area requirements applicable to the district in which the subdivision is to be located.

4. Open space land created as a result of clustering shall be clearly shown on the subdivision plat and shall be owned, maintained and controlled by a Homeowners' Association consisting of all residents of the subdivision. Said Homeowners' Association shall be approved by the State Attorney General's Office before the Planning Board grants final subdivision approval to the plat. The Town shall not be responsible for the maintenance of any open space, land or roads created by a clustered subdivision.
5. The Planning Board shall hold a public hearing upon the application for modification of the zoning requirements prior to approval of such and said hearing shall be held simultaneous with the hearing upon the preliminary subdivision plat.
6. On the filing of the plat in the office of the Otsego County Clerk, a copy shall be filed with the Town Clerk who shall make appropriate notations and references thereto on the Zoning Map.

Section 2.11 Lot Size Averaging on a Single Parcel

Any parcel in the RA-1 or RA-2 Districts of the Town which is not subject to covenants or restrictions to the contrary, may be divided without a variance under the following conditions, all of which must be met by such division:

1. The average size of all lots created by such division to be not less than three (3) acres.
2. No lot to be created with an area less than one (1) acre.
3. Minimum road frontages and building set backs to be:

Minimum Road Frontage:	100 Feet
Minimum Front Yard Setback From Center of Road:	60 Feet
Minimum Side Yard Setback:	20 Feet (each side)
Minimum Rear Yard Setback:	30 Feet
Maximum Building Height:	40 feet

4. All lots to be suitable for onsite sewage disposal and water supply systems unless community facilities are provided in accordance with other State regulations.
5. Division of any parcel, whether done at once or in stages, shall be subject to the requirements of the Subdivision Ordinance of the Town of Otsego.
6. No further division of any lot created by such division shall be allowable if such further division would result in an average size of less than three (3) acres for all lots created from the original parcel.

Section 2.12 Subdivision With a Density Bonus

To encourage modification of the subdivision regulations even further, the Planning Board will consider awarding a density bonus of one extra dwelling unit per ten acres in the RA-1 and RA-2 Districts of the Town. In such a situation, the developer would follow the same procedures as those outlined in Section 2.10 above for approval of the subdivision. All roads created from such a subdivision would remain private and would be maintained by the Homeowner's Association, as would the open space created. Minimum area, road frontage and setbacks would be as follows:

Minimum Lot Size:	1 Acre
Minimum Frontage on a Road:	100 Feet
Minimum Front Yard Setback:	20 Feet from the right-of-way
Minimum Side Yard Setback:	20 Feet (each side)

Minimum Rear Yard Setback:	30 Feet
Maximum Height:	40 feet

An example of the number of units allowed under this provision (and a comparison of the number of units permitted under the traditional and the clustering provisions) is provided here:

<b>Acres</b>	<b>Units Allowed Under Traditional Zoning</b>	<b>Units Allowed With Clustering</b>	<b>Units Allowed With subdivision Density Bonus</b>
10	3.1	3.1	4.1
20	6.2	6.2	8.2
30	10.0	10.0	13.0
40	13.3	13.3	17.3
50	16.6	16.6	21.6
60	20.0	20.0	26.0
70	23.3	23.3	30.3
80	26.6	26.6	34.6
90	30.0	30.0	39.0
100	33.3	33.3	43.3

**ARTICLE III: GENERAL LAND USE REGULATIONS**

The provisions in this article apply to uses in all districts of the Town.

Applications for approval for any use within the Town shall demonstrate that the proposed use is in conformance with the following Sections 3.01 through 3.14.

Section 3.01 Residential and Agricultural Areas

Activities other than residential and agricultural functions may be permitted in residential and agricultural areas as long as these activities do not alter the essential residential or agricultural character of the neighborhood by external changes obviously unrelated to residential or agricultural uses.

Section 3.02 Sewage Disposal and Water Supply

Unless connection to a municipal waste water treatment system is available, construction of uses is allowed only on lots adequate to on-site sewage disposal and water supply systems conforming to the requirements of the New York State Department of Health. This requirement must be met independently of the minimum lot size allowed in any district and may require an increase in lot size for conformance.

Subsurface sewage disposal systems of the septic tank/absorption field type are strongly preferred. Alternative designs usually involve increased risk of ground water contamination and will be allowable only when constructed in accordance with a design prepared by a licensed professional engineer and approved by the State Health Department, where applicable, prior to the issuance of any building permit.

Sewage disposal systems shall be sited to provide the specified minimum distance to existing wells on adjacent properties and to probable future well locations on adjacent properties.

Section 3.03 Off-street Parking

Parking capacity shall be sufficient to accommodate the number of vehicles required by the maximum number of residents, customers, or visitors anticipated at normal peak weekly activity.

Adequate off-street parking shall be provided for all uses. General guidelines for various uses are included in Appendix B. Increases above these guidelines may be required by the Planning Board if needed to provide adequate facilities for unusually heavy parking requirements.

Any change in operations or ownership which is expected to increase the maximum number of residents, customers, or visitors anticipated at normal peak weekly activity shall require an appropriate increase in off-street parking facilities, as deemed necessary by the Planning Board.

#### Section 3.04 Principal Building per Lot

There shall be only one principal building per lot, except that, where a sufficiently large parcel exists, additional principal buildings may be established provided each such structure has an identifiable land area which satisfies the lot area, frontage, and setback requirements of the regulations of the district in which it is located.

No part of any yard or area required for one building or use shall be included as part of the yard or area similarly required for any other building or use.

Applications for a building permit shall show the outline of land associated with second or subsequent principal buildings, with the proposed location of such buildings.

The identified land area associated with each principal building shall be sufficient to provide independent water supply and sewage system in accordance with the requirements of Section 3.02.

#### Section 3.05 Mobile Homes

Mobile homes shall be allowed in the RA-1 and RA-2 Districts. Where mobile homes are allowed, the minimum lot size, road frontage, and setbacks shall be the same as required for other dwellings in such districts.

All mobile homes located or installed after the effective date of this law or its amendment shall comply with the New York State Uniform Fire Prevention and Building Code and the U. S. Department of Housing and Urban Development (HUD). (Rules and Regulations for mobile homes, effective January 15, 1974, and as amended.)

An approved metal, wood or other suitable rigid skirting or framing, properly ventilated and attached, shall enclose that area from the bottom of the floor line of the mobile home to the ground for any mobile home hereafter located in the Town, unless the mobile home is mounted on an enclosed foundation.

#### Section 3.06 Junk Yards

All junkyards are controlled by Local Law # 1 of 1995 adopted by the Town Board on June 14, 1995.

#### Section 3.07 Smoke

Emission of smoke which is a shade equal to or darker than No. two (2) on a standard Ringleman Chart as issued by the United States Bureau of Mines is prohibited except that visible gray smoke of a shade equal to No. three (3) on said chart may be emitted for four (4) minutes in any thirty (30) minutes.

### Section 3.08 Fire and Explosion Standards

See Title 9, Executive B of NYCRR known as the New York State Uniform Fire Prevention and Building Code for requirements.

### Section 3.09 Lighting

No light shall be erected that is directed onto a public street or any adjacent property in such a way as to create a safety hazard or nuisance or interfere with the normal use of such adjacent property. Furthermore, all lights shall be downcast and shall not illuminate the sky. Caps or covers on lights to prevent lights from lighting up the sky are required.

### Section 3.10 Noise

No activity shall be permitted which produces a sound level of seventy (70) decibels or more as measured on the "A" scale of a standard level meter having characteristics defined by American Standards Association specification S 1.4-196, "General Purpose Sound Level Meter", such measurement being made at any property line. Church bells, sirens and emergency equipment shall be exempt from this section of the law. Temporary sound equipment requires a permit from the Town Board.

### Section 3.11 Landscaped Areas Between Certain Uses

Along any lot line between a residential and non-residential use a landscaped area shall be provided. Such landscaped area shall include a screening, provided by fencing, beams, walls, non-deciduous trees or shrubs or by existing natural features or combinations thereof, as deemed necessary by the Town Planning Board to protect the character of adjoining residential areas. If vegetation provides the screening, the Planning Board may require a surety deposit to ensure the vegetation survives for 18 months.

Such a fence shall have a minimum erected height of six (6) feet and shall be located within a strip at least ten (10) feet in width on the non-residential side of the lot line. Shrubs or trees used for screening shall be a minimum height of three (3) feet when planted and a minimum of six (6) feet at maturity. Such landscaped areas may be included in satisfying the minimum side or rear lot requirements.

### Section 3.12 Modifications to lot size and setbacks

1. In all cases, minimum road frontage setbacks shall either conform with the requirement of the District, or be equal to the average setback of principal structures within five hundred (500) feet on adjacent parcels, whichever is less. The height restriction does not apply to agricultural silos, church steeples and similar structures already common to the area.
2. A lot which may be used to satisfy the minimum area requirement of any district shall be in the shape of a quadrilateral, no side of which shall be less than one third (1/3) the minimum road frontage required in that District, and no angle of which shall be less than thirty (30) degrees.
3. Lots on cul-de-sacs having less than the specified road frontage may be reduced up to 25% if approved by the Planning Board.



4. For corner and through lots, front yard setbacks and minimum frontages are required on both road fronts. The two remaining yards shall be designated by the applicant as to which will be the rear yard and which will be the side yard.

#### Section 3.13 Service Stations

No fuel pump shall be located closer than fifty (50) feet to any side or rear lot line, nor closer than twenty (20) feet to any front lot line.

All repair work shall be performed and all equipment supplied and wastes stored within a structure or enclosed storage yard so as not to be visible from side or rear lot lines.

#### Section 3.14 Demolition

No building or structure over one hundred (100) square feet of floor area shall be wholly or partially demolished except after issuance of a demolition permit by the Codes Enforcement Officer.

### **ARTICLE IV: LAND USE REGULATIONS PERTAINING TO GEOLOGIC FEATURES**

Applications for approval for any use within the Town shall demonstrate that the proposed use is in conformance with the following sections 4.01 through 4.04 as well as Sections 3.01 through 3.14.

#### Section 4.01 Flood Plains

No structures shall be allowed in areas adjacent to lakes, rivers, streams, seasonal streams, or any other watercourse subject to flooding in a one hundred (100) year flood, except as in accordance with current Town of Otsego flood plain law. Said law requires, at a minimum, that all construction be at least two (2) feet above the mean high water mark.

#### Section 4.02 Steep Slopes

No construction or excavating shall be performed on any slope in excess of 15% or, in other circumstances particularly susceptible to erosion, until a site plan, including an erosion control plan, the location of which shall be indicated on the site plan, is approved by the Planning Board. In its review of the site plan, the Planning Board shall be guided by the standards and procedures of the local Soil and Water Conservation District.

Prior to March 15, 2008 the provisions of Section 4.02 shall not be applicable to any reconstruction and/ or replacement of septic systems on Otsego Lake which are included in the Memorandum of Agreement, between the Town of Otsego and the Watershed Supervisory Committee.

#### Section 4.03 Wetlands

All State designated freshwater wetlands shall be preserved and protected in accordance with regulations of the New York State Department of Environmental Conservation and Section 24 of the Environmental Conservation Law of 1975 as amended to date of adoption of this Local Law. Copies of the freshwater wetland maps are on file in the Town Clerk's Office.

#### Section 4.04 Otsego and Canadarago Lake Protection Area

1. There shall be no point of source discharge into Otsego or Canadarago Lakes or into any waterway flowing into Otsego or Canadarago Lakes.
2. For the purposes of section 4.04, fences and walls shall include boundary fences and walls.
3. Within 20 feet of the shoreline, no trees or vegetation shall be removed except up to thirty (30) percent of the shore front may be cleared of trees, vegetation or grass on any individual lot. This subsection does not prevent the removal of trees 3 inches (3'') or less in diameter, dead, dying, diseased or rotten trees, or other vegetation presenting safety, health or environmental hazards. This subsection also does not prevent the trimming of branches and vegetation or mowing of lawns.
4. Within 100 Feet of the Lake Shoreline:
  - a. No structures, fences or walls greater than 3 feet in height shall be newly erected, except staircases up to 42 inches wide which are constructed of materials in a manner that maximizes ground water permeation and reduces runoff to the maximum extent possible.
  - b. Site plan review is required for all construction, including repairs or replacements of existing structures.
  - c. All repairs or replacements of existing buildings shall be limited to their existing footprints and dimensions.
  - d. All repairs or replacements of existing porches, decks, patios, raised walkways, etc. shall be limited to their existing footprints and dimensions, and shall be limited to materials and design of equal or greater groundwater permeation.
  - e. No tree shall be removed without site plan review. This subsection does not prevent the removal of trees 3 inches (3'') or less in diameter, dead, dying, diseased or rotten trees, or other vegetation presenting safety, health or environmental hazards. This subsection also does not prevent the trimming of branches and vegetation or mowing of lawns.
5. Within 101-500 Feet of the Lake Shoreline:
  - a. Site plan review is required for all newly erected structures, including all fences and walls greater than 3 feet in height, except staircases up to 42 inches wide that are constructed of materials in a manner that maximizes ground water permeation and reduces runoff to the maximum extent possible.
  - b. Site plan review is required for all repairs or replacements of existing structures, except the following:
    - i. Building repair or replacement that is limited to the existing building footprint and dimensions.
    - ii. Repairs or replacements to existing porches, decks, patios, raised walkways, etc., limited to their existing footprints and dimensions, and limited to materials and design of equal or greater groundwater permeation.
  - c. No tree shall be removed without contacting the Town ZEO prior to removal. Upon ZEO approval, no more than thirty (30) percent off trees six (6) inches or more in diameter at breast height may be cut over any ten (10) year period. This subsection does not prevent the removal of trees 3 inches (3'') or less in diameter, dead, dying, diseased or rotten trees, or other vegetation presenting safety, health or environmental hazards. This subsection also does not prevent the trimming of branches and vegetation or mowing of lawns.

#### Section 4.05 Commercial Mineral, Sand and Gravel Extraction

Extraction less than 750 cubic yards per year is allowed in specified districts by special permit granted following site plan review. Site Plan review shall include a site rehabilitation plan guaranteed by posted security such as a letter of credit or a performance bond. Work covered under the security shall include all grading, smoothing, topsoil replacement and permanent ground cover.

Extraction greater than 750 cubic yards per year requires a permit from the New York State Department of Environmental Conservation to which the Town of Otsego can only make recommendations.

### **ARTICLE V: SIGNS FOR COMMERCIAL OR INSTITUTIONAL USES**

#### Section 5.01 Purpose

This Article is intended to regulate signs in the Town of Otsego in order to enhance property values, encourage commerce, improve safety and traffic flow, and preserve the scenic and natural beauty of the Town. All signs, except exempt signs (section 5.05), require a sign permit.

#### Section 5.02 Safety Regulations

All signs, including exempt signs listed below, shall conform to the following requirements.

1. All signs shall be anchored securely, except sandwich boards which shall be taken indoors each day at or before sundown.
2. No sign, or sign support, or light for a sign shall be affixed to or suspended over a right of way of a public road, temporarily or permanently. No sign shall be suspended less than 8 feet above a walkway.
3. No sign shall be allowed which is likely to impair safety or visibility, or cause confusion or distraction to vehicular or pedestrian traffic by said sign's design, color or placement.
4. Lights directed on, illuminating or constituting part of a sign shall not cause a glare, hazard or nuisance to pedestrians, neighbors or vehicular traffic.

#### Section 5.03 General Regulations

##### 1. Sign Size:

All sizes specified in this Article shall be construed as limiting the physical sign structure, not the written or representational matter on the sign. The portion of a sign frame or support covered by or painted with any written or representational matter shall be counted as part of the permitted area of a sign. In those cases where a sign lacks obvious boundaries (for example, a painted logo on a wall without a painted boundary or background color to separate the sign visually from the rest of the wall, or a message spelled out in metal letters individually attached to a post), the sign area shall be computed by superimposing the smallest rectangle, circle, triangle, or combination thereof that will encompass the extreme limits of the images and messages.

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from a single location.

Total area (in square feet) of all signs on a lot, excluding exempt and free standing signs, shall not exceed twice the linear measurement (in feet) of the facade length of the principal structure. The formula below shall be used to determine the allowed size of all non-exempt signs on a single lot:

<total signage in square feet = 2 times facade length in feet.>

## 2. Wall and Roof Signs:

In a RA 1, RA 2 or Hamlet Residential zoning district, one wall sign, in addition to exempt signs as necessary, shall be permitted on the facade of a building in which the activity associated with the sign is conducted. In other zoning districts, Hamlet Business, GB-1, GB-2 and R/E, two wall signs, in addition to exempt signs as necessary, shall be permitted on the facade of a building in which the activity associated with the sign is conducted.

Signs attached to or part of the roof of any structure are prohibited except that a vertical portion of a mansard roof shall be considered a wall. Signs attached to a wall shall not extend above the highest habitable portion of the building to which they are attached, or project more than six feet horizontally beyond the wall.

## 3. Freestanding Signs:

Freestanding signs, except as specified in the Section on off-premises signs, must be located on the lot where the goods, services or functions announced by the sign occur. Freestanding signs which do not conform to the provisions of this Article may continue to be displayed, as long as the sign's message, illumination or physical structure is not changed. One non-exempt freestanding sign shall be allowed in all zoning districts. Only exempt freestanding signs shall be allowed in other districts. If a single use occurs on adjacent lots or on lots across the road from one another, only one lot may have a non-exempt freestanding sign.

Freestanding signage for each lot shall not exceed 16 square feet in a residential, or agricultural district, and shall not exceed 32 square feet in a hamlet business, general business district 1 or general business district 2 zoning district.

Freestanding signs and their structural supports shall not exceed 15 feet in height. The height of a sign shall be measured from the top of the sign structure, including any illumination and supports, to the finished grade, exclusive of any mounding, berming or filling solely for the purpose of siting the sign.

Freestanding signs shall not be affixed to trees, telephone poles or electric poles. All parts of freestanding signs shall conform to the side-yard and rear-yard setbacks of the zoning district in which they are located and shall be set back at least one foot from any right of way.

## 4. Illuminated Signs:

Signs illuminated from the interior are permitted in hamlet business, general business district 1 or general business district 2 zoning districts. Such signs may contain illuminated letters or symbols against a dark background (for example, glass tube neon signs or opaque metal signs with cut-out lettering are permitted). However, to reduce hazard, glare and nuisance, the sign background shall not be illuminated from the interior (for example, plastic injection-molded signs with dark lettering on a bright background are prohibited). Pre-existing illuminated signs which do not conform to the provisions of the Article may continue to be displayed as long as the sign's message, illumination or physical structure is not changed.

Signs illuminated by lights affixed to the sign surface (for example, by light bulbs surrounding a wooden signboard) are prohibited. Flashing, moving, rotating or intermittent lights or reflectors shall not be permitted as part of a sign or as separate components of a commercial display or advertisement. Holiday light decorations are permitted during times appropriate to the holiday.

Illumination directed onto a sign or facade from a light mounted on a building, the signpost or the ground is permitted in all districts, provided such light does not create a hazard, glare or nuisance. All

illumination directed at a sign or part of a sign shall be turned off no later than one hour after the close of business.

#### 5. Multi-tenant Signs:

On lots where more than one use is conducted, the owner or manager of said lot is required to submit a single plan for all signage on the lot. If, in the opinion of the Planning Board, the plan submitted provides consistent design and coordinated presentation of information, then the size limitations for total signage on the lot may be increased by 25%.

#### 6. Off-Premises Signs:

Off-premises signs directing the public to a commercial location, place of assembly, etc., may be erected near road intersections, provided the property owner gives permission. Each such sign shall be not larger than six square feet. Two such signs shall be allowed without a permit; more than two shall require a special permit issued by the Planning Board upon their decision that said signs do not impair visibility, property values or the residential character of the neighborhood. Off-premises signs whose main function is other than providing directions are prohibited. Off-premises signs may continue to be displayed without a permit until January 1, 2001, after which time the owner of said signs must apply for a special permit as described above.

#### 7. Merchandise Displays:

Displays of merchandise are allowed provided they would be allowed in that location if not for sale (for example, junkyards are not permitted without a fence).

#### 8. Copy-Change Signs:

Copy-change signs are prohibited. Gasoline stations, places of public assembly such as churches and cinemas, and stands selling seasonal agricultural goods may, however, display such signs provided these conform in other respects with the provisions of this Article. Copy-change signs displayed at the time of passage of this Article may continue to be displayed without a permit until January 1, 2001.

#### 9. Removal of Signs:

(a) All structural parts of signs no longer in use shall be removed within two years of end of use. If such signs are not removed by the end of the allowed time, the Town Board may provide for their removal and charge the removal costs to the property owner.

(b) All signs advertising commercial activity which do not qualify as exempt signs under section 5.05 may be removed by the Zoning Enforcement Officer or any town employee without notice to the sign owner.

### Section 5.04 Procedures

Applications shall be made to the Zoning Enforcement Officer on forms provided by the Town. Fees and duration of permits shall be set by resolution by the Town Board. Such fees and permit procedures may be amended as the Town Board shall, from time to time, decide.

### Section 5.05 Exempt Signs

The following signs are exempt from the permit requirements of this Article, other than safety regulations of Section 5.02. The following signs may be freestanding or attached to a structure.

1. Signs two square feet or smaller identifying a residential structure or location.
2. Informational signs two square feet or smaller.
3. Flags, except those of a commercial nature.

4. Signs related to agriculture, displayed on the premises where the agricultural activity is conducted, provided that the principal use of the lot is residential or agricultural. Examples include, but are not limited to: advertisements promoting milk drinking, signs indicating the breed of animal or type of seed used on the farm, manufacturer's trademark on silos, signs advertising the sale of agricultural goods.

5. Restorations or re-creations of historic signs or markers on the lot where such sign stood before restoration.

6. "No trespassing" signs, or signs of similar meaning, one square foot or smaller.

7. Signs warning of a hazard or danger, three square feet or smaller.

8. Sandwich boards in non-residential and non-agricultural zoning districts, if displayed on the premises where the advertised goods or services are available, and if taken inside nightly at or before sundown. In addition, non-conforming business or commercial uses in the RA-1, RA-2, H-R or R/E districts may display sandwich board signs following these standards

9. "For sale" signs not larger than two square feet affixed to cars, boats, etc., provided the premises on which the vehicles are displayed are not used regularly for such sales.

10. Signs for garage sales, auctions, etc., provided the premises are not used regularly for such sales. Such signs shall be not larger than six square feet and shall not be displayed for more than 14 days.

11. One on-premises sign advertising real estate for sale or rent, not larger than six square feet in residential or agricultural zoning districts, or 16 square feet in other zoning districts. Such sign shall be removed no later than 30 days after closing.

12. One sign, not larger than 16 square feet, listing the designer or builder on premises where construction, renovation or repair is in progress. Such sign shall be removed no later than 30 days after completion of work

13. Political posters, signs promoting a non-commercial cause or activity, or not-for-profit fund raising devices, not larger than six square feet, in residential or agricultural zoning districts, or 32 square feet in other zoning districts. Such signs shall be removed no later than one week after the advertised activity ends.

14. Signs for which permits have been issued by the State of New York prior to 1995 and for which permits have been kept current under NYS rules and regulations.

If such signs described in Section 5.05 numbers 10, 11, 12, or 13 above are not removed by the end of the allowed time, the Town Board may provide for their removal and charge the cost to the advertising body.

#### Section 5.06 Non-Conforming Signs

The structure, size or message of a sign shall not be replaced with a non-conforming sign.

A non-conforming sign may be temporarily removed for normal maintenance if said sign is restored to its original place and appearance within three months. A non-conforming sign removed for more than three months shall be brought into conformity before replacement.

## **ARTICLE VI: HOME OCCUPATIONS**

## Section 6.01 Home Occupations

The Town of Otsego encourages the use of residential properties in all districts for home occupations. Home occupations represent an appropriate use of all residences, and are compatible with the rural character, historic qualities and natural environment of the Town. Home occupations provide economic opportunities for residents while allowing the peaceful enjoyment of other properties in the Town.

Any non-residential activity conducted as an accessory or secondary use on a residential or agricultural lot may be considered a home occupation if it meets the criteria contained herein. Home occupations may include hobbies and non-profit activities as well as activities conducted with the intention of making a profit.

Home occupations shall be conducted in a manner which is clearly incidental to the residential use of the property and which does not change the character of the neighborhood. More than one home occupation may be permitted on a single residential lot; however, the total intensity of use of the entire lot shall not exceed the standards specified below. These standards are not intended to interfere with residential uses which may temporarily and occasionally exceed the standards, such as social gatherings or house repair or renovation.

The purpose of this section is to permit residents of the Town to have a broad choice in the use of their home as a place of livelihood and/or the production or supplementing of personal and family income. Home occupations are compatible with the rural character, historic qualities and natural environment of the Town if residential areas can be protected from adverse impacts of activities associated with home occupations. This section of the land use law also establishes criteria and development standards for home occupations conducted in dwelling units and accessory structures.

## Section 6.02 Criteria for a Home occupation

In all districts in the town, home occupations in compliance with the following regulations are permitted as accessory uses; no special permits shall be required in order to establish and maintain such uses.

1. A home occupation shall be conducted within the dwelling or an accessory building and shall be clearly incidental to the residential use of the property.
2. A home occupation shall not use more than 25%, not to exceed 500 square feet, of the floor area of the residential unit.
3. There shall be no retail sales other than telephone sales.
4. There shall be no storage of equipment vehicles over one ton or supplies associated with the home occupation outside the dwelling.
5. Home occupations shall not result in on-street parking.
6. There shall be no change in the outside appearance of the dwelling or premises except for a permitted sign (see item #10) or any visible evidence of the conduct of a home occupation.
7. A home occupation shall be conducted in a manner which does not give an outward appearance or manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of the dwelling units or infringe upon or change the intent of the residential zone. This means that there should be no outside storage or window display. It also means that the noise, dust, odors, noxious

fumes, or vibrations emanating from the premises should not exceed that which is normally produced by a single dwelling unit. Mechanical or electronic equipment which is incidental to the home occupation may be used provided it does not create visible or audible interference in radio or television receivers or cause fluctuations in line voltage off the premises. The home occupation shall not interfere with the delivery of utilities or other services to the area.

8. The home occupation should not generate significantly greater traffic volume than would normally be expected in the particular district in which the home occupation is conducted. General delivery and pick-up of materials or commodities to and from the premises by a commercial vehicle should not exceed two trips per week. A commercial vehicle for the purpose of this law is any motor vehicle having a gross vehicle weight of more than 20,000 lbs.

9. The home occupation is to be conducted only by members of the family residing in the dwelling unit plus no more than one non-resident employee at a time. One additional on-site parking space shall be required where a non-resident employee works on the premises.

10. Only one sign, not over two square feet in area, is permitted per dwelling unit. The legend shall show only the name of the occupant and the type of occupation. Other standards pertaining to signs in the land use law apply to home occupations.

11. No motor power other than electrically operated motors shall be used in connection with a home occupation. Home occupations shall not involve the use of electric motors of more than six (6) horsepower.

12. If the home occupation is the type in which classes are held or instruction given, or family day care, there shall be no more than six students or pupils in the dwelling unit or on the premises at any one time. More than six students (not counting a family day care provider's children) shall require a special use permit from the planning board. These requirements limiting class size shall not be construed to prohibit occasional exceptions for events such as recitals, demonstrations and other similar gatherings. All classes with six or more students (not counting a family day care provider's children) shall be scheduled at least 30 minutes apart to mitigate traffic congestion.

13. If the home occupation is the type in which customers or clients visit the premises, there shall be no more than six clients or customers in the dwelling unit or on the premises during any period of 60 consecutive minutes. Motor vehicle traffic generated by clients or customers of a home occupation shall be prohibited from visiting the premises between the hours of 10 o'clock PM and 7 o'clock AM.

### Section 6.03 Permitted Home Occupations

Home occupations include but are not limited to the following:

1. Architectural service
2. Art restoration
3. Art studio
4. Family Day Care
5. Beauty parlor or barber shop (with no more than 2 chairs for service)
6. Consulting services
7. Contracting (except as specifically prohibited)
8. Data or computer processing
9. Direct sale product distribution (Avon, Tupperware etc.)
10. Drafting and graphic services
11. Dressmaking, sewing, tailoring, contract sewing



12. Electronic assembly
13. Engineering service
14. Financial planning, investment service
15. Flower arranging
16. Gardening, landscape maintenance
17. Home crafts (including ceramics with kiln up to six cubic feet)
18. House cleaning service
19. Individual instrument instruction provided that no instrument may be amplified
20. Individual tutoring
21. Insurance sales or broker
22. Interior design
23. Jewelry making; jeweler
24. Laundry, ironing service
25. Locksmith
26. Mail order (not including retail sales from site)
27. Professional office facility
28. Real estate sales or broker
29. Sales representative (office only)
30. Security service, security systems, auto security systems
31. Swimming pool cleaning
32. Telephone answering, switchboard, call forwarding
33. Tutoring
34. Typing, word processing
35. Wallpapering
36. Watch repair
37. Writing, editing

Any use not listed here shall submit information for a determination as to the applicability of home occupation status to the Planning Board. No public hearing or site plan is required; a simple description of the business to the Board is sufficient.

#### Section 6.04 Enforcement Procedures

Home occupations are permitted uses; thus, no permit is needed for their use (unless a new accessory building is constructed in which the activity will be undertaken; such requires a building permit from the code enforcement officer). Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of these provisions shall, upon conviction, be fined not more than \$100 for each offense. Each day that a violation shall exist shall constitute a separate offense.

### **ARTICLE VII: ADMINISTRATION and ENFORCEMENT**

#### Section 7.01 Administrative and Enforcement Officer

A. This Local Law shall be enforced by the Zoning Enforcement Officer who shall be appointed by the Town Board. The Town Board shall fix the salary or compensation of such officer and provide for the payment thereof.

B. The Town Clerk is hereby given the following duties and authority:

1. To accept applications required by this Local Law and to transmit such application to the Zoning Enforcement Officer, to Clerks of the Planning Board or Zoning Board of Appeals

as appropriate.

2. To provide, upon request, copies of the Town Land Use Local Law and map and any forms, rules and regulations used in administering this Local Law.
3. To maintain a file of all applications, permits and other official documents involved in the administration of this Local Law.

C. The Zoning Enforcement Officer is hereby given the following duties and authority:

1. In consultation with the Planning Board, to develop such forms, rules and regulations as deemed necessary for proper administration and enforcement of this Local Law. Said form, rules and regulations shall be reviewed and approved by the Town Board and shall be available for public view at the Town Clerk's Office
2. To enter upon, examine or inspect, for the purpose of administering or enforcing this Local Law with reasonable arrangements with the owner, any land, building or structure which is the subject of an application under this Local Law. To make follow up visits after site plan approval or issuance of special permits to ensure adherence to the approval granted. A written report of each examination or inspection shall be kept on file in the Office of the Town Clerk.
3. To receive complaints of violations of this Local Law or to make complaints against the owner or occupant of the premises where there appears to exist a violation of any provision of this Local Law.
4. To act upon any and all complaints and to serve a written notice of violation and/or Stop Work Order upon the owner or occupant of the premises where there appears to exist a violation of any provision of this Local Law.
5. To accept applications required by this Local Law and to issue, subject to conditions, or refuse to issue any requested permit, certificate or license within ten (10) days of the receipt of the application therefore, except that where such application involves review by an official board under the provisions of this Local Law. All applications clearly in violation of the provision of this Local Law shall be rejected. Where conformity with the Local Law is uncertain the application shall be referred to the Planning Board for disposition under the Planning Board's site plan review authority under Section 6.3. Where such review is required, the Zoning Enforcement Officer shall notify the applicant of such fact and of any necessary applications, statements, plans, or other documentation required for such review within ten (10) days of receipt of the original application. The Zoning Enforcement Officer shall notify the applicant of meetings at which his application will be acted upon by any reviewing board and said officer shall take such action as may be directed by such Board within ten (10) days of such direction.
6. To file with the Town Clerk copies of all applications received and permits issued.
7. To perform any other administrative or enforcement duties specified in this Local Law including but not limited to the issuance of permits, licenses or certificates, accepting or reviewing applications, plans, or plats, and carrying out any lawful order of the Town Planning Board, the Town Board, the Zoning Board of Appeals, or a Court having jurisdiction over this law.
8. To issue appearance tickets in accordance with New York State CPL § 150.20(3).
9. Failure to comply with the standards set below, shall give the Planning Board the legal authority to deny renewal of the permit or to revoke the permit if it is clearly in violation of the law and the law and the owner refuses to comply with the standards of the special permit.

## Section 7.02 Permits, Certificates and Licenses

A. No building or structure shall be constructed, erected, altered or otherwise extended unless a zoning permit is issued by the Zoning Enforcement Officer, subject to the following conditions:

1. A zoning permit shall be required for any activity that involves the creation of a new dwelling unit, an enlargement of the enclosed or covered floor area of an existing building or structure or the creation of any building or structure having a floor area greater than one hundred (100) square feet. All construction, whether or not a building permit is required, shall conform to all provisions of this Local Law.
2. Every zoning permit application shall include the following:
  - a. the location, size, dimensions, and district of the lot or lots on which the work is to be performed;
  - b. a sketch or drawing showing the location of the proposed building or structure, including dimensions to all property lines and to the nearest building within one hundred (100) feet of the proposed building or structure;
  - c. a statement or drawing describing the proposed structure including its height, floor area, use, and any information necessary to determine the off-street parking area requirements in conformance with this Local Law;
  - d. a statement or drawing showing all proposed parking and loading areas, driveways, anchors, tiedowns or required landscaped buffer areas;
  - e. any other statements or drawings necessary to determine that the proposed work will comply with the provisions of this Local Law.
3. Whenever a proposed building, structure or land use requires approval of a site plan no zoning permits shall be issued until such site plan is approved as specified in this Local Law. Under these circumstances, site plan procedures and specifications are to be substituted for the drawings and statements required in 7.02 A. 2.

B. No building or structure over one hundred (100) square feet of floor area shall be wholly or partially demolished except after issuance of a demolition permit by the Zoning Enforcement Officer, subject to the following conditions:

1. The application for such permit shall contain the location of the structure, a description of the method of waste removal and a description of site restoration measures, including filling of foundations and excavations and erosion retardation.
2. No demolition permit shall be issued for the clearing of a site for new construction unless a building permit for such new construction has been approved.

C. No zoning permit will be issued on a property or to a person with an existing violation of this law or any law in the Town, with the exception that any zoning permit required to correct a violation will be issued.

D. No building or structure shall be occupied except after a certificate of occupancy has been issued by the Zoning Enforcement Officer subject to the following conditions:

1. The use conforms to all applicable provisions of this Local Law.
2. The building or structure to be occupied conforms to that proposed on any approved building permit application or site plan application, together with any recorded conditions made in the approval of such permit or plan.
3. The use of the building or structure occupied by the use does not conform to all

applicable provisions of this Local Law but is a bonafide non-conforming use as defined and regulated in this Local Law.

- E. No sign, except exempt signs (Section 5.05), or advertising structure shall be erected or established except after issuance of a sign permit by the Zoning Enforcement Officer in accordance with the provisions of this Local Law.
- F. Whenever several permits are required for the same project, such permits may be applied for simultaneously with one another and only a single fee charged. In such instances the charged fee shall be the sum of the fees that would be charged if the permits were issued separately.

### Section 7.03 Special Permits

1. The Planning Board shall administer the review and granting of special permits. All special permits shall require site plan review.

All applications for a special permitted uses shall be considered for a single lot.

Events of three days or less do not fall under this regulation and shall not require a special permit.

2. The application for a special permit shall be accompanied by a fee as set by the Town Board in its schedule of fees, three (3) sets of preliminary plans and/or other descriptive matter to clearly portray the intentions of the owner. Such plans shall show location of all buildings, parking, traffic access and circulation drives, open spaces, landscaping, all existing structures and usages within 200 feet of the site boundaries, and other information necessary to determine if the proposed special use meets the requirements of this local law.

3. At the regular or special meeting, when the completed application is reviewed, the Planning Board shall set a date for a public hearing. Said hearing shall be within 62 days of the receipt of a complete application by the Planning Board.

4. The Planning Board shall render a decision, at a regular meeting, either approving, approving with conditions, or denying a special permit application within 62 days of the public hearing.

5. A special permit shall be construed to be authorization for only one particular special use and shall expire if the special use shall cease for more than two years for any reason.

6. If a use ceases and the owner wishes to change from one special use to another special use, the applicant must submit another application and site plan and follow the procedures outlined above in items number 2 through 5.

7. The Planning Board may, at its discretion, set a time period for a special use of between 1 and 3 years. In such an instance, the applicant is required to seek renewal for the use at the end of the time period granted. Failure to comply with the standards set below, shall give the Planning Board the legal authority to deny renewal of the permit or to revoke the permit if it is clearly in violation of the law and the owner refuses to comply with the standards of the special permit.

8. Failure to comply with the standards set below, shall give the Planning Board the legal authority to deny renewal of the permit or to revoke the permit if it is clearly in violation of the law and the owner refuses to comply with the standards of the special permit.

### **Standards Applicable to All Special Permit Uses:**

All special uses necessarily require site plan review. Special permits shall be granted if the following conditions are met:

- A. Location, use and size of structure, nature and intensity of operations involved, size of the site in relation to it, and location of site with respect to existing or future streets giving access, are such that it will be in harmony with orderly development of the district.
- B. Location, nature and height of buildings, walls, fences and signs will not discourage the appropriate development and use of adjacent land and buildings or impair their value.
- C. Special uses shall not conflict with the Comprehensive Plan.
- D. Operation of any special use shall not be objectionable to nearby properties by reason of noise, fumes, vibration, or lights. If such conditions can be mitigated to the satisfaction of the Planning Board, certain such conditions may be allowed.
- E. Necessary provisions have been made to assure that all surface runoff to adjacent properties does not exceed levels in existence prior to construction.
- F. Solar access of adjacent properties is not obstructed by said use.
- G. All State Environmental Quality Review Act (SEQRA) requirements have been met.
- H. No special permit shall be issued for a use on a property where there is an existing violation of this local law or other town law or State law, rule or regulation. A written statement from the Zoning Enforcement Officer, the State Health Department, State Department of Environmental Conservation or other involved agency or agencies may be required to demonstrate that no existing violations on the property exist. In addition, if the applicant has a violation on another lot or piece of property in the Town, no special permit shall be issued until the violation on the property in question is corrected.

### Section 7.04 Fees

The application for any permit, certificate, license or any review by the Town Planning Board or Town Board or Zoning Board of Appeals shall be accompanied by a fee: an amount specified from time to time by resolution of the Town Board.

### Section 7.05 Violations

- A. A violation of this Local Law is hereby declared to be an offense punishable by a fine not exceeding three hundred fifty (350) dollars or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty (350) dollars nor more than seven hundred (700) dollars or imprisonment for a period not to exceed six months, or both; upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than seven hundred (700) dollars nor more than one thousand (1,000) dollars or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law or of any of its provisions shall be considered an unclassified misdemeanor, PL 55-10 (2). Failure to adhere to the site plan approved by the Planning Board and/or the special conditions required by the Planning Board shall be a violation of this law. It shall be a violation of this law to deviate in any way from any area variance or use variance granted by the Zoning Board of Appeals.

- B. Each week's continued violation shall constitute a separate additional violation provided a separate count is charged in the accusatory instrument.
- C. Where land is used or where any building or structure is erected, constructed, converted, altered, used or maintained in violation of this Local Law, the Zoning Enforcement Officer, in addition to other remedies, may institute any appropriate action or proceedings to prevent erection, construction, conversion, alteration, use, maintenance or occupancy.
- D. A complaint of violation of this Local Law may be made by any resident, property owner, or Town Official, including the Zoning Enforcement Officer. Such complaint shall include the following information:
  - 1. The name, address and telephone number of the complainant.
  - 2. The name, address and telephone number of the alleged violator
  - 3. A description of the nature of the alleged violation including a reference to the provision of this Local Law allegedly being violated.
  - 4. The dates and time of the alleged violation.
- E. Upon receipt of a complaint of violation, the Zoning Enforcement Officer shall investigate to determine the presence of a violation and upon finding a violation shall issue to the landowner a notice including the items listed under Section 7.05 D, together with any observations made by the Zoning Enforcement Officer on the basis of this investigation. Such notice shall also specify what corrective action is required by the owner or occupant of the property, and the date by which such action shall be taken. The term violation as used in Section 7.05 A shall exist only if the date of required action, as specified in the notice to the owner or occupant, passes without such specified corrective action having taken place.
- F. Notices required by this Section shall be issued by the Zoning Enforcement Officer either by personal service to the owner or occupant or by certified mail to the address of same shown on the tax roles of the Town or contained in the statement of complaint.

## **ARTICLE VIII: SITE PLAN REVIEW**

### Section 8.01 Site Plan Review

This section of the Otsego Land Use Law is enacted under the authority of Section 274-a of the Town Law of the State of New York to protect the health, safety, convenience and general welfare of the inhabitants of the Town.

### Section 8.02 Activities requiring site plan review

Upon application for any permit, certificate or license, the Codes Enforcement Officer shall determine if site plan approval is required under this Local Law. At a minimum, a site plan review shall be required under the following circumstances:

- 1. For all special permitted uses and certain permitted uses (see district regulations).
- 2. For a building permit for construction within five hundred (500) feet of the shoreline of Otsego or Canadarago Lake.
- 3. For a building permit for construction on steep slopes (15%) or in circumstances susceptible to erosion under Section 4.02.

4. For a permit for commercial mineral, sand or gravel extraction.

#### Section 8.03 Sketch plan conference

A sketch plan conference may be held between the Planning Board and the applicant before the applicant submits a formal site plan. The sketch plan conference is intended to be an informal discussion at which time the applicant informs the Planning Board of the site design concept and the Planning Board advises the applicant about information which should be included in the application, potential problems and other agencies that may have an interest in the project. A sketch plan should include a map showing the entire property under consideration for site plan review, a tax map and a description of any anticipated changes in boundaries, topography or ownership. The sketch plan should also include a drawing showing the approximate locations and dimensions of existing and proposed structures, parking areas, utilities, drainage systems, signs, landscaping and other significant features. The applicant is free to change any aspect of the sketch plan before submitting the proposal as a formal application. The applicant may request any number of sketch plan conferences without being subject to the fee for the site plan review. Once a sketch plan conference has been held or formal site plan submitted, no excavation, construction or removal of trees larger than 6 inches in diameter at breast height shall occur until approval of the site plan is given by the Planning Board.

If the applicant is not the owner of the property under consideration, the owner shall provide the Planning Board with written consent for the applicant to represent the owner in the processing of the application.

#### Section 8.04 Site Plan Requirements

Applications for site plan review shall include, at a minimum, the following items. Three copies of each of the following items shall be submitted for review:

1. A survey of the entire parcel, or affected portion thereof, signed by a licensed surveyor.
2. A map drawn to scale, showing the locations of all existing and proposed features on the parcel. At a minimum these shall include structures, roads, driveways, parking areas, utilities, drainage features, easements, rights of way, topographic contours, trees larger than 6 inches in diameter at breast height, wooded areas, waterways, ponds and seasonal or permanent wet areas.
3. A description of all current and proposed uses of the parcel including descriptions of all uses of land within 200 feet of the boundaries of the parcel. The applicant shall provide the Planning Board Clerk with the names and addresses of all property owners within 200 feet of the boundaries of the parcel so that appropriate notice of a scheduled public hearing be given to neighbors.
4. Preliminary building plans for all structures to be constructed, enlarged, altered or moved. These plans shall show floor plans, exterior elevations and sections. These plans shall also show locations of residential, commercial, industrial, retail, storage and other uses.
5. Preliminary engineering plans for road construction or improvement, utility connections, wells or other water supplies, erosion control measures during and after construction, surface and subsurface drainage systems, storm water control measures and sewage disposal systems.
6. Preliminary traffic circulation plans. These plans shall show vehicular and pedestrian access to the property, site roads and driveways, site parking and loading areas, and site pedestrian walkways.
7. Preliminary landscaping plans. These plans shall show materials to be used, trees

larger than 6 inches in diameter at breast height to be removed, screening provisions, buffer zones and fences or barriers.

8. A description of the location, height, intensity, bulb type and direction of all exterior lighting.
9. A description of the location, height, size, design and type of construction of all signs.
10. A description of the construction sequence for each phase of construction and an estimate of the anticipated increase in the number of residents, shoppers, employees, etc.
11. A list of all permits from other agencies that have been or will be required for this application, the dates these permits were or will be applied for and the current status of each permit. When these permits are approved, the applicant shall promptly provide copies and supporting documentation to the Planning Board Clerk for project record.
12. Environmental assessment documents as required by the New York State Environmental Quality Review Act (SEQRA). If the Planning Board is declared as the Lead Agency, the applicant shall complete Part 1 of either the short or long Environmental Assessment Form (EAF) as directed by the Planning Board. If another agency is declared as the Lead Agency, the applicant shall keep the Planning Board informed of all steps in the environmental review process.

#### Section 8.05 Processing of the Site Plan Application

The Planning Board may waive any of the above items, or any part of an item, which is found unnecessary to complete adequate review of the application. The Planning Board shall inform the applicant of any waiver. The Planning Board may also require, at any time before the application is deemed complete, additional materials or documents determined necessary for adequate review.

1. Upon receipt of the appropriate information and completion of the SEQRA review process, the Planning Board shall deem the application complete. The fee for the site plan review, as set by the Town Board, shall be due when the application is deemed complete. The Planning Board Clerk shall forward a copy of the application to the Otsego County Planning Agency, if required, and shall inform the applicant of this action.
2. The Planning Board's review of the site plan shall include, but is not limited to, the following considerations:
  - a. Compatibility with the Comprehensive Plan and the orderly development of the district
  - b. Compatibility with the site and the neighborhood with respect to location, arrangement, size and design of structures; nature and intensity of operations involved.
  - c. Adequate and appropriate access for emergency vehicles, on-site safety facilities, and compatibility with existing fire protection, emergency and public safety systems.
  - d. Adequate and appropriate design for vehicular access and circulation, including handicap accessibility, appropriate intersections, road width, surfacing materials, dividers and traffic control.
  - e. Adequate and appropriate on-site parking and loading facilities, with consideration to minimizing visual impact.
  - f. Adequate and appropriate design for pedestrian access and circulation, including walkways, handicap accessibility, intersections with vehicular traffic, and overall pedestrian safety and convenience.
  - g. Adequate and appropriate design of facilities for drainage, storm water control, and erosion control, during and after construction, with special attention given to the impact on structures, roads, earthworks, and landscaping areas in areas susceptible to ponding, flooding and erosion.



- h. Adequate and appropriate design for water supply and sewage disposal so that wells and septic systems do not interfere with present or future locations of wells and septic systems on nearby properties, or with the reasonable use of their properties.
- i. Adequate and appropriate landscaping from the road's edge to the front facade of all buildings and structures, as well as provisions for visual and sound buffers between this property and adjacent properties. This landscaped area may include screening provided by fencing, berms, non-deciduous trees and shrubs, existing natural features, or any combination of these as deemed necessary by the Planning Board to protect the character of adjoining residential areas.
- j. Compatibility with nearby properties with respect to noise, fumes, vibrations, signs, lighting and other considerations.
- k. Solar access of adjacent properties is not obstructed.

3. The Planning Board shall schedule a public hearing, with due notice, to be held within 62 days after the application is deemed complete. If the application is for a residential use or a use accessory to a residence, or if a public hearing has been held by another agency on the same application, the Planning Board may, at its discretion, waive the requirement for a public hearing. Unless the Planning Board and the applicant agree to extend the time allowed, failure of the Planning Board to hold or waive a public hearing within 62 days after the application is deemed complete shall constitute approval of the application.

4. After the public hearing has been completed, the Planning Board shall conduct final review of the application. Any modifications in the application or its supporting documents which occur during the review process shall be submitted in writing by the applicant and noted in the minutes.

5. The Planning Board may approve, approve with modifications, or disapprove the site plan. Unless the Planning Board and the applicant agree to extend the time allowed, failure of the Planning Board to render a decision within 62 days after the public hearing has been completed shall constitute approval of the application.

6. Approval:

Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall cause its approval to be endorsed on a copy of the site plan, and shall file it and a written statement of approval with the Planning Board Clerk. A copy of the written statement of approval shall be given to the applicant. Failure to adhere to the site plan shall be a violation of this law.

7. Approval with Modifications:

The Planning Board may conditionally approve the site plan. A copy of a written statement containing the modifications required by the conditional approval shall be given to the applicant. After adequate demonstration to the Planning Board that all conditions have been met, the Planning Board shall cause its approval to be endorsed on a copy of the site plan, and shall file it and a written statement of approval with the Planning Board Clerk. A copy of the written statement of approval shall be given to the applicant. Failure to adhere to the site plan shall be a violation to this law.

8. Disapproval:

Upon disapproval of the site plan, the decision of the Planning Board shall be filed with the Planning Board Clerk. A copy of the written statement of disapproval, and the Planning Board's reasons for disapproval, shall be given to the applicant.

Section 8.06 Appeals

Any person aggrieved by the action of the Planning Board in disapproving a site plan may make an appeal under an Article 78 proceeding to the New York State Supreme Court.

## **ARTICLE IX: ZONING BOARD OF APPEALS**

### Section 9.01 Zoning Board of Appeals

The Zoning Board of Appeals of the Town of Otsego shall hear and decide appeals from and review any order, requirement, decision or determination made by the Codes Enforcement Officer. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Town by filing with the Zoning Enforcement Officer and the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceeding in furtherance of the action appealed unless the Zoning Enforcement Officer certifies to the Board, after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application. The Zoning Board of Appeals may reverse or affirm wholly or partially or may modify the order, requirement, decision or determination as in its opinion ought to be made in the circumstances.

### Section 9.02 Procedures and Referrals

- A. All applications for action by the Zoning Board of Appeals shall be made to the Zoning Enforcement Officer on such forms as he may prescribe. Such applications may be made at any time except that an application for appeal under Section 9.01 above shall be made within sixty-two (62) days of the action being appealed.
- B. The Zoning Enforcement Officer shall transmit a copy of the application, together with any accompanying documents, to the Zoning Board of Appeals who shall schedule a hearing thereon. Public notice of said hearing shall be given by publication in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof and the Board shall at least five (5) days before such hearing, mail notices thereof to the parties. Where any variance or special permit application affects any real property lying within five hundred (500) feet from the boundary of any city, village or town or from any state, city, village or town property the Zoning Board of Appeals shall notify the Otsego County Planning Agency of said application and submit copies of the application and any supporting documents thereto. No action shall be taken upon any matter referred to the Otsego County Planning Agency until said Board shall have made a recommendation thereon to the Zoning Board of Appeals or thirty (30) days shall have elapsed since the date of referral.
- C. The hearing of an appeal or application shall take place within ninety (90) days of the filing of the appeal or application.
- D. Upon a motion initiated by any member and adopted by the unanimous vote of the members present, but not less than a majority of all the members, the Zoning Board of Appeals shall review at a rehearing, held upon notice given upon an original hearing, any order, decision, or determination of the Board not previously reviewed. Upon such rehearing, and provided it shall appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision or determination reviewed will not be prejudiced thereby, the Board may, upon concurring vote of all members present, reverse, modify or annul its original order, decision or determination.
- E. The Zoning Board of Appeals shall reach a decision on any application or appeal within sixty-two (62) days of the final hearing thereon. Such decisions shall be promptly filed in the office of the Town Clerk and shall be a public record. Within seven (7) days of such decision, notice thereof shall be transmitted

to the Otsego County Planning Agency whenever such decision related to an application referred to said County Planning Agency.

Section 9.03 Variance Appeals:

The Zoning Board of Appeals shall have authority to vary the requirements of this Local Law subject to the following conditions:

1. An application for such variance shall be made to the Zoning Enforcement Officer for transmittal to the Board, said application to contain the following items:
  - a. the name, address and telephone number of the applicant;
  - b. the location and land use district of the property for which the variance is sought;
  - c. the existing use of said property including a description of any existing buildings;
  - d. a citation to the provision of the Local Law for which the variance is sought;
  - e. a justification of the request for variance.
  
2. Area Variances: In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider:
  - a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  
  - b. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  
  - c. whether the requested area variance is substantial;
  
  - d. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  
  - e. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  
3. Use Variances: The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances, as defined herein. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that:
  - a. under applicable zoning regulations the applicant is deprived of all economic use benefit from the property in question, which deprivation must be established by competent financial evidence;
  
  - b. that the alleged hardship related to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  
  - c. that the requested use variance, if granted, will not alter the essential character of the neighborhood, and
  
  - a. that the alleged hardship has not been self-created.

4. In granting a variance the Board, in its resolution, shall specify its findings and the fact that all of the conditions specified above are met.
5. In the exercise of its power and duties, the Zoning Board of Appeals, through its chairperson, or in his/her absence, its acting chairperson, may compel the attendance of witnesses and may administer oaths prior to taking the testimony of any witness.
6. In addition to the findings required before the granting of any variance or special permit under this section, the Board of Appeals may consider any other evidence necessary to show compliance to the intent and purpose of this Local Law.
7. The Board, in granting any appeal, variance or special permit, may attach such conditions to said approval as, in its determination, are necessary to achieve the intent and purpose of this Local Law.

#### Section 9.04 Judicial Review

1. Any person or persons aggrieved by any decision of the NYS Board of Appeals or any officer, department, board or bureau of the Town may apply to the NYS Supreme Court for review by a proceeding under Article Seventy-Eight (78) of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk. The Court may take evidence or appoint a referee to take evidence as it may direct and report the same with his findings of fact and conclusions of laws if it shall appear that testimony is necessary for the proper disposition of the matter. The Court, at a Special Term, shall itself dispose of the case on the merits, determining all questions which may be presented for determinations.
2. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the Court that it acted with gross negligence, in bad faith or with malice in making the decision being appealed.
3. All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings.
4. If, upon the hearing at a Special Term of the NYS Supreme Court, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

### **ARTICLE X: MISCELLANEOUS PROVISIONS**

#### Section 10.01 Amendments

1. These regulations or the boundaries shown on the land use map may be amended, supplemented, changed, modified or repealed by the Town Board. However, in case of a protest against such changes signed by the owners of twenty per cent or more, either of the area of land included in such proposed change or of that immediately adjacent extending five hundred (500) feet therefrom or of that directly opposite thereto extending five hundred (500) feet from the street frontage of such opposite land, such amendment shall not become effective except by vote of at least three-fourths (3/4) of the members of the Town Board.

2. No proposed amendment, supplement, change or modification of these regulations or the boundaries shown on the land use map shall be approved or disapproved until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

3. At least ten (10) days notice of such Public Hearing shall be published in a paper of general circulation within the Town. A written notice of any proposed change or amendment affecting a housing project authorized under the Public Housing Law, or within five hundred (500) feet of the boundaries of any city, village, town, or county or state, city, village town or county property shall be given the appropriate city, village, county, state bodies at least ten (10) days in advance. Such city, village, county, town or state shall have the right to appear and to be heard at such Public Hearing with respect to any such proposed change or amendment but shall not have the right to review by a court.

4. Any land use regulation or amendment thereof which would change the classification of or the regulations applying to real property lying within distance of five hundred (500) feet from the boundary of any city, village, or town or from any county or state highway shall, before the Town Board takes final action on such matters, be referred to the Otsego County Planning Agency. If the County Planning Agency disapproves any such proposal or recommends modification, the Town Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after adopting a resolution fully setting forth the reasons for such contrary action.

5. Every amendment to this land use local law excluding any map incorporated therein, adopted pursuant to this section, shall be entered in the minutes of the Town Board; such minutes shall describe and refer to any map adopted in connection with such amendment.

#### Section 10.02 Referral to Zoning Board of Appeals

Any application requiring a variance shall be referred to the Zoning Board of Appeals whenever said application relates to a site plan under review by The Planning Board. The Town Planning Board may approve any such site plan, conditional upon approval of a variance by the Zoning Board of Appeals.

#### Section 10.03 Interpretation and Conflict with Other Laws

In this interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of public health, morals, safety, or general welfare. Whenever the requirements of this Local Law 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.

#### Section 10.04 Separability

Should any section or provision of this Local Law be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any provision thereof other than the part so decided to be unconstitutional or invalid.

## APPENDIX A

### ARCHITECTURAL STANDARDS

#### A. Statement of Philosophy and Purpose

The Town of Otsego has a national and international reputation by virtue of its natural beauty, its historical character (Cooperstown and Leatherstocking Country), and its physical and cultural resources (including the New York State Historical Association, the Baseball Hall of Fame, the Farmers' Museum, and Bassett Hospital). Thousands of visitors come to the Town every year, and many find it an attractive place to live. The Town of Otsego's natural and historic assets are fragile resources. As in other nearby areas (i.e., Lake George, Saratoga Springs, the Catskills, etc.), the influx of visitors and new residents threatens the very qualities that make it a special place. Without effective regulation of land use and architectural control, taking into account the Town's special qualities, growth and development is likely to occur in an indiscriminate, haphazard manner, marring natural beauty, diminishing historical character, straining local resources, and damaging the environment.

With this in mind, the Town Board finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings erected or remodeled in any zoning district in the Town adversely affects the desirability of the immediate area and neighboring areas for residential and business purposes or other use. It also impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate development of such areas, produces degeneration of property and destroys a proper relationship between the taxable value of real property in such areas and the cost of municipal services provided therefore. It is the purpose of this section to prevent these and other harmful effects of such exterior appearances of buildings erected in any neighborhood and thus to promote and protect the health, safety, comfort and general welfare of the community, to promote the public convenience and prosperity, conserve the value of buildings and encourage the most appropriate use of land within the unincorporated portion of the Town.

#### B. Planning Board Authority in Architectural Control

The Town Board hereby extends to the Planning Board the authority to review and approve, approve with conditions or disapprove any application for site plan/special permit in any zoning district in the Town based upon the additional provisions listed below pertaining to architectural standards. The Town Board will provide the Planning Board with an architectural advisor who shall serve in an ex-officio position (no voting rights). This advisor must be a Town resident. Applicants for the position will be interviewed by the Town Board and serve at the pleasure of the Town Board. The advisor shall assist the Planning Board in interpreting and using these regulations in their review of commercial applications. Should the Planning Board disapprove an application, it must find the proposed structure or building, if erected or altered, would be so detrimental to the desirability, property values or development of the surrounding areas as to be the cause of one of the harmful effects set forth in Paragraph A above by reason of:

1. Excessive similarity to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street and within 1,000 feet of the proposed site, in respect to one or more of the following features of exterior design and appearance:
  - (a) apparently identical facade;
  - (b) substantially identical size and arrangement either of doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangement; or
  - (c) other significant design features such as, but not limited to, appropriateness and harmony of exterior design; compatibility of exterior materials with that used on buildings where uses are similar in nature; textures, nature and quality of exterior

materials; roof lines and height; or other design elements, provided that a finding of excessive similarity shall state not only that such similarity exists, but further that it is of such a nature as to be expected to provoke beyond reasonable doubt one or more of the harmful effects set forth in Paragraph A above; or

2. Excessive dissimilarity or inappropriateness in relation to any other structure existing or for which a permit has been issued, or to any other structure included in the same permit application facing upon the other structure included in the same permit application facing upon the same street and within 1,000 feet of the proposed site in respect to one or more of the following features:
  - (a) cubical contents;
  - (b) gross floor area;
  - (c) height of building or height of roof; or
  - (d) other significant design feature such as: material or quality of architectural design.

This would include inappropriate designs of buildings; color schemes or exterior materials and other factors of architectural or historic significance which are deemed pertinent; provided that a finding of excessive dissimilarity or inappropriateness exists, but further that it is of such a nature as to be expected to provide beyond reasonable doubt one or more of the harmful effects set forth in Paragraph A. above, and that the finding is not based on personal preference as to taste or choice or architectural style. The appendix of this law contains architectural guidelines which are encouraged for use in the general business and hamlet business districts in the town.

## APPENDIX B

### TABLE OF OFF-STREET PARKING REQUIREMENTS

#### RESIDENTIAL; SEMI-RESIDENTIAL; INSTITUTIONAL:

One Family Dwelling	2 spaces per Dwelling Unit
Apartments	2 spaces per Dwelling Unit
Home Occupation	2 spaces (3 if a non- family employee works on premises)
Boarding/Rooming Houses (Hotel)	1 space per room
Residential Hotels/Motels	1 space per room
Hospitals	1 space per bed
Nursing Homes	1 space per bed
Civic Center, Library Museum, Post Office	(1 space for every 4 seats)
Clubhouse, permanent meeting places of (1 space for every 4 seats) civic or fraternal organizations	
College, educational institutions, universities	(See unspecified uses)
Dormitories, fraternity & sorority houses	(See unspecified uses)
Junior high schools, senior high schools	(See unspecified uses)
School	(See unspecified uses)
Places of worship	1 space per 4 seats or 1 space per 60 sffa at the discretion of the Planning Board
Mobile homes	(See one family dwelling)
Mobile home park, trailer park	(See unspecified uses)

#### COMMERCIAL USES:

Professional offices, governmental buildings, business offices	1 space per 300 sffa
Retail stores, shops & services	1 space per 200 sffa
Restaurant, eating & drinking places	1 space per 4 seats or



1 space per 60 sffa  
at the discretion of the Planning Board

Gasoline service stations (See unspecified uses)

Auditorium, places of public assembly, stadium, theaters 1 space per 4 seats or  
1 space per 60 sffa  
at the discretion of the Planning Board

Amusement facilities, recreational facilities, skating rink, bowling alley) (See unspecified uses)

Clinic, medical/dental (Professional office)

Funeral homes, undertakers (See unspecified uses)

Electrical, plumbing, repair, roofing shops (See retail store)

Service establishments 1 space per 200 sq. ft. of floor area plus  
one space for each employee

Self-service laundry (See unspecified uses)

### WAREHOUSING

Warehousing and Storage Areas, 1 space per 1,000 sffa

Light Assembly (See unspecified uses)

UNSPECIFIED USES: 1 space per 200 sffa or  
1 per 1,000 s.f. sitting area or as  
required by the planning board

Notes: Not all types of uses listed are contained in specific Local Laws. When no requirement for a use was found, the most similar use was referenced, although this procedure is only authorized in the Otsego County Model. The model is also the only example containing a requirement for "Unspecified Uses". The following abbreviations and notations are used throughout this table:

com. veh. - commercial vehicle used in the business  
DU - dwelling unit  
emp. - regular employee on largest shift  
sffa - square feet of floor area  
P.B. - planning board

## APPENDIX C

### DEFINITIONS

Accessory Use: A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use of a building (e.g., home occupation).

Active Adult Housing: As its name suggests, active adult housing describes a category of residences that is both independent of full-time staff support and age restrictive. Housing that is specifically targeted to occupants who are age 50 years and older.

Adult Housing Facility: Shall consist of at least two or more of the following combinations: active adult housing, adult retirement communities, assisted living facilities, and/or congregate care and skilled nursing facilities with their required ancillary facilities.

Adult Retirement Communities: A planned residential development for occupancy of person(s) 50 years of age and older that emphasizes social and recreational activities but may also provide personal services, limited health facilities and transportation.

Agricultural Use: Any parcel of land which is used for the raising of agricultural products for commercial purposes, or used for raising livestock. Such use includes necessary structures and equipment. Also included are farm stands, fruit stands, greenhouses and nurseries.

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

Animal Hospital: A business that performs medical treatment for animals and regularly houses them on the premises overnight and for extended periods.

Apartment House: A building used or intended to be used and occupied by three (3) or more families living independently of one another. (See Family)

Appliance Repair Shop: A shop where small appliances such as, but not limited to toasters, TV's, irons, radios, lawn mowers, VCR's and stereos, are fixed.

Assisted Living Facilities: Dwelling units for occupancy of person(s) 50 years and older where rooms, meals, personal care and supervision of self-administered medications are provided. Other services may be provided as an accessory use such as recreational facilities, financial services and transportation.

Bed and Breakfast: Owner occupied one-family dwelling used for providing overnight accommodations and a morning meal to not more than ten transient lodgers and containing not more than five bedrooms for such lodgers.

Birds Eye View: A view showing how a building is laid out on a parcel of land that depicts the extent of the building's eaves.

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

Building Footprint: The horizontal areas of a lot or site included and measured within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof. It includes residences, garages, covered carports, and accessory structures,

but not trellises, patios and areas of porch, deck, and balcony less than 30 inches from finished grade.

Business/Professional Office: Offices in which an occupation or vocation requiring advanced study in a specified field is practiced. Examples are: medical, law, engineering, surveying, insurance, and real estate offices.

Cabin: A structure which accommodates a maximum of six guests and is occupied for less than 90 days by the same occupants. The structure may not exceed 500 square feet and may not exceed 18 feet in height.

Campground: A plot of ground upon which three or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes with occupancy not to exceed 90 continuous days. Storage for unoccupied mobile units is prohibited. Number of campsites will be determined by density per acre: 1 campsite per 2 acres.

Camping Unit: Any tent, cabin, trailer, lean-to, recreation vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

Congregate Care and Skilled Nursing Facility: Units for occupancy of person(s) 50 years and older where communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services and other support services appropriate to the operation of a skilled nursing facility are provided.

Car Wash: A structure designed or intended primarily for the washing of automobiles, including conveyor, drive through and self service.

Center Line of Road: A line midway between and parallel to two (2) property lines along any public highway or right-of-way. Whenever such property lines cannot be determined, such line shall be considered as being midway between and parallel to the paved or improved surface of the road.

Clustering: A form of development for single family residential subdivisions that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

Construction: All building processes including site preparation, excavation, and building erection.

Convenience Store: Any retail establishment offering for sale pre-packaged food products, household items, newspapers and magazines and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

Copy-change Sign: A sign containing movable letters, numbers, words or symbols which can easily be changed or rearranged without repainting.

Coverage: All parts of a lot that have: 1) lost their vegetative or natural cover and/or 2) covered by buildings, pavement, gravel, sand, concrete or some other unnatural surface or coverage.

Day Care Center: Licensed day care for more than 6 children; the maximum number of children served is set by the State in the day care license. Such a facility operates for more than 3 hours (per child) per day and the location (private home or day care center building) varies. Such a use is not a home occupation under this law.

DBH: Diameter at breast height (trees).

Deck: An aboveground, open and roofless platform, either freestanding or attached to a building and is connected by structural supports at grade or by the building structure

Drive-In Use: An establishment, which by design, physical facilities, service or by packaging procedure, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Driveway: An unmapped private access way originating at the edge of street bed (road) and continuing into the interior of two or fewer lots.

Dwelling: A building designed or used exclusively as the living quarters by one or more persons.

Dwelling, Two Family: One principal use with one principal building when the two dwelling units occupy one principal building or one principal building and one accessory building. Each dwelling unit designed or occupied by one family. (See Family)

Dwelling Unit: A single dwelling providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation for one family. (See family)

Eating and/or Drinking Establishment: A parcel of land which includes facilities primarily used for the sale of prepared food or beverages for public consumption.

Educational Institution: An institution, either public or private providing full-time day instruction and a course of study which meets the requirements of the New York State Education Law.

Facade: The vertical front or main surface of a building and all surfaces of the structure parallel or nearly parallel to said surface. Such surfaces include, but are not limited to, solid walls, doors and windows, porches, billboards and roofs. (Normally, a building will have only one facade, which will be the wall facing the street and containing the front door.)

Family: Any number of individuals related by blood, marriage or adoption or not more than five (5) individuals who are not so related, living together as a single housekeeping unit, using rooms including kitchens and bathrooms in common.

Family Day Care: Licensed day care conducted in a private home for more than 3 hours per day (per child) with 3-6 children, not including the provider's children. Such a use is a home occupation under this Law.

Farm: See Agricultural Use.

Fence: Any visible or tangible obstruction to sight or passage of humans or animals interposed between two portions of land or which divides a piece of land into distinct portions

Flood Plain: Any area liable to flood in a one hundred (100) year flood as determined by the New York State Department of Environmental Conservation.

Food Truck: A licensed, registered, and inspected motor vehicle, primarily used for the sale of prepared food or beverages for public consumption. Operating food trucks must follow lot setback requirements as if they were permitted structures.

Forest Management Practices: Management of natural vegetation for timber harvesting, firewood, wildlife habitat improvement and water quality.

**Freestanding Sign:** A sign not fixed to or mounted upon a building. This term, unless otherwise specified, shall be construed to refer to signs advertising goods, services or functions available on the premises where the sign is sited.

**Frontage:** That portion of a lot between the side lot lines that abuts a street (road).

**Garage, Commercial:** A building or premises used for the storage, repair, rental, sale or servicing of motor vehicles or for the sale of fuel for such vehicles.

**Group Family Day Care:** Licensed day care in a private home for more than 3 hours per day (per child) for 7-12 children, not including the provider's children. Such a use is not a home occupation under this law and requires a Special Permit.

**Health Care Facility:** A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not omitted to, a general hospital, special hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, and home health care agency.

**Home Occupation:** An occupation conducted by one or more members of a family residing on the premises and conducted entirely within the principal or accessory buildings so as not to alter the essential character of the area. No home occupation shall be conducted in such a way as to preclude the primary use of the premises as a residence.

**Hotel:** A building or group of buildings providing individual sleeping accommodations complete with bathrooms for travelers. In a hotel, all lodging units open onto a main corridor or hallway in the building; the rooms do not open directly to the outside (such as in a motel).

**Informational Sign:** A sign which provides information without advertising or commercial intent. Examples include but are not limited to: enter/exit, no vacancy, open/closed, warning/danger, use side door, private, park here.

**Institutional Uses:** Any use of a parcel as a government facility, as a non-profit facility or as a public service facility (e.g., publicly owned school or hospital).

**Kennels:** A commercial establishment in which cats, dogs, or other domesticated animals are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation.

**Lake Shore:** This shall be considered to be the boundary formed by the water's edge. For the purpose of Otsego Lake, water's edge is 1,194.5 feet above sea level.

**Landscaping:** The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, fountains, water features and pathways. A portion of such landscaped treatment may consist of decorative planters, stone work, brick work and the like; any such landscaping treatment shall not exceed three feet in height.

**Light Assembly:** The creation of a finished product from pre-manufactured pieces. Such work does not involve any chemical or mechanical processes commonly associated with manufacturing.

**Livestock:** All cattle or animals of the bovine species. All horses, mules, burros, and asses or animals of the equine species. All goats or animals of the caprine species. All swine or animals of the porcine species. All sheep or animals of the ovine species. This definition is not meant to be exclusive, and shall also apply to other similar animals such as llamas, alpacas, deer, elk, buffalo, etc.

Lot: A parcel of land separately recorded in the Otsego County Clerk's Office or separately depicted on the Town Real Property Assessment Map. Whenever two or more principal buildings are located on a single lot, the area devoted to each principal building together with its accessory buildings and uses, yards and open spaces, shall be considered as a separate lot for the purpose of this Local Law.

Lot Split: The division or revision of a tract or parcel of land into two lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy, or building development

Mixed Occupancy: A building or structure with two or more different uses, such as, but not limited to, residential, office, manufacturing, retail, public or entertainment.

Mineral Extraction: Operations Extracting gravel, rock, stone, sand, fill, topsoil or unconsolidated minerals from the surface or below the ground for sale but does not include operations extracting natural gas, and/or petroleum, or the process of grading a lot preparatory to the construction of a building.

Mobile Home: A structure, transportable in one or more sections, which is built on a permanent chassis and complies with the State building codes for mobile homes. It is designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities.

Motel: Single building or group of attached or detached buildings containing completely furnished guest rooms or dwelling units, the majority of which have separate entrances directly from outside the building, with conveniently located automobile parking spaces provided on the lot or parcel of land for separate rooms or dwelling units as required thereof, which are designed, intended to be used, or used wholly or in part for the accommodation of guests who are primarily transient automobile travelers. "MOTEL" includes auto courts, motel lodges and tourist courts.

Motor Vehicle Repair Shop: A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles and operated for gain.

Multiple Family Dwelling: A building containing no more than six (6) dwelling units for other than transient lodgers.

Off-premises Sign: A sign advertising, or directing the view to, an establishment located on a parcel or lot other than the premises where said sign is found.

On-Street Parking: Public and private highways including the right-of-way.

Parking Lot (off-premise): A parking facility designed to serve a specific other use but which cannot be located on the same lot with the use it serves.

Patio: A level surfaced area adjacent to a principal building which has an average elevation of not more than 30 inches, and without walls or a roof. A patio may be constructed of any materials.

Place of Public Assembly: Land or buildings under the auspices of a governmental unit, public agency or involving public benefit or advantage. Hospitals, schools, parks, and recreational facilities, cemeteries, passenger stations, libraries, fire stations, public utility installations, government offices or facilities, philanthropic institutions, places of worship, community centers, day care nurseries, and like uses are included in this definition.

Porch: A covered, but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.

Principal Building: A dwelling; or a building of principal commercial use (i.e., a commercial use not defined as a home occupation).

Private Street (Road): A platted vehicular access way, built to Town requirements and filed as a common ownership agreement among the shareholders it serves.

Public Facilities/Utilities: any use operated by a governmental entity or public utility in connection with any of the following public services: water, water, management, public education, parks and recreation, fire and police protection, solid waste management, utilities, hospitals, or other public service uses.

Public Street (Road): Any vehicular access way that is existing State, County or Town inventoried roadway, shown upon an approved plat and accepted by the Town, approved by other official action, or shown on a plat duly filed and recorded by the County Clerk prior to appointment of a Planning Board.

Recreational Facilities: Facilities for indoor or outdoor recreation that are in keeping with the low-density residential character of the Town. Such uses include riding academies, riding trails, golf courses, driving ranges, swimming clubs, cross-county ski trails, downhill ski facilities, tennis clubs, recreational snowmobile trails, sailing clubs, hiking trails, ice skating rinks, sportsmen's clubs, or similar activities that meet the special requirements listed for recreational facilities.

Retail Trade: A store engaged in selling goods or merchandise to the general public, for personal or household consumption and rendering services incidental to the sale of such goods.

Sandwich Board: A freestanding portable sign consisting of two rigid boards connected by hinges. Each board shall be smaller than nine square feet.

School Age Child Care: Day care, licensed by the State, which operates before and after school and may operate on vacations and holidays. The number of children such a facility may have is set by the State registration and the location of the facility (private home versus day care center of school) varies. Such a use is not a home occupation under this law.

Service Establishment: Establishments providing services or entertainment, as opposed to products, to the general public, including personal, business, repair, educational, and other personal convenience services, including, but not limited to, coin operated laundry, cleaning and garment services, photographic studios, beauty shops, barber shops, shoe repair, funeral services, clothing rental, reducing salons and tanning parlors.

Service Trade Establishment: Construction, building trades and/or maintenance businesses, provided that only storage, light fabrication, and/or office functions are conducted on the premises, the operation takes place wholly within one principal or accessory building that does not exceed 3000 square feet and those aspects of the occupation which exceed a home occupation in intensity of use are conducted off the premises. If the Service Trade Establishment is situated within a residential dwelling, the Service Trade Establishment may only occupy up to 3000 square feet of total floor area, but the total square footage of the residence may exceed 3000 square feet.

Service Station: An establishment available to the general public operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, fueling, or equipping of automobiles or other motor vehicles.

Setbacks: Designated distances from property lines and the edges of rights of way within which no building or structure may be erected.

Shopping Center: Two or more commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivered separated from customer access, aesthetic considerations and protection from the elements.

Sign: Any material, structure or device, composed wholly or partly of written or representational matter, which is located so as to be visible beyond the boundaries of the lot or parcel within which it is sited, and which displays any advertisement, slogan, announcement, name, trademark or insignia.

Site Plan: A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights of way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

Site Plan Review: A review and approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing criteria stated in the ordinance and as authorized by Town Law.

Special Permitted Use: A use, which because of its unique characteristics, requires individual consideration through a review procedure established by the Planning Board, and may require certain conditions and safeguards before being permitted.

Story (or Floor): That portion of a building included between the surface of any floor and the surface of the floor next above it or if there is no floor above it then the space between the floor and the ceiling next above it and including those basements used for the principal use.

Structure: Assembly of materials, for a construction for occupancy or use, temporary or otherwise, including buildings. The term as used herein excludes boundary fences and walls, driveways, walkways and those constructions whose primary purpose is landscaping or decorative in nature.

Trailer: A movable living unit intended for temporary travel or vacation use with or without kitchen or sanitary facilities. Self-propelled recreational vehicles (RV's) or motor homes are included in the definition of trailer.

Unconsolidated Minerals: loose, unattached, unstratified, particles of earth material such as sand, gravel, or sediment, without combined rigidity or cohesiveness due to a lack of binding or natural mineral cement.

Variance: Permission to depart from the literal requirements of the land use law.

Variance, Area: A departure from the area setback, frontage, coverage, size or other requirements of the applicable zoning district, or a departure from any provision of this law except use.

Variance, Use: A variance granted for a use that is not permitted in the zoning district.

Wall Sign: A sign painted on, attached to, or part of an outside wall of a structure. Signs projecting from a building on a signboard, awning, etc., shall be considered wall signs. A sign painted on, attached to, or part of a window or door, or displayed from within so as to attract the notice of a person beyond the boundaries of the lot shall be considered a wall sign.

Wetland: Any bog, swamp, marsh, pond, stream or other watercourse listed as a wetland by the New York State Department of Environmental Conservation or any such watercourse in the Town.

Wildlife Management Practices: Management of natural wildlife and associated habitats with the intent of enhancing such.

The word "may" is permissive; the word "shall" is mandatory.

The present tense includes the future; the singular number includes the plural; the plural number includes the singular.



APPENDIX D  
HISTORIC LIST OF AMENDMENTS  
(amendments listed have been incorporated into current law)

Amendments adopted July 11, 2001 and August 8, 2001

Changes shown in *italics*

(Section 5.03) (August 8, 2001)

9. Removal of Signs:

(a) All structural parts of signs no longer in use shall be removed within two years of end of use. If such signs are not removed by the end of the allowed time, the Town Board may provide for their removal and charge the removal costs to the property owner.

(b) *All signs advertising commercial activity which do not qualify as exempt signs under section 5.05 may be removed by the Code Enforcement Officer or any town employee without notice to the sign owner.*

(Section 5.05) (July 11, 2001)

14. *Signs for which permits have been issued by the State of New York prior to 1995 and for which permits have been kept current under NYS rules and regulations.*

(Section 7.02) (July 11, 2001)

C. No building permit will be issued on a property or to a person with an existing violation of this law or any law in the Town, *with the exception that any building permit required to correct a violation will be issued.*

(Section 7.05) (July 11, 2001)

E. Upon receipt of a complaint of violation, the Codes Enforcement Officer shall investigate to determine the presence of a violation and upon finding a violation shall *issue to the landowner a notice including the items listed under Section 7.05 D, together with any observations made by the Codes Enforcement Officer on the basis of this investigation. Such notice shall also specify what corrective action is required by the owner or occupant of the property, and the date by which such action shall be taken.* The term violation as used in Section 7.05 A shall exist only if the date of required action, as specified in the notice to the owner or occupant, passes without such specified corrective action having taken place.

(Section 5.03 (9) Removal of signs (August 8, 2001)

a.) All structural parts of signs no longer in use shall be removed within two years of end of use. If such signs are not removed by the end of the allowed time, the Town Board may provide for their removal and charge the removal costs to the property owner.

b.) All signs advertising commercial activity which do not qualify as exempt signs under section 5.05 may be removed by the Code Enforcement Officer or any town employee without notice to the sign owner.

(Section 2.06) General Business-1 District (GB-1) (May 12, 2004)

Special Permitted Uses: *Add* 16. Parking Lot (off-premise)

Special Requirements:



Appendix C Definitions (Words in italics have been added) (May 12, 2004)

*Birds Eye View: A view showing how a building is laid out on a parcel of land that depicts the extent of the building's eaves.*

*Building Footprint: An aerial view of how a building is laid out on a parcel of land. Such a n image only reflects a single story and depicts where the foundation meets the ground or the perimeter of the building's support piers and does not include attached decks, porches or raised walkways.*

*Parking Lot (off premise): A parking facility designed to serve a specific other use but which cannot be located on the same lot with the use it serves.*

*Service Trade Establishment: Construction, building trades or maintenance businesses, provided that only storage, light fabrication involving no more than 2000 sq. ft. of floor area or five employees and office functions are conducted on the premises, and that those aspects of the occupation which exceed a home occupation in intensity of use are conducted off the premises.*

Section 4.04 Otsego and Canadarago Lakes Shoreline Protection Area (September 8, 2004)

(The following paragraph was omitted) No structure shall be erected within one hundred (100) feet of the shoreline of Otsego or Canadarago Lake, Existing structures other than buildings, located within 500 feet of the shoreline may be altered for necessary repairs and in kind replacement at the discretion of the Codes/Zoning Enforcement Officer. An approved site plan is required in all other circumstances.

(The following paragraph was added) *With the exception of staircases up to 42 inches in width constructed of materials in a manner that maximizes ground water permeation and reduces runoff to the maximum extent possible, no structure shall be newly erected within one hundred (100) feet of the shoreline of Otsego or Canadarago Lakes. All building replacements/repairs shall be limited to the building footprint. All repairs/replacements associated with porches, decks, raised walks, etc. shall be limited to existing dimensions and to materials and/or design or equal or greater groundwater permeation. Site plan review is required for all construction within one hundred (100) feet of the shoreline.*

*With the exception of staircases up to 42 inches in width constructed of materials or in a manner that maximizes groundwater permeation and reduces runoff to the maximum extent possible, no structure shall be newly erected within one hundred to five hundred (100-500) feet of the shoreline of Otsego or Canadarago Lakes. Existing structures located within one hundred to five hundred (100-500) feet of lake shoreline may be altered for repairs and/or replaced in kind. All building replacement/repairs shall be limited to the building footprint. All repairs/replacements associated with porches, decks, raised walks, etc. shall be limited to existing dimensions and to materials and/or design of equal or greater groundwater permeation. All other circumstances require site plan review.*

Section 2.07 General Business -2 District (GB-2) (September 8, 2004)

Special Requirements:

2. (Now reads) Buildings cannot exceed 5,000 square feet (building footprint) on a single lot in the GB-2 District.

Section 2.02 Residential – Agricultural District (RA-1) (September 8, 2004)

Special Permitted Uses (see section 7.03)

2. (Now reads) Health Care Facilities including nursing homes and adult care homes \*\*\*See Special Requirements (up to 10,000 square feet in building footprint size was omitted)

Special Requirement:

All special permitted uses require Site Plan approval.

\*\*\*\* Prior to approval of any permit for recreational or *health care facilities*, the Planning Board shall determine that the facility;

(5) Will have property setbacks consistent with building size, property size and location of neighboring structures. (This sentence was omitted from previous Land Use Law.)

Amendments adopted September 14, 2005

1. Removal of “Self-Storage Units” under Special Permitted Use #11 Section 2.07
2. *without site plan review* was added to the 2<sup>nd</sup> paragraph...Now reads. With the exception of staircases up to 42 inches in width constructed of materials in a manner that maximizes ground water permeation and reduces runoff to the maximum extent possible, no structure shall be newly erected within one hundred to five hundred (100-500) feet of the shoreline of Otsego or Canadarago Lakes without site plan review.
3. Definition change for “Commercial Storage” Now reads ( Italics is new language)  
Commercial Storage, *Enclosed*: A structure or set of structures containing separate storage spaces of varying sizes leased or rented on an individual basis. *Such structures shall be constructed so that the sides of the structure(s) facing roads are comprised of less than 15% doorways and, if the structure is more than 100 feet long, its view from the road and from structure sides visible from adjoining properties should be 60% or more concealed by evergreen trees and shrubs and such structures should be compatible, in appearance, with the historical and agricultural buildings in the Town. Additionally, exterior lighting on such structures should be of shielded design adequate to provide safe access to doorways in periods of darkness with minimal illumination of surrounding areas.*

Amendment Adopted December 14, 2005

Definition of Service Trade Establishment: light fabrication involving no more than 200 square feet of floor area and five employees – (and five employees was omitted from the sentence)

Amendment Adopted April 12, 2006

Section 4.02

(The following is added as a final paragraph to section 4.02)

Prior to March 15, 2008 the provisions of Section 4.02 shall not be applicable to any reconstruction and/or replacement of septic systems on Otsego Lake which are included in the Memorandum of Agreement, between the Town of Otsego and the Watershed Supervisory Committee.

Section 4.04

(The following is added as a final paragraph to section 4.04)

Prior to March 15, 2008 the provisions of Section 4.04 shall not be applicable to any reconstruction and/or replacement of below grade septic system components, including raised bed septic systems on Otsego Lake which are included in the Memorandum of Agreement, between the Town of Otsego and the Watershed Supervisory Committee.

Amendment Adopted December 10, 2008

ADD

Section 3:15 Heirloom Barns and Buildings: Barns and Agricultural Buildings older than 60 years and buildings of any kind older than 110 years add historic and rural character to the Town and merit protection afforded by adaptive rehabilitation for special permitted uses subject to site plan review to ensure restoration and protection of the historic external appearance and minimum impact on neighbors. Permitted special use of heirloom barns and buildings, for any land use district, include all listed special permitted uses for RA-1, RA-2, H-R, H-B, GB-1, GB-2 and R/E districts if additional required parking can be masked from roadway and adjacent property view.

Section 7.01 Administration and Enforcement Officer and Section 7.02 Permits, Certificates, and Licenses: Throughout: Change “Codes Enforcement Officer” to “Zoning Enforcement Officer” and Building Permit to Zoning Permit.

**Definition changes:**

**Structure:** Assembly of materials, for a construction for occupancy or use, temporary or otherwise, including buildings. The term as used herein excludes boundary fences and walls, driveways, walkways and those constructions whose primary purpose is landscaping or decorative in nature.

**Motel:** Single building or group of attached or detached buildings containing completely furnished guest rooms or dwelling units, the majority of which have separate entrances directly from outside the building, with conveniently located automobile parking spaces provided on the lot or parcel of land for separate rooms or dwelling units as required thereof, which are designed, intended to be used, or used wholly or in part for the accommodation of guests who are primarily transient automobile travelers. “Motel” includes auto courts, motel lodges and tourist courts.

Amendment Adopted May 18, 2009

Section 2.02 Residential-Agricultural 1 District (RA-1)  
Special Requirements:

All special permitted uses require Site Plan approval.

\*\*\*Prior to approval of any permit for recreational facilities and/or adult housing facilities, the Planning Board shall determine that the facility(s):

- (1) Is of scale, density and appearance that is in harmony with the neighborhood character of the district in which it would be located.
- (2) Will not create demands which exceed the existing capabilities of public infrastructure, including roads, sewer, water and emergency services. Parking lots should be located on the subject property so that sufficient screening and buffering exists between the subject property and neighboring properties.
- (3) Will not introduce nuisances associated with traffic or noise, as measured at any property boundary, which are incompatible with adjoining or nearby land uses, or anticipated future land uses.
- (4) Will not substantially and adversely impact identifiable natural, cultural or visual resources known to be important to the Town.
- (5) Will include a landscaping and/or architectural plan and design compatible with the above requirements. In connection with the landscaping and/or architectural designs, the Planning Board, in its discretion, may seek the input from licensed professionals regarding such designs at the applicant’s expense.
- (6) Will minimize lighting to the maximum extent possible while providing necessary security and safety.
- (7) Will minimize energy consumption.

If a proposed facility does not meet the standards as set forth above, the Planning Board shall consider it incompatible with the low-density, residential character of the district and shall deem the facility not allowable.

## DEFINITIONS

**Adult Housing Facility:** Shall consist of at least two or more of the following combinations: active adult housing, adult retirement communities, assisted living facilities, and/or congregate care and skilled nursing facilities with their required ancillary facilities.

**Active Adult Housing:** As its name suggests, active adult housing describes a category of residences that is both independent of full-time staff support and age restrictive. Housing that is specifically targeted to occupants who are age 50 years and older

**Adult Retirement Communities:** A planned residential development for occupancy of person(s) 50 years of age and older that emphasizes social and recreational activities but may also provide personal services, limited health facilities and transportation.

**Assisted Living Facilities:** Dwelling units for occupancy of person(s) 50 years and older where rooms, meals, personal care and supervision of self-administered medications are provided. Other services may be provided as an accessory use such as recreational facilities, financial services and transportation.

**Congregate Care and Skilled Nursing Facility:** Units for occupancy of person(s) 50 years and older where communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services and other support services appropriate to the operation of a skilled nursing facility are provided.

### Amendment Adopted May 11, 2011

(1) Section 1.04

#### **Amendment adopted : May 11, 2011**

##### **(1) Section 1.04 Application of Regulations**

*This Law enumerates allowable uses within the Town of Otsego, and any use not specifically permitted is prohibited. No building or structure or part thereof shall be erected, moved, altered or demolished or use of land be permitted, unless in conformity with this Law*

**Reason for Amendment:** Section 1.03 states that the Town of Otsego Land Use Law “regulates the use of land in the Town of Otsego...” Section 1.04, the application section, should echo this so the Law is clear.

##### **(2) Appendix B –Table of Off-Street Parking Requirements**

**Delete** “or industrial use” from the “Electrical, plumbing, repair, roofing shops (see retail store)” listing in the COMMERCIAL USES section (page 43 of 55).

**Delete:** “public garages” from the “Service establishments” listing in the COMMERCIAL USES section (page 43 of 55).

**Delete** “Transportation terminal, passenger” (page 43 of 55)

**Delete** the INDUSTRIAL USES section and substitute:

*WAREHOUSING,*

*Warehousing and Storage Areas, ^1 space per 1,000 sffa*

**Add:**

*Light Assembly (See unspecified uses)*

**Reason for Amendment:** No industrial uses, public garages, transportation terminals, or freight terminals are permitted under the Town of Otsego Land Use Law. Warehouse and Storage Areas, and Light Assembly are Special Permit uses. Appendix B should reflect the uses set forth in the Land Use Law.

##### **(3) Appendix C – Definitions**

**Mineral Extraction:** Operations extracting gravel, rock, stone, sand, fill, topsoil or *unconsolidated* minerals from the surface or below the ground for sale ^but does not include *operations extracting geothermal resources, natural gas, and/or petroleum, or the process of grading a lot preparatory to the construction of a building.*

**Reason for Amendment:** The provision for Mineral Extraction in the RA-2 Residential-Agricultural District was to allow gravel pits under the special permit procedure and was not to permit the generalized extraction of any and all minerals. Section 4.05 of the Town of Otsego Land Use Law makes this crystal clear as it refers to extraction of “750 cubic yards per year” in specified districts. This is a measurement for the mining of sand and gravel, not the extraction of gas and oil. This amendment removes any possible ambiguity in the term “Mineral Extraction.” (unconsolidated minerals is a mining term that refers to the extraction of sand, gravel, and soils)

**(4)** Add new definitions:

Public Facilities/Utilities: any use operated by a governmental entity or public utility in connection with any of the following public services: water, water management, public education, parks and recreation, fire and police protection, solid waste management, utilities, hospitals or other public service uses.

Unconsolidated minerals: loose, unattached, unstratified, particles of earth material such as gravel, sand, or sediment, without combined rigidity or cohesiveness due to a lack of binding or natural mineral cement.

**Reason for the Amendments:** Public Facilities/Utilities are a special permit use in several districts but there is no definition for such uses in Appendix C. This definition is added to correct that omission. Unconsolidated minerals are referred to in the Mineral Extraction definition and should be defined.

#### ***Amendment Adopted December 14, 2011***

Under Section 2.02 Special Permitted Uses

2. Health Care Facilities (delete - including nursing homes and adult care homes) up to 10,000 square feet in building footprint size.

Add: #11. Adult Housing Facilities\*\*\*\*\*See Special Requirements.

#### ***Amendment Adopted September 12, 2012***

Clerical corrections to pages 3, 4,13,21,26,27,29,30,33,34,35,36, and 37.

#### ***Amendment Adopted March 11, 2015***

Revisions to the Definition of Service Trade Establishment:

Service Trade Establishment – Construction, building trades and/or maintenance businesses, provided that only storage, light fabrication and/or office functions are conducted on the premises, the operation takes place wholly within one principal or accessory building that does not exceed 3000 square feet and those aspects of the operation which exceed a home occupation in intensity of use are conducted off the premises. The maximum building square footage of 3000 square feet shall not apply to any Service Trade Establishment that meets the requirements of Section 3.15, “Heirloom Barn and Buildings.” If the Service Trade Establishment is situated within a residential dwelling, the Service Trade Establishment may only occupy up to 3000 square feet of total floor area, but the total square footage of the residence may exceed 3000 square feet.

Strike “Self-Storage Units” as a Special Permitted Use in the RA-2 District;  
Omit the definition for Self-Storage Units.

Add Under Article VII Administration and Enforcement:

ZEO is authorized to issue Stop Work Orders.

ZEO is authorized to issue appearance tickets pursuant to this Local Law per NYS CPL Section 150.20(3).

Revise Section 1.04 to clarify the following provision applies to only existing, “conforming” structures:

Modifications, alterations and necessary repairs to an existing, **conforming** structure may be subject to building permit requirements, but will not require Planning Board review.

#### ***Amendment Adopted September 12<sup>th</sup>, 2018***

Removed Section 3.15 Heirloom Barn and Buildings

Removed the reference to Section 3.15 under Service Trade Establishment

#### ***Amendment Adopted October 14, 2020***

Amended Article IV Section 4.04 Otsego and Canadarago Lake Protection Area

Amended and added definitions.

### **Amendment Adopted March 8, 2023**

Amended section 2.06 (General Business 1):

- Added “One Family Dwelling” as a special permitted use
- Added “Two Family Dwellings” as a special permitted use
- Added “Multiple Family Dwellings” as a special permitted use

Amended section 2.07 (General Business 2):

- Added “One Family Dwelling” as a special permitted use
- Added “Two Family Dwellings” as a special permitted use
- Added “Multiple Family Dwellings” as a special permitted use
- Removed duplicate and unnecessary text from the “Special Requirements” sub-section

Amended section 4.02 (Steep Slopes):

- Removed the text “the U.S. Natural Resource Conservation Service and/or”
- Removed the text “and a site plan approved by the Planning Board”

Amended Section 4.04 (Otsego and Canadarago Lake Shoreline Protection Area):

- Updated formatting to including labeled sections/subsections
- Reordered subsections so that those applicable closest to the lakes come first
- Clarified confusing portions of the text that can be interpreted in multiple ways
- Remove provisions that are no longer applicable

Amended Appendix C (Definitions):

- Update definition of Agricultural Use, moving the text “for commercial purposes” earlier in the text, so that they do not apply to livestock
  - o “Agricultural Use: Any parcel of land which is used for the raising of agricultural products for commercial purposes, or used for raising livestock. Such use includes necessary structures and equipment. Also included are farm stands, fruit stands, greenhouses and nurseries.”
- Define Livestock
  - o “Livestock: All cattle or animals of the bovine species. All horses, mules, burros, and asses or animals of the equine species. All goats or animals of the caprine species. All swine or animals of the porcine species. All sheep or animals of the ovine species. This definition is not meant to be exclusive, and shall also apply to other similar animals such as llamas, alpacas, deer, elk, buffalo, etc.”

### **Amendment Adopted June 14, 2023**

- Define: Food Truck: A licensed, registered, and inspected motor vehicle, primarily used for the sale of prepared food or beverages for public consumption. Operating food trucks must follow let setback requirements as if they were permanent structures.
- Add “Food Trucks” as a special permitted use in the RA2 District (2.03)
- Add “Food Trucks” as a special permitted use in the HB District (2.05)
- Add “Food Trucks” as a special permitted use in the GB1 District (2.06)
- Add “Food Trucks” as a special permitted use in the GB2 District (2.07)